

UNIVERSITY OF WARSAW, CENTRE OF MIGRATION RESEARCH

# Poland country report

**Government responses to increased influx of protection seekers in 2015/16 and 2022/23** 

Karolina Łukasiewicz, Marta Pachocka, Andrei Yeliseyeu

OSLO METROPOLITAN UNIVERSITY STORBYUNIVERSITETET



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| Author:              | Karolina Łukasiewicz, Marta Pachocka, Andrei Yeliseyeu<br>University of Warsaw, Centre of Migration Research   |
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# 1 Welfare policies, immigration and political context in Poland

Poland's response to the 2015 refugee reception crisis in Europe and the 2022 crisis following the mass forced migration from Ukraine needs to be understood in a broader context of how welfare policies operate in the country, what Poland's immigration history is and what the recent political shifts are.

Poland is a unitary state with an administrative division based on a three-tier subnational government system consisting of voivodeships at the regional level (provinces), and poviats (municipalities) and gminas (communes) at the local level. Welfare policies in Poland, similarly to Czechia, Slovakia, Hungary, Slovenia and Croatia, are categorised as the Central European welfare model. In countries representing this model, income inequality is lower than in Eastern Europe (Bulgaria, Romania, the Baltic countries), but the ratio of workers under temporary contracts is relatively high. Although the government spendings on social welfare policies and programmes is somewhat higher than in Eastern Europe, the spending is lower than the EU-28 average (Lauzadyte-Tutliene et al., 2018).

Following the collapse of communism in 1989, Poland, similarly to other Central European countries, introduced decentralizing neoliberal reforms. During that time, public spending was systematically reduced, privatised, and deregulated (Tybuchowska-Hartlińska, 2019; Sakowicz, 2017). However, after the 2015 parliamentary election won by right-wing Law and Justice, social expenditure and labour rights increased. The new flagship public programme put in place was a universal child benefit, labelled as "Family 500+", that granted monthly 500 PLN (about €125) for every child (Lendvai-Bainton & Szelewa, 2021). The programme resulted in a significant reduction of child poverty. Importantly, the programme was made available for international protection holders. Consequently, the material situation of large refugee families struggling with poverty improved (Łukasiewicz, 2017a).

The multidimensional transformation of political and socio-economic systems at the turn of 1980s and 1990s that changed Poland into a free-market economy accelerated international migration (Okólski & Wach, 2020; Molęda-Zdziech et al., 2021; Sobczak-Szelc et al., 2022). Since 1989, the country has rapidly evolved from closed to open border policy with, firstly, net emigration, and soon after, net immigration. Poland's accession to the EU in 2004, entry into the Schengen zone in 2007, strengthening of the Polish economy and liberalisation of entry policies for labour migrants resulted in increasing numbers of immigrants (see: Łodziński & Szonert, 2017; Sobczak-Szelc et al., 2022). Consequently, between 2011 and 2019, the stocks of immigrants increased from 150,000 in 2011 to more than 2 million in 2019, with Ukrainians being the largest group of around 1.22 million (Duszczyk & Kaczmarczyk, 2022: 165).

The rapid increase in immigration was not followed in pace by the development of immigrant infrastructure. An exception in this process was the asylum system which had to be created as a result of trespassing into the Polish legal system of EU and international regulations (Wach & Pachocka, 2021, 2022). As early as 1991, the Polish government signed the Geneva Convention on the Status of Refugees of 1951 and the New York Protocol of 1967 (Sobczak-Szelc et al., 2022). Four years later, it signed the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950. Since then, and after incorporating into Polish law the institution of "refugee status", the development of the asylum system accelerated (Pachocka & Sobczak-Szelc, 2020; Sobczak-Szelc et al., 2022). It included formalising the asylum procedure, establishing reception centres for

asylum seekers and putting in place yearly individual integration programmes (IIPs) in 2000. The process was paused following the 2015 parliamentary election when the right-wing government initiated defunding of the asylum system and limited the access to asylum procedures through push-backs at the country's external borders (Łukasiewicz, 2017b). Following October of 2023, another policy shift is yet to come after the victory in the parliamentary election of liberal opposition.

## 1.1 The closed-door asylum policy after 2015

Soon before the 2015 refugee reception crisis in Europe, Poland was governed by the liberal centre-right oriented majority coalition, composed of Civic Platform (pol. Platforma Obywatelska, PO) and the Polish People's Party (*pol.* Polskie Stronnictwo Ludowe, PSL). As a result of the autumn 2015 parliamentary elections, the country's political scene was taken over by the right-oriented majority coalition of Law and Justice (pol. Prawo i Sprawiedliwość, PiS), Poland Together (pol. Polska Razem, PR; transformed into Agreement - pol. Porozumienie in 2017) and Solidarity Poland (pol. Solidarna Polska, SP). With minor changes, the coalition won again the 2019 parliamentary elections. At that time, it encompassed the Law and Justice (pol. Prawo i Sprawiedliwość, PiS), Sovereign Poland (pol. Suwerenna Polska, (formerly Solidarity Poland/Solidarna Polska, name changed in 2023), the Republican Party (pol. Partia Republikańska), Association "Renew the Republic of Poland" (pol. Stowarzyszenie "OdNowa Rzeczypospolitej Polskiej") and Association "Polish Matters" (pol. Stowarzyszenie "Polskie Sprawy"). A centre-right political party Agreement (pol. Porozumienie) left the coalition in 2021.

Poland's two terms of rule by a coalition of right-wing parties overlapped with several crises, namely the 2015 refugee reception crisis in Europe, the ongoing crises at the Polish-Belarusian border, the COVID-19 pandemic and the 2022 crisis of reception of forced migrants fleeing war in Ukraine. The Polish government took extreme stances in these cases. During the government's first term (2015-2019), migration-related topics were used by the government to promote an anti-refugee, anti-Muslim and anti-European discourses (Molęda-Zdziech et al., 2021; Górak-Sosnowska & Pachocka, 2019 a,b; Pachocka & Szczerba-Zawada, 2019; Szałańska, 2020; Sobczak-Szelc et al., 2022). The government's hostile narrative about the Middle Eastern and North African (MENA) refugees accelerated 'moral panic' (Molęda-Zdziech et al., 2021). Following the 2015 crisis, Poland's government, along with the Hungarian and the Czech, opposed the relocation mechanism and initiated push-backs of asylum seekers at Poland's eastern borders (Pachocka, 2016; Pachocka & Szczerba-Zawada, 2019; Pachocka & Caballero-Velez, 2019, forthcoming).

As a result of refusing relocations, the European Commission brought a case against Poland, Hungary and the Czech Republic to the Court of Justice of the European Union (Pachocka & Caballero-Velez, 2019, forthcoming; Sobczak-Szelc et al., 2022). In the meantime, the use of illegal push-backs at the Polish-Belarusian border resulted in multiple cases against Poland in the European Court of Human Rights. Between 2021 and 2023, nine cases involving 73 people were brought to the European Court of Human Rights against Poland (The Association for Legal Intervention, 2023a).

In 2016, the Polish national migration strategy was invalidated at the request of the Minister of the Interior belonging to a right-wing party. Since then, no new migration strategy has come into existence despite progress with a number of blueprints prepared by state agencies. There was also a lack of a public administration body coordinating the work on this document and being institutionally responsible for it (Łodziński, Szonert, 2023). During the second term of Law and Justice in the Polish parliament (2019-2023), the COVID-19

pandemic hit and, among other things, triggered entry-restrictions. In August 2020, in response to widespread political repressions in Belarus, the Polish government introduced humanitarian visas for Belarusians facing risks of persecution for political reasons, and a month later launched the Poland Business Harbour (PBH) programme aimed to facilitate the relocation of Belarusians received Polish humanitarian visas and almost 114,000 were issued PBH visas. In 2021, the government received over 1000 evacuated citizens of Afghanistan to Poland after the Taliban took over (State of affairs, 2021).

At the same time, a closed-door policy was put in place for migrants fleeing the Middle MENA region, Central Africa and Asia through the Polish-Belarusian border. The Polish government, using the Border Guard and violating asylum and human rights law, accelerated push-backs of people trying to apply for asylum in Poland at the Polish-Belarusian border (Klaus, Łukasiewicz, 2023; Pachocka, 2022). In 2021, the government introduced amendments ordering migrants who were apprehended immediately after an unauthorised crossing of the state border to leave the territory of Poland and placed a temporary ban on them from entering Poland and the Schengen area.

## 1.2 The open-door asylum policy for Ukrainians since 2022

In contrast to the closed-door policy towards MENA asylum seekers, in 2022, unprecedented in its scope, an open-door policy was put in place toward the Ukrainian forced migrants (Pachocka, 2022). Adoption of the Polish Act on Assistance to Citizens of Ukraine in Connection with the Armed Conflict on the Territory of that Country (2022) gave preferential treatment to Ukrainian forced migrants as TPS beneficiaries under Polish law and full social rights expressed in access to the Polish welfare system.

