SIP IN ACTION

Report on the activities of the Association for Legal Intervention in 2022

ASSOCIATION
FOR LEGAL
INTERVENTION

About SIP

The Association for Legal Intervention is a social organization dedicated to undertaking activities to uphold human rights and prevent unequal treatment. Our major mission is to ensure social cohesion by working for the equality of all individuals in relation to the law. We primarily support refugees and migrants in Poland. Currently, they are one of the groups highly vulnerable to discrimination and exclusion.

We achieve our goals in a variety of ways:

- We provide free legal assistance to refugees and migrants residing in Poland.
- When the fundamental rights of third-country nationals are compromised, we represent them before national courts and the European Court of Human Rights, and join the ongoing proceedings.
- We actively participate in public consultations on legislation concerning the situation of third-country nationals in Poland. We respond to violations of their rights at the earliest possible stage.
- We support those with migration experience to find their way in the new reality in Poland. We support their integration; help them obtain medical and social benefits, as well as safe housing in Poland.
- We conduct research, monitor the activities of public authorities in the area of migration, and prepare opinions or expert reports.
- We actively participate in national and international conferences, as well as in meetings of international bodies monitoring the human rights situation in Poland, providing information on the main threats to the human rights of those with migration experience.

The Association's Annual Report provides a concise overview of the cases that our lawyers and integration assistants have dealt with in the past year. It provides insight into the key issues at the national and international level around which our work has focused in the quest to improve the protection of refugee and migrant rights.

Dear All,

we are presenting the 5th report in the SIP in Action series. Describing our activities in the area of migrants' rights, the publication also analyses the most relevant events and trends in the Polish migration policy over the past year.

When summarising 2021, we reported that it had been a tough 12 months for our sector due to the continuing humanitarian crisis at the Polish-Belarusian border. The crisis has significantly undermined the confidence of human rights defenders in the Polish forces, which did not hesitate to violate the law and international standards by unlawfully expelling defenceless, suffering people from Polish territory.

Although we have not noticed any improvements in this area in the past year, the Polish courts have clearly took the side of law and humanitarianism. In this report, we describe, among other things, the first ground-breaking judgment obtained by our legal department where a Polish court declared a push-back to be illegal and inhumane. We also discuss the line of jurisprudence of administrative courts reminding of the absolute obligation to respect the principle of non-refoulement, which is not excluded by the Polish-Belarusian border crisis.

The past year was, of course, completely exceptional for our sector due to Russia's invasion of Ukraine and its consequences for the Polish migration situation. In the report the reader will find an analysis of the policy adopted by the Polish state towards individuals fleeing the war in Ukraine as well as an overview of SIP's legal and advocacy work in defence of their rights.

However, alongside the aforementioned two huge humanitarian crises we faced in 2022, there were, after all, other third-country nationals residing in Poland whose rights were also sometimes under threat. This includes, for example, those placed in detention centers, attacked because of the colour of their skin or their language, or cheated by employers in the workplace. We also dedicate some chapters to these individuals and the legal measures taken on their behalf.

Hopefully - as always - that the current year will be easier for us all, I cordially invite you to read on,

Katarzyna Słubik
President of the Management Board

Contents

I. Crisis at the Polish-Belarusian Border

In 2022, there was still a humanitarian crisis at the Polish-Belarusian border. Since the beginning of this crisis, i.e. from the beginning of August 2021, the Polish authorities and their subordinate forces have been engaging in the practice that is incompatible with the Polish Constitution and Polish and European law, i.e. push-backs. They are returning - by force, without any procedures - individuals crossing the so-called 'green border', including refugees declaring their willingness to apply for international protection, back to Belarus. Belarusian forces most often do not allow refugees to return to their territory and countries of origin, forcing them to re-cross the Polish border in areas not intended for this purpose.

The barrier was put into place at the end of June 2022, and already in July Grupa Granica received humanitarian requests from more than 850 individuals.

Migrants ("people on the move") are often thrown over the border fences from one side to the other for weeks or even months by both countries' uniformed forces. They cannot rely not only on access to fair administrative procedures, but also to elementary humanitarian aid in the form of shelter, drinking water and food, clothing or medical assistance. The state services are nothing but a threat to them; **under these circumstances, they can only count on the help of border residents and visiting activists**, whose activities, however, must be carried out in secret. Otherwise, they would expose people on the move to further push-backs.

The figures of Grupa Granica relate to the number of persons who approached activists seeking help. In 2022, it was at least 6,022 people, of which at least 396 were children.

In 2022, the scale of movement of people on the move on different parts of the border varied depending on the weather conditions and the decisions of the Belarusian forces. For instance, in March, when the Belarusian authorities dismantled the so-called logistical centre in Bruzgi, where several hundred people stranded in the border area were waiting for the winter to end, the Grupa Granica[1] activists received a large number of calls for help south and north of Kuźnica. This culminated in June and July, when several or several dozen requests per day were registered from different parts of the border. In these months, the largest number of groups that included women and children were reported. People on the move were not stopped by the so-called barrier (a fence made of steel spans 5.5 m high, topped with razor wire), built by the Polish government for PLN 1.6 billion. **The barrier was completed**

1. Grupa Granica– A social movement opposing the conduct of the authorities at the Polish-Belarusian border. It helps forced migrants who have found themselves on the Polish territory and monitors human rights violations. The movement is formed by activists from all over Poland, including border areas, and a group of civil society organizations, including the Association for Legal Intervention.

at the end of June 2022, and already in July Grupa Granica received requests for help from more than 850 individuals. Initially, people on the move seemed more willing to choose border river crossings, but quite soon the Belarusian forces or smugglers began to equip them with ladders to cross the fence over the top or tools to dig underneath. According to the SIP's observations, **as a consequence of the construction of the fence, the number of the border crossings did not significantly decrease, while more people needed help due to various types of orthopaedical injuries**. During the winter period, there were far fewer requests for assistance than from the spring to autumn. Following lengthy discussions with a number of humanitarian organisations, Grupa Granica has succeeded in ensuring that Doctors Without Borders and Intersos employed several physicians and paramedics in the border area to join aid teams when needed.

From the beginning of the humanitarian crisis until the end of 2022, 30 border deaths were officially confirmed. Additionally, in 2022 Grupa Granica received reports about 185 missing persons.

The precise number of individuals who crossed the Polish-Belarusian border in 2022 is not known. In its statistics, the Border Guard[2] only mentions the number of attempts to illegally cross the border - 15,600 in 2022 (presumably, people who have been caught and deported from Poland to Belarus several or more times, or who were repeatedly repulsed at the border itself may be counted multiple times here). The figures of Grupa Granica, on the other hand, relate to the number of persons who approached activists seeking help. **In 2022, it was at least 6,022 people, of which at least 396 were children.** Grupa Granica managed to assist at least 3,672 of them. During 544 interventions professional medical assistance was provided. There were certainly considerably more people in need of help. We do not know about all of them. Some groups requesting help amounted to dozens of people. Syrians, Yemenis, Ethiopians, Eritreans, Congolese, Somalis and Sudanese most often asked for a humanitarian assistance in 2022. Many did not bear the hardships of the journey. **From the beginning of the humanitarian crisis until the end of 2022, 30 border deaths were officially confirmed. Additionally, in 2022, we received reports of 185 missing persons.**

The vast majority of persons apprehended by the Border Guard at the Polish-Belarusian border - if not pushed back to Belarus - was almost automatically placed in the detention centres by the courts at the request of the Border Guard. There, refugees could benefit from legal assistance of SIP lawyers.

SIP activities related to the Polish-Belarusian border crisis

1. **The Association for Legal Intervention operates as part of a broad social movement called the Grupa Granica.** As Group participants, we monitored the situation in the Poland's eastern border region, provided legal, intervention and humanitarian support to refugees, while also training and supporting local residents and local organisations providing assistance in the Polish-Belarusian border region.

2. **We support volunteers providing direct humanitarian aid to people on the move.** The SIP representative, coordinated one of the volunteer bases - from January to May in the Augustów Forest, and from June to December in the Białowieża Forest.

2. https://www.strazgraniczna.pl/pl/aktualnosci/11135,Rok-2022-w-Strazy-Granicznej.html

Teams of volunteers were always ready to head out into the forest on a call for help with backpacks packed with food, drinks, clothes, footwear, sleeping bags, a basic first aid kit, etc.

3. **We provide activities in the area of strategic litigation[3].** Due to our activity, all the legal grounds for push-backs invoked by the Border Guard have been successfully challenged before the courts.

a. **We obtained the first milestone ruling by a Polish court declaring a push-back in question illegal and inhumane,** and the ordinance legitimizing push-backs as having been issued in excess of the statutory delegation and therefore also illegal. The Bielsk Podlaski District Court found the detention of three men from Afghanistan who had crossed the Polish-Belarusian border to be illegal, unjustified and faulty[4]. The men, in the presence of the activists, made a oral declaration before a Border Guard officer of their intention to apply for international protection (refugee status) in Poland. Despite this, they were transported in the middle of the night by the Border Guard from Poland to the strict reserve of the Białowieża Forest and pushed across the Polish-Belarusian border. They were deprived of food, drinking water, medical care and shelter. The District Court found such action by the Border Guard to be illegal and inhumane. It also indicated that the legal basis invoked by the Border Guard, i.e. the Regulation of August 20, 2021, amending the Regulation on the temporary suspension or restriction of border traffic at certain border crossing points[5] was issued in excess of the statutory delegation and should therefore not be applied. Regarding the detained men, we have filed an application for compensation for their obviously wrongful detention. The case is pending.

b. **We are challenging before the courts the decisions ordering migrants to leave Poland.** When issuing these orders, the Border Guard does not interrogate the migrants, it does not ascertain that they do not wish to apply for international protection (refugee status) in Poland, or worse, it does not verify whether it will be safe for them to be sent back to Belarus. We have filed complaints with the administrative courts in six cases. In five of these cases, the Voivodship Administrative Court in Warsaw allowed our complaints and fully repealed the orders[6], and one case is pending before the Supreme Administrative Court[7]. In its judgments repealing the decisions ordering migrants to leave Poland, the administrative court recalled the absolute obligation to respect the principle of non-refoulement[8], which is not excluded by

3. Strategic litigation – legal action taken in the public interest with the aim of amending the law or legal practice that infringes individual freedom, implementing good standards in the respective field, drawing the attention of the public and authorities to important social problems, pleading against the decisions violating human rights, inter alia, by ensuring that the action receives as much publicity as possible.
4. Judgment of the District Court in Bielsk Podlaski of March 28, 2022, Case No. VII Kp 203/21; https://interwencjaprawna.pl/en/pushbacks-are-inhumane-illegal-and-based-on-illegal-regulation/
5. https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20210001536/O/D20211536.pdf
6. Judgments of the Voivodship Administrative Court in Warsaw: of April 27 2022, case no. IV SA/Wa 471/22; of April 26 2022, case no. IV SA/Wa 420/22; of May 26 2022, case no. IV SA/Wa 366/22; of June 6 2022, IV SA/Wa 488/22; of May 26 2022, case no. IV SA/Wa 386/22; https://interwencjaprawna.pl/en/obligation-to-examine-whether-migrants-in-belarus-are-at-risk-of-torture-and-other-inhumane-treatment/
7. Following the filing of a cassation complaint against the judgment of the Voivodship Administrative Court in Warsaw of May 18, 2022 case no. IV SA/Wa 609/22 dismissing the complaint.
8. The principle prohibiting expulsion and return to a state where a person's life or liberty would be threatened or where that person could be subjected to torture or other inhuman or degrading treatment. This principle arises, inter alia, from Articles 2 and 3 of the European Convention on Human Rights, Article 33 of the Geneva Convention Relating to the Status of Refugees, as well as Article 4(4)(b) and Article 5 of the Return Directive (Directive 2008/115/EC of the European Parliament and of the Council of December 16, 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals).

the Polish-Belarusian border crisis. The Voivodship Administrative Court in Warsaw indicated that publicly available information suggests that even people who have entered Belarus legally before crossing the Polish border may be restricted in their ability to return inside Belarus, and thus may be forced to stay in the border area "in extreme conditions that violate human dignity and pose a threat to life and health". In the court's opinion, the Border Guard was obliged in each case to duly investigate whether return to Belarus would violate the principle of non-refoulement.

The decisions of the Commander of the Border Guard Post, although subject to appeal, are immediately enforceable. In the opinion of the Association for Legal Intervention, as well as the Voivodship Administrative Court in Warsaw, this is contrary to Article 3 of the European Convention on Human Rights[9] and EU law. This means that even winning in the administrative court will not stop the push-back of a particular migrant. Probably for this reason, among others, the number of appeals filed (6 in 2022, none of which were considered justified by the Headquarters of the Border Guard) and complaints to the administrative court (10 in 2022, of which 7 were accepted and 1 - was dismissed) remains extremely low in relation to the number of decisions ordering migrants to leave Poland (2,549 in 2022)[10].

