

## Poland Detention Profile\*

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### Introduction

In October 2012, testimonies provided by Georgian and Iranian female detainees at the Lesznawola immigration detention facility attracted broad media attention in Poland. The women denounced the prison-like conditions at the facility, routine intrusive searches, insufficient medical care (which was limited to the provision of over-the-counter painkillers), and lack of education for children. They also alleged that guards consumed alcohol while on the job and that their conduct was often disrespectful and marked by sexual overtones (Lemondzawa 2012; Stefanski 2012).

The complaints emerged amidst on-going hunger strikes at detention centres across Poland, which spurred the Ministry of Interior to announce that beginning in late 2012 it would undertake monitoring visits of detention facilities along with two non-governmental organizations (Ministry of Interior 2012a; Ministry of Interior 2012c). In a statement issued following the publication of the complaint by a Georgian detainee, the Ministry cited a statement made by the detainee to stress the importance of not allowing the country to be viewed as a “Polish hell” (Ministry of Interior 2012b).

Despite this wave of bad publicity, immigration detention has received little public attention in Poland, nor has the country appeared to emphasize detention in confronting undocumented migration. One indication of this is that the country’s detention facilities rarely appear to be at capacity (Fagasiński 2011b). In 2010, while 4,000 persons were apprehended for migration-related reasons and the country issued some 8,300 deportation orders, it only placed some 2,000 people in detention (EUROSTAT; Fagasiński 2011b).

Although it is one of the European Union’s key border countries, Poland’s treatment of irregular migrants and asylum seekers has not received anywhere near the same level of notoriety as some of its EU partners, particularly [Greece](#) and [Italy](#). This is due in part to the fact that its borders have not been subjected to the same pressures as its neighbours to the south. Poland is one of several European countries (the others include [Finland](#), [Estonia](#), [Latvia](#), [Lithuania](#), [Slovakia](#), [Hungary](#) and [Romania](#)) whose eastern borders collectively make up the 4,000-kilometer-long Eastern European route, which is one of seven irregular migration routes identified in the terminology of the EU’s Frontex border control agency. In 2011, only 990 irregular border-crossings were detected along this route, comprising less than 1 percent of all detections at EU external borders (Frontex 2012).

Poland is not a major immigration destination country. It hosts less than 50,000 non-nationals, mainly from [Ukraine](#), the Russian Federation, Belorussia, and Vietnam. Immigrants represent only 0.1 percent of its total population, which makes Poland the country with the lowest ratio of immigrants in the EU (EUROSTAT). According to the most recent estimates by the [Office for Foreigners](#), there were some 50,000-80,000 irregular migrants in Poland in 2012 (Caritas Poland 2012). These estimates are considerably lower than those of its EU neighbours, including Germany where there were approximately 100,000 – 400,000 undocumented migrants in 2010 (Clandestino: Database on Irregular Migration 2012). During a six-month regularisation period in 2012, nearly 10,000 applications were submitted, of which 23 percent were from Vietnamese, 21 percent Ukrainian, and 15 percent Pakistani (Badz legalnie 2012).

Despite the relatively moderate migratory pressures, Poland has been viewed by its EU partners as a key transit state into Europe. Before becoming an EU member, it received support from foreign border-guard agencies—especially the German Bundesgrenzschutz—and financing from the EU’s PHARE program to strengthen protections along its mutual borders with Ukraine, Belarus, and the Russian enclave of Kaliningrad (Alscher 2005). In October 2005, the headquarters of the European External Borders Agency (Frontex) was set up in Warsaw to coordinate management of EU border control efforts (Flynn 2006). More recently, the [European Return Fund](#) has paid for the training of the personnel working in detention and deportation (Ministry of Interior, Department of European Union and International Cooperation 2012).

The country’s poor track record on integration and discrimination of foreigners are an additional source of concern, including with respect to the treatment of non-citizens in state custody. According to Migrant Integration Policy Index ([MIPEX](#)), developed by the

**British Council** and the **Migration Policy Group**, Poland's protection against discrimination is the third weakest among EU countries. In 2011, it was rated at 36 percent, well below the EU average of 59 percent (MIPEX Website). Another indicator of prevailing social attitudes in Poland is that as of 2010, only 19 percent of Polish citizens who took part in an opinion poll would allow refugees to stay permanently in the country; a mere 9 percent would agree to grant them citizenship (Marek et al 2010).

## **Detention Policy**

The detention of irregular non-citizens is governed by the 2003 *Aliens Act*, which covers a broad range of issues concerning all categories of non-citizens who enter or stay in Poland, as well as the 2003 *Aliens Protection Act*, which provides specific protections for asylum seekers. Various measures contained in these two laws were modified in 2006, 2008, and 2009, and 2012, including on the conditions of entry and/or residence of non-citizens in Poland (European Parliament 2007; Fagasinski 2010). The most recent amendment, from April 2012, was intended to transpose the **EU Returns Directive** into Polish legislation. Among the changes introduced to the *Aliens Act* were the adoption of a voluntary departure period of 7-30 days; the provision of interpretation and translation services to migrants; implementation of individual assessment with respect to the length of re-entry bans with the possibility of revoking the ban on humanitarian grounds; and adoption of stricter rules concerning the entry of the personal data in the register of foreigners (EMN Poland 2012a).

As of early 2013, there were on-going public and inter-ministerial consultations on new immigration legislation, adopted by the Council of Ministers in August 2011, which will replace the *Aliens Act* (EMN Poland Website 2012c; Polish National Contact Point to the EMN 2012).

