

Poland - protection situation

Legislation

- Poland acceded to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol in September 1991. In 2002 Poland undertook to draft new aliens legislation. UNHCR provided extensive comments on drafts of the new aliens law and the law on protection of aliens in Poland, which were adopted and entered into force on 1 September 2003.
- Poland is a signatory to the main human rights conventions. Discussions on Poland's accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness remain unsatisfactory.
- The new legislation on aliens in Poland includes three legal instruments:
 - The law on the legal situation of European citizens (entered into force on 1 May 2004),
 - The aliens law,
 - The law on granting protection to aliens on the territory of the Republic of Poland, which contains provisions relating to refugee status determination, unaccompanied children and traumatized persons, as well as rules on detention of asylum seekers. The legislation covers also subsidiary form of protection such as "permit for tolerated stay". The law provides asylum seekers with unlimited right to contact UNHCR or any organization dealing with refugee affairs.
- The new Aliens Protection Law significantly improved the situation of unaccompanied children seeking asylum. The introduction of the permit for tolerated stay filled a gap in the system of international protection provided for aliens in the territory of Poland. The implementation of new institution may however result in replacement of the refugee status by a "worse" form of international protection.
- The changes of the aliens and protection laws, planned for 2004, will implement a number of EU asylum and migration directives, including directives on minimum standards of asylum seekers' reception, reunification of families as well as protection of victims of trafficking. On Polish authorities request, UNHCR opinion on planned amendments of the asylum law has been submitted for further intergovernmental discussion.

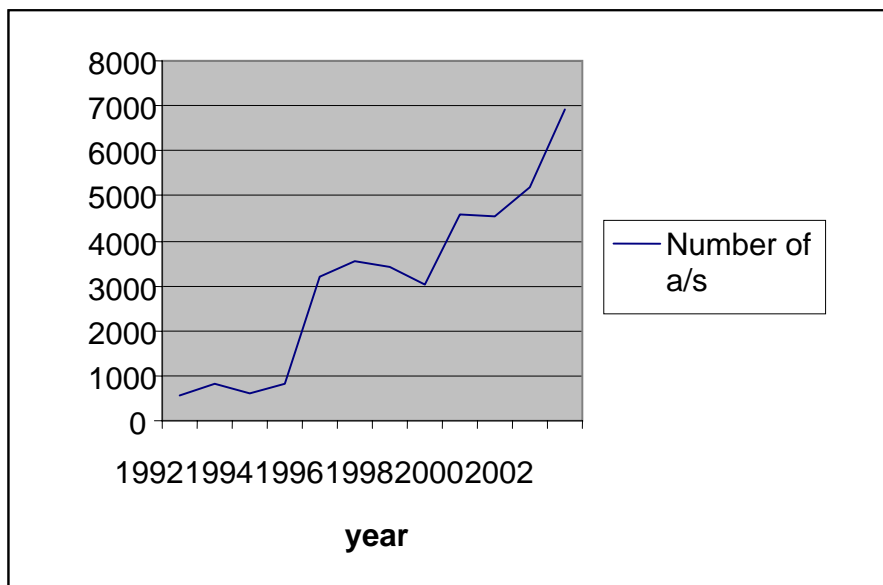
RSD procedure

- The Office for Repatriation and Aliens, supervised by the Ministry of Internal Affairs and Administration, deals with asylum claims in the regular and accelerated procedure. Appeals against first instance decisions are made to the Refugee Board. A

judicial review can be lodged before the Regional Administrative Court in Warsaw and subsequently cassation claim to the High Administrative Court.

- A major development was the increase in the number of asylum seekers from 4528 in 2001 up to 5169 in 2002 (increase 12.40 %) and 6909 in 2003 (33.6 %).