4. **We continue to act not only in Poland, but also internationally. We have submitted further complaints to the European Court of Human Rights against unlawful push-backs.** Before the Court, we represent, among others, a family[11], that includes a woman who lost her pregnancy at the Polish-Belarusian border. Moreover, together with the Lambda Association, the Global Detention Project and Birmingham City University, we participated in the Universal Periodic Review on Poland conducted by the UN. As part of this review, we produced a report[12], highlighting, inter alia, serious human rights violations at the Polish-Belarusian border.

Despite our efforts and numerous successes before the courts, gross violations of fundamental human rights and human dignity continue to occur in the Polish-Belarusian border region. The humanitarian situation there is extremely difficult. We will not stop our activities until Poland and its officials start respecting human dignity and human rights at the Polish border.

In the Polish-Belarusian border region, gross violations of fundamental human rights and disrespect for human dignity are still occurring.

9. Convention for the Protection of Human Rights and Fundamental Freedoms drawn up in Rome on November 4, 1950, subsequently amended by Protocols Nos. 3, 5 and 8 and supplemented by Protocol No. 2, Journal of Laws of 1993 No. 61, item 284.
10. Reply of the Border Guard Headquarters of January 10, 2023, KG-OI-VIII.0180.182.2022.BK, to SIP's request for access to public information; reply of the Voivodship Administrative Court in Warsaw of January 2, 2023, WIS-0451/244/22, to SIP's request for access to public information.
11. https://interwencjaprawna.pl/en/we-are-suing-poland-for-push-backs-on-the-border-with-belarus/
12. https://interwencjaprawna.pl/ru/%D0%BC%D1%8B-%D1%83%D1%87%D0%B0%D1%81%D1%82%D0%B2%D1%83%D0%B5%D0%BC-%D0%B2-%D1%83%D0%BD%D0%B8%D0%B2%D0%B5%D1%80%D1%81%D0%B0%D0%BB%D1%8C%D0%BD%D0%BE%D0%BC-%D0%BF%D0%B5%D1%80%D0%B8%D0%BE%D0%B4%D0%B8/

II. War in Ukraine

As of February 24, 2022, SIP's activities have been largely focused on supporting individuals fleeing to Poland from the war in Ukraine. In 2022, Poland faced the unprecedented challenge of hosting and providing protection to millions of Ukrainians who needed refuge. Immediately after the outbreak of the war, the Polish-Ukrainian border was opened; a legislation was also quickly passed to regulate the status of newly-arrived persons.

Poland has granted temporary protection to persons fleeing the war in Ukraine. However, the form and extent of this protection varies depending on the nationality and family relations of these persons.

Poland has granted temporary protection to those fleeing the war in Ukraine. However, the form and extent of this protection varies according to the nationality and family relations of these individuals. The Law of March 12, 2022 on Assistance to Ukrainian Citizens in Connection with the Armed Conflict on the Territory of Ukraine[13] (hereinafter: Ukrainian Special Act) grants temporary protection (along with a special number: PESEL UKR) only to Ukrainian citizens and some of their family members (mainly spouses). Other persons fleeing from Ukraine who have been granted temporary protection pursuant to a decision of the Council of the European Union[14], can only count on protection in Poland, as provided for in Articles 106 et seq. Act of June 13, 2003 on granting protection to aliens within the territory of the Republic of Poland (hereinafter: Act on Protection). These are, in particular:

- stateless persons or nationals of third countries other than Ukraine who benefited from international protection or equivalent national protection in Ukraine, together with their family members,
- stateless persons and nationals of third countries other than Ukraine who have resided legally in Ukraine on the basis of a valid permanent residence permit and who are unable to return to their country or region of origin in safe and durable conditions.

In 2022, more than 1 million 500 thousand Ukrainian nationals received PESEL UKR in Poland (including their family members who are not Ukrainian nationals), while only 1301 persons benefited from temporary protection under the Act on Protection.

In practice, both Ukrainian and non-Ukrainian citizens who lived in Ukraine reported **difficulties in accessing temporary protection** to our Association. Especially in the first half of 2022, some offices responsible for registering applications for PESEL UKR wrong-

13. The Act of March 12, 2022 on Assistance to Citizens of Ukraine in Connection with the Armed Conflict on the Territory of Ukraine (Journal of Laws of 2022, item 583, amended several times, consolidated text of November 16, 2022 Journal of Laws of 2023, item 103, as amended).
14. Council Implementing Decision (EU) 2022/382 of March 4, 2022 determining the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC and introducing temporary protection.

ly refused to accept them. Refusal decisions in this regard are not issued, migrants are only orally informed that they will not receive protection. They also do not have the possibility to appeal against the decision of an authority arbitrarily stating that a person does not qualify for a PESEL UKR. Unfortunately, despite repeated claims by SIP that persons fleeing Ukraine must have access to an **effective remedy** if they are denied temporary protection, the legislation in this regard was not amended.

Ukrainian citizens and those members of their families who managed to obtain a PESEL UKR, meanwhile, faced other problems. First of all, they were not authorised to receive any document confirming their legal status for several months. This was clearly incompatible with the Temporary Protection Directive[15]. Not until July 2022 was the **Diia.pl electronic document** introduced, which confirms the identity of temporary protection beneficiaries under the Ukrainian Special Act and entitles them - along with a valid passport - to cross the border. However, minors, especially children under the age of 13, have struggled to obtain this document. As a result, a significant proportion of beneficiaries of temporary protection have not been able to obtain the relevant documents required by EU law. It was not until March 2023 that the Ukrainian Special Act was amended to provide children with access to Diia.pl. Furthermore, digitally excluded people had problems receiving this document. Since this is the only document confirming the status and entitlements of beneficiaries of temporary protection under the Ukrainian Special Act, these persons reported difficulties in accessing public medical care, accommodation or social assistance. However, the most significant problems concerned travel to Ukraine.

Most recent data from the Border Guard indicate that as many as 14,063 persons, including 11,745 Ukrainian citizens, were refused entry at the Polish-Ukrainian border between March and December 2022. As many as 12,894 Ukrainian citizens received such a decision at all parts of the Polish border.

Immediately after the outbreak of war in Ukraine, Poland opened its borders to all displaced persons. This was considered a good practice, but it did not last long. **Most recent data from the Border Guard indicate that as many as 14,063 persons, including 11,745 Ukrainian citizens, were refused entry at the Polish-Ukrainian border between March and December 2022. As many as 12,894 Ukrainian citizens received such a decision at all parts of the Polish border.** The vast majority of these decisions were based on a failure to comply with entry formalities. Obviously, it is impossible to be certain that all of these persons were seeking protection in Poland from hostilities, but certainly some of them wanted to cross the Polish border for this very purpose. Ukrainian nationals - both those entering Poland for the first time and those who have already received a UKR PESEL here but have temporarily returned to Ukraine - have repeatedly informed SIP that they have been refused entry to Poland at the Polish border.[16]

For beneficiaries of temporary protection, the reasons for a refusal of entry varied over the year. In the first months after the outbreak of the war, there were cases in which these people, after returning to Ukraine for a short period of time (e.g. to collect their belongings or to help family members), were refused entry at the Polish border. The

15. The Council Directive 2001/55/EC of July 20, 2001 on minimum standards for providing temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.
16. https://interwencjaprawna.pl/en/disturbing-refusals-of-entry-at-the-ukrainian-border/

reasons for this were the failure to issue temporary protection beneficiaries (under the Ukrainian Special Act) with documents confirming their status and an overly restrictive interpretation of the legislation by the Border Guard. Consequently, in June 2022, the Association for Legal Intervention appealed[17] to the Polish authorities to ensure that temporary protection beneficiaries could re-enter Poland. While this problem was partly solved by the introduction of the "Diia.pl" document, further difficulties related to the return to Poland emerged.

In the second half of 2022, it was reported to SIP that the **Border Guard did not enter in the register** referred to in Article 3(3) of the Ukrainian Special Act **all entries of persons enjoying temporary protection in Poland** who had returned to Ukraine for a short period of time. The registration of such an entry depends, in practice, on the person explicitly stating at the border that he or she is entering Poland due to the war. Meanwhile, those who already have a PESEL UKR and have only temporarily returned to Ukraine (for less than a month) are not aware that such a declaration is required of them. Furthermore, such a declaration is superfluous, as it has already been officially established for these persons that they fled Ukraine due to the hostilities therein: they have already received a PESEL UKR for this reason and enjoy temporary protection in Poland. **Failure to register the re-entry of a person with a PESEL UKR may lead to the loss of this number and all associated entitlements.** Such cases do occur in practice. This is due to the fact that the departure of a Ukrainian citizen from the territory of the Republic of Poland for a period exceeding one-month deprives him/her of temporary protection in Poland (Article 11(2) of the Ukrainian Special Act). If his or her return to Poland is not properly registered, the one-month deadline may be considered to have been exceeded, despite the fact that the person has been in Ukraine for less than the period indicated in the above provision.

Also, **persons who actually left Poland for more than 1 month** and therefore lost their temporary protection here under Article 11(2) of the Ukrainian Special Act, reported to SIP difficulties in re-entering Poland. In this context, it is worth noting that, according to Article 21(2) of Council Directive 2001/55/EC on temporary protection, "for such time as the temporary protection has not ended, the Member States shall, on the basis of the circumstances prevailing in the country of origin, give favourable consideration to requests for return to the host Member State from persons who have enjoyed temporary protection and exercised their right to a voluntary return". Unfortunately, this provision has not been implemented in the Polish legal order (neither in the Ukrainian Special Act nor in the Act on Protection). Consequently, some individuals wishing to re-enter Poland in connection with the hostilities in Ukraine were met at the Polish border with a refusal of entry, rather than a favourable approach.

Incorrect implementation of EU law also concerns the right to family reunification. The Temporary Protection Directive grants beneficiaries of this protection a limited right to be reunited with family members who have remained in Ukraine or are residing in another EU Member State. While these provisions have been implemented (albeit insufficiently) for temporary protection beneficiaries under the Act on Protection, the Ukrain

17. https://interwencjaprawna.pl/en/people-who-fled-from-ukraine-should-be-allowed-to-re-enter-poland--sips-opinion/

-ian Special Act remains completely silent on family reunification. Thus, Ukrainian citizens enjoying temporary protection in Poland do not have a right - contrary to EU law - to be reunited with their families. The SIP's appeals for the harmonization of Polish law with EU law[18] were not heard in 2022. In view of the above, in the opinion of SIP, the provisions of the Temporary Protection Directive concerning family reunification should be applied directly in Poland.

Furthermore, during 2022, SIP observed **increasing difficulties for Ukrainian citizens to find suitable accommodation in Poland.** Polish legislation in this area does not provide adequate support and is contrary to EU law. According to the wording of the Ukrainian Special Act in force in 2022, support in accommodation was provided by the Polish authorities for a minimum period of 2 months and only to the extent of available funds. After the Ukrainian Special Act was amended, the accommodation could be provided for 120 days, and longer only if co-financed by an Ukrainian national or his/her family member. Exceptions were only provided for the persons listed in Article 12(17)(c,d) of the Ukrainian Special Act. The above restrictions are incompatible with Article 13 of the Temporary Protection Directive, which guarantees access to accommodation throughout the period of protection.

Numerous of the problems stem from the incorrect implementation of EU law into the Polish legal order.

The provision of accommodation was to be facilitated by Article 13 of the Ukrainian Special Act: "Any entity, in particular a natural person running a household, which provides, at its own expense, accommodation and food to Ukrainian citizens [...] may be granted, at their request, a monetary benefit in this respect [...]". However, this benefit is, in principle, only due for up to 120 days and is granted directly to authorised entities and not to the beneficiary of temporary protection. This raises a number of practical difficulties for both Ukrainian citizens and their landlords. Furthermore, recent amendments to the Ukrainian Special Act (the aforementioned obligation to contribute to the costs of accommodation after 120 days) make the situation of temporary protection beneficiaries even more difficult.

Evidently, **several of the problems described above are due to the incorrect implementation of EU law into the Polish legal order**. Incompatible with the Temporary Protection Directive are, inter alia, the aforementioned lack of an effective remedy, the lack of documents confirming temporary protection in Poland, the lack of provisions concerning a voluntary return to Ukraine, the lack of the right to family reunification, as well as incorrect provisions on accommodation. Incompatible with the decision of the Council of the European Union is the personal scope of protection granted. In the absence of a response from the Polish authorities to the SIP's comments[19] in this regard, in November 2022 we sent a letter[20] to the European Commission highlighting these incompatibilities.