During the two terms of Poland being ruled by right-wing parties (2021-2023), numerous changes took place in Polish asylum law (Szulecka et al. 2018, Sobczak-Szelc et al., 2022), some of which go against international and European law (push-backs, and other barriers to access to the asylum procedure) (Pachocka & Sobczak-Szelc, 2020). With the exception of the asylum system, in practice, integration measures were mainly implemented at the local level by local governments, social organisations and local communities (Wach, Pachocka, 2022). The only formalised component of integration policy has been a one-year IIP designed for beneficiaries of international protection in Poland under the Act on Social Assistance.

# 2 Statistics: Asylum flows to Poland

Due to Poland's geopolitical situation including a border with Ukraine, the country became one of the major hosts for people fleeing war in 2022. In the preceding decade, Poland received a few asylum applications. During the large influx of protection seekers to Europe in 2015/2016, and when the right-wing PiS won the election, the country's asylum decisions reached a near record low. Nevertheless, the composition of different demographic cohorts from different sending countries varies over time. Here we present an empirical background on these asylum flows and permits, which provide context to the government response to the situation in 2015/16 and 2022/23, respectively.

#### Data on asylum flows

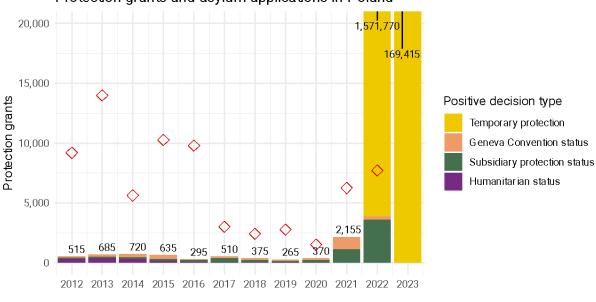
Data on asylum flows are sourced from Eurostat Asylum Statistics. These data are based on **administrative sources**, supplied to Eurostat by statistical authorities, interior ministries or related immigration agencies. The data presented in this chapter is a combination of four different datasets provided by Eurostat: data on temporary protection, asylum applications, resettlement refugees, and decisions on asylum applications. Source: Information on data - Migration and asylum - Eurostat (europa.eu)

# 2.1 Asylum flows and permits 2012–2023

Whereas the EU experienced a twofold increase in asylum arrivals in 2015/2016, Poland did not see an increase of asylum applications; their number stood at around 10,000 annually. Few were granted protection.

Figure 1 shows the total number of received asylum applications (red diamonds) and permits for persons granted protection in 2012–2023. Asylum applications to Poland fluctuated between a few thousands and 10,000 in the years before 2017, and the Polish Border Guard's border control response may have contributed to the drop in asylum claims that year. The number of lodged asylum applications fell below 3000 in 2020, and then started rising in 2021, mostly due to the political crisis in Belarus, before the EU triggered the Temporary Protection Directive (TPD) following the full-scale Russian invasion of Ukraine in February 2022.

Figure 1: Persons granted protection in Poland by protection decision vs. lodged asylum applications 2012–2023.



Protection grants and asylum applications in Poland

Red diamonds: Number of lodged asylum applications.

Number above bars: Sum of granted permits.

Data: Eurostat (migr\_asydcfsta, tps00195, migr\_asyappctza). Note that the bars in 2022 and 2023 are trimmed at 20,000, but reach 1.5 million in 2022, as they dwarf the time series in the decade before.

By the time the unprecedented number of displaced Ukrainians arrived in Poland in 2022, a total number of 7000 protection seekers from Russia (mainly of Chechen origin), Belarus and Ukraine lodged asylum claims. Russian and Ukrainian citizens had only a 7% and 9% approval rate respectively, while 95% of Belarusian applicants were granted protection. A total number of 3500 positive subsidiary protection decisions were given to Belarusians in 2021 and 2022, which is a substantial amount given Poland's history of restrictive asylum policies. About 800 Afghans were granted asylum under the Refugee Convention in this period, and some 2000 holders of Russian citizenship have been granted temporary protection since the TPD was triggered. Asylum flows from other countries are negligible.

After 2016, arrivals plummeted to a few thousand annually, and even fewer than in the past years were granted protection in this period – the majority were a few hundred from Afghanistan, Russia and Ukraine, until a little more than 1100 Belarusians were granted protection in 2021. Minors were far more likely to receive positive asylum decisions; three quarters of 400 Russian citizens were under 18 years of age, and half of the Ukrainians, compared to 54% and 24% among those who did not, respectively. Until recently, considering low numbers of foreigners who were granted protection in Poland, the arrival of 100–200 unaccompanied migrants annually (unaccompanied and separated children, UASC) actually constituted about 30–50 % of the asylum approvals (Eurostat, 2023).

There is a relative gender balance among beneficiaries of international protection since 2012; the share of women was within 40–47 % until 2022, when due to the arrival of Ukrainian women fleeing the war, the share increased to 67 %. It fell to 61 % in 2023. This trend matches that of other Central European countries such as Austria and Germany.

#### 2.2 Situation in 2015/16

In 2015, the number of asylum seekers to the EU soared to 1.25 million, up from 560,000 the year before. Another 1.2 million arrived in 2016. In both years, half of the ~1.2 million were Syrians, Afghans and Iraqis (Eurostat, 2016). Arrivals in Poland peaked in 2013, at nearly 14,000. In contrast to most EU countries, this number fell discernibly to some 10,000 first-time asylum applicants in 2015 and 2016. However, the ~80% increase from 2014 to 2015 was considerable. Poland had a low ratio of registered arrivals (270 applicants per million inhabitants), at about one tenth of the EU average (2470) (Ibid.)

17% of processed applications were approved in the three-year period (fig. 2). The approval rates for Russians and Ukrainians were very low (around 10–12 %) during the 2015–17 period, not differing much from the rates in the following years, as detailed above. However, all 275 Syrians were granted protection as Syria was the sixth largest sending country. Iraqis had a high approval rate at 95 % as well, though only 95 were granted protection in this period.

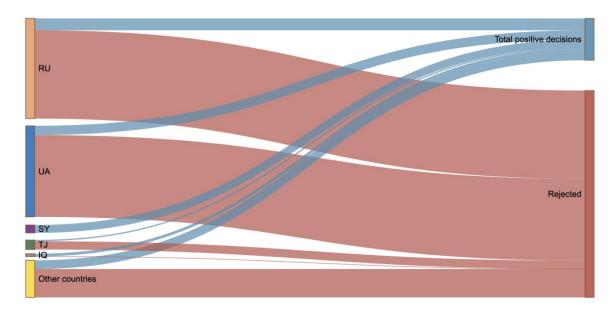


Figure 2: Relative shares of asylum seekers from the five largest sending countries to Poland, by asylum grants (blue) and rejections (red) in the period 2015–2017.

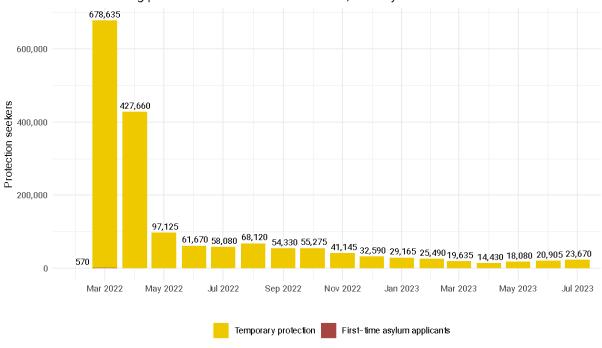
Data: Eurostat (migr\_asydcfsta, migr\_asytpfm, tps00195, migr\_asyappctza).

Among refugees granted protection in 2015–2017, the dependency ratio, defined as the ratio between young and old divided by the working age population, was relatively low for the fifth largest group of persons granted protection, Iranians (21 %), meaning that 79 % were of working age. Due to large numbers of children under 14 years of age, refugees granted protection from other main sending countries had a somewhat lower share of working-age refugees: the dependency rates of Syrians (63 %), Afghans (53 %) and Iraqis (48 %) were very similar to those in Germany, except for Syrians, which had a noticeably higher dependency ratio in Poland. Nearly 40 % of permits to Syrians were granted to children under 14 during these three years.

#### 2.3 Situation in 2022/23

Poland received the highest number of Ukrainian protection seekers among all EU countries in 2022, at nearly 1.6 million. This number was about 1000 times larger than the granted permits in the preceding years (see fig. 1 and 2). The sudden influx of a million Ukrainian protection seekers in March and April 2022 quickly flattened to about 50,000 a month through the rest of the year. By March 2023, around 20,000 persons granted temporary protection arrived each month (Figure 3, yellow bars). Most were from Ukraine, while 2000 were Russian citizens and another 1000 were nationals of Belarus. Coincidentally, regular (non-TPD) asylum claims lodged by non-Ukrainians climbed both in 2021 and 2022 (Figure 1). Many were from Belarus. A negligible number of non-TPD asylum applicants arrived in 2022 and 2023, and are therefore not visible compared to TPD in Figure 3, below.