**Grounds for Detention.** Non-citizens can be subject to detention on a number of grounds provided in the *Aliens Act*, including: (1) if there is a risk of absconding; (2) if the person has been issued a return decision without a deadline to leave the; (3) if the person has not left Polish territory within the deadline specified in the return decision; or (4) if the person has attempted to cross or has crossed the border without proper authorization (*Aliens Act*, article 102(1)).

In assessing absconding risks, officials must determine whether (1) the person adequately demonstrates a willingness to comply with a return decision; (2) the person has documents certifying his or her identity after having crossed the border irregularly; and/or (3) the person has entered Poland during a re-entry ban (*Aliens Act*, article 102(1a)).

The draft *Aliens Act* introduces important changes to the fourth ground listed above. Persons who attempt to cross or have crossed the border without proper authorisation would no longer be detained automatically; rather, they will be obliged to report regularly to the chief of Border Guard division, submit travel documents, and/or provide a surety bond (Ministry of Interior 2012a).

**Asylum seekers.** Article 87 of the *Aliens Protection Act* permits the detention of an asylum seeker in certain cases, including: (1) when it is necessary to establish his or her identity; (2) to prevent abuse of the asylum proceedings; (3) to avoid risk to the safety, health, life, or property of others; (4) to protect state security or defence and public order; (5) in cases of illegal entry or stay, unless the asylum seeker arrives directly from the country he or she is fleeing and immediately lodges an asylum request along with a reasonable explanation for why the person entered Polish territory illegally; or (6) if the asylum seeker constitutes a threat to the safety, health or life of another asylum seeker residing in a reception centre or the staff working there (*Aliens Protection Act*, article 87(1)).

Recent statistics reveal that there is a high proportion of asylum seekers in "guarded centres." In mid-November 2012, of 391 immigration detainees in the country's six guarded centres, 258 were asylum seekers. Of these, 75 percent applied for international protection before being put in detention (Bialas 2012).

A 2010 assessment of detention orders by the **Halina Niec Legal Aid Center** (HNLAC) revealed that irregular border crossing is interpreted by officials as implying the abuse of the asylum procedures. It is the ground for detention of asylum seekers most frequently cited by officials, having been used to justify detention measures in 24 of 46 assessed by that organisation (HNLAC 2010).

During the asylum process, asylum seekers who are not subject to detention can stay, if they choose, in one of Poland's 12 non-secure reception centres managed by the Office for Foreigners (UDSC website; Fagasinski 2011).

**Minors.** Under Polish legislation, unaccompanied minors seeking asylum may not be detained (*Aliens Protection Act*, article 88(2)). They are to be accommodated in a care-educational centre (*Aliens Protection Act*, articles 61(1) and (2)). However, detention of unaccompanied minors who have not applied for asylum is not prohibited. They may be placed in a guarded centre, separated from adults (*Aliens Act*, article 115(3)). The authority who has arrested a minor may request the competent court to place him or her in a

care-educational centre (*Aliens Act*, article 101a(1)). In practice, unaccompanied minors, regardless of whether they have filed an asylum claim, are usually accommodated in the Warsaw orphanage, which has a special unit for them (Fagasinski 2011b). According to the draft *Aliens Act*, minors under 13 years old may not be placed in detention (Ministry of Interior 2012a).

Polish rights advocates claim that migrant children who are accompanied by parents or guardians are often detained. A minor who is placed in a guarded centre together with his or her guardian is to be kept together with the guardian (*Aliens Act*, article 115(2)).

During 2011, a total of 516 minors were reportedly detained, of whom 10 were unaccompanied (Amnesty International Poland et al 2012). Between January and October 2011, the Ketrzyn guarded centre held 30 families with 61 children; Bialystok guarded centre had seven families with 20 children; Biala Podlaska guarded centre had 10 families with 24 children; the Przemysl guarded centre had 10 families with 25 children; and the Lesznowola facility had 11 families with 26 children (HFHR 2012).

In 2010, a total of 375 children were reportedly detained, of whom 202 in Ketrzyn, 66 in Biala Podlaska, 47 in Bialystok, 30 in Lesznowola, 25 in Przemysl, and 5 in Krosno Odrzanskie. Approximately 289 detained children were Russian and 56 Georgian citizens. Out of the total number of minors, 8 were unaccompanied, half of which were from Afghanistan (HNLAC 2011).

In a 2011 study on the detention of migrant children in Poland, the HNLAC expressed a number of concerns regarding this practice. In particular, it highlighted problems with education. While guarded centres usually organize classes for children, those classes are carried out by detention staff rather than by professional educators (HNLAC 2011). The organisation also reported that the “majority of classes are organized without age division of children, which hampers the educational process. There is also no uniform program allowing for standardization of education provided in guarded centers. Therefore, the recommends introducing by the Ministry of Education specific guidelines on education of children in guarded centers for foreigners” (HNLAC 2011).

In its 2011 report on its visit to Poland, the **Council of Europe’s Committee for the Prevention of Torture** (CPT) addressed dietary problems. “As regards the provision of food, striking differences were observed in the establishments visited. It is noteworthy that, at Biala Podlaska, particular attention was being paid to the nutritional needs of young detainees (for instance, children were given fruit three times a week) as well as to the dietary requirements of foreign nationals. In contrast, a number of complaints were received in the other establishments visited about the quantity and quality of the food provided. At Lesznowola, the delegation noted that scarcely any fruit was given to children. Further, at both Lesznowola and the Airport Deportation Arrest Centre in Warsaw, very little attention was apparently paid to the dietary requirements of foreign nationals” (CPT 2011).

The CPT also discussed deficiencies in recreation for children at some detention facilities. “At Lesznowola, foreign nationals benefited from an ‘open door’ regime, and detainees were able to go into the open air in the morning and the afternoon, each time for at least two hours. However, apart from outdoor exercise, no sports activities or other recreational activities were organised, nor were there board games available. It is all the more worrying that children were not provided with any activities suited to their age” (CPT 2011).