People who fled Ukraine as a result of the war or could not return there and **were not eligible for temporary protection** also approached SIP in 2022. These were non-Ukrainian third-country nationals who had lived in Ukraine before the outbreak of war (e.g. students) and subsequently sought protection in Poland. Despite the existence of such

18. SIP's comments, 28.10.2022 r.: https://interwencjaprawna.pl/en/the-government-is-planning-unfavorable-changes-for-the-citizens-of-ukraine-we-comment/
19. Ibid.
20. Letter from SIP to the European Commission, 30.11.2022 r.: https://interwencjaprawna.pl/wp-content/uploads/2022/12/EC-letter-TPD-implementation-SIP-input-1-1.pdf

a possibility, Poland has not decided to extend the scope of temporary protection beyond what was established in the decision of the Council of the European Union. As a result, some **third-country nationals who arrived from Ukraine after the outbreak of the war had no access to support in Poland. They were not even entitled to a temporary accommodation, nor social benefits or medical care.** Moreover, they had only a limited permit to stay in Poland, usually based on Article 32 of the Act on Foreigners[21], i.e. a permit from the Commander of the Border Guard Post to enter Poland for a period not exceeding 15 days. If they did not leave Poland within this deadline, return proceedings could be initiated and they could be placed in a detention centre. Some migrants who fled Ukraine in connection with the war were indeed deprived of their liberty in the detention centres.

Moreover, it is also worth noting that not all Ukrainian citizens were able to benefit from temporary protection in Poland. In 2022, **as many as 1,778 Ukrainian citizens applied for international protection** in Poland. The Head of the Office for Foreigners granted refugee status to three persons, 962 Ukrainian nationals were granted subsidiary protection and 33 were refused. It is notable that the change in the situation in Ukraine following the Russian invasion was considered when making positive decisions.

The Supreme Administrative Court agreed with our argumentation and held that " due to these exceptional circumstances already arising after the contested judgment, in order to guarantee to the applicant, who is concerned about returning to his/her country of origin, the entitlements under Article 46(1) and (3) of Directive 2013/32/EU and Article 47 of the CFR, the Supreme Administrative Court shall be obliged to hear the case in such a way as to ensure that it is dealt with ex nunc both as regards the facts and the legal issues".

Particularly noteworthy in this context is the judgment of the Supreme Administrative Court of July 5, 2022, case no. II OSK 1753/21[22]. Our client, a Ukrainian citizen, was initially - before Russia's aggression against Ukraine - refused international protection. The Supreme Administrative Court had to decide whether it could take into account the fact of the outbreak of the war in Ukraine in its judgment. Under Polish law, administrative courts are only authorised to consider the facts existing on the date of the administrative authorities' decision and not on the date of the court's judgment. Thus, they cannot include a change in factual circumstances, even significant ones, such as the outbreak of the war, which happened after the administrative authorities' decision and before the court's judgment. In the proceedings before the Supreme Administrative Court, we argued that the Polish legislation is, in this respect, incompatible with Article 46(3) of Directive 2013/32/E, which requires the examination by the court of all relevant facts that have arisen at the time of adjudication. The Supreme Administrative Court agreed with our argumentation and stated that “in view of these exceptional circumstances that have already arisen after the contested judgment, in order to guarantee to the applicant, who fears to return to his country of origin, the rights arising from Article 46(1) and (3) of Directive 2013/32/EU and Article 47 of the CFR, **the Supreme Administrative Court shall be obliged to**

21. Act on Foreigners of December 12, 2013, Journal of Laws of 2013 item 1650.
22. Directive 2013/32/EU of the European Parliament and of the Council of June 26, 2013 on common procedures for granting and withdrawing international protection (recast).

hear the case in such a way as to ensure that it is dealt with ex nunc both as regards the facts and the legal issues." Both the verdict of the Voivodship Administrative Court and the preceding decisions of the administrative authorities issued in our client's case were repealed by the Supreme Administrative Court.

In 2022, the Association for Legal Intervention helped more than 3,500 individuals who could not return to Ukraine due to the ongoing war there. In addition to providing direct legal advice and litigation activities on their behalf, SIP launched a dedicated legal portal in 2022.[23] We have created a database of more than 600 answers to questions on the Ukrainian Special Act and other provisions of Polish law. The portal is available in Polish, Ukrainian and English; thousands of people use it every day. **By the end of 2022, we had also trained more than 620 people helping persons displaced from Ukraine.**

23. Response by the Head of the Office for Foreigners to the SIP's request for access to public information, BSZ.WKSI.069.2.2023/RW.

III. Refugees

In 2022, applications for international protection (granting refugee status) were submitted to the Polish authorities concerning approximately 9.9 thousand persons. They were mainly citizens of Belarus, Russia and Ukraine[24]. **Nearly 5 000 persons received some form of international protection**. Proceedings for international protection continued for an average of **127** days, with **24** cases taking longer than the maximum time limit of **21** months provided for in the Procedures Directive[25] (Article 31(5) of the Directive).

In 2022, the effectiveness of complaints filed with the Voivodship Administrative Court in Warsaw against decisions on international protection was **20%**[26].

The main concerns faced in 2022 by persons applying for international protection in Poland were:

- unfounded criminalisation of illegal border crossing,
- refusals to accept applications for international protection,
- breach of the rules of administrative procedure.

1. Criminalisation of illegal border crossing

Persons who have irregularly crossed the Polish-Belarusian border in order to apply for international protection (refugee status) in Poland are at risk of criminal proceedings based on Article 264(2) of the Criminal Code ("illegal border crossing in cooperation with other persons") being initiated[27].

In 2022, the Association for Legal Intervention became involved in the case of a Belarusian citizen who had to flee the country because of his political views. He was sought there for participating in and organising anti-regime strikes. He could not have crossed the border at the official crossing point, as he would have been immediately detained by the Belarusian authorities. As a result of this situation, he had to cross the border in an irregular manner. The migrant immediately, at the first contact with the Border Guard officers, informed them that he wished to apply for international protection (refugee status) in Poland. He was eventually granted refugee status due to a real fear of persecution in Belarus on political grounds. **Nevertheless, the migrant was prosecuted and charged with illegal border crossing in cooperation with other persons.** He could

24. https://www.gov.pl/web/udsc/ochrona-miedzynarodowa-w-2022-r
25. Directive 2013/32/EU of the European Parliament and of the Council of June 26, 2013 on common procedures for granting and withdrawing international protection (the Procedures Directive).
26. Refugee Board response to SIP request for access to public information.
27. Whoever crosses the border of the Republic of Poland in violation of the law, using violence, threats, deception or in cooperation with other persons, shall be subject to the penalty of deprivation of liberty for up to 3 years.

have been sentenced to up to three years of prison. During the proceedings[28] before the District Court in Biała Podlaska, we argued[29] that punishing refugees for illegally crossing of the border when they had no other possibility to leave their country safely violates Article 31(1) of the Geneva Convention Relating to the Status of Refugees[30]. The District Court in Biała Podlaska agreed with our argumentation and, in a judgment of June 3, 2022, case no. II K 796/21, discontinued the criminal proceedings against the refugee from Belarus.

Criminal proceedings were also discontinued against persons who had provided support to the refugee. The District Court in Biała Podlaska justified the discontinuation of criminal proceedings on the grounds of a negligible social harmfulness of the action in question. It indicated that the third-country national was a refugee and that the motivation of those assisting him was based "on a solidarity with a person who was an oppositionist, subjected to persecution, repression for political reasons".

The District Court in Biała Podlaska has accepted our reasoning that punishing refugees for illegally crossing the border violates Article 31(1) of the Geneva Convention Relating to the Status of Refugees.

2. Non-acceptance of applications for international protection

In 2022, the Association for Legal Intervention, as in previous years, received information concerning the refusals of accepting applications for international protection at Polish land border crossings, as well as immediately after being apprehended in connection with an illegal border crossing. Preventing migrants from submitting refugee applications while in guarded detention centres was also a significant problem.

For several years, the Association has been observing the Border Guard's practice involving protractive actions of commanders of Border Guard posts and branches running detention centres; the protraction concerns in particular the acceptance of applications for international protection. **After migrants declare to the Border Guard officers that they wish to apply for international protection, they have to wait up to several weeks for such an application to be accepted and registered.** This delay often results in the migrant's testimony being deemed unreliable. This is because asylum authorities consider the migrant's testimony less credible when his application for international protection was not submitted immediately after the migrant's apprehension.

The refusal prompty accept an application for international protection also leads to unduly prolonged detention. The Border Guard and the courts calculate the commencement of the procedure for international protection from the date of registration of the migrant's application and not from the declaration of his intention to submit such an application. Thus, the length of stay of asylum seekers in a detention centre is extended to more than the allowed 6 months. This practice is incompatible with the provisions of

28. https://interwencjaprawna.pl/en/despite-incorrect-implementation-of-eu-law-the-war-in-ukraine-must-be-taken-into-account-by-polish-courts/
29. https://interwencjaprawna.pl/en/criminal-proceedings-against-a-refugee-for-illegally-crossing-the-polish-border-discontinued/
30. Article 31(1) of the Geneva Convention Relating to the Status of Refugees "The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence."

European Union law, which indicate that a migrant should be treated as an asylum applicant already at the stage of declaring an intention to apply for asylum; from that moment on, the rules on applicants for international protection should be applied to the migrant.

At the same time, the Act on Protection, following Art. 6(1) of the Procedures Directive, requires that an application for international protection must be accepted and registered on the same day, and when for reasons beyond the control of the Border Guard this is not possible - within 3 days from the submission of the declaration by the migrant (Article 28(5) of the Act on Protection). The above-described practice of the Border Guard is therefore in conflict with law in force.

Consequently, the Association became involved in the case of a Turkmen citizen detained in one of the detention centres. He made a written declaration of his wish to apply for international protection, but the application was not received from him for more than three weeks. The Association prepared for a client an urgent call for action in connection with the failure to act of the competent Commander of the Border Guard Post who had not accepted the application for international protection in the prescribed time limit. Subsequently, a complaint for a failure to act was filed with the Voivodship Administrative Court in Warsaw. The Association joined the proceedings before the court.

3. Procedural issues

a. Harmonizing administrative procedural rules with EU law

In 2022, in one of the cases run by the Association for Legal Intervention, the Supreme Administrative Court issued a landmark judgment changing the rules of judicial and administrative proceedings in cases concerning international protection.

According to the procedural rules applicable before the administrative court, the role of the administrative court is to assess the correctness of the authorities' decision (as of the date of that decision). The administrative court does not conduct evidentiary proceedings and cannot consider circumstances that arose after the authority's decision and before the court's judgment. The existing model is contrary to EU law, which demands an effective remedy before a court in refugee cases. EU law requires that it is for the court to fully consider the case as to the facts and points of law and to take into account all the circumstances which arose before the judgment was delivered[31].

The above-mentioned concerned a Ukrainian citizen who had been refused refugee status. The verdict of the Voivodship Administrative Court in Warsaw dismissing his complaint was issued before the outbreak of war in Ukraine. It therefore did not acknowledge the significant change in the security situation resulting from the ongoing massive warfare. **The Supreme Administrative Court, in its judgment of July 5, 2022, case no. II OSK 1753/21, held that it is authorised to examine and take into account a significant change in the factual situation in the country of origin of a person seeking international protection (refugee status), even when the change in this situation has already occurred after the judgment of the Voivodship Administrative Court.** The Supreme Administrative Court noted that this follows from the obligation to apply directly Article 46(1) and (3) of the Procedures Directive and Article 47 of the Charter of Fundamental

31. Article 46(3)of the Procedures Directive (Directive 2013/32/EU of the European Parliament and of the Council of June 26, 2013 on common procedures for granting and withdrawing international protection (recast)).

Rights (right to a trial). The verdict further underlines that indiscriminate attacks on civilians and protected facilities are taking place in Ukraine in gross violation of international humanitarian and human rights law. These circumstances justified the annulment in full of the judgment of the Voivodship Administrative Court in Warsaw and the preceding decisions of the administrative authorities[32].

Thus, it is now clear that in refugee cases, the administrative court should examine the facts of the case at the time of the judgment and not of the decision of the administrative authorities.

b. Ignoring the indications of the administrative courts

One of the guarantors of a real judicial control over administrative proceedings is the principle that administrative authorities are bound by the legal assessment and directions for further proceedings expressed in judgments of administrative courts[33]. This principle essentially comes down to the fact that administrative authorities may not apply and interpret the law differently from what the administrative court has indicated to them. They must also undertake such actions, usually in the sphere of gathering evidence, as the court has ordered in a given case. Ignoring the indications and legal assessment of the court should result in the annulment of the decision of the administrative authorities.