Figure 3: Asylum applicants and persons granted temporary protection in Poland after the Russian large-scale invasion of Ukraine since Feb 2022.



Persons seeking protection in Poland since Feb 2022, monthly

Numbers above bars: Sum of protection seekers each month.

Data: Eurostat (migr\_asyappctzm, migr\_asytpfm, tps00195).

Like in many other host countries, there is a high share of women and children among the displaced persons from Ukraine: 42% are minors, and 67% of adults are women. The dependency ratio of Ukrainians is 58%. Though most of them are young children (25,800 under 14 years, 33%), a non-negligible share is older (7500 over 64 years, 4%), a larger share of elders than in many other host countries.

The Polish authorities track the number of temporary protection holders who leave the country and produce an estimate on currently residing protection holders every month. For some countries, many Ukrainians have moved on since they first obtained a temporary residence permit. According to these stock data, which may be biased or incorrect, more than 960,000 migrants from Ukraine resided in Poland as of August 2023, dropping from the initial 1,6 million who arrived in 2022, and now comprising 2.6 % of the Polish population. For comparison, the EU average is 0.9 %.

# **3** Governance and multilevel responsibilities

#### 3.1 National responsibilities and actors

Since the collapse of communism in 1989, no single ministry was designated as responsible for immigration and integration issues. The key competencies were distributed between three ministries (see more Szulecka et al., 2018; Pachocka & Sobczak-Szelc, 2020; Pachocka et al., 2020):

- the Ministry of Interior (pol. Ministerstwo Spraw Wewnętrznych), responsible for the coordination of **migration policy** (Art. 29 of the *Act on government administration departments, 1997*),
- the Ministry of Foreign Affairs (pol. Ministerstwo Spraw Zagranicznych), responsible for visa policies (*Act on Foreigners, 2013*) and "asylum" (pol. azyl; different than the refugee status based on Geneva Convention and EU legal framework) (*Act on Protection, 2003*),
- the Ministry of Labour and Social Policy (pol. Ministerstwo Pracy i Polityki Społecznej), responsible for the **immigrant integration and labour market regulations** (*Act on employment promotion, 2004*).

In addition, three national-level agencies (see more Szulecka et al., 2018; Pachocka & Sobczak-Szelc, 2020; Pachocka et al., 2020) were engaged in immigration and integration governance:

- the Office for Foreigners (pol. Urząd do Spraw Cudzoziemców), responsible for international protection procedures (I instance) and assistance for asylum seekers within the reception (Act on Protection, 2003), legalisation of stay procedures (II instance) and returns (II instance) (Act on Foreigners, 2013),
- the Refugee Board, responsible for the **international protection procedures** (II instance) (Act on Protection, 2003),
- and the Border Guard, responsible for tolerated and humanitarian stay, returns, legality of stay control (Act on Foreigners, 2013).

The Office for Foreigners and the Border Guard are subordinated to the Ministry of the Interior.

Two other regional and local level agencies are responsible for policy development and/or implementation in the field of migration governance:

- Voivodeship Offices, responsible for **legalisation of stay procedures** (I instance) (Act on Foreigners, 2013), and supervision over the **implementation of the integration programmes** (Act on Social Assistance, 2004, pol. Ustawa z dnia 12 marca 2004 o pomocy społecznej),
- Family Support Centres at the poviat level, that **implemented IIPs** (Act on Social Assistance, 2004).

In a regular proceeding to be granted international protection, applications are submitted to the Border Guard officers, while the entire procedure is then conducted by the Office for

Foreigners. The foreigner applying for refugee status must remain on Poland's territory not to have their proceedings discontinued.

Although Poland was not impacted by the increased refugee influx in 2015, the newly formed Law and Justice government remained among the most anti-refugee authorities in the European Union (Łukasiewicz, 2017b). It refused to relocate refugees, defunded the asylum system and accelerated push-backs at the borders.

Until 2022, no major changes in ministerial structures took place. The main national actors in the field of immigration and integration remained the Ministry of Interior and Administration, the Ministry of Foreign Affairs, and Ministry of Family, Labour and Social Policy (pol. Ministerstwo Rodziny, Pracy i Polityki Społecznej, renamed from the Ministry of Labour and Social Policy after the 2015 parliamentary elections, without changing scope of responsibilities).

In December 2017, Beata Kempa was appointed Minister-Member of the Council of Ministers responsible for Polish humanitarian aid, and she held the position until June 2019, when she became a member of the European Parliament (Kempa, 2019).

In 2022, due to the rapid influx of forced migrants from Ukraine, the Council of Ministers established the position of the Government Plenipotentiary for war refugees from Ukraine. The position was granted to Paweł Szefernaker, a Secretary of State in the Ministry of Interior and Administration (Regulation, 2022a). His responsibilities included implementing and coordinating actions related to forced migration from Ukraine, yet the activities of the plenipotentiary have not been publicly disclosed. In addition, tasks related to the social integration of foreigners were assigned to the Minister-Member of the Council of Ministers Agnieszka Ścigaj (Regulation, 2022b). The newly adopted Act on Assistance (2022) enabled fast and easy access to Polish territory for Ukrainian citizens and their families and granted them access to the social welfare system.

The central government played an important role in funding the 2022 response. A study conducted in the first months of the crisis indicated that public spending reached PLN 15.9 billion (€3.37 billion) out of a total spending of approximately PLN 25.4 billion (€4.45 billion) which equals 1 percent of Poland's GDP on assistance (Baszczak, et al., 2022). Some of the public spending that went to the social assistance for Ukrainian TP holders (e.g. professional activation of foreigners on the Polish labour market) was funded through the Ministry of Labour and Social Policy and included. Interviewed central administration employees revealed that 328,000 TP children received universal child benefits in Poland ("500+" programme), 12,000 parents utilised "Care Capital"; 141,000 benefited from 300 plus, and 53,000 from family benefits.

Central and local-level public administration interviewees estimated that external funding from IGOs like UNICEF, UNHCR and IOM (which sometimes was not in cash but in the form of implementation of specific tasks or projects) and iNGOS contained a major portion of their spending, in addition to the EU funding, e.g. in the form of regular ESF or AMIF funds. Some financial assistance was also provided through partner cities abroad and governments e.g. Japan, France or the USA.

#### 3.2 Local government responsibilities

Since the collapse of communism in Poland and until 2015, local governments in Poland were receiving increased responsibility and financial resources, but the process was accompanied by growing privatisation and deregulation of public services (Łukasiewicz et al.,

forthcoming). Following 1989, a series of administrative reforms divided the country into voivodeships (co-managed by the voivodes who represent the central government at the regional level and hold responsibility for managing social policies for refugees), poviats (implementing services for refugees), and gminas. The local administrations became responsible for implementing public policies addressing the needs of all residents, including migrants (e.g., Act on Social Assistance, 2004). They were granted budgetary discretion and used it to increasingly subcontract services to non- and for-profit organisations. That was the case for immigrant services subcontracted to NGOs (frequently funded through EU grants such as Asylum, Migration and Integration Fund, AMIF), but to a lower extent for refugee services. IIPs, a major tool of refugee integration, remained in the public domain. Designed and funded at a central level (regulated by the Act on Social Assistance, 2004), they were implemented by Poviat Family Support Centres which were nested at a municipal level. Since Poland implements the refugee self-settlement model, the government was covering the costs of these programmes according to where a refugee chose to live. Despite the central-level policy shaping, on the ground, there were discrepancies in how the programmes specifically operated (Łukasiewicz, 2017).

After 2015, in opposition to the anti-refugee central government measures, mayors of Polish metropolises began to organise (see: Union of Polish Metropolises, 2017), spoke out in favour of relocation and in support of refugees. Among them, the most outspoken was the mayor of the city of Gdańsk, Paweł Adamowicz, who was later publicly assassinated in 2019 during a charity fundraiser.

Consequently, the Law and Justice government began defunding the localities through taxes and access to EU funding (Łukasiewicz, 2017; Sobczak, 2017; Makowski, 2019).

During the first months following the large-scale Russian invasion of Ukraine in 2022, mayors of large and medium-sized Polish cities were at the forefront of everyday response (Union of Polish Metropolises, 2022 a,b,c; Klaus & Jarosz, 2023a; Pachocka et al., forthcoming). Together with specialised NGOs, they organised voluntary relocations from the Polish-Ukrainian border, put in place information points at bus and train stations, organised mass accommodation centres, matched people willing to make their houses available to refugees, organised food drives, and facilitated job searches. The TP created a necessary legal framework that facilitated access to basic social services, housing and labour market for forced migrants from Ukraine across the country. However, local government representatives criticised the government for providing insufficient instructions on how to implement on the ground and fund these activities. They even described the situation as a "do-it-yourself" approach (Łukasiewicz et al., forthcoming) and struggled with underfunding of services provided to protection seekers. International organisations and the EU provided temporary support here.