**Length of detention.** A non-citizen arrested by the Border Guard or the police for immigration-related reasons may only be detained for an initial period not exceeding 48 hours, during which time the detaining authority must request a court to issue a detention order (*Aliens Act*, article 101). The initial detention order issued by the court can be for a maximum of 90 days (*Aliens Act*, article 106(1)). This 90-day period can be extended to a maximum of one year in cases where the enforcement of return is hindered by the person concerned (*Aliens Act*, article 106; *Aliens Protection Act*, article 89).

Asylum seekers can be detained for 30-60 days, a period that can be extended to 90 days in cases where the person applied for asylum after already being placed in detention on grounds provided in the *Aliens Act* (*Aliens Protection Act*, article 89).

The average length of detention in 2010 was 59 days in guarded centres and 69 days in “deportation arrests” detention facilities (Fagasinski 2011b).

Experts have expressed divergent opinions with respect to the disposition of migrants who reach the maximum permitted length of detention but remain non-deportable. According to Caritas Poland, there is nothing specified in law that restricts the number of times a foreign national can be detained. In practice, non-citizens who are released after spending the maximum one year in detention continue to be in an irregular situation after their release and thus remain susceptible to possible re-detention (Caritas Poland 2010, p.301). On the other hand, according to the Helsinki Foundation of Human Rights (HFHR), such persons can be granted a permit for tolerated stay as per article 97(1)(2) of the *Aliens Protection Act*, and thus would not be subject to continued detention (Fagasinski 2011b).

The draft *Aliens Act* would introduce changes regarding maximum permissible length of detention that have alarmed observers. The draft provides that detention periods during asylum procedures would not be counted in the maximal permissible 12-month detention

period. According to a lawyer from [Helsinki Foundation for Human Rights](#) (HFHR), “since asylum procedures are long and there is no limit on their duration, there is a risk that migrants may be detained indefinitely” (HFHR 2012b).

**Procedural guarantees.** Immigration-related detention is based on a detention order issued by a court (*Aliens Act*, article 111(1)). Migrants are to be informed by the court, in a language he or she understands, about specifics of the detention order and rights that attach to the person. Upon the admission to the detention facility, the detainee must be informed in a language he or she understands about rights and obligations, as well as the rules of stay in the facility (*Aliens Act*, articles 105(2) and 112).

In 2010, the HNLAC conducted an assessment of detention orders which revealed that grounds and justifications given in court rulings were very similar, indicating the lack of individual assessment of the specific circumstances of cases. The association found that there was a heightened risk of arbitrariness in decision-making regarding third-country nationals returned to Poland as part of Dublin II procedures. There were discrepancies with respect to the numbers of detained migrants depending on the Border Guard division on the territory in which the person concerned was previously apprehended, ranging from 18 percent in Sudecki Border Guard Division to 90 percent in Luzycycki Border Guard Division (HNLAC 2010).

Foreign nationals have the right to appeal a detention order to the court within seven days of receiving the order (*Aliens Act*, article 106). However, as observed by local NGOs, the appeals procedure is very complicated and appeals rarely filed (Fagasinski 2011b; HNLAC 2010). Detained migrants are not granted legal counsel free of charge. However, legal assistance is often provided by NGOs. There is no automatic judicial or administrative review of the legality of detention (Fagasinski 2011b). Nevertheless, immigration legislation explicitly provides the right to compensation for unlawful detention (*Aliens Act*, articles 117(1) and 108).

Detained foreign nationals have the right to health care and contact with Polish authorities, diplomatic representatives and NGOs, in addition to close persons (*Aliens Act*, article 117(1); Caritas Poland 2010). They may bring complaints to the authority in charge of the facility regarding conditions of detention and treatment. Complaints, however, appear to be rarely made. Between January 2008 and March 2011, 13 complaints were lodged in Biala Podlaska guarded centre, all of which were considered unfounded. During the same period, three complaints were filed in Ketrzyn, one in Warsaw, two in Krosno Odrzanskie, and none in Przemysl, Bialystok, and Klodzko (Fagasinski 2011b).

**Non-custodial measures.** Polish legislation provides for non-custodial measures such as residence restrictions and reporting requirements. According to the *Aliens Act*, when issuing a return decision, the court may oblige a non-citizen to remain in an indicated place of residence until the execution of the return. The person is not supposed to leave this residence without receiving prior authorization, and he or she must report regularly to the authority indicated in the return decision (*Aliens Act* articles 90(1)(3) and 91). However, the courts are not obliged to determine before ordering detention whether non-custodial measures would be feasible in a given case in light of individual circumstances. According to the HFHR, alternatives to detention of irregular migrants are rarely applied in practice (Bialas 2011).

The *Aliens Protection Act* also provides for the application of non-custodial measures until the end of the asylum procedure in certain cases, including: (1) when an asylum seeker has been released from detention in cases where the justification for detention was to prevent abuse of asylum proceedings; and (2) when the asylum seeker has not been detained due to a risk that detention may pose a serious threat to his or life or health (*Aliens Protection Act*, article 89(c)).

**Criminalization.** Irregular stay or non-compliance with a return decision is subject to a fine (*Aliens Act*, article 148). However, in practice fines are imposed very rarely (Fagasinski 2011b). Irregularly entering the country using violence, threat, deceit, or in cooperation with other persons is penalized under the Penal Code with imprisonment for up to three years (*Penal Code*, article 254(2)). One observer told the Global Detention Project that this criminal sanction is very rarely applied (Fagasinski 2011b).