The Refugee Council once again issued a negative decision without conducting the recommended evidential procedure. The Warsaw Voivodship Administrative Court agreed with the SIP's opinion that there had been a violation of the principle that the administrative body is bound by the court's directions as to further proceedings.

The Association for Legal Intervention run the case of an Iraqi man applying for international protection (refugee status). As a significant part of his evidence was ignored, the Voivodship Administrative Court in Warsaw repealed fully the decisions of the asylum authorities refusing to grant him refugee status. The court indicated that the evidence presented by the party must be assessed. Despite the court's clear indications, the Refugee Council once again issued a negative decision, failing to examine the evidence to the extent indicated by the Voivodship Administrative Court in Warsaw. The Voivodship Administrative Court in Warsaw, in its judgment of September 19, 2021, case no. IV SA/Wa 876/22, upon re-examining the case, agreed with the SIP's position that there had been a violation of the principle that the administrative authorities are bound by the court's indications regarding further proceedings.

The court emphasised that ignoring this principle is incompatible with the rule of law, the principle of trust, as well as the party's right to an effective judicial protection. In the aforementioned judgment, the Voivodship Administrative Court in Warsaw also noted that, under the law in force, it is impermissible to "anticipate evidence by unjustifiably claiming that the admission of further evidence will not lead to the undermining of the factual findings made by the authority".

32. https://interwencjaprawna.pl/en/despite-incorrect-implementation-of-eu-law-the-war-in-ukraine-must-be-taken-into-account-by-polish-courts/
33. Article 153 of the Law on Proceedings before Administrative Courts "The legal assessment and indications as to further proceedings expressed in a court decision are binding in the case on the authorities whose action, inaction or protracted conduct of proceedings was the subject of the appeal, as well as on the courts, unless the provisions of law have changed."

IV. Vulnerable persons

This year, the Association for Legal Intervention continued to support vulnerable persons, including non-heteronormative persons, those who have experienced violence, unaccompanied minors, stateless persons or persons considered a threat to security.

1. **We are constantly fighting for families with children who have been staying in Poland for years and are strongly integrated into Polish society, to obtain residence permits.**

In May 2022, the Supreme Administrative Court finally issued a judgment in a case filed by the Association, concerning a Pakistani citizen who, together with her two minor children and her husband (also a migrant), has been living in Poland for 8 years.[34] The Supreme Administrative Court allowed SIP's complaint and referred the case to the administrative authorities for re-examination.

The extent to which children are integrated with their peers may influence the assessment of whether obliging a child to return to his or her country of origin would violate his or her rights. It is not acceptable to punish children for the actions of their parents.

In its judgment, the Supreme Administrative Court indicated the key issues that the Association has been raising for many years, and which are still not always taken into account by the administrative authorities, i.e.:

a. **the degree of integration of children with their peers can affect the assessment of whether the child's return to the country of origin will violate his/her rights set out in the Convention on the Rights of the Child to a degree that significantly threatens his/her psychophysical development; this circumstance should always be investigated before a return decision is issued;**

b. **it is not acceptable to punish children for the actions of their parents (a deprivation of a peer environment is a punishment for children);**

c. **the fact that the return decision applies to the whole family does not automatically justify the claim that there will be no threat to the psychophysical development of children.**

Among the families who, with the help of SIP lawyers, received a residence permit for humanitarian reasons this year, there were also families from Ukraine who had stayed in Poland irregularly before the outbreak of the war, but due to the deterioration of the situation in their own country, they could not be expelled therein.

34. Judgment of the Supreme Administrative Court of May 5, 2022, case no. II OSK 1182/21.

In addition, in one of the SIP's cases, the Head of the Office for Foreigners took into account (after the Voivodship Administrative Court had overruled the decision previously issued in this case and in accordance with the indications provided for in this judgment) not only the fact of a high degree of integration of the child with Polish society, but also the harm which the return to the country of origin could cause for the mental development of the child.

This case concerned, it was about the physical violence experienced by the child's mother (which the child witnessed) and the legitimate fear of separation from the mother, because in Chechnya, in the event of divorce, children stay with the father's family. **This decision and the court judgment preceding it are very important for creating a positive practice of settling similar cases.** They show that the violation of the rights of the child indicated in the Convention on the Rights of the Child may be associated not only with the need to continue the child's education and with the necessity to respect his strong relationship with the peer environment, etc., but also with negative consequences for his/her psychophysical development, which result from the fear of returning to the country of origin due to the violence experienced there.

The national authority is not released from the obligation to respect the rights of the child if the circumstances of the experienced violence are deemed insufficient or insufficiently proven to grant international protection to the concerned migrant. In order to justify granting a permit for humanitarian stay and refraining from expulsion, it is crucial to consider the effects of the return decision for the psychophysical development of the child, and the authorities conducting the proceedings are obliged to consider all circumstances affecting them.

In the above case, the whole family was granted a residence permit for humanitarian reasons.

2. We constantly support people who have experienced various types of violence.

In addition to the above-mentioned case, in which circumstances important for the child's psychophysical development and for the respect for its fundamental rights were taken into account, we are conducting and monitoring other cases that have not yet been completed. We support many people who have experienced violence and who applied for international protection.

The Act on Protection obliges the Head of the Office for Foreigners to assess whether the applicant, or the person covered by the application, is a person in need of a special treatment (and thus also a person who experienced violence). If this fact is found, the Office for Foreigners is obliged, among others, to: to carry out, if necessary, activities with the participation of a psychologist or a doctor.[35]

The Office for Foreigners interviewed a asylum-seeking woman who had experienced sexual violence, without the participation of a psychologist.

35. Article 69(1)(4) Act on Protection.

In one of the SIP's current cases, the Office for Foreigners interviewed a woman who had experienced sexual violence, without the participation of a psychologist, despite a repeated notification of the harm experienced and a direct request for an interview to be conducted in the presence of a psychologist.

In the case of people who have experienced violence, such a violation can have a serious impact on the course of the proceedings and the content of the decision. Victims of violence who are not adequately supported during an interview may not be able to fully answer questions and provide all the information necessary to properly assess their situation. It should be emphasized that the failure to provide a detailed information on the circumstances of the experienced violence very often leads the national authorities to a conclusion that the concerned person is not credible. Moreover, and importantly, interviewing a traumatized person without the presence of a psychologist increases the risk of re-traumatizing the injured person.

We still observe the tendency of the Office for Foreigners and the Refugee Board to detract both the migrants' statements about violence experienced in the country of origin, as well as evidence in the form of psychological opinions confirming this circumstance. **People who have experienced violence, and in particular torture, face an impossible evidentiary standard set by the authorities in the proceedings for granting international protection. At the same time, the asylum authorities very rarely decide to take expert evidence** (in 2022, the Refugee Board conducted such evidence in only one case).[36]

In one of the cases conducted by SIP, the authorities of both the first and second instance considered unproven that the migrant during his apprehension experienced torture; it was argued that he had failed to produce medical records. At the same time, the authorities omitted a certificate issued by an organization providing psychological assistance to victims of torture in the country where the migrant had initially taken refuge, which confirmed that he was a victim of torture.

In another case, in the first procedure initiated by the migrant, the authorities considered her statements about the experienced torture not credible, despite the traces of violence visible on her body. When submitting another application, the migrant presented a certificate from a psychiatrist clearly indicating that she was suffering from a post-traumatic stress disorder as a result of the experienced violence, and confirming the marks still present on her body. **However, this evidence was not considered by the authority**; the asylum application was found to be inadmissible due to the lack of new elements and findings in the case.

It should be strongly emphasized that, for most persons seeking protection, the standard of proof set by the authorities is impossible to meet. Medical examinations are very expensive, and moreover, the passage of time from the moment of experiencing violence to the moment when a migrant has the opportunity to undergo such examinations usually makes it impossible to unequivocally determine the origin of the markings on their body.

36. Refugee Board response to SIP request for access to public information.

3. **We faced a disturbing practice concerning unaccompanied minors - immigration detention in Kętrzyn.**

In the Polish legal order, unaccompanied children should not be detained if they applied for international protection. Pending return proceedings, the above-mentioned restriction applies to persons under 15 years of age. Minors who have been detained and who cannot be placed in the detention centre should be, according to the law, immediately transferred to a foster care institution.

In 2022, we have seen cases of an unlawful postponing of accepting applications for international protection from unaccompanied minors, which resulted in an unlawful prolongation of their detention. The Border Guard in the center in Kętrzyn justified this practice to SIP by, among others, the lack of places in institutions to which minors could be transferred. In several cases, **SIP's employees took the initiative in this matter** and contacted facilities throughout the country, looking for a place for minors. In the course of these activities, it turned out, among others, that the Border Guard limited its search to facilities in the voivodeship where the detention center is located, without reaching to further places.

There are also serious difficulties with a prompt appointment of guardians for minor migrants, as pointed out by the Border Guard. Meanwhile, the participation of the guardian in applying for international protection is required by law.

According to SIP, the above problems do exist and are systemic in nature. However, they cannot justify the unlawful placement of unaccompanied minors in a detention center or the prolongation of their detention. A long-term confinement of unaccompanied children with unrelated adults poses a number of serious risks, such as a risk of an abuse, psychological and physical violence, and has a negative impact on their psychological development. More importantly, it is against the law in force.

In order to solve these problems, **the Association supported the Border Guard in its contacts with care and educational institutions.** In collaboration with the Happy Kids Foundation, we initiated a cooperation between the Border Guard and foster care institutions in Łódź; thanks to these efforts, ten unaccompanied minors from the center in Kętrzyn have already been placed in foster care.

4. **We monitor the treatment of stateless persons.**

The war in Ukraine has highlighted a long-standing problem which is the lack of legal solutions in the Polish legal system concerning stateless persons. Due to historical developments is Ukraine, the number of stateless, or at risk of statelessness, persons is quite significant in this country. **In 2020, the number of stateless persons with a residence permit in Ukraine - according to the national migration services - was almost 6,000. According to UNHCR, the total number of stateless persons living in Ukraine was over 35,000**, and another 69,000 children born within the disputed territories (including Crimea) were at risk of becoming stateless.[37] After the Russia's armed aggression against Ukraine in February 2022, many of these people came to Poland.

37. https://index.statelessness.eu/country/ukraine

Unlike Ukraine, Poland (as one of the few EU countries) is not a party to the 1954 Convention Relating to the Status of Stateless Persons.[38] Therefore, the status of a stateless person and the related rights granted to stateless persons in Ukraine are not recognized in Poland. In addition, persons who, for various reasons, have not obtained documents in Ukraine officially recognizing them as stateless persons, do not have such a possibility in Poland. The only legal solution allowing for a partial regulation of their legal situation in Poland is the institution of the tolerated stay permit. This permit is granted by the Border Guard in the return proceedings, e.g., in a situation where a return of a migrant is impossible for reasons independent of the authority and the migrant. This may be, for example, the impossibility to obtain documents necessary for the deportation and the refusal to admit a migrant by the state to which he/she is to be deported.

Poland (as one of the few EU countries) is not a party to the 1954 Convention relating to the Status of Stateless Persons.

Unfortunately, the permit for tolerated stay gives migrants very limited rights. These persons have the right to stay and work in Poland, but they cannot obtain, for example, a travel document (passport) or an identity card and they are unable to obtain it in any other way. They have no right to cross the border. This is tantamount to limiting the freedom of movement and numerous difficulties in everyday functioning. Statelessness is often associated with an irregular stay due to the inability to gather documents necessary to obtain a residence permit.

In 2022, SIP assisted, among others, an entire family of Roma origin who only had documents issued by the state authorities of the former Soviet Union. The family wanted to leave Poland, but neither the Russian nor the Ukrainian embassy wanted to recognize them as their citizens and issue the documents necessary to cross the border.

SIP also advised two people who have been staying in Poland irregularly for about 30 years, having only invalid documents issued by the former Soviet Union. In both cases, a significant obstacle to taking actions to regularize their stay was the fear of contact with state authorities.

Stateless people, who we have assisted, for years have lived in a constant fear of deportation; often the mental barrier to contact the authorities is too great for them to take any action to regularize their stay.

In this context, it is of particular importance that the permit for a tolerated stay is issued in the course of the return proceedings, i.e., proceedings aimed at deporting a migrant by the Border Guard. It may deter people who often have negative experiences with border services.

5. We pay attention to the situation of LGBT people.

It should be clearly stated that, for homosexual men, staying in a detention center is associated with a threat to life and health. However, this circumstance is often not considered by the Border Guard when submitting applications to the court to place migrants in a detention center and to extend their detention.

38. Poland is one of the four European Union countries, alongside Estonia, Malta and Cyprus, which have not yet acceded to the aforementioned Convention.