#### 3.3 Non-public actors

Non-public actors, including NGOs and other non-profit organisations, have been major providers of services for migrants, e.g. delivering information and offering legal counselling to asylum seekers and people in detention centres, offering free-of-charge educational services (e.g. Polish language courses, vocational training sessions), assisting with job and housing searches, organising cultural events for foreign-born residents. Some of these services have been designed exclusively for asylum seekers and people granted international protection, others have been available to various groups of migrants. The services were funded through a patchwork structure of EU grants (e.g. AMIF), other international grants, local administration grants and grants distributed through the central government agencies.

In addition, non-public for-profit actors have also been engaged in providing services to protection seekers through running several reception centres, offering medical aid, language courses and translation services. Some of these organisations have been providing asylum seekers with assistance in finding adequate accommodation outside the reception centres (Pachocka et al., 2020: 38-46).

The non-public actors were funded through a patchwork structure of central, local government and EU grants. Most of the NGOs operating in the fields of migration and integration were settled in the biggest cities where migrants usually choose to live and work.

NGO refugee providers were negatively impacted by the 2015 right-wing anti-refugee shift at the central government level. The new state approach was even described as a framework of refugee non-admission (Follis, 2019). As the access to funding for NGOs was limited by the government (e.g. the delay of the AMIF project calls in 2015 and later annulment of them by the new Law and Justice government), some organisations began to seek other types of funds, including business donors and crowdfunding (Łukasiewicz, 2017b; Pachocka & Sobczak-Szelc, 2020: 36-38). During that time, the grass-root movement in Poland developed to support refugees. For the first time in recent Polish history, people gathered in large Polish cities to support refugees, organised through social media to send volunteers to Hungary or Greece and started organising refugee advocacy events around the country. Informal groups established during that time turned out to be crucial in the response to the crisis at the Polish-Belarusian border and during the 2022 mass forced migration from Ukraine.

In 2022/23, no formal legal changes took place in the way NGOs, labour unions, trade unions, private persons/households operated. However, many organisations that have not been specialised in migration and integration shifted their scope and started to use available funds to support Ukrainian forced migrants.

NGOs specialised in refugee and migrant service provision and humanitarian aid as well as various international organisations played critical roles in service provision following mass forced migration from Ukraine in 2022. International intergovernmental organisations (IGOs) and non-governmental organisations (INGOs) were the main funders of activities of the multiple local NGOs and local governments. For instance, UNHCR funded various programmes run at schools to facilitate education access for refugee children. NGOs began to receive significant international funding (e.g. UN Agencies, international humanitarian organisations), many of them under the UNHCR's "Regional Refugee Response Plan". By 2023, the UNHCR's Regional Refugee Response Plan for Poland gathered 83 organisations: six UN agencies; 24 INGOs; 48 national NGOs; the International Federation of Red Cross and Red Crescent Societies along with the Red Cross; and four faith-based organisations (UNHCR, 2023).

In addition, ordinary residents were also engaged in supporting people fleeing war in Ukraine. Households hosting forced migrants from Ukraine, received small financial compensation from the government for 120 days with an option to conditionally extend it (40 PLN per day, equivalent to around €8), in accordance with the Act on Assistance (2022).

# 4 Permits and connected rights

#### 4.1 Protection statuses and rights before 2015

The right to asylum and a refugee status as well as the county's obligations towards protection seekers are regulated in Poland's constitution (Constitution of the Republic of Poland, 1997). Paragraph 1 of Article 56 stipulates that, 'Foreigners shall have **the right of asylum** in the Republic of Poland in accordance with principles specified by statute', and is followed by Paragraph 2 stating that, 'Foreigners who seek protection from persecution in the Republic of Poland, may be granted the status of **a refugee** in accordance with **international agreements** to which the Republic of Poland is a party ' (Article 56)" (Pachocka & Sobczak-Szelc, 2020: 26; see more ibidem: 25-31, and Szulecka, et al., 2018: 27-30).

Prior to 2015, the **rules, conditions and procedures** for granting international protection in Poland were regulated in the Act on Protection (2003). Additional important provisions were introduced in the Act on Foreigners (2013) (see details discussed in: Szulecka et al., 2018; Pachocka & Sobczak-Szelc, 2020; Pachocka et al., 2020; Sobczak-Szelc et al., 2022). In addition, Poland was – and still is – legally bound by several international legal acts regarding migration and asylum (Pachocka & Sobczak-Szelc, 2020: 27-28), which *inter alia* include (in chronological order):

- Convention for the Protection of Human Rights and Fundamental Freedoms, 4 November 1950, Rome,
- Convention Relating to the Status of Refugees, 28 July 1951, Geneva,
- European Agreement on the Abolition of Visas for Refugees, 3 September 1960, Strasbourg,
- Protocol Relating to the Status of Refugees, 31 January 1967, New York,
- European Agreement on Transfer of Responsibility for Refugees, 16 October 1980, Strasbourg,
- Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms, 22 November 1984, Strasbourg,
- Convention on the Rights of the Child, 20 November 1989, New York.

As an EU Member State, Poland is a part of the Common European Asylum System (CEAS) and is obligated to incorporate relevant rights and obligations towards asylum seekers and refugees into national legislation (see more Pachocka & Sobczak-Szelc, 2020: 27, 94-95; Szulecka, et al., 2018: 67-69). For example:

- Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on **standards for the qualification of third-country nationals** or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, 20.12.2011),
- Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013),

- Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (OJ L 180, 29.6.2013),
- Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013).

Between 2011 and 2014, legal changes were introduced into Polish asylum law that put in place new possible protection mechanisms (e.g. relocation) and liberalised existing law (Pachocka & Sobczak-Szelc, 2020: 32-33; Szulecka et al., 2018: 34-37):

- 2011 The possibility of **relocation and resettlement of migrants to Poland** was introduced; conditions for providing social assistance and medical aid to asylum applicants and providing assistance in voluntary returns were specified; the conditions of apprehension and detention of asylum seekers were put in place (Act, 2011).
- 2012 The possibility of **obtaining a residence permit by rejected asylum seekers** and asylum seekers who applied for international protection several times and were still in the asylum procedure after Jan. 1st, 2010 was introduced (Act on Regularisation, 2011).
- 2014 The EU single permit directive was implemented, a maximum period of stay on the territory of Poland based on the temporary residence permit was prolonged from 2 to 3 years, a **permit to stay due to humanitarian reasons** was introduced and the rules for tolerated stay permits were modified (Act on Foreigners, 2013).
- 2014 The EU's Directive 2011/95/EU on standards for the qualification of thirdcountry nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted (recast) was implemented through the amendment in the Act on Protection.

As of 2015, six types of protection statuses were offered in Poland:

- Refugee status,
- Subsidiary protection,
- Temporary protection,
- Permit to stay for humanitarian grounds,
- Permit for tolerated stay,
- Asylum (pol. azyl)

As subsidiary protection came into existence into the Polish legal system in 2008, it absorbed some of the cases which previously fell under tolerated stay.<sup>1</sup> In 2014, tolerated stay was transformed into two distinct forms of foreigner's protection: a residence permit on humanitarian grounds, and permit for tolerated stay. Both are national forms of protection which are distinct from subsidiary protection. Temporary protection was addressed in Articles 106 and 118 of the Act of Protection but it was never activated as of 2015.

<sup>&</sup>lt;sup>1</sup> Tolerated stay was introduced in Poland in 2003. However, before this term was introduced to the Polish legal system, such a form of protection existed in legal practice since late 1990s.

**Before 2015, subsidiary protection and refugee status** were the most frequently used types of protection in Poland. A permit for stay due to humanitarian reasons and a permit for tolerated stay were used much less frequently at that time. They allowed people to stay in Poland under specific circumstances pursuant to Articles 348-359 of Act on Foreigners and were mostly used in cases of Russian nationals of Chechen origin who did not qualify for international protection status but nevertheless could not be returned to their country of origin. Article 348 of the Act on Foreigners prohibited returns in cases when they "would violate the rights of the child as defined in the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989, significantly threatening his/her psychophysical development". Asylum (pol. azyl) is a national type of protection which is applied in cases of important national interests and is rarely used. (Pachocka & Sobczak-Szelc, 2020: 29-30; Szulecka et al., 2018: 51; Sobczak-Szelc et al., 2022)

#### 4.1.1 Unaccompanied minor asylum seekers (UMA)

The immigration rules concerning UMAs in Poland are regulated by the *Act on Protection* (2003) and the *Act on supporting family and the foster care system* (2011). After accepting the child's declaration of the intention to submit an application for international protection, the Border Guard should apply to the guardianship court for the appointment of a guardian. The court, according to the law, should appoint the guardian within 3 days who then represents the minor in the proceedings on granting international protection, provides social assistance, places the child in foster care, etc. The guardianship court, on the Border Guard's request, should also consider the placement of the child in foster care within 10 days. In the place where foster care is located, a child should be offered medical and psychological care (Office for Foreigners, Unaccompanied minors, n.d.).