## Detention Infrastructure

Like most EU countries, Poland uses only specialised detention facilities to confine non-citizens on immigration-related grounds. According to information received by the Global Detention Project, as of January 2013, Poland was operating 12 dedicated immigration detention centres with the total estimated capacity of 881 as well as one short-term holding centre in a transit area at the Warsaw International Airport.

**Long-term facilities.** Poland has two main types of dedicated facilities that can be used for long-term administrative detention of non-citizens for immigration-related reasons: “deportation-arrests” (*areszty w celu wydalenia*) and “guarded centres” (*strzezone ośrodki*). The difference between them relates to security regime. The deportation-arrests are characterized by their more severe internal security regime when compared to guarded centres (Fagasinski 2011b). Currently, facilities in Biala Podlaska, Bialystok, Ketrzyn and Przemysl house both a deportation arrest and a guarded centre. One of them, in Biala Podlaska, was visited by the CPT



in 2009. Its 2011 post-visit report reveals the differences between deportation arrests and guarded centres with respect to security regimes:

“At Biala Podlaska, the delegation gained a particularly favourable impression of the activities organised for children and families (various games, handicrafts, sports, music, Polish language courses, etc.). Further, male and female adults could move freely within the detention area and had access to communal rooms, which were equipped with television sets and table tennis tables. All detainees were allowed to spend at least one hour in the open air a day and could also play football or volleyball on a regular basis. That said, the conditions under which foreign nationals were held in the deportation arrest centre on the ground floor of the establishment were quite simply unacceptable. All detainees remained locked up in their cells for 23 hours a day without being offered any activities (apart from outdoor exercise, which was taken only with their cell mates, and occasional access to the football field); they were also not allowed to have television sets in their cells” (CPT 2011).

According to law, irregular migrants are to be confined in deportation-arrests rather than in guarded centres if there is a danger that the person will not observe the rules in force at the guarded centres (*Aliens Act*, article 102(2)). However, the Global Detention Project has received reports that in practice, this provision is not interpreted in a coherent way and that officials often lack a firm understanding of the categories of non-citizens to be placed in different kinds of facilities (Fagasinski 2011b).

According to one source, foreigners who break the law are accommodated in guarded centres while those who stay in Poland irregularly for a long period of time without committing any crimes are held in deportation-arrests (Fagasinski 2011b). Both guarded centres and deportation-arrests can hold asylum seekers and irregular migrants; however, asylum seekers are rarely held in deportation-arrests, and only if it is deemed necessary for state security or public safety (*Aliens Protection Act*, article 88(1); Fagasinski 2010).

**Deportation arrests.** Until relatively recently, the most common type of detention centres were the deportation-arrests, which formerly were located in police stations and Border Guard units. As of early 2009, however, the police no longer operated any immigration detention facilities, all of which came under the operation of the Border Guard (Fagasinski 2010; 2011). These changes were undertaken following amendments made to Article 109(2) of the *Aliens Act* in 2008. The revised article states that the Border Guard is responsible for managing the guarded centres in Poland, where previously the police and border guard were listed as authorised to operate such facilities (Fagasinski 2011). In contrast to the guarded centres, the deportation-arrests were criticized for mixing administrative detainees with criminal detainees before operations at the centres were transferred to the control of the Border Guard (European Parliament 2007).

The number of deportation-arrests has decreased significantly in recent years. While previously, the Global Detention Project identified some two dozen deportation-arrests in operation during the period 2007-2008 (see [Poland Detention Profile: December 2009](#)), as of January 2013, Poland operated only six such facilities, with the total estimated capacity of 136 (Fagasinski 2011f; 2011j; Rafalik 2012). Deportation-arrests were located in **Biala Podlaska** (Nadbusanski Border Guard Division), **Bialystok** (Podlaski Border Guard Division), **Ketrzyn** (Warminko-Mazurski Border Guard Division), **Klodzko** (Sudecki Border Guard Division), **Przemysl** (Bieszczadzki Border Guard Division) and **Warsaw airport** (Nadwislanski Border Guard Division). Moreover, the Global Detention Project was told that as of early 2013 in practice non-nationals were not held in the facilities in Klodzko and Warsaw (Fagasinski 2013b). Among the facilities that have closed in recent years include centres in Luban and Szczecin (Ministry of Interior and Administration 2011).

All facilities, except from the one in Klodzko, can detain both women and men. As reported by the NGOs, men and women are held separately. Neither unaccompanied minors nor families with children may be placed in deportation arrests (Fagasinski 2013b).

**Guarded centres.** On the other hand, the number of guarded centres has increased over the past years. Prior to joining the Schengen zone, Poland had only one guarded centre for aliens, located in Lesznawola. Established in 1996, the centre had been run by police until the Border Guard took over its management in 2008 (The Regional Coalition 2006; Rafalik 2012). In preparation for Poland's formal entry into Schengen, four new guarded centres were opened in the eastern part of the country by early 2008 (where most asylum seekers are apprehended): in Biala Podlaska, Bialystok, Ketrzyn and Przemysl (JRS 2007). Construction of these centres was funded in part by the European Fund for Asylum Seekers (European Parliament 2007). In addition, in January 2009 the Krosno Odrzanskie deportation-arrest, located on the country's western border, was converted to a guarded centre for aliens (Gazeta Lubuska 2008; Rafalik 2012).

According to data collected by the Global Detention Project, by January 2013 there were six guarded centres in operation, located in **Biala Podlaska** (Nadbusanski Border Guard Division), **Bialystok** (Podlaski Border Guard Division), **Ketrzyn** (Warminko-Mazurski Border Guard Division), **Krosno Odrzanskie** (Nadodrzanski Border Guard Division), **Lesznawola** (Nadwislanski Border Guard Division) and **Przemysl** (Bieszczadzki Border Guard Division) (Fagasinski 2011b, Gazeta Wyborcza 2012b). Their estimate total capacity was 745 (Fagasinski 2013b; Rafalik 2012).