In 2022, the Association was approached by two LGBT men of Pakistani nationality, who, despite their orientation and the associated risks, were placed in a detention center for several months. In Pakistan, for both religious and cultural reasons, LGBT people are at risk of persecution and discrimination. It was no different in the center where they were placed in Poland. They lived there with other individuals from Pakistan and with those of other nationalities, who also - with religious and cultural reasons - demonstrated discriminatory and even aggressive behaviour towards our clients because of their sexual orientation.

A stay in a men's detention centre involves life and health risks for homosexuals.

Currently, **SIP lawyers participate in the appeal proceedings before the district court in the above cases**. We also submitted requests for a release of the abovementioned Pakistani nationals to the competent Commander of the Border Guard Post.

6. We are concerned about the rights of persons recognized as a threat to national security.

We treat persons considered to be a threat to national security or public order as belonging to the so-called vulnerable groups. These migrants are particularly prone to violations of their rights due to the far-reaching limitation of their right to defense and the high risk of expulsion without an adequate investigation of the risk of torture.

Many of them do not know why they were considered to be such a threat. Such information is not included in the documents provided to them. Without knowing what they are accused of, they have no real chance to defend their rights. **Some of these migrants are subject to immediate deportation, without examining whether their removal will expose them to torture, death or unlawful deprivation of liberty.** SIP's support is important primarily because these deportations can take place before the administrative court has heard the case. Despite the seriousness of the charges against them, they are not brought before a criminal court; many migrants accused of terrorist acts or espionage have never been prosecuted.

The Supreme Administrative Court agreed with the SIP's opinion and indicated that in decisions on the obligation to return, issued due to the belief that the migrant may be engaged in terrorist or espionage activities, the administrative authorities are obliged to examine whether the foreigner should be granted a tolerated stay.

The Association for Legal Intervention does not undermine Poland's right and duty to protect national security. However, we believe that this cannot be done in violation of international and EU standards for the protection of human rights.

In 2022, we advised in the case of a migrant who was issued with a return decision. He was suspected of carrying out terrorist activities, but no criminal proceedings were initiated against him in Poland. A risk of torture and unlawful imprisonment upon his return to the country of origin was not examined. Reports

from international organizations showed that people suspected of terrorist activities and deprived of liberty in the migrant's country of origin are often subjected to an inhuman treatment and have their basic human rights violated. In the opinion of the Minister of the Interior and Administration and the Voivodship Administrative Court in Warsaw[39], when issuing a return decision in case of persons suspected of terrorist or espionage activities, it is not important whether the migrant's human rights will be violated in the country of origin or not.

The migrant did not know why the Polish authorities considered him to be carrying out terrorist activities. He was not informed of any of his activities that could lead the Polish authorities to such a belief.

Before administrative courts, we argued that Article 3 of the European Convention on Human Rights ("prohibition of torture, other inhuman or degrading treatment or punishment") is absolute and cannot be excluded for security reasons. In each deportation case, it is necessary to examine whether the migrant's return to the country of origin will expose him or her to the risk of torture. The Supreme Administrative Court in its judgment of September 6, 2022, no. II OSK 457/21, agreed with these arguments. It pointed out that in return decisions issued due to the fear that a migrant may conduct terrorist or espionage activities, administrative authorities are also obliged to examine whether the migrant should be granted a permit for a tolerated stay. It will be unacceptable to expel a migrant if in his/her country:

a. his/her right to life, liberty and personal security would be threatened or

b. he/she could be subjected to torture or inhuman or degrading treatment or punishment, or

c. he/she could be forced to work, or

d. he/she would be deprived of the right to a fair trial or punished without a legal basis.[40]

In this case, we also argued that in the light of the judgment of the Court of Justice of the EU of June 4, 2013 in case C-300/11 - ZZ v. Secretary of State for the Home Department and the judgment of the Grand Chamber of the European Court of Human Rights in the case of Muhammad and Muhammad v. Romania[41] the inability of a migrant to obtain any information as to the reasons for which it was considered that he may conduct terrorist activity violates his procedural rights. We pointed out that the mere fact of examining a case by a judicial authority having access to classified documents is not a sufficient counterbalance to limiting the procedural rights of a migrant. We emphasized that the administrative court does not have the authority to conduct evidentiary procedure, and thus has limited possibilities to verify the reliability of classified documents and information. We also requested that the Supreme Administrative Court refer a preliminary question to the Court of Justice of the European Union regarding the scope of admissible secrecy of information and documents concerning the migrant's obligation to return under EU law, including a right to a court (Article 47 of the Charter of Fundamental Rights) and the prohibition of torture and other inhuman or degrading treatment (Article 4 of the Charter of Fundamental Rights).

39. Judgment of the Voivodship Administrative Court in Warsaw of November 12, 2020, no. IV SA/Wa 1347/20.
40. Article 351(1) of the Foreigners Act.
41. Grand Chamber judgment of the European Court of Human Rights of October 15, 2020, Application no. 80982/12.

The Supreme Administrative Court did not agree with our arguments in this respect and refused to ask the Court of Justice of the European Union for a preliminary ruling. It decided that the request for a preliminary ruling is a right and not an obligation of the court (contrary to the clearly different position of the Court of Justice of the European Union). In the court's opinion, the migrant's situation varies from that in Muhammad and Muhammad v. Hungary and thus the standard set by that judgment will not apply. The Supreme Administrative Court decided that the migrant had the opportunity to defend his rights, because the court had full access to classified materials, and the migrant knew that the reason for issuing the decision against him was the suspicion that he might conduct terrorist activities. Thus, he could "present the circumstances concerning his stay in Poland, which are supposed to prove that this fear [of carrying out terrorist activities - ed. by the author] is completely unjustified."

It is not a sufficient guarantee that the courts have access to classified files concerning migrants deemed to be a security threat if the migrant himself is unable to access these files.

We do not agree with the arguments of the Supreme Administrative Court regarding the legitimacy of refusing access to key information in migrant deportation cases. In the SIP's opinion, the subsequent ruling of the Court of Justice of the European Union (CJEU, judgment of September 22, 2022, case C-259/21[42]) confirms our position. A complaint has been filed with the European Court of Human Rights regarding the abovementioned migrant. The case is pending communication.

In 2022, the Association for Legal Intervention submitted its opinion on a similar case communicated to Poland by the European Court of Human Rights, i.e. A.S. v. Poland.[43] The case concerns a citizen of Tajikistan who was issued with a return decision in connection with the suspicion that he was conducting terrorist or espionage activities in Poland. His case file was classified; the migrant was also not informed on what grounds the suspicions that he is a terrorist or a spy are based. The migrant claims that he is at risk of torture, inhuman or degrading treatment or punishment in his country of origin, which has not been investigated by the authorities.

In our intervention, we highlight all violations of procedural rights of migrants considered a threat to security, against whom return proceedings have been initiated, i.e.:

- lack of access to case files,
- lack of justification for the decision as to its key elements,
- lack of an effective remedy and
- failure to consider in the course of the proceedings whether a given migrant is at risk of torture, inhuman or degrading treatment or punishment upon return to the country of origin.

42. "Article 23(1), in conjunction with Article 45(4), of Directive 2013/32 in the light of the general principle of Union law concerning the right to good administration administration and Article 47 of the Charter, must be interpreted to mean, that it precludes national legislation which provides that where a decision to reject an application for international protection international protection or on the withdrawal of such protection is based on information the disclosure of which would endanger the national security of the Member State concerned Member State, the person concerned or his legal representative may have access to that information only after authorisation, are not informed even of the essential content of the considerations underlying such decisions, and may in no circumstances use for the purposes of administrative or judicial proceedings the information to which they have gained access access."

43. Complaint No. 37691/20, https://interwencjaprawna.pl/en/expulsions-of-foreigners-suspected-of-terrorism-or-espionage-we-intervene-before-the-echr/

We explain the position of Polish courts in these cases and why we believe that they insufficiently or inappropriately take into account the jurisprudence of the ECtHR (e.g. judgment in the case of Muhammad and Muhammad v. Romania, no. 80982/12) and the Court of Justice of the European Union. In our intervention, we also refer to the aforementioned judgment of the CJEU of September 22, 2022, in case C-259/21, in which the Court clearly stated that **it is not a sufficient guarantee that courts have access to classified files on migrants recognized as considered a threat if the migrant himself does not have access to these files.** Thus, the main argument of the Polish courts confirming that the procedural rights of expelled migrants suspected of terrorist and espionage activities are guaranteed in Poland, seems to be undermined by the CJEU.

V. Detention

As in previous years, in 2022, the Association for Legal Intervention provided legal support to migrants who were detained. Lawyers from the SIP provided legal advice in particular to migrants detained in the centres in Kętrzyn and in Lesznowola.

At the same time, the Association for Legal Intervention constantly monitored the legality of the stay of refugees and migrants in the detention centers and the conditions therein. In 2022, 1,946 third-country nationals were placed in detention in Poland, including 210 children. The average length of detention of children was 123 days and was 3 days longer than the average length of detention of all migrants.[44] This raises concerns from the perspective of the proper implementation of the obligation to consider the best interests of the child in all relevant proceedings.

In 2022, 1,946 persons were placed in detention in Poland, including 210 children. The length of detention of children averaged 123 days and was 3 days longer than the average length of detention of all migrants.

While beforehand there were 3 detention centres in Poland, where families with children were placed (Kętrzyn, Biała Podlaska, Przemyśl), i**n 2022 children were placed in as many as 7 centers** (Kętrzyn, Biała Podlaska, Przemyśl, Białystok, including the Office for Foreigners facility, Czerwony Bór, Lesznowola).[45] **There are doubts whether all these centres were adequately adapted to the needs of children.**

In 2022, the ordinance allowing **the limitation of a personal space in the detention centers below 4 m² and above 2 m² was still in force. This limitation - incompatible with the European human rights standards - was in force and applied in all detention centers, including those with a family profile.**[46]

In 2022, the temporary detention center in Wędrzyn was closed. Its activities were negatively assessed by the Commissioner for Human Rights, the Supreme Audit Office and non-governmental organizations. It was pointed out that the conditions there may violate the prohibition of inhuman or degrading treatment. The center was overcrowded, adequate medical and psychological support was not provided, migrants had limited opportunities to spend time outdoors, and the center was located within a military training ground. The Association submitted a number of applications to the European Court of Human Rights, arguing that the stay of migrants in this center violated the prohibition of inhuman or degrading treatment, as well as the prohibition of arbitrary detention.

44. Response of the Border Guard Headquarters dated February 28, 2023 to the SIP's request for access to public information.
45. Response of the Border Guard Headquarters dated January 31, 2023 to the SIP's request for access to public information.
46. Ibid.

1. Detention conditions

Regular visits to the detention centers allowed us to detect the problems faced by migrants placed in these centres. In addition, since March 2022, the **PomocSoc team** has been operating within the Association, whose task is to map the existing bottom-up activities related to assistance in the detention centers and support them, as well as to act directly to assist migrants staying in these centers.

Medical assistance

Migrants raise reservations about the quality of medical care provided in the centres. Particularly often they indicate that the problem is **the limited availability of specialist doctors.** This applies to e.g., pregnant women who must wait too long for a consultation with a gynaecologist. Moreover, an interpreter is not always present during the consultation with the doctor. As a result, **migrants do not receive comprehensible information about their health, prognosis or doctor's recommendations and cannot make an independent decision regarding, for example, the method of treatment.** Migrants also report a **lack of adequate psychiatric care.** This is important because the stay in the center negatively affects the mental condition of migrants and therefore, they very often require the support of a psychiatrist.

Problems with access to medical care in the detention centers for migrants are illustrated by the example of a foreign woman, a SIP's client. The Association provided legal support to a woman who stayed in the center for 10 months with her children and husband. The prolonged detention had a negative impact on her mental health. During her stay in the centre, the migrant made several suicide attempts. Although she was granted access to a psychiatrist, the consultations with the doctor took place without an interpreter. Therefore, the migrant did not know what medications she was taking and what their side effects were. Feeling side effects, the migrant refused to take the drugs, and meanwhile the authorities of the center controlled her in this respect (they checked whether she was taking prescribed drugs). Thus, it must be concluded that the migrant's right to decide on treatment was violated, as well as her right to privacy.

SIP also represented an Afghan woman who is seeking redress for her and her family's unlawful detention. During her stay in a detention center, she suffered a miscarriage. She indicates that she did not receive adequate gynaecological care and psychological support after the miscarriage.

Psychological assistance

Migrants staying in the detention centers should be provided with psychological support. Our observations show that **people placed in detention have experienced violence and often struggle with trauma.** Moreover, staying in the detention centers, they are exposed to constant stress.

Currently, psychological assistance is provided only by psychologists employed or cooperating with the Border Guard. According to the migrants' accounts, this aid is insufficient. The centers do not have enough psychologists, which is why migrants have to wait a long time for consultations, and often they do not even know that a psychologist is available in the centre. One of the consequences of the limited access to psycho-

logical consultations is that people who should not be there, such as those who have experienced violence, are placed in the detention centers.