By law, asylum-seeking unaccompanied children should not be detained, but it happens in practice. For instance, in 2020, 101 children (including 22 unaccompanied) were placed in the guarded (prison-like) centres for foreigners; in 2021 the number rose to 567 (81 unaccompanied). Furthermore, in practice, children were not being detained for as short a period as possible. Cases of detention of accompanied and unaccompanied minors lasting several months or even over a year have been frequently reported (Association for Legal Intervention 2022: 2).

#### 4.1.2 Voluntary and temporary returns

Voluntary and temporary returns of foreigners in Polish law are regulated by the *Act on Foreigners* (2013) and the *Act on Protection* (2003). The former identifies the Commander-in-Chief of the Border Guard as the authority in charge of the voluntary returns. The latter regulates assistance to foreigners with voluntary return.

Assistance with voluntary return can be provided to (a) a foreigner applying for a refugee status whose application was left without consideration for formal reasons, (b) a foreigner who received the decision obligating to return with exception of decisions which do not define the term of voluntary return and those which are subject to compulsory execution, (c) a foreigner who is staying in Poland on the grounds of a statement presuming that (s)he is a victim of human trafficking.

According to the *Act on Protection* (2003), a refugee status is revoked in case its holder voluntarily returned under the protection of a country or citizenship or voluntarily relocated back to the country which the holder had left due to persecution fears.

### 4.2 Changes in 2015-2021

Between 2015 and 2021, access to international protection became increasingly limited by push-backs, mainly at the Polish-Belarusian border (Grześkowiak, 2023). The push-backs were legitimised by introducing The Regulation (2021b) which allowed for returning to the state border line of foreigners who crossed Poland's border outside designated border crossing points, based on a decision on immediate removal, instead of issuing them a return order, which resulted in depriving them of the right to submit an application for international protection (The Act, 2021). The same act, through revisions into the Act on Protection, also authorised the Head of the Office for Foreigners to leave an application for international protection unprocessed if it was submitted by a foreigner apprehended immediately after irregularly crossing EU's external border, unless the foreigner arrived directly from the territory where the foreigner was at risk of persecution.

In that period, a long advocated free-of-charge legal aid for asylum seekers was brought into being and humanitarian visas for persecuted nationals of Belarus were introduced (Act on Protection; Pachocka & Sobczak-Szelc, 2020: 32-33; Szulecka et al., 2018: 34-37). From August 2020 to June 2023, Poland issued over 52,000 humanitarian visas to Belarusian nationals. This type of temporary residence permit was issued for three years. Its holders were entitled to full access to the Polish labour market and from 2023 they could apply for Polish travel documents for foreigners.

Between 2015 and 2021, no changes took place with regards to the legislation for unaccompanied minors nor the voluntary and temporary returns.

#### 4.3 Collective temporary protection following 2022

In 2022, The *Act on Assistance* (2022) was put in place that originally granted the 19-month long right to legally stay in Poland and access the country's welfare system for the nationals of Ukraine who:

- left the country as a result of Russian aggression after 22 February 2022, and
- who arrived directly to Poland and then declared their intention to stay in Poland.

The rights were later extended to:

- Ukrainian nationals and their spouses who hold other nationalities who came to Poland from Ukraine after 24 February and intend to stay in Poland;
- Their family members: spouse, a child under 18 of the applicant and/or their spouse, other close relatives who lived together as one family with the Ukrainian national or his/her spouse outright before arriving in Poland and who were partially or completely financially dependent on either of them;
- Ukrainian holders of the Card of the Pole and their immediate family members.

The status and conditions of stay of people who arrived from Ukraine after 24 February 2022 were later extended until 4 March 2024, in some cases until August 31 or September 30 of 2024 (The Act, 2023b). Since it was enacted until October 2023, the Act on assistance (2022) underwent about 20 amendments. The most critical one limited the option to apply for 3-year-long unconditional residence permits for Ukrainian citizens fleeing the country after November 24<sup>th</sup>, 2022, only for those UKR status holders who were planning to undertake employment under specific terms or entrepreneurial activities as foreseen in the Act on

Foreigners (2013). People unable to comply with these requirements were entitled to obtain a 1 year long residence permit. Such provisions make it difficult to plan a longer stay in Poland for Ukrainian families with minors.

The Act on Assistance (2022) excluded from the TP two groups of foreigners who were protected by the EU Directive (the European Council Implementing Decision (EU) 2022/382 of 4 March 2022):

- Third Country Nationals (TCNs) and stateless people who were granted international protection in Ukraine and members of their families,
- TCNs who stayed in Ukraine before 24 February 2022 based on permanent residence permit and could not securely return to their country of origin.

The temporary protection for these groups was, however, made available to them in Poland directly through the EU law.

That way, Poland created a dual legal system of temporary protection including the Act on Assistance (2002) and the EU Directive (2022). Moreover, in addition to the TP offered to people fleeing war in Ukraine, they could still apply for international protection. A few of them selected this option due to lengthy procedure, uncertain outcome, and the 6-month-waiting period needed to be granted employment rights. However, unlike the TP, international protection, if granted, offered stronger social (IIP) and legal protection (path to citizenship) (Carta et al., 2022).

#### 4.3.1 Unaccompanied minor asylum seekers

Various legal changes were introduced in 2022 for UMA children arriving from Ukraine (Article 25 of the Act on Assistance, 2022). All unaccompanied children entering Poland from Ukraine were granted a court-appointed temporary guardian who was authorised to represent them, to take care of their custody and their property. The procedure for assigning a temporary guardian could be initiated by the Border Guard, local authorities, police, and heads of units of social security. Moreover, The Ministry of Family and Social Policy was required to create a register of all unaccompanied children coming from Ukraine.

#### 4.3.2 New restrictions for voluntary and temporary returns in 2023

In 2023, a number of significant restrictive changes for foreigners facing a voluntary return procedure were introduced into the Act on Foreigners, including:

- In cases concerning foreigner's obligation to return, extension of period for voluntary return, revocation of an entry ban, etc. the competences of the Office for Foreigners as an appellate state agency were transferred to the Commander-in-Chief of the Border Guard (in Polish: Komendant Główny Straży Granicznej). The Border Guard's approach differs from the one of the Office for Foreigners and is arguably more restrictive. Furthermore, reliability of the case under consideration became more questionable this way since the *de facto* same state authority is now carrying out appellate proceedings.
- Reduced period of time (from 14 to 7 days) to appeal against return decisions, extending period for voluntary return, and revocation of an entry ban;
- Reduced period of time (from 15-30 days to 8-30 days) for voluntarily leaving Poland from the day of notification of the decision on obligation to return;

• A period for voluntary return or for compulsory execution of a decision on a foreigner's obligation to return could no longer be suspended through a court procedure, which was possible before (Act, 2023a).

Ukrainian beneficiaries of temporary protection who depart Poland for longer than a month are deprived of the rights and benefits enshrined in the Act on Assistance (2022).

# 5 Registration and accommodation during the application process

# 5.1 Registration, accommodation and governmental responsibilities

Poland has a uniform procedure to apply for refugee status and subsidiary protection (based on the Act on Protection). A protection seeker should submit an application for international protection to the Head of the Office for Foreigners through the commanding officer of the Border Guard's unit or outpost. Such an application may also be submitted by a foreigner staying in a guarded centre, a detention centre for foreigners, a remand prison or a prison (Article 24, Act on Protection). The Office for Foreigners makes decisions on the application in the first instance (Article 23, Act on Protection). A foreigner who does not meet the conditions for granting the refugee status is granted subsidiary protection if returning to the country of origin may expose them to a real risk of suffering serious harm, and due to this risk they cannot use the protection should be considered within 6 months from the date of its submission, and in certain cases the period may be extended to 15 months (Article 34, Act on Protection). Before 2015, in practice, the length of the procedure ranged from a couple of months to a couple of years in the event of an appeal against the original decision or new evidence in a given case (Łukasiewicz, 2017).

Not later than within 3 days after registering the application for international protection, a foreigner should receive a temporary foreigner's identity certificate (Article 55(1), Act on Protection). An applicant also has a right to receive social and medical assistance that are provided by the Office for Foreigners (Article 70, Act on Protection). Persons who applied for a national form of protection and foreigners who are detained are excluded from this assistance. Social assistance during the application for international protection includes accommodation in an open reception centre for asylum seekers with additional related forms of support or assistance provided outside the centre (Article 71 of the Act on Protection).