According to the Ministry of Interior at the end of September 2012, there were 270 persons detained in guarded centres, 66 in Przemysl, 61 in Biala Podlaska, 55 in Bialystok, 40 in Krosno Odrzanskie, 31 in Ketrzyn and 17 in Lesznowola (Ministry of Interior 2013). As reported by two reliable NGOs, mid-November 2012, 391 non-nationals were placed in guarded centres, on which 300 men, 57 women and 34 minors, including 3 unaccompanied minors (Bialas et al 2012). In 2010, 2040 persons were accommodated in guarded centres, of which 507 in Bialystok, 423 in Ketrzyn and 415 in Biala Podlaska (Rafalik 2012).

All guarded centres have two blocks, for single men and families. However, the men section in Lesznowola has not been in use since at least 2009 due to a renovation. Women are usually held in family blocks but in Przemysl, Bialystok, Biala Podlaska and Krosno Odrzanskie there are in addition specific female sections. As of end 2012, women and families with children were not admitted in Bialystok guarded centre. Like single women, unaccompanied minors are accommodated in family blocks (Bialas et al 2012; Rafalik 2012). However, in Ketrzyn a specific section for unaccompanied minors has been recently set up and, pursuant to the Border Guard's internal instructions, they should be accommodated only in this facility (Fagasinski 2013). Such policy is in line with one of the post-visit conclusions by the Ministry of Interior in December 2012. Indeed, all families with minors and unaccompanied minors should be accommodated only in one or two guarded centres and efforts should be made to ensure adequate material conditions and qualified staff in these facilities (Ministry of Interior 2013).

**Conditions of detention.** Immigration legislation lays down several detailed rules related to conditions of detention. According to the *Aliens Act*, cells for non-citizens in the guarded centres and in the deportation-arrests are not to be smaller than 3 square metres per male detainee, and 4 square metres per female or minor. They are to be provided separate places to sleep, appropriate conditions of hygiene, sufficient supply of air, temperatures appropriate to the season, as well as lighting appropriate for reading. Men and women are to be accommodated separately (*Aliens Act*, articles article 114 and 115(1)). As of July 2011, the HFHR was not aware of reports of violations of these provisions in any guarded centre or deportation-arrest (Fagasinski 2011c, 2011d, 2011e, 2011f, 2011g, 2011h, 2011i, and 2011j).

The *Aliens Act* also provides that non-citizens held in deportation-arrests shall have the right to walk outside for an hour daily (*Aliens Act*, article 177(4)). According to the HFHR, this provision is generally respected (Fagasinski 2011c; 2011d; 2011e; 2011f; 2011i; 2011j). Detainees in guarded centres are allowed to move freely within the facility, however in line with internal regulations (*Aliens Act*, article 117(3)). In practice they are entitled to one-hour outdoor walking (Fagasinski 2011c; 2011d; 2011e; 2011g; 2011h; 2011i).

Of relevance is also the 2007 *Ordinance of the Minister of Interior and Administration regarding conditions of receiving meals and drinks by foreigners placed in a guarded centre or staying in detention centres for the purpose of their deportation, as well as the value of daily nutrition standard*, most recently amended in 2011. The Ordinance provides that immigration detainees shall receive three meals per day, including one hot meal. It establishes detailed rules regarding daily dietary allowances based on a detainee's age. For example, adults are to receive meals and beverages of at least 2,600 calories per day; daily caloric intake is to be 2,600-3,400 for minors 12-18, sick, as well as pregnant and breastfeeding women.

**Reports and monitoring visits.** Poland's immigration detention centres have been the subject of numerous reports and monitoring visits by both national and international organizations.

During its 2010 review of the country's compliance with the [Covenant on Civil and Political Rights](#), the [United Nations Human Rights Committee](#) (HRC) highlighted a number of concerns, including poor material conditions and inadequate medical assistance in some detention centres. The committee was also expressed concern about reports alleging that detainees are often unable to learn about their rights because of inadequate linguistic assistance and inappropriate provision of relevant information (HRC 2010).

In December 2012, following a wave of hunger strikes and claims about inadequate conditions, the Ministry of Interior and two NGOs—the [Association for Legal Intervention](#) and HFHR—visited several guarded centres. The resulting report published by the Ministry of Interior claimed that conditions in guarded centres comply with fundamental rights of detainees. According to the report, detainees are generally provided access to information on the rules in each facility, have contact with the outside world, and provided health care. However, the Ministry found problems with access to education in several facilities, which it explained as resulting in part from technical difficulties the courses given in the centres do not comply with the standard of education enshrined in the Polish legislation (Ministry of Interior 2013).

However, the report noted several areas of concern in various facilities. For example, it concluded that the internal regulations in Krosno Odrzanskie centre were inconsistent with the *Aliens Act*, in particular because of its practice of depriving badly behaved detainees of the right to contact official governmental agencies, diplomatic or consular missions, or NGOs. The monitoring team also noted detainees' complaints about the quality of food in Lesznowola and Krosno Odrzanskie centres.