In 2022, the Border Guard consistently refused to grant consent to psychologists co-operating with SIP to conduct psychological consultations with persons staying in the detention centers. In their refusals, the Border Guard argues that migrants have already been provided with psychological support and therefore they do not have to be assisted by other psychologists. The Border Guard also claims that the centers' insufficient premises do not allow for consultations with independent psychologists.

In 2022, the Border Guard consistently refused to allow psychologists collaborating with SIP to provide psychological assistance to migrants staying in detention centres.

It is worth noting that in earlier years, external psychologists, unrelated to the Border Guard, regularly obtained permission to provide psychological assistance in the centres. The current practice of the Border Guard, in the opinion of SIP, is incomprehensible, given the difficult conditions in the detention centers and the insufficient psychological assistance provided there by the Border Guard. This has been confirmed by independent bodies - the Commissioner for Human Rights and the Supreme Audit Office. Moreover, some migrants do not trust psychologists employed by the Border Guard. Ensuring that these persons have contact with an external psychologist would benefit the detention centers by reducing the level of stress of the migrants staying there.

The Association for Legal Intervention is of the opinion that **the refusal to grant consent for psychological consultation is unlawful**, as migrants staying in the center have the right to contact non-governmental organizations, e.g., when they need a psychological consultation. Both the provisions of national and EU law guarantee the representatives of a non-governmental organization access to migrants in detention to provide them with psychological assistance. Therefore, the Association filed a complaint against the Border Guard's actions, i.e. the letter of the Commander-in-Chief of the Border Guard of February 9, 2022, in which the Association was refused permission to organize a psychological consultation for a migrant staying in the detention center.

By order of June 15, 2022, no. IV SA/Wa 617/22, the Voivodship Administrative Court in Warsaw rejected the complaint filed by SIP, indicating that the letter in question does not constitute an act that can be challenged by the Association before the courts. SIP filed a cassation appeal against the above decision. By order of December 19, 2022, no. II OSK 2402/22, the complaint was dismissed by the Supreme Administrative Court. The Supreme Administrative Court shared the opinion of the Voivodship Administrative Court in Warsaw and decided that the Association had no right to question the information obtained from the Border Guard regarding the lack of consent to conduct a psychological consultation with a migrant.

Hunger strikes

Persons who are placed in the detention centers often report problems related to a limited contact with social workers or employees of the centres. Migrants very often do not know why they are in the centre. The lack of understanding of the legal grounds for detention and the applicable procedures intensifies the negative emotions associated with detention among migrants.

In 2022, migrants in the detention centers went on hunger strikes several times. Migrants resorted to this drastic form of protest, demanding, among other things, transfer to open centres, improvement of conditions in detention centres, shortening the period of detention. One of the clients of the Association, who took part in the strike, spent over 17 months in the detention center.

2. Detention of vulnerable persons

Children

Families with children, as well as unaccompanied minors, are still placed in the detention centers. **Association for Legal Intervention has been indicating for years that children should not be detained.** Even a short-term stay in a detention center has a negative impact on their development and psychophysical condition. Parents of children who stayed in such centers mention that children there become depressed, often cry, have nightmares or problems with sleeping. Parents also point to the problem of the lack of educational activities in the detention centers. Minors who stay in the centers should be guaranteed participation in didactic and educational as well as recreational and sports activities adapted to their age. Failure to provide those activities for children is a violation of their right to education.

The SIP observations show that district courts, which decide on detention of minor migrants, very often do not take into account the interests of children and do not examine the impact of detention on their further development.

The above was confirmed by the District Court in Olsztyn in the decision of August 16, 2022, no. VII Kz 411/22, pursuant to which a detention order concerning a foreign woman and her minor child was repealed. The migrant and her 3-year-old child stayed in the center for over 6 months. The District Court emphasized that such a long stay in the center negatively affected the mental state of the woman and her minor child. In this respect, the court referred to the statement of the Ombudsman for Children of March 6, 2018, in which it was emphasized that in all actions concerning children, the overriding consideration should be the protection of the child's interest.

The Association for Legal Intervention notes the positive practice of the District Court in Olsztyn in repealing decisions on placing children in a detention center or extending their detention. In 2022, the District Court in Olsztyn, as the court responsible for the detention center in Kętrzyn, revoked over 80% of the decisions to extend the detention period. Most of them concerned children or families with children.[47]

In 2022, the Association for Legal Intervention filed two complaints with the ECtHR related to the arbitrary stay of families with children in the detention centers. The cases are waiting to be communicated to the Polish government.

In 2022, SIP also filed a claim for compensation for the stay in the center of an Afghan family with three children. The family spent 97 days in the detention centers. The case is pending.[48]

47. Response of the President of the Olsztyn District Court of April 21, 2023 to SIP's request for access to public information.
48. https://interwencjaprawna.pl/en/we-submit-an-application-for-compensation-for-stay-in-guarded-centers-for-foreigners-on-behalf-of-a-family-from-afghanistan/

Unaccompanied minors

Children staying in Poland without family are also placed in detention centers. Meanwhile, according to the law, unaccompanied minors under 15 years of age and unaccompanied minors who applied for international protection should not stay in the detention center.

It is reported that children who have been wrongly recognized as adults are placed in the detention centers. This was the case with two SIP clients. The Border Guard recognized them as adults after an X-ray examination of the wrist and assessment of a bone age by a doctor on this basis. When the identities of both migrants were confirmed by the embassy of their country of origin, it turned out that they were minors. The above situation confirms that **the method of determining the age used by the Border Guard is unreliable.** Age assessment based on a wrist x-ray has been widely criticized as inaccurate and with a large margin of error.[49]

Children who have been wrongly considered to be adults are placed in guarded centres for migrants.

During one of the visits of the Association's lawyer to the detention center in Kętrzyn, **the authorities of the center did not give him permission to conduct consultations with unaccompanied minors staying in the centre.** The authorities of the center referred to the fact that SIP did not provide information whether the children's guardian consented to the consultation. Preventing contact between a migrant staying in the center and a non-governmental organization breaches the law. **All migrants staying in the detention centers, including unaccompanied minors, have the right to contact representatives of non-governmental organizations.** Sometimes, only from a representative of such an organization minor migrants receive information in an understandable form that they can submit an application for international protection. This is a particularly important information, because after declaring the will to submit an application for international protection, unaccompanied minors should immediately be transferred to foster care institutions.

People with disabilities

According to the law, during the asylum procedure, migrants who are disabled cannot be placed in the detention centers.

Despite this provision being in force, the two clients of SIP – both with disabilities – were detained while the procedure for granting them international protection was pending. The men stayed in the detention center in Kętrzyn for about 3 months. The analysis of the decisions issued by the courts, which ruled on their detention, shows that in the course of the procedure it was not possible to determine that the men were persons with disabilities. The courts concluded that there were no medical reasons preventing the detention. The above event raises justified doubts as to whether the courts reliably

49. Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, November 16, 2017, CMW/C/GC/4-CRC/C/GC/23, available at: https://www.refworld.org/docid/5a12942a2b.html.

assess the health condition of persons who are placed in the detention centers. **The fact that men are people with disabilities should be indisputable - each of them has an amputated limb.** The men had not been brought before the court for the hearing on the extension of the period of their detention, and thus they **had no real opportunity to prove their disability before the court.**

Due to the observed shortcomings in the operation of the detention center in Kętrzyn, the Association for Legal Intervention asked the penitentiary judge to carry out an urgent supervision over this center in terms of the correctness and legality of the stay of migrants with disabilities. After carrying out the inspection in the centre, the penitentiary judge found no shortcomings in the treatment, stay and medical care of migrants with disabilities who apply for international protection. However, the penitentiary judge pointed out that in case of two migrants the provision which states that disabled persons who have applied for international protection cannot be placed in detention was breached.

People who have experienced violence

During their visits in the detention centers, SIP lawyers very often meet people who declare that they have experienced violence. It should be emphasized that people whose psychophysical condition indicates that they have suffered this type of trauma should not be placed in the detention centers. **Migrants who have experienced violence should not be detained, regardless of who is the perpetrator and what was the form of violence.** This concerns both migrants who have applied for international protection and those who are placed in the detention centers pursuant to the Act on Foreigners.

The presence of people who have experienced violence in the detention centers proves that the procedure for identifying victims of violence is ineffective. SIP has repeatedly pointed out that the algorithm used in this regard by the Border Guard is incompatible with the law.

Another problem is the fact that the courts that decide to place migrants in the detention center or extend detention therein do not appoint expert psychologists and psychiatrists to assess whether a given person has experienced violence. According to our clients' accounts, **the courts ignored information provided by migrants about their traumatic experiences.** The courts mostly rely on the information provided by the Border Guard, and therefore they do not independently examine whether the psychophysical condition of a given person may indicate that he/she has experienced violence.

The clients of the Association, who declare that they have experienced violence in their countries of origin, often have evidence that confirms this, e.g., scars on the body. Despite this, the victims are placed in the detention centers and are not released. One of SIP's clients, detained in a detention centre, had previously been severely beaten in a Russian prison.After this incident, he still has serious health problems to this day.

The presence of individuals who have experienced violence in the centres indicates that the procedure for identifying victims is ineffective.

Migrants in detention are not only physically but also psychologically abused. SIP provides legal support e.g. to a detained Pakistani LGBT person who received letters with death threats in his country of origin because of his sexual orientation. SIP's clients also include people who have experienced sexual violence in the past, especially women.

Migrants who crossed the Polish-Belarusian border invoke their experiences of violence too. They say that their phones containing, for example, recordings or photos are often destroyed at the border. For these people, it is generally impossible to present evidence that would unequivocally confirm such facts. However, when talking about incidents from the border, they frequently mention the ongoing trauma.

It is reported that people who have experienced violence in their country of origin, are exposed to contact in a detention center with persons belonging to religious or social groups that they associate with the experienced violence. According to SIP, this is a worrying phenomenon, because, among other things, for this reason, staying in a detention center may be a form of re-traumatization for people who have experienced violence. For example, one client of SIP who declares that he has experienced violence in his country of origin receives threatening letters in the detention center from another migrant from the same country.

People whose psychophysical condition does not allow them to stay in the centre

Persons for whom placement in a detention center may constitute a threat to life or health should not be detained. These are migrants who have serious health problems, in particular mental disorders, and diseases. Their stay in a detention center is associated with a serious risk of causing danger to their life and health.

The observations of the Association for Legal Intervention show that in detention centers there are people who were in a bad mental state before being placed in the centre, e.g., they were treated psychiatrically beforehand. **Detention, and thus isolation, negatively affects the mental state of these people and intensifies the symptoms of their diseases.** The Border Guard assumes that these persons have access to a psychologist (employed by the Border Guard) and a psychiatrist, therefore there are no contraindications to placing them in the centre. The courts do not make independent assessment in this regard and refer to the opinion of a doctor associated with the Border Guard. Migrants placed in the centers indeed receive some medical and psychological assistance there, however, according to SIP, the quality of this care raises doubts. In addition, the conditions in the centers do not allow migrants to undertake effective therapy.

One of our clients lost a 5-year-old child while trying to cross the Polish-Belarusian border. The child died of hypothermia. The woman was brought to a detention center with her second child. The stay in the center reminded her of the traumatic events from the border. In the detention center, the migrant did not have the conditions to experience mourning. She struggled with insomnia, suffered depressive episodes and lowered mood. She could not take advantage of the psychological help offered in the detention centre in Kętrzyn because the psychologist employed there did not know the language spoken by the woman. Considering the tragic history of the migrant and her mental state, it can be assumed that her stay in the center led to her re-traumatization.

A stay in the center may pose a threat to life and health of migrants who are LGBT persons. These people are particularly exposed to discrimination by other migrants staying in the detention centres. The SIP client, who is a homosexual, was harassed in the center by other migrants who found out about his sexual orientation. The described situation negatively affected his mental state and threatened his safety. Among the SIP's clients there was also a transgender migrant who, fearing discrimination by other migrants, was afraid to enter any social interactions with them.

VI. Hate crimes

In 2022, the Association for Legal Intervention provided legal support to migrant victims of hate crimes (also known as prejudice motivated crimes). The perpetrators of these crimes are driven by hate towards people who belong to a particular nation or ethnic, racial, political, religious group or due to lack of any religious denomination of a person concerned. Prejudice, stereotypes and lack of tolerance are a basis for hate crimes.