The Office for Foreigners is responsible for the organisation of (open) reception centres while the Border Guard is responsible for closed (guarded, detention) centres for asylum seekers. As of 30.06.2014, there were 2230 places in open reception centres for asylum seekers (Post-audit statement, 2014: 14).

## 5.2 Policy changes following 2015/16

Despite the initial consent of Poland's government to accept asylum seekers under the EU temporary relocation scheme (2015-2017), the change of government into the right-wing coalition led by the Law and Justice party resulted in refusal to participate in the implementation of this mechanism (Pachocka, 2016). In addition to refusing relocation, the country legalised push-backs of migrants on the Polish-Belarusian border in 2021.

As indicated by an interviewed representative of public administration, some programmes which had been initiated in 2014 continued, such as preparing for the possible admission of a larger number of protection seekers, by upscaling the accommodation capacities of centres for foreigners. The Office for Foreigners prepared a pool of potential accommodation objects and sent their employees to visit the facilities and verify their capacities and conditions. Also,

special procedures for launching additional accommodation capacities have been introduced and possibilities were considered to facilitate using the objects included in the special pool.

### 5.3 Policy response in 2022/2023

Ukrainian citizens protected under the Act on Assistance (2022), after submitting an application for national ID number (pol. PESEL), are automatically registered as TP beneficiaries in Poland. Third country nationals (TCNs) who are not Ukrainian citizens and who meet the EU TPD requirements as transposed into Polish law are covered by European temporary protection. They can receive a free-of-charge certificate confirming their protection status in Poland. The certificates are issued by the Office for Foreigners at the foreigner's request (Office for Foreigners, 2022). However, unlike TP holders based on the Act on Assistance, they are deprived of accessing the mainstream welfare system.

Soon after 2022 forced migration from Ukraine to Poland started, accommodation arrangements were made for people fleeing the war without distinguishing their legal statuses in advance. That included large-scale temporary accommodation. The largest were provided by voivodes with central-government funding and operated by volunteers, social organisations, local businesses or universities; others were set up by local authorities and NGOs. They were initially located in cities near the Polish-Ukrainian border but were later opened in or near Poland's largest cities in both public and private (e.g. exhibition halls) spaces (Łukasiewicz et al., forthcoming). However, the majority of people fleeing the war were accommodated in private apartments that they rented, or that were made available for them by a person/company from Poland, lived with a Polish family, with family or friends from Ukraine residing in Poland. Initially, those hosting refugees received small financial compensation, but since March of 2023, refugees still housed in mass accommodation centres became formally obligated to share 75% of the housing costs (W punkcie wyjścia, 2023). By June 2023, an estimated 100,000 people still stayed in such accommodations.

# 6 Settlement after granted protection

Poland implements a self-settlement model for asylum seekers with no formal restrictions/procedures regulating the settlement process. Although public distribution of protection seekers doesn't take place directly during the asylum procedure itself, settlement is impacted by the location of the reception centres for asylum seekers (Łukasiewicz, 2017). No significant changes took place to the self-settlement model between 2015 and 2022. After the mass influx of forced migrants from Ukraine in 2022, the self-settlement model still remained in place.

Reception and settlement of people fleeing the war in Ukraine in 2022 was only possible due to mass mobilisation of all the actors: public administration on the national, regional, and local levels, NGOs, private entities and individuals. The reception system for people fleeing Ukraine was mainly of a grass-roots character, including individuals hosting refugees in their homes. Emergency reception centres were organised by local government or voivods in the facilities like schools or sport halls. In addition, NGOs and religious charity organisations provided different forms of accommodation and other kinds of assistance. All this applied to Ukrainian TP beneficiaries. Since March of 2023, 120 days after entering Poland, those housed in the mass centres (with some exceptions) are obligated to cover half of the costs of their stay in the centres.

# 7 Permanent residency requirement

Permanent residence permits are issued to foreigners who, immediately before submitting an application, stayed in the territory of Poland for the duration of:

- at least 5 years in connection with the issued refugee status, subsidiary protection or residence permission on humanitarian grounds (including the duration of the procedure of issuing international protection);
- at least 10 years on the grounds of a permit for a tolerated stay.
- Holders of asylum (pol. azyl) are entitled to permanent residence permit immediately (Part 6 of the Act on Foreigners 2013).

The stay in the territory of Poland is considered uninterrupted if none of the breaks lasted longer than six months and all breaks in stay combined did not exceed 10 months in the periods which constitute the basis for issuing a permanent residence permit. The longer breaks are acceptable in the following circumstances: (1) carrying out professional duties or work activities outside the territory of Poland on the grounds of a work contract with an employer whose office is located in Poland, (2) accompanying a foreigner mentioned above by his/her spouse or a minor child, (3) specific personal situation requiring the foreigner's presence outside Poland which lasted not longer than 6 months, (4) moving outside Poland with the goal of having an internship or taking part in the studies foreseen in the curriculum of a Polish educational institution. Decisions on issuance of permanent residence permits should be made within six months.

In 2017, the Act on Foreigners was amended to include a Polish language proficiency requirement for applications for a long-term resident's EU residence permit (Act, 2017). The language skills can be certified by (1) a state authorising document which proves Polish language proficiency of at least B1 level, (2) a Polish school graduation certificate where Polish was the language of instruction, (3) a foreign school graduation certificate where Polish was the language of instruction.

When it comes to temporary residence permits for holders of humanitarian visas from Belarus which were introduced in 2022, the period of stay on a humanitarian visa can be accounted for in a 5-year period necessary to apply for an EU long-term residence permit.

During the period of 2022/23, no changes took place in regard to permanent residence permit criteria.

# 8 Family reunification

A right to family reunification is granted for international protection holders in Poland, without a waiting period or time limit (as regulated by the Act on Foreigners of 2013). However, holders of permit for tolerated stay are deprived from this right. Either way, the procedure remains complicated and, effectively, rarely used. Between 2015 and 2021, no changes took place in regard to family reunification rules, however, following the 2022 mass forced migration, new rules regarding family reunification for TP protection holders were introduced.

Family members entitled to family reunification are understood differently, depending on the type of protection received in Poland. As for holders of a refugee status, subsidiary protection, and a residence permit for humanitarian reasons, a family includes:

- a spouse in a marriage recognised under Polish law,
- a child under 18 of the applicant and / or their spouse, including an adopted child, over whom the applicant exercises parental custody,
- In cases when the applicant is an unaccompanied child, a family member is a parent or other adult responsible for the child (Article 159 of the Act on Foreigners 2013).

In order to be eligible for reunification with family members, applicants are required to:

- Ensure place of residence in Poland,
- Have medical insurance,
- Have stable and regular income covering the applicant and family members.

If the application for family reunification is lodged within six months from the day of acquiring refugee status or international protection, the applicant is not required to have medical insurance or a source of income.

In 2013, temporary residence for family members was liberalised and extended from a maximum of two to a maximum of three years (Act on Foreigners, 2013). The decision on the application of family reunification should be issued within one to two months (in exceptional cases). These terms are, however, instructive. In practice, procedures last up to one year (Ostaszewska-Żuk & Witko, 2020: 25).

Because of the complicated procedure, particularly if an application is filed after the sixmonth period expired, between 2018 and 2019, only 55 family members were issued temporary residence permits to reunify with refugee status holders in Poland, and 16 family members received such permits following the applications of subsidiary protection holders (Ibid: 5-6). In 2012, only three persons used this procedure, one in January-July 2014, and none in 2013 (Rzeczpospolita, 2014). The requirement to submit translated and/or certified documents proving family ties is a main barrier that limits cases of family reunifications (Ibid, p. 5). Another barrier is keeping the persons, covered by international protection, poorly informed about the six-month period during which the medical insurance and income requirements are not applied (Niżyńska 2015: 25).

Family members entitled with a family reunification permit have the right to work and education, the right to travel in the Schengen area for three months in a six-month period. Additionally, they have access to social assistance benefits and a one-year long IIP. An application for IIP should be submitted within 60 days from obtaining permission to reunite with the family.

The definition of a family was liberalised for the TP holders, and included the following relatives:

- a spouse,
- minor children,
- other close relatives who lived together as part of the household unit and who were wholly or mainly dependent on the TPS holder.

For TP holders who are the Card of the Pole holders, a list of family members is even longer and includes:

- a spouse,
- ascendants (parents, grandparents),
- descendants (children, grandchildren),
- siblings,
- persons related to the TPS holder by marriage including stepchildren, persons remaining in an adoption-like relationship and their spouses, as well as persons remaining in cohabitation.