In a separate report based on the December 2012 monitoring visits, the Association for Legal Intervention and HRHR pointed to the prison-like regime in the centres, which they argued encouraged inappropriate behaviour by personnel, like calling detainees by their identification numbers or threatening them with deportation, as happened in Lesznowola and Przemysl centres. The information on the internal rules in guarded centre, communicated to non-nationals following their placement, generally did not specify the possibility to appeal against detention order. Only in Krosno Odrzanskie and Przemysl was such information provided, although not always in a comprehensible language. The report also highlighted differences between guarded centres. While in Krosno Odrzanskie the outdoors recreation time was generally not limited, non-nationals in Biala Podlaska, Bialystok, Krosno Odrzanskie and Przemysl were only entitled to a single one-hour walk daily. In Biala Podlaska, Ketrzyn, Krosno Odrzanskie and Lesznowola centres, migrants were allowed to keep their cell phones; their counterparts in Bialystok and Przemysl were allowed access to them only during some hours of the day. Finally, while in Ketrzyn and Krosno Odrzanskie visits were not limited in duration, in all other facilities visits were not allowed exceed 60 minutes (Bialas et al 2012).

Between August and September 2010 the Association for Legal Intervention conducted monitoring visits in all six guarded centres. It found that the foreigners' right to information, including information about the possibility to submit a complaint, was generally adequately implemented. However, the enjoyment of this right was obstructed by linguistic barriers. Only in Ketrzyn was an interpreter ensured during the admission to the facility. Unlike in all other facilities, in Przemysl the access to the document containing the rules and regulations of the centre was limited. In terms of the right to the contact to the outside world, the rules were the strictest in Przemysl, including the inspection of the contents of the letters sent by the detainees and the limitation of the number of visits to one per two weeks.

The conditions of detention were much better in the newer centres—in Biala Podlaska, Bialystok, Ketrzyn, and Przemysl. Those facilities were found to be clean and well-maintained and equipped with football grounds, exercise yards and playgrounds for children. The Lesznowola facility seemed to be considerably underfunded and did not offer a playground or a day-room. Krosno Odrzanskie centre, being previously used as a deportation arrest, maintained its prison-like appearance, with heavy prison doors and small exercise yard surrounded by a high concrete wall. With respect to the regime, the visits revealed that accommodation rooms remained open during the day and at night and detainees were free to move within their blocks and had access to the library, games, TV, and recreation equipment (SIP 2011).

**Caritas Poland**, in their 2010 report based on the situation of detention in the guarded centres in Biala Podlaska, Krosno Odrzanskie and Przemysl, found that while detainees were informed of the reasons for their detention, there was little information provided to them on the status of their cases while they were in detention, leading to a complete lack of knowledge about how long they would be held at the facilities and what would happen to them afterwards (Caritas Poland 2010). The NGO also criticised the detention of children and the negative psychological and developmental impact this has on them (Caritas Poland 2010).

The CPT found in 2009 that the Biala Podlaska facility offered a very high standard of material conditions, in terms of state of repair, living space, equipment and access to natural light. On the other hand, the regime of activities varied considerably between the guarded centre and the deportation-arrest, as noted earlier in this section. Detainees in the guarded centre could move freely within the detention area, spend at least one hour outdoors per day and had access to well-equipped communal rooms. Those held in the deportation-arrest remained locked up in their cells for 23 hours per day and were offered hardly any activities (CPT 2011).

The same CPT visit revealed that the Warsaw airport deportation-arrest, while offering acceptable material conditions, failed to provide detainees with an appropriate confinement regime. Although they could move freely within the detention area during the day, they were often granted only 15-30 minutes of outdoor exercise per day and there was no communal area (CPT 2011).

Comparing its 2009 findings with those of its previous visit in 2004, the CPT found improvements in the provision of health care and contact with the outside world (CPT 2011).

In a 2007 Memorandum to the Polish Government, the Council of Europe Commissioner for Human Rights welcomed the treatment of unaccompanied minors under the *Aliens Protection Act*. However, the commissioner raised concerns over lack of access to information, legal assistance, and translators in detention centres (Council of Europe 2007). A European Parliament report on detention centres for third-country nationals also recommended regular medical and psychological care and better access to judicial assistance for detainees (European Parliament 2007). The same report criticized the failure to segregate criminal from administrative detainees in deportation-arrests, excessively long detention of children (for up to one year) at the Lesznowola guarded centre, and the “pathogenic nature of detention” in Poland. According to the report, “The length of detention, the lack of any social activities, the severity of the conditions, the practical impossibility of communicating with personnel, the lack of links with the exterior, are factors which create or exacerbate situations of vulnerability” (European Parliament 2007).

**Transit zone.** There is a holding facility in the **transit area of the Warsaw International Airport**. It is intended to hold persons denied access to the country for a period not exceeding 24 hours (Fagasinski 2011b; 2013a; 2013b). The facility reportedly has a

maximum of capacity of 30, divided between three rooms, including one large room capable of accommodating 16 persons and two smaller rooms for six and eight persons respectively.

During its 2009 visit, the CPT found that the material conditions in the facility were generally adequate. It noted that besides bunk beds, the rooms were equipped with tables and chairs, had good access to natural light, were well ventilated, and had a call system. On the other hand, the CPT found that while migrants only very rarely were held on the premises overnight, in cases where they had to stay for extended periods of time, they were not provided with personal hygiene products. The CPT also criticized the failure to respect procedural safeguards. It noted that while detainees were in principle entitled to contact a lawyer; they were not allowed to meet this person. Moreover, the persons concerned were not systematically provided with a copy of the forms setting out the rights of persons who were denied access to the territory. Also, the recording of placements of migrants in the holding facility was inadequate, since in many cases no information on the identity of the persons concerned or the time during which they were held there were entered in the log book (CPT 2011).

More recently, in a 2011 review of Poland's compliance with the International Covenant on Civil and Political Rights, the UN Human Rights Committee expressed concern that in some cases persons were held in this facility beyond the 24-hour period and without a court order. The committee urged Poland to ensure that when detention in transit zone is extended, such measures should be based on a decision adopted by a court (HRC 2010).