In the Polish law, following hate crimes are provided for in:

- a use of violence or unlawful threats against a group of people or a particular person due to his/her national, ethnic, race, political or religious affiliation or because of his/her lack of any religious denomination (Article 119 of the Penal Code),
- a public insult towards a group of people or a particular person or violation of the integrity of another person because of his/her national, ethnic, race, political or religious affiliation or because of his/her lack of any religious denomination (Article 257 of the Penal Code),
- public promotion of fascism or other totalitarian regime or inciting hatred based on national, ethnic, race or religious differences or for reason of lack of any religious denomination (Article 256 of the Penal Code).

According to the Association for Legal Intervention's observations, foreigners are increasingly becoming victims of hate crimes in Poland.

The observations of the Association for Legal Intervention show that migrants are increasingly becoming victims of hate crimes in Poland. The above-mentioned phenomenon may result from the rise in the number of migrants in Poland (including after February 24th, 2022, i.e. after Russian aggression against Ukraine) or due to the persistence of stereotypes and prejudices regarding migrants, which constantly function in the public sphere. The real scale of hate crimes is, however, difficult to estimate. Migrants who are victims of a crime, often refrain from reporting it to the police, because they fear contacts with the authorities or a repeated victimization. The clients of the Association also mention a lack of confidence that the activities taken by the police or prosecutors will lead to the punishment of the perpetrator. They are not even sure whether their crime notification will be taken seriously by the person receiving it.

The lack of knowledge of the Polish language may also be a problem. Migrants living in Poland, who often don't know the Polish language, have difficulties in contacting the police: this is a problem that concerns a variety of issues, not just hate crimes. In 2022, the family of a Georgian citizen who had been murdered by her husband came to SIP. According to the family, the women reported to the police that she was experiencing

domestic violence, but her reports were not translated into Polish language. This is probably why the actions were not taken that could have prevented the tragedy.

Hate crimes are very unwillingly reported by migrants who stay in Poland irregularly. Migrants fear that the police will notify the Border Guard which will initiate the return proceedings against them.

Migrants who applied for help of the Association for Legal Intervention experienced violence, which was verbal (e.g. public insults, name-calling) as well as physical (e.g. beatings, thrusts). Violence was also used in a symbolic form (e.g. putting up offensive posters). Migrant injured by hate crimes were representatives of various national and ethnic groups. Among the SIP's clients, who experienced prejudice motivated crimes were citizens of Lebanon, Ukraine, Belarus, Great Britain and Zimbabwe.

In 2022, citizens of Russia, who have been living in Poland for many years, or citizens of other Russian-speaking states, who have experienced prejudice motivated crimes, approached the Association for Legal Intervention. The Russian invasion of Ukraine caused public aversion towards Russian citizens, which could have increased the number of cases in which Russian citizens or Russian-speaking people were victims of hate crimes.

The Association for Legal Intervention assisted migrants who are victims of hate crimes, among others, by preparing a written notification of a crime or accompanying a migrant when submitting an oral report of a crime to the police. The Association for Legal Intervention also provided a legal support to migrants after initiating a criminal investigation (e.g. by drawing up a complaint against the suspension of an investigation).

One of the cases in which the Association for Legal Intervention provided legal support to migrants concerned the beating of three men in Warsaw. Among the men there was a citizen of Lebanon, therefore the men spoke Arabic. The facial features of the two men indicated that they came from Arab countries. They were attacked without any reason by a group of men who came out of the gate of a nearby building. The perpetrators expressed in a vulgar manner their dissatisfaction with the use of a foreign language. As a result of the beating, one of the victims suffered a moderate health detriment.

The Association for Legal Intervention also provided legal support to a Zimbabwean citizen who had been beaten by unknown perpetrators. He was also robbed by them and deprived of all his documents. The migrant reported the crime to the police, who informed the Border Guard about the incident. The Border Guard inspected the legality of the victim's stay and then initiated the return procedure. **The migrant who himself experienced violence suffered negative consequences of reporting the crime.**

A citizen of Ukraine, who was kept for about a week in an uninhabited building by a Polish citizen, also approached the Association for Legal Intervention. The man tricked the migrant into the building (he promised to guide her to a hostel and help her in finding job). The woman experienced violence and got robbed by him. According to the woman, the perpetrator had committed similar crimes in the past against other Ukrainian

citizens, taking advantage of their difficult life situation. The described case shows that the perpetrators of other crimes than those specified in Articles 119, 256, 257 of the Penal Code may be biased against a particular nation and can take advantage of the difficult life situation of migrants in Poland.

While providing legal support to migrants who are victims of hate crimes, the SIP's representatives observed that **police officers usually do not pay attention to the perpetrator's motivation to commit a crime.** It can be assumed that in many cases a given crime is wrongly classified as, e.g. „an insult" rather than „an insult due to the nationality of a victim", which affects punishment. According to migrants, the police officers receiving the notification of a crime often provide incorrect information, claiming that the perpetrator's motivation does not affect the legal qualification of the act.

The perpetrators of hate crimes are very often random people who did not know the victims before. It happens that crimes are reported after a longer period of time, and the victim usually has no contact with any witnesses of the incident. Unfortunately, in the majority of hate crime cases, the identity of the perpetrators cannot be established. Cases rarely go to court, and the perpetrators of these acts are not prosecuted.

VII. Migrant workers

1. Rights of migrant workers, including citizens of Ukraine, after February 24, 2022.

While providing legal advice on the work of migrants in Poland, the Association has noticed a number of challenges that migrant workers have been facing in Poland for many years. Despite a long-lasting criticism of civil society organizations, the current system is based on the assumption that the legality of the stay of a migrant working in Poland is strongly dependent on the honesty of his/her employer. Often, the legality of a migrant's stay is related to the performance of work for a specific employer, under specific conditions.

On January 29, 2022, the amendment to the Act on Foreigners entered into force[50], which introduced certain facilitations in this regard. It introduced, among others, the possibility of changing the employer without the need to apply for a new temporary residence permit. Moreover, the need to prove the place of accommodation has been removed and the catalogue of circumstances that do not require changing the temporary residence and work permit has been extended. However, the burden of ensuring the continuity of legal stay and employment, even in the event of an unjustified loss of job or the need to leave due to the employer's abuses towards the employee, is on migrants. Still, **the legality of work performed by migrants in many cases depends on the employer completing the necessary formalities**, such as obtaining a work permit or filling in and signing the attachment to the application for a temporary residence and work permit.

The legality of the stay of a migrant working in Poland is strongly dependent on the honesty of his or her employer.

Such a construction of making the legality of work of migrants dependent on the activities of the employer was also used in relation to Ukrainian citizens and their spouses who came to Poland as a result of the armed conflict in Ukraine. The right to work has been granted to Ukrainian citizens covered by the Ukrainian Special Act; this right was also granted to other Ukrainian citizens whose stay in Poland is legal (Article 22 of the Ukrainian Special Act). However, this entitlement was made conditional on the employer's notification submitted within 14 days from the commencement of work by a citizen of Ukraine to the competent labour office. The entrusted work must be within the time or working hours, and the remuneration must not be lower than indicated in the notification. Failure by the employer to provide notification may result in negative consequences for the migrants themselves. Although the possibility of imposing a fine on Ukrainian citizens has been excluded (Article 22(5c) of the Ukrainian Special Act), there is a risk of initiating return proceedings against them in connection with illegal, though not culpable, performance of work.[51]

50. Act of December 17, 2021 amending the Act on Foreigners and certain other acts, Journal of Laws 2022.91 of 14.01.2022.
51. Currently, the provisions of the Ukrainian Special Act by virtue of the amendment of January 13, 2023 introduce the possibility of not initiating proceedings against Ukrainian nationals for an obligation to return and discontinuing proceedings initiated when it is in their vital interest (Article 42b of the Ukrainian Special Act),

In the opinion of the Association, such a treatment of employees from Ukraine who came to Poland in connection with the armed conflict in their country of origin or could not return to this country is unacceptable and violates the right of persons enjoying temporary protection to work legally (Article 12 of the Temporary Protection Directive). Citizens of Ukraine do not have any rights that would enable ensuring compliance of their employment status with the law in force. They were also not granted any possibility to control the employer's fulfilment of his/her obligation to notify the labour office, and to enforce this obligation.

2. Labour Violations

Last year, by far the most frequently reported problem of migrant workers was the lack of payment of due remuneration for the work performed. Violations occurred both on the part of employers and employment agencies. When, because of a non-payment of remuneration, employees stopped working and demanded an overdue payment, employers often cut off any contact with them and did not respond to any attempts to settle the matter amicably.

The Association was approached by a citizen of Belarus, whose 17-year-old daughter worked in a restaurant near Warsaw serving kebab dishes. No contract was signed with her. The migrant was also not fully informed about who her employer was. She was not paid for her work and all attempts to contact her employer remained unanswered. Within our legal assistance, we prepared a motion for payment addressed to the client's former employer. If the employer fails to respond, the case will be taken to court.

We were contacted by a Ukrainian citizen on behalf of herself and about 40 other employees, also citizens of Ukraine, regarding the mass non-payment of remuneration. They did not receive remuneration from the temporary employment agency for the work performance.[52] The Association undertook to handle some court cases of these migrants.

The most common problem reported by migrant workers was the non-payment of remuneration due for their work.

Among our clients was a citizen of Ukraine who worked without the required permit. The employer took his passport, promising to obtain all the necessary documents for him. The migrant never regained his passport, no legalization documents were issued to him, and the employer finally stopped paying the salary and contacting the migrant.

Particularly troublesome for migrants were refusals to pay remuneration for overtime. It was extremely difficult for them to prove how many hours they worked in a given month. The employer often did not keep records of a working time, or, after termination of the employment, migrants did not have access to the schedule.

One of the Association's clients also reported being mobbed at work due to her skin colour.

except when required for reasons of defence or state security or the protection of public security and order or the interest of the Republic of Poland.

52. More on the case: Gazeta Lubuska, Zielona Góra, https://gazetalubuska.pl/zielona-gora-agencja-zatrudnila-ludzi-dla-eobuwie-pracownicy-nie-dostali-jeszcze-wyplaty-za-listopad/ar/c3-16021333

The basic problem faced by employees who have decided to fight for their rights or intend to take steps in this direction is the lack of appropriate mechanisms enabling migrant workers (and more broadly: migrants) with an irregular residence situation to safely report such violations and seek justice (firewall). The authorities are obliged to provide information to each other on migrants who have violated migration law or regulations regarding the legality of work.

The National Labor Inspectorate, although it is an institution created primarily to monitor working conditions and compliance with labour law by employers, may also punish a migrant who performs work illegally with a fine of PLN 20 to PLN 5,000, even if the migrant was not aware of the illegality of his/her work. The Inspectorate is also obliged to notify the Border Guard or the Police of a violation of the provisions of the Act on Foreigners, i.e., of an illegal work and illegal stay in Poland, which may result in the initiation of return proceedings. It is also obliged to inform the Social Insurance Institution, the Head of the Customs and Tax Office and the mayor.

The Border Guard is also entitled to examine the legality of work performed by migrants and to punish them in the event of irregularities. It cooperates with public administration bodies as part of control proceedings. The detailed rules of cooperation between the Border Guard and the National Labor Inspectorate (within the scope of combating, among others, illegal performance of work by migrants) are regulated by the Agreement of the Chief Labor Inspector and the Commander-in-Chief of the Border Guard of December 10, 2018 on the principles of cooperation between the National Labor Inspectorate and the Border Guard.[53]

Consequently, **a migrant who performs work in Poland illegally, and at the same time his/her employment rights are violated, will probably not report it to the competent authorities for fear of initiating return proceedings against him/her and imposing a fine.** Thus, employers, being aware of their privileged situation, are more likely to commit violations of the employees' rights.

People who have already resigned from work where their rights were violated approached the Association. However, they were afraid of submitting a notification to the National Labor Inspectorate due to the possibility of negative consequences for their former co-workers who, due to the fault of that employer, continue to work illegally.

53. Agreement may be downloaded here: https://www.pip.gov.pl/o-nas/wspolpraca/porozumienia-krajowe?tmpl=pdf

VIII. SIP's comments and remarks on legislative proposals

In 2022, the Association for Legal Intervention remained an active participant in the legislative process, which is of particular significance currently, when many important migration law amendments are being proceeded by the Parliament.

In the unprecedented situation related to the outbreak of the war in Ukraine, at the beginning of March 2022, together with the Helsinki Foundation for Human Rights, we presented **comments**[54] to the draft Ukrainian Special Act, which was proceeded under a special procedure. In these comments, we emphasized the need **to specify the periods for which visas and temporary residence permits would be extended and to regulate the situation of third-country nationals** fleeing the conflict in Ukraine. Moreover, together with the Helsinki Foundation for Human Rights and the NOMADA Association, we presented **specific legislative proposals**[55] after the act entered into force. We submitted – to the Chairman of the Committee on Internal Affairs of the Sejm of the Republic of Poland – a proposal for a number of **specific amendments**[56] to the Ukrainian Special Act that would streamline and facilitate the procedures related to assigning the PESEL number and would take into account the obligations arising from EU law.