# 9 Integration measures

#### 9.1 Policies between 2015 and 2021

Poland grants limited integration rights to asylum seekers. While in the procedure, they have a right to:

- accommodation in open reception centres operated by the Office for Foreigners.
- medical aid including psychological assistance,
- a small amount of monthly cash allowance,
- a free-of-charge Polish language course,
- a short integration course organised in the reception centre,
- After 6 months into the procedure, they can be granted access to the labour market, if the delay in evaluating their case is not due to their fault.

As an alternative to the accommodation in the reception centres, asylum seekers can receive a small financial compensation to rent a place of their own.

People in the procedure are not granted access to the mainstream welfare system, except for the unaccompanied minors.

Over the years, the number of reception centres operating around the country varied around ten. Some of them are state-owned and others are leased from external entities (Pachocka et al., 2020: 38-46). The current list of centres is available on the website of the Office for Foreigners (Office for Foreigners, Centres for Foreigners). The Office for Foreigners pays a contracted amount of money for each person accommodated per day. In each centre, there are at least two employees of the Office responsible for coordination and direct work with asylum seekers. The price has been the main criteria for selecting the locations of the centres, but the unemployment rates in the region should also be taken into account (see more: Łukasiewicz, 2017; Pachocka et al., 2020; Sobczak-Szelc et al., 2022).

After being granted international protection (a refugee status or subsidiary protection), protection holders have access to a maximum 1-year-long IIP, to be performed in the location of their choice. The programme offers (based on the Act on Social Assistance, 2004):

- monthly cash transfers,
- health insurance
- social work
- specialised counselling, including legal, psychological and family
- referrals, including employment related and to specialised NGOs
- Polish language training

The Voivodeship Offices manage the programmes that are funded through the central government and implemented at a local level by the Poviat Family Support Centres. Some activities included in the programmes (e.g. Polish language course) have been subcontracted to for-profit/non-profit organisations. In addition, some local governments offer grants to NGOs to provide free of charge Polish language courses for all foreign residents, including international protection holders. These activities have been mainly funded through EU sources.

No changes have been made to the integration measures between 2015 and 2021.

# 9.2 Policy response in 2022/23: integration rights of TP holders

The Act on Assistance (2022) put in place in response to mass forced migration from Ukraine granted immediate and full access to Poland's mainstream welfare system, including public healthcare, social assistance (with universal child benefits), access to the labour market, and the right to return to Ukraine at any time. Beneficiaries are entitled to the right to work after a registered application. An employer should notify state authorities about hiring a Ukrainian citizen within 14 days.

However, TP holders were granted no integration rights, including no access to the specialised IIPs for the holders of the refugee status and subsidiary protection. Nonetheless, various programmes financed from the central and local government as well as NGOs, directed to citizens of Ukraine, provided some integration measures (e.g., Polish language classes, vocational training, legal and labour market counselling)

Following 2022, no changes took place in terms of the specialised integration measures available for people in asylum procedure or holders of international protection.

# 10 Financial assistance to the protection seekers and protection holders

Protection seekers accommodated in the reception centres have been entitled to various forms of financial assistance in Poland (Regulation, 2003; Article 71 of the Act on Protection, 2003). In 2015, these assistance forms included:

- Financial aid of 70 PLN per person per month,
- 140 PLN once to cover the costs of clothes and shoes (once per procedure),
- covering the costs of necessary transportation, to participate in the asylum procedure, receiving medical treatment or for other grounded reasons).

In addition, they were offered 3 meals per day or money equivalent in the case of children attending school.

If the protection seekers chose accommodation outside of the reception centres, they were granted a small financial compensation (Article 71, Act on Protection, 2003):

- 25 PLN per person/per day for a single person
- 20 PLN per person/per day for a family of 2
- 15 PLN per person/per day for a family of 3
- 12,50 PLN per person/per day for a family of 4 or more

After being granted international protection and during the year of participating in IIPs, protection holders were provided with monthly cash benefits ranging from 446 PLN to 1175 PLN per person, depending on the individual and family situation (Articles 92-93, Act on Social Assistance). Beneficiaries of international protection who choose not to participate in the IIP do not receive this financial assistance. However, anyone holding international protection is granted access to the mainstream social welfare programmes including universal child benefit (The "Family 500+" programme).

Between 2015 and 2022, no significant changes took place in the financial assistance for protection seekers and protection holders other than a slight increase in the range of support. A money equivalent for food for asylum seekers increased from 9 to 11 PLN. Following 2015, the monthly cash transfers for beneficiaries of international protection participating in the IIPs increased to the range of 567-1260 PLN per person monthly (based on the Act on Social Assistance). In 2022, it further increased to a range of 721-1450 PLN per person based on Regulation (2021a) and the Act on Social Assistance.

After introducing temporary protection in 2022, the TP holders were offered:

- a one-time allowance of PLN 300, funded by the central government,
- Some could also participate in the UNHCR-funded temporary cash programme available to people in difficult financial situations, that granted PLN 700 once every three months and an additional PLN 600 for another person in the household for up to 4 people in a household (UNHCR, n.d.),
- Access to the mainstream welfare programmes, including universal child benefits.

As of May 2023, new restrictive measures were put in place that required citizens of Ukraine housed in mass accommodation centres to cover 50% of the costs of assistance provided to them (but no more than PLN 40 per person per day), after 120 days from the first entry into Poland. If 180 days have elapsed since the first entry, the person must cover 75% of the

costs of assistance in advance, but no more than PLN 60 per person per day. The policy aimed at discouraging people from staying in the centres (Klaus & Jarosz, 2023b).

Third country nationals granted TP based on EU TPD and the Act on Protection were eligible for medical care and assistance with accommodation like asylum seekers, rather than protection holders (Act on Protection, 2022, Article 112).

# 11 Access to the healthcare system

Poland has a universal healthcare system that covers almost all of the population (93% with basic coverage according to OECD, 2021). Important coverage gaps under social health insurance include reimbursable medicines and dental services. Governance of the public healthcare system is divided between the Ministry of Health and three levels of territorial government. Provision of healthcare services remain skewed towards inpatient care and there are acute shortages of both doctors and nurses (World Health Organization, 2019).

A 2019 study suggested that due to the structural imbalances of the Polish healthcare system, asylum seekers received better healthcare during the asylum procedure than once granted international protection. Upon receiving refugee status, a person is entitled to the same healthcare services as Polish citizens and therefore faces similar challenges related to accessibility, aggravated with additional barriers related to the lack of familiarity with the health system and culture (Szetela et al., 2019).

In 2021, while the numbers of asylum seekers who fled to Poland via Belarus in an unauthorised manner and were placed in closed detention centres increased, the capacities of these facilities have not improved. As a result, access to healthcare services in these centres worsened considerably (Association for Legal Intervention, 2022: 4). Migrants were reportedly referred to hospitals with difficulty even in the event of bone fractures or pregnancy-related complications (Ibid).

Foreigners applying for refugee status have the right to medical assistance (based on the Act on Protection to foreigners on Polish territory). The volume of medical services is compatible with the one that persons covered by compulsory or voluntary health insurance benefit from under the *Act on health care services (2004)*, with exception of access to spa treatment or spa rehabilitation. It includes basic medical care, psychological care, diagnostic tests, specialist medical care hospitalisations, children's calendar vaccinations and additional vaccinations for adults, and specific procedures. (Szetela et al. 2019: 27).

Asylum seekers, regardless of whether they are accommodated in the reception centres or not, have a right to receive healthcare provided and coordinated by a healthcare unit which has signed an agreement with the Office for Foreigners. Since 2015, it has been a private company Petra Medica Sp. z o.o. Access to primary physicians is available at the premises of the reception centres for asylum seekers. The volume of healthcare services is close to the one available for Polish nationals in the public healthcare system (Chrzanowska & Klaus 2011: 14). Once a person receives refugee status, their access to health services should be equivalent to that of the citizens of Poland.

The Act on Assistance (2022) entitled TP holders with the right to health services, coverage of drug and medical device provision on the same grounds as people with medical insurance. The exceptions compared to Polish nationals include the use of spa therapy, right to health treatment abroad, and reimbursement for health treatment abroad based on the EU Cross Border Directive. These rights are also extended to their non-Ukrainian spouses who came to Poland from the territory of Ukraine and Ukrainian holders of the Card of the Pole and their immediate family members who arrived in Poland from 24 February 2022. Individuals who legally stayed in Poland before 24 February 2022 on the grounds of residence permits or a refugee status, or lodged an application for such status, are not granted these rights (National Health Fund of Poland, 2022).

Healthcare services are also extended to those Ukrainian residents who are not covered by the Act on Assistance (2022) but fall under the scope of the EU temporary protection

directive. They receive medical services in the medical institutions that have signed an agreement with the Office for Foreigners (Ibid.).