Table: Number of asylum seekers in Poland

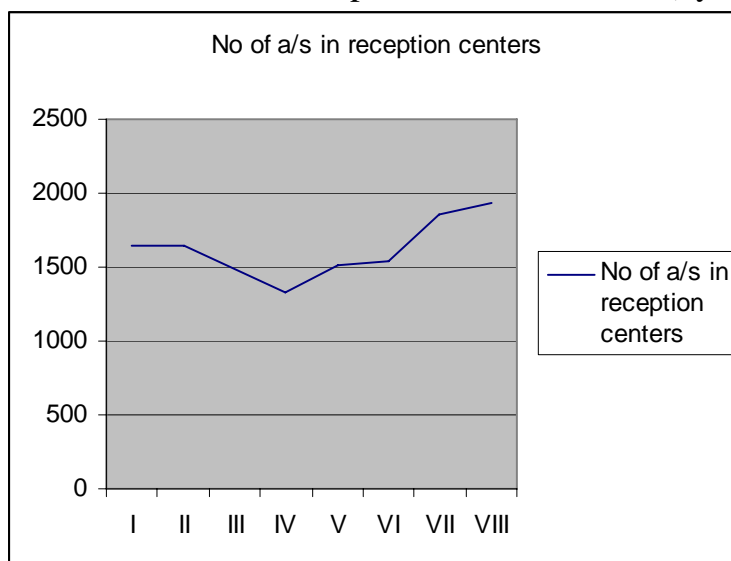


- Between 1 January 2004 and 31 August 2004, 4292 persons applied for asylum in Poland. This meant further 12,44 % increase in comparison to the same period of time in 2003 when 3817 persons applied.
- Following the October 2002 hostage taking drama in Moscow, Poland temporarily closed its borders to Chechen refugees arriving through Belarus and Ukraine. However the Polish government, thanks to joint UNHCR- Ombudsman intervention, lifted this ban on entry on 19 November 2002.
- Poland's accession to the European Union on 1 May 2004 has not affected the process of lodging asylum applications. From this period of accession to EU (1 May 2004) until 31 August 2004, 1991 persons applied for asylum in Poland comparing to 1531 persons in the same period of time in 2003.
- To improve the quality of RSD procedure, UNHCR involves in training activities. Among the most important of them is training of judges – another such training will take place in October.

Persons of concern

- Over 95 percent of asylum seekers arrive to Poland from the Russian Federation (3054 in 2002 and 5569 in 2003 - increase of 82 %), mostly of Chechen origin. In the first half of 2004, Poland was the second receiving country of asylum seekers from the Russian Federation among Top-20 countries of asylum (after Austria). It can be expected that the role of Poland as a country of asylum in relation to applicants from the Russian Federation and the Caucasus region will increase with the introduction of Dublin II regulation.
- Asylum seekers have a right to stay in state Refugee Reception Centers. There are 12 such centers, with total capacity of 2300 places. At the beginning of September, occupancy rate was around 80 percent.
- The authorities make efforts to improve conditions in the centers, particularly with regard to security, gender issues, access of children to education and providing assistance to persons with special needs. UNHCR believes that staffing of the centers is not adequate (personnel is present Monday to Friday, 8 a.m. to 5 p.m. only). Many asylum seekers complain for inadequate level of health care.

Table: No. of a/s in reception centers in 2004 (by month)



- The persons returned in accordance with Dublin II regulation may apply once more for asylum in Poland.
- Between 1 January 04 and 1 May 04, 1383 Chechens did not wait for the review of the applications in Poland and left for the Czech Republic. Following that date the Czech Republic stopped their admissions invoking the provisions of the Dublin II

regulation. Since that time greater numbers of Chechens (almost 400 persons) have been stopped at the Polish/German border due to their attempts to illegally cross the border.

Recognition rates

- Since the introduction of the new protection law (01.09.2003 - 31.08.2004), Office for Repatriation and Aliens granted refugee status to 241 and subsidiary protection to 472 persons. As a consequence in the a/m period of time, the international protection was granted in the first RSD instance to 11,57 % of all asylum seekers. Majority of persons granted international protection in the first RSD instance came from the Russian Federation.
- The recognition rate in the second instance, with few positive decisions of the Refugee Board, remained on very low level (around 1%).

Integration – the main challenge

- The new legislation on integration came into force on 1 May 2004. Recognized refugees have right to work, to social assistance, education and state integration program. Despite recent efforts of the authorities to improve integration possibilities, many refugees still find it very difficult to start independent life in Poland.
- Refugees married to Polish citizens do not have access to state integration programs.
- Persons with tolerated status have no right to state integration program. They do have a right to work. The growing number of persons with tolerated status becomes a major problem for Polish social assistance institutions. The NGOs themselves are not able to respond to growing needs.
- The program of Polish-Dutch cooperation for integration of refugees ended in 2004. The program enabled the Polish social workers and persons responsible for coordination of integration to acquaint with the Dutch integration program. Despite the efforts, refugees recognized in Poland continue to face difficulties to integrate and prefer leaving Poland and moving onwards to the West European Union countries.

Groups of special needs

- Treatment of unaccompanied minors has improved significantly with recent legal changes. UAM seeking asylum wait for the decision in a children home, are interviewed in presence of psychologist at specially prepared facility, have access to education. They are assigned legal guardians for purposes of RSD and a caretaker, who watches child best interest.

- Situation of women in reception centers should be improved. In spring 2004, UNHCR published the Polish edition of UNHCR Guidelines on SGBV. Training on gender issues for staff of reception centers had to be postponed for financial reasons.
- New center is being built (Linin) to host victims of trauma. The center, to be opened in 2006, will have a capacity of 250 persons.
- The planned amendments of the aliens' law include provisions on protection of victims of trafficking in accordance with relevant EU directive.

UNHCR Warsaw
4 October 2004