We consistently proposed **changes to the Ukrainian Special Act**[57], drawing attention in September 2022, together with the Polish-Ukrainian Chamber of Commerce, to the need for a comprehensive database of guardians of minors, the unclear legal situation of families in which children and parents have different citizenships, and to solutions hampering access to assistance in Poland by people with disabilities. The **Ukrainian Special Act was amended** by the Act of January 13, 2023;[58] we also actively participated in the respective legislative proceedings. In the **submitted comments**[59], we alarmed that the amendment deprives Ukrainian citizens of the right to assistance in covering the costs of accommodation, limits the possibility of submitting applications for a PESEL number, and eliminates the possibility of obtaining a 3-year residence in Poland. We assessed those changes as unfavourable for Ukrainian citizens, as well as other migrants.

The Association for Legal Intervention took part in the legislative proceedings concerning many other acts applicable to migrants, which, however, were not finalized in the course of parliamentary works last year. **We presented comments**[60] on the proposed draft law

54. https://interwencjaprawna.pl/wp-content/uploads/2021/01/Uwagi-do-projektu-ustawy-SIP-HFPcz.pdf
55. https://interwencjaprawna.pl/wp-content/uploads/2021/01/uwagi-NGOs-ustawa-UA-22-03-2022.pdf
56. https://interwencjaprawna.pl/wp-content/uploads/2023/01/SIP-Senat-RP-uwagi-specustawa-22.12.2022-.pdf
57. https://interwencjaprawna.pl/wp-content/uploads/2022/09/SIP_uwagi_do_specustawy.pdf
58. The amendment of January 13, 2023, of the Ukrainian Special Act, Journal of Laws 2023 no. 185.
59. https://interwencjaprawna.pl/wp-content/uploads/2022/10/KOMENTARZ_SIP_-do-projektu-ustawy-o--zatrudnianiu-cudzoziemcow.pdf
60. https://interwencjaprawna.pl/wp-content/uploads/2022/10/KOMENTARZ_SIP_-do-projektu-ustawy-o--zatrudnianiu-cudzoziemcow.pdf

on the employment of migrants (currently at the opinion stage), raising the need to take into account the individual situation of Belarusians and pointing to changes limiting the possibility of issuing a work permit for a period longer than one year, as well as to the provisions that may lead to a digital exclusion of some entities. We also published an opinion on **the draft amendment of the Act on Foreigners**[61] proposed by the government, which

contains several significant changes that are in our opinion unfavourable for migrants and inconsistent with Polish, EU and international law. Those changes included, among others, making the Commander-in-Chief of the Border Guard an appeal body in the proceedings concerning returns, permits for a tolerated stay and humanitarian stay, and entry bans. We negatively assessed the postulated shortening of the time limit for lodging appeals against decisions issued in migrant cases, the inability to suspend the execution of the return decision in the event of a complaint to the court, the extension of the maximum immigration detention period to 18 months, and the introduction of the possibility of detaining migrants for 7 days in transit zones. The draft amendment to the Act on Foreigners was adopted by the Sejm in January 2023.

61. https://interwencjaprawna.pl/wp-content/uploads/2023/02/uwagi-do-ustawy-zmieniajacej-ustawe-o-cudzoziemcach-SIP-Fundacja-Ocalenie-1.pdf

IX. Systemic consequences of our actions

Below we present issues that have not been discussed in detail in the report, but which significantly affect the rights of refugees and migrants in Poland.

Closed cases

1. **Supreme Administrative Court, judgment of April 12, 2022, case no. II OSK 768/21, A.A. - procedural guarantees in return proceedings (on the obligation to return)**

The Supreme Administrative Court indicated that the administrative authorities are obliged to take into account evidence requests aimed at establishing the factual situation in the migrant's country of origin in the context of the fear raised by him related to returning to this country. A general information on the security situation in a given country, without reference to specific circumstances or concerns raised by a party, does not meet the requirement of exhaustive collection of evidence. Country of origin information must relate to key information and circumstances.

The Court also emphasized that the fact of using false documents or pointing to poor living conditions in the country of origin cannot result in downplaying the circumstances indicated by the party which prevent the safe return to this country.

Having experienced a rape in the past may indicate that there is a risk of experiencing violence again upon the return to a country of origin.

The Supreme Administrative Court reminded that pursuant to Article 81a (1) of the Code of Administrative Procedure, in return proceedings, any doubts that cannot be dispelled as to the facts should be resolved in favour of the party.

2. **Voivodship Administrative Court in Warsaw, judgment of September 19, 2022, case no. IV SA/Wa 876/22, N.J. - family life, refugee status and procedural guarantees**

The Voivodship Administrative Court in Warsaw pointed out that the fact of granting a refugee status to a migrant's wife is an important circumstance in the refugee case (for international protection) of her husband. However, it does not have to automatically lead to granting a refugee status to the husband. The court ordered that the files of the refugee case of the migrant's wife should be attached to the files of her husband's case. It also emphasized that it should be examined whether the circumstances justifying granting the refugee status to the migrant's wife, or the fact of obtaining a refugee status by her, may be associated with the risk of suffering serious harm by the migrant upon his return to the country of origin.

The Voivodship Administrative Court in Warsaw also emphasized that in a situation where a foreigner testifies that he/she was subjected to physical violence, which the authority

denies, a medical or psychological examination should be carried out in this regard.[62] This is all the more justified if the migrant requests it himself/herself. If psychological tests are carried out, it should be ensured that the psychologist conducts an interview with the migrant and prepares an opinion on his credibility.

3. Voivodship Administrative Court in Warsaw, judgment of April 28, 2022, case no. I SA/Wa 162/22, A.A. - „Good start" benefit

Ms. A.A., a citizen of Ukraine, in 2020, applied for the „Good Start" benefit for her three children. At the time of applying for benefits, the return proceedings concerning the mother were pending, while the children stayed in Poland on the basis of a permanent residence permit. The administrative authorities refused to grant the benefit, considering that Ms A.A. does not have a residence permit with access to the labour market, and the children's permanent residence is irrelevant, because, as minors, they cannot have access to the labour market in Poland. Consequently, the authority decided that the three children are not entitled to the „Good start" benefit.

The Voivodship Administrative Court in Warsaw repealed in full the decision of the administrative authorities. In the court's opinion, the lack of legal residence of the parent is not significant, because the actual recipients of the „Good Start" benefit are minor children and it is their residence situation that should be analysed. At the same time, the administrative court reminded that the regulation specifying the procedure for granting the benefit limits in an unacceptable manner the statutory personal scope of migrants entitled to receive this benefit. The Act of June 9, 2011 on supporting the family and the foster care system states that migrants with a permanent residence permit - in this case the children - are entitled to this benefit.

4. Voivodship Administrative Court in Warsaw, judgment of December 1, 2022, case no. IV SA/Wa 1057/22, M.M. - procedural guarantees in return proceedings

The case concerned Mrs. M.M., a citizen of Russian Federation, originally from Chechnya, who has been living in Poland since 2015.[63] The proceedings before the appeal body lasted almost 5 years and have been completed with the issuing of a return decision. Throughout this time, the Head of the Office for Foreigners did not determine the current personal and family situation of Mrs. M.M. as well as failed to serve the migrant with letters in the case.

The Voivodship Administrative Court in Warsaw repealed the decision of the administrative body. In the justification, the administrative court indicated that it is unacceptable for the appeal body to conduct the proceedings for so long without carrying out any evidence ex officio and thus, to issue a decision based on outdated facts.

The Voivodship Administrative Court in Warsaw pointed out: „There is no doubt that the appeal body, examining the appeal, should, pursuant to Article 15 of the Code of Administrative Procedure, conduct a full evidentiary procedure, including considering the factual and legal situation as for the day of making the decision. The authority was also entitled to conduct necessary evidence ex officio, in particular due to the decision being issued by the first instance authority almost five years earlier, in relation to a

62. Pursuant to Article 68(3) of the Act on Foreigners
63. https://interwencjaprawna.pl/wsa-to-szef-udsc-ma-obowiazek-ustalenia-aktualnej-sytuacji-zyciowej--cudzoziemca/

very young person, a migrant, who might not have been aware of the need of providing the authority with evidence confirming her current life, personal and family situation, especially taking into account that since 2017, after submitting the appeal, she had not received any correspondence from the appeal body."

5. **Refugee Board, decision of October 7, 2022, case no. RdU-354 1/S/21, A.D. - persecution for political reasons**

A citizen of Belarus and her children were granted subsidiary protection in Poland. Mrs. A.D., however, indicated that the treatment she had experienced in Belarus amounted to individual persecution. Mrs. A.D. was an active political activist, including a candidate in the 2020 elections for the office of president. She organized marches and protests. In connection with her activities, she was repeatedly placed in detention, where she was beaten, intimidated, and detained in inhuman conditions. She was harassed by the militia, tracked, wiretapped and the administrative and judicial proceedings were unjustifiably initiated against her. Despite this, the Head of the Office for Foreigners decided that her problems do not justify granting her a refugee status, but only a subsidiary protection.

The Refugee Board awarded Ms. A.D. a refugee status due to political persecution. The Refugee Board pointed out that the migrant "(...) not only participated in the pre-election rallies and subsequent protests, but also carried out comprehensive activities for democratic changes and the observance of civil rights and freedoms, which were the reason for the authorities to undertake numerous and consistent, targeted actions against her, including the use of violence, which exposes her to individual persecution because of her political views and activities carried out in connection with them".

Pending case

1. **Voivodship Administrative Court in Warsaw, T.G. - protection of rights acquired under the Anti-Crisis Shield (COVID-19)**

The Anti-Crisis Shield,[64] that was introduced in order to counteract the effects of the COVID-19 pandemic, provided that persons whose refugee procedure (for granting international protection) ended during the epidemic or state of epidemic threat, have an extended right to access social benefits and medical care until the end of the 30th day following the date of the cancellation of the last state in force.[65] This provision was repealed on April 15, 2022, and in consequence, people who had already benefited from the extended support were no longer entitled to it as of May 15, 2022, even though the state of epidemic threat was still in force.

In the opinion of the Association for Legal Intervention, such a situation may violate the principle of protection of rights that have been rightfully acquired. The introduced change should apply only to persons who, at the time of its entry into force, have not yet acquired the right to the extended social assistance and medical care.

64 Act of March 2, 2023, on special solutions related to the prevention, counteracting and combating COVID-19, other infectious diseases and crisis situations caused by them, Journal of Laws 2020 no. 374.
65. Article 15z8 of the Anti-Crisis Shield.

How to support us

If you share our values and would like to support us in our ongoing efforts to fight for equal rights for all, you can do so by choosing one of the following methods:

1. Single or regular payment via our **website.**

2. Regular transfer or standing order to our account:
63 2030 0045 1110 0000 0307 2610 (PLN and others currencies)
IBAN: PL63 2030 0045 1110 0000 0307 2610
SWIFT: PPABPLPK

69 2030 0045 3110 0000 0028 6960 (only EUR)
IBAN: PL69 2030 0045 3110 0000 0028 6960
BIC/SWIFT: PPABPLPK

3. Purchases through **fanimanii.pl** – a percentage of the value of your purchases will be donated to us.

4. Benevity – verify whether your employer participates in the matching gift programme on the Benevity platform.

With the support of donors and individual supporters we are able to act. Any amount donated will be used for activities supporting people with refugee or migration experience in Poland.

And please remember to follow us on social media to keep up to date with our activities:


SYSTEM PIECZY DLA DZIECI BEZ OPIEKI I DZIECI ODSEPAROWANYCH UCIEKAJĄCYCH Z UKRAINY
TYMCZASOWY OPIEKUN
DZIECI W UKRAIŃSKIEJ PIECZY INSTYTUCJONALNEJ
RODZINNA PIECZA ZASTĘPCZA
POLSKA INSTYTUCJONALNA PIECZA ZASTĘPCZA

ASSOCIATION
FOR LEGAL
INTERVENTION

Report on the activities of the Association for Legal Intervention in 2022

Authors: Aleksandra Chrzanowska, Małgorzata Jaźwińska, Magdalena Fuchs, Zuzanna Kaciupska, Maja Łysienia, Agnieszka Matejczuk, Patrycja Mickiewicz, Aleksander Posłuszny, Kornelia Trubiłowicz
Revision of Polish version: Maria Prosińska-Jackl
Layout, graphics, illustrations: Izabela Łęska

Images:
cover and p. 2, 31, 33, 37, 49 – Canva
p. 2, 4, 5, 12, 49 – SIP

ASSOCIATION
FOR LEGAL
INTERVENTION