Given the 2022 high influxes of forced migrants, local administrators and NGOs across the country engaged in mainstreaming healthcare services by hiring multilingual medical staff, translating medical forms or facilitating access to translators (Łukasiewicz et al., forthcoming).

# 12 Access to pre-school and pre-university education

By law, all children in Poland, regardless of their legal status, are subject to mandatory freeof-charge education. Compulsory education starts with the beginning of a school year for 7year-olds and lasts until the school completion but not longer than the age of 18. All 6-yearold children are obligated to have one-year kindergarten preparation (*Pol. zerówka*) in a primary school or in another form of kindergarten education. Children completing mandatory one-year kindergarten preparation are provided with school books on the basis of the school certificate for the current school year. Protection holders are entitled to the same rights to public education as Polish citizens.

For children of parents seeking international protection who temporarily reside in reception centres for asylum seekers, education services should be provided there. Based on Article 71 of the *Act on Protection* (2003), during that time, they are eligible to the following educational services:

- Polish language courses;
- Basic materials necessary for learning the Polish language;
- Didactic assistance to children using education and care at public institutions, primary and grade schools;
- Coverage of costs of extra-curriculum, recreational and sport activities for children;
- School students and children completing mandatory one-year pre-school preparation are provided with school books on the basis of the school certificate for the current school year. (Office for Foreigners, Information..., n.d.)

There were reported problems with access to any form of formal education by children being placed with their parents in reception centres for asylum seekers and in detention centres (Łukasiewicz & Grzymała-Moszczyńska, 2014). They were not schooled together with Polish children and teachers come to their reception facilities only occasionally, for a couple of hours a week. Also, humanitarian organisations reported cases of children being frequently detained in asylum determination procedures for up to 6 months, not being able to continue their education. According to the Polish human rights civil society organisation Association for Legal Intervention, the didactic and educational activities organised in the detention centres did not cover the minimal scope of a compulsory curriculum. It calls the lack of sufficient access to education for children who are placed in detention centres 'worrying' (Association for Legal Intervention, 2022: 2).

The above mentioned social assistance in the reception centres for asylum seekers, including education services, is provided for the duration of (1) the procedure on granting international protection starting from the day of foreigner's registration at the centre for foreigners, (2) two months after the notification of the decision in the case of granting international protection or 14 days from the date of notification of the final decision on discontinuation of proceedings in case the procedure in the case of granting international protection was annulled. The period of provision of social assistance and medical care is extended until the day when a foreigner is obligated to leave the territory of Poland in case the foreigner submitted an application to the Commander-in-Chief of the Border Guard on granting assistance with voluntary return in specific cases. In cases when a foreigner who makes use of social assistance at the centre for foreigners stays outside of the centre for

longer than two days, provision of such assistance is halted until the time of the foreigner's return.

A public discussion on the topic of school education for children of protection seekers and, more broadly, for the children of foreigners staying in Poland invigorated in 2015. In response to the statement of the Minister of Education according to which the Polish educational system is ready to admit refugee children, the Polish Teacher's Union released a critical open letter. It claimed that state schools are not ready to welcome refugee children and that it was necessary to develop blueprints for teaching refugee children and for collaborating with their parents. The trade union also called for the introduction of special training programmes for educators and the collaboration with local communities during the integration process. (European Commission, 2015a)

Shortly after, the Minister of Education appointed a consultant for the integration of foreign children in Polish schools. The consultant is charged with the elaboration of information materials concerning the admission of foreign children to Polish schools as well as a didactic programme for this specific group. Another national consultant's responsibility is to prepare and conduct training targeting school directors, teachers, students, parents and local communities. (European Commission, 2015b)

Since 2016, Polish schools have a possibility to organise preparatory classes for foreign pupils who do not know the Polish language to a sufficient degree. They could receive 3 hours per week of Polish language lessons (Association for Legal Intervention 2022: 3).

#### 12.1 Government responses to tackle the rise in protectionseeking minors in the education system in 2022

The Ministry of Education reported in the spring of 2022 that over 200,000 foreign children entered the Polish school system following the 2022 forced migration from Ukraine. That accounted for less than half of children who fled war in Ukraine to Poland. Ukrainian children with TP status are exempt from mandatory education in Poland. They are allowed to, but not required to, be part of the Polish education system. Parents or a guardian can submit a declaration to the local authorities that a minor continues online studies in the Ukrainian school system, which allows the students not to attend Polish school. In May 2023, around 44% of children who had fled war in Ukraine to Poland attended Polish schools (Rzeczpospolita, 2023). Some of them attend Polish schools only; some combine both the Polish and Ukrainian education. Minors under temporary protection were also offered teaching assistance from the Office for Foreigners in the form of a school starter kit or vouchers for its purpose, as well as the purchase of textbooks for those pupils who do not receive them at school. (Governmental website, n.d.). They also have a right to attend Polish language classes and are provided with basic learning materials (The Act on Assistance, 2022).

In case a public school where parents of foreign nationality submit the application for study has no vacant place for a child, the local authorities propose another public school on the territory of the respective territorial unit. All non-Polish speaking children are entitled to min. 2 hours of additional free Polish language classes per week, compensatory classes, and assistance from a teacher's assistant who knows the mother language of a child, for max. twelve months. Since 2022, compensatory classes allow pupils to get six hours of Polish language classes per week and to catch up on curriculum. The new law enabled the employment of Ukrainian teachers who know the Polish language to support minors.

In practice, not all foreign-born children receive the education services provided by law. Some schools have not been arranging additional Polish language courses and compensatory classes at all, or they have not adapted to the individual needs of foreign pupils. In addition, the limitations of preparatory classes to 12 months only and to 6 hours of additional Polish language per week have been insufficient for some foreign children. Furthermore, many public schools received insufficient governmental funding to employ teaching assistants. (Association for Legal Intervention, 2002: 2-3)

Poland's one-year preschool requirement for six-year-old children is also extended to Ukrainian nationals. Such preschool establishments may be located on the premises outside schools or preschool institutions but should be organisationally managed by them. To ensure that Ukrainian children under 3 years of age receive care in kindergartens, such preschool institutions may be exceptionally created in areas that do not completely fulfil housing conditions.

# 13 Overall analysis

Since the collapse of communism in 1989, Poland made remarkable progress in developing an asylum and refugee reception system. The process was facilitated by the Europeanisation and internationalisation of the Polish legal system. At the core of the system was providing asylum seekers with housing, employment, health, and education rights, and after being granted protection - additional integration rights and a path to citizenship.

The formation of a right-wing government in Poland in 2015 shifted asylum policies into a restrictive direction. The changes aimed at keeping "undeserving" asylum seekers away from Polish borders. The anti-refugee policies were targeted specifically at racialised protection seekers and included depriving them from rights to apply for asylum in Poland through pushbacks, and, if they managed to submit their application, detaining them more frequently than other protection seekers and providing lower refugee recognition rates. Unlike racialised people, White protection seekers (e.g. Belarusians, Ukrainians), were welcomed to legally file their asylum claims, offered higher recognition rates and new protection forms (e.g. humanitarian visas and eventually TP). These changes in central-level asylum policies can be attributed to xenophobic sentiments and are described as "Departheid", i.e. policies and practices that "force illegalised migrants to depart, be deported or evade deportation" (Klaus, Szulecka, 2022).

In the meantime, the Polish government continued breakthrough liberalisation of labour migration policies that turned the country into the OECD leader in admissions of temporary foreign workers, overtaking even the U.S.. As a result, within only three years, migrant stocks in the country more than doubled (from 850,000 in 2016 to 2 million in 2019) (Duszczyk & Kaczmarczyk, 2022, p. 165). Ukrainians dominated among the newly arrived, . Some of them were those who fled the war in Donbas but chose temporary work permits over a lengthy and uncertain asylum process.

In 2022, a historical shift in Polish asylum and reception policies took place through the implementation of the TP framework. The quick procedure of providing Ukrainians and their families with a national identification number allowed central and local administration to streamline the reception of over 1.5 million people and grant them access to the Polish mainstream welfare system (based on the 2022 Act on Assistance). Local governments and NGOs remained crucial actors engaged in direct service provision for the Ukrainian forced migrants. The funding gap in service provision was temporarily filled by international organisations. However revolutionary, the TP framework continued to promote temporary immigration with weaker legal and social rights than international protection with stronger legal (path to citizenship) and social rights (e.g. IIP). The weaker protection manifested across different rights, including the school mandate, from which Ukrainian children could be exempt. As a result, over half of them remained outside of the Polish education system without an effective monitoring system of them being in any other school system (e.g. continuing online studies in Ukrainian schools) (Amnesty International, 2023).

Following the 2023 parliamentary election won by liberal opposition to the right-wing parties so far ruling the country, a possible scenario for the development of asylum and reception policies for protection seekers in Poland includes, as a minimum, a return to legal order of accepting asylum claims and processing them outside of the detention centres.

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