The Global Detention Project classifies this facility as a "transit zone detention" because of its location at a port of entry in to the country, the repeated reports of use of the facility exceeding its short-term mandate, and the particular problems with respect to procedural guarantees that seem to result from the facility's intended use as mechanism for preventing people from entering the country.

## **Facts & Figures**

Poland operates two types of facilities for holding non-citizens in long-term administrative detention: "deportation-arrests" and "guarded centres for foreigners." As of January 2013, there were 12 facilities in operation that could be used for long-term confinement of non-citizens for immigration-related reasons and one short-term facility at the Warsaw airport transit zone. The total estimated detention capacity in long-term facilities as of January 2013 was 881. In 2010, 2,310 persons were detained on immigration-related charges. Out this number, from all but Warsaw and Klodzko facilities, 1,304 were expelled in the same year. The cost of detention in 2010 amounted to around 9 million Euro (Fagasinski 2011b; Rafalik 2012).

The average age of detainees, according to one observer in 2010, was 34. Males were found to be segregated from females, and families with children were accommodated separately in special units. The detainees interviewed by Caritas Poland were a mixture of asylum seekers, irregular migrants and asylum seekers detained based on the "Dublin procedures." The average length of detention was around 2 months (Caritas Poland 2010).

Immigration to Poland since it joined the European Union in 2004 has been dominated by migrants coming from the countries of the former Soviet Union, particularly seasonal labourers from Ukraine, Belarus and the Russian Federation (European Parliament 2007; Fagasinski 2010). Poland is also an important receiving country for asylum seekers in Europe, having received 8,517 asylum requests in 2008 (UNHCR 2009; UDSC website; EUROSTAT).

Until 2009, more than 90 percent of asylum seekers originated from the Russian Federation, mainly Chechens. Other key countries of origin have included Iraq, Vietnam, Georgia, Belarus, Armenia, Ukraine, and Uzbekistan (UNHCR 2009). In 2009, however, there was a significant increase in asylum applicants originating from Georgia (Caritas Poland 2010), with 4,214 applications for asylum lodged by citizens of this country. In the same year some 5,726 applications were lodged by citizens of the Russian Federation. A total of 10,587 applications for asylum were lodged in 2009 (UDSC website).

The number of requests for international protection decreased to 6,534 in 2010 and 6,887 in 2011. In 2011, out of 6,887 asylum applications, 4,305 were filed by citizens of Russian Federation, 1,735 of Georgia, and 216 from Armenia (UDSC 2012). The number of unaccompanied minors seeking asylum increased significantly from 230 in 2010 to 405 in 2011 (EUROSTAT).

In 2011, 54 percent of persons who were granted refugee states were citizens of Russian Federation (UDSC 2012). In the first instance of asylum procedure, there were roughly 9,800 decisions taken, of which 2,740 were negative. Out of 478 positive decisions, 153 granted refugee and 325 complementary protection statuses. Compared to other EU countries, these figures reveal quite restrictive asylum policies. With the refugee status recognition rate of 4.8 and the complementary protection recognition rate of 14.9, Poland is ranked seventeenth and nineteenth, respectively, out of 27 EU countries. The ratio of the number of refugees to 1,000 inhabitants is 0.4. Only Greece, Spain, and Portugal as well as other East European countries have lower ratios (UNHCR 2012).



In 2011, the number of asylum applications was only slightly higher than the number of applications for residence registration submitted by the EU citizens, which numbered 6,483. Just under 30 percent of these applications concerned German citizens (UDSC 2012).

According to Eurostat, there were 47,260 non-citizens residing in Poland in 2011, what made 0.1% of the total population—the lowest rate across the EU. The most common countries of origin were Ukraine (10,800), Russian Federation (4,150), Belarus (3,480) and Vietnam (2,950) (EUROSTAT).

In 2011, 21,657 persons were refused entry at the border, what represents a drop comparing to 23,758 refusals of entry in 2010 and 26,941 in 2009 (UDSC 2012). However, the figures for 2011 are still the second highest in the EU, more persons were refused entry only in Spain (EUROSTAT). In 2011, the decisions refusing entry to Poland concerned most often nationals of Ukraine (10,566), Belorussia (4,863), Russian Federation (2,697), and Georgia (2,321) (UDSC 2012).

According to estimates by the Office for Foreigners in 2012, there are 50,000-80,000 irregular migrants in Poland (Caritas Poland 2012). The number of apprehensions increased in 2011. While around 4,000 persons were apprehended in 2010, in 2011 this number increased to 6,875. The figure is still low comparing to other EU countries, as the EU average in 2011 was 17,355 (EUROSTAT).

Nearly 7,450 return decisions were issued in 2011, compared to 8,270 in 2010. In 2011 the main countries whose citizens were ordered to leave Poland, were Ukraine (4,690), Russian Federation (1,026) and Belorussia (578) (UDSC 2012). In 2011 roughly 7,000 persons were expelled from Poland, around 300 more than in the preceding year. The returns from Poland in 2011 made 3.7 percent of all persons removed from the EU countries (EUROSTAT; Polish National Contact Point to the EMN 2012).

*\* The Global Detention Project would like to give special thanks to Maciej Fagasinski from Helsinki Foundation for Human Rights for undertaking considerable research in Poland to assist the GDP in completing this profile.*

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## Poland Detention Profile

### List of Detention Sites

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Name	Status (Year)	Location	GDP Facility Type	Detention Timeframe	Security	Authority	Management	Capacity	Reported Population on a Single Day	Demographics & Segregation
Biala Podlaska Deportation Arrest	In use (2013)	Biala Podlaska	Migrant detention centre	Long-term	Secure	Ministry of Interior	Border Guard	24 (2011)	12 (November/December 2009)	Single adult males, single adult females; segregation of men and women (2013)
Biala Podlaska Guarded Center for Aliens	In use (2013)	Biala Podlaska	Migrant detention centre	Long-term	Secure	Ministry of Interior	Border Guard	152 (2013)	61 (30 September 2012)	Single adult males, single adult females, unaccompanied minors, families; segregation of men and women, segregation of minors, family unit (2012)
Bialystok Deportation Arrest	In use (2013)	Bialystok	Migrant detention centre	Long-term	Secure	Ministry of Interior	Border Guard	15 (2011)		Single adult males, single adult females; segregation of men and women (2013)
Bialystok Guarded Center for Aliens	In use (2013)	Bialystok	Migrant detention centre	Long-term	Secure	Ministry of Interior	Border Guard	136 (2013)	55 (30 September 2012)	Single adult males, single adult females, families; segregation of men and women, family unit (2012)
Ketrzyn Deportation Arrest	In use (2013)	Ketrzyn	Migrant detention centre	Long-term	Secure	Ministry of Interior	Border Guard	30 (2011)		Single adult males, single adult females; segregation of men and women (2013)
Ketrzyn Guarded Center for Aliens	In use (2013)	Ketrzyn	Migrant detention centre	Long-term	Secure	Ministry of Interior	Border Guard	130 (2011)	31 (30 September 2012)	Single adult males, single adult females, unaccompanied minors, families; segregation of men and women, segregation of minors, family unit (2012)
Klodzko Deportation Arrest	In use (2013)	Klodzko	Migrant detention centre	Long-term	Secure	Ministry of Interior	Border Guard	3 (2011)		Single adult males (2011)
Krosno Odrzanskie Guarded Center for Aliens	In use (2013)	Krosno Odrzanskie	Migrant detention centre	Long-term	Secure	Ministry of Interior	Border Guard	58 (2013)	40 (30 September 2012)	Single adult males, single adult females, unaccompanied minors, families; segregation of men and women, segregation of minors, family unit (2012)
Lesznowola Guarded Center for Aliens	In use (2013)	Lesznowola	Migrant detention centre	Long-term	Secure	Ministry of Interior	Border Guard	131 (2013)	17 (30 September 2012)	Single adult females, unaccompanied minors, families; segregation of minors, family unit (2012)
Przemysl Deportation Arrest	In use (2013)	Przemysl	Migrant detention centre	Long-term	Secure	Ministry of Interior	Border Guard	35 (2011)	9 (21 July 2006)	Single adult males, single adult females; segregation of men and women (2013)
Przemysl Guarded Center for Aliens	In use (2013)	Przemysl	Migrant detention centre	Long-term	Secure	Ministry of Interior	Border Guard	138 (2013)	66 (30 September 2012)	Single adult males, single adult females, unaccompanied minors, families; segregation of men and women, segregation of minors, family unit (2012)
Warsaw Airport holding facility	In use (2013)	Warsaw Airport, Terminal 2, transit area	Transit centre	Short-term	Secure	Ministry of Interior	Border Guard	30 (2009)	1 (November/December 2009)	
Warsaw Deportation Arrest	In use (2013)	Warsaw, 100m from Warsaw Airport	Migrant detention centre	Long-term	Secure	Ministry of Interior	Border Guard	29 (2011)	37 (November/December 2009)	Single adult males, single adult females; segregation of men and women (2013)

### Sources

[please see the [Reference List](#)]

## Poland Detention Profile

### Map of "In Use" Detention Sites

For more detailed information, see the complete [List of Detention Sites](#).

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### Country View

1. [Biala Podlaska Deportation Arrest](#)
2. [Biala Podlaska Guarded Center for Aliens](#)
3. [Bialystok Deportation Arrest](#)
4. [Bialystok Guarded Center for Aliens](#)
5. [Ketrzyn Deportation Arrest](#)
6. [Ketrzyn Guarded Center for Aliens](#)
7. [Klodzko Deportation Arrest](#)
8. [Krosno Odrzanskie Guarded Center for Aliens](#)
9. [Lesznowola Guarded Center for Aliens](#)
10. [Przemysl Deportation Arrest](#)
11. [Przemysl Guarded Center for Aliens](#)
12. [Warsaw Airport holding facility](#)
13. [Warsaw Deportation Arrest](#)

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## Poland Country links

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### Government

Human Rights Defender

<http://www.rpo.gov.pl/index.php?s=3>

Office for Foreigners

<http://www.udsc.gov.pl/MAIN,PAGE,264.html>

### International organizations

International Labour Organization (ILO): Office for the European Union

<http://www.ilo.org/public/english/region/eurpro/brussels/index.htm>

International Organisation for Migration (IOM): Europe

<http://www.iom.int/cms/en/sites/iom/home/where-we-work/europa.html>

UNHCR Regional Representation for Central Europe

<http://www.unhcr-budapest.org/>

### NGOs and research institutions

Association for Legal Intervention (in Polish)

<http://interwencjaprawna.pl/>

Caritas Poland (in Polish)

<http://www.caritas.pl/>

Helsinki Foundation for Human Rights

<http://www.hfhrpol.waw.pl/en>

La Strada Foundation

[http://www.strada.org.pl/index\\_en.html](http://www.strada.org.pl/index_en.html)

Nobody's Children Foundation

[http://www.strada.org.pl/index\\_en.html](http://www.strada.org.pl/index_en.html)

Polish Humanitarian Action

[http://www.pah.org.pl/?set\\_lang=en](http://www.pah.org.pl/?set_lang=en)

Polish Migration Forum

<http://www.forummigracyjne.org/en/>

Rule of Law Institute

<http://panstwoprawa.org/en/>

The Halina Niec Legal Aid Center

<http://www.pomocprawna.org/indexeng.html>

Warsaw University Centre of Migration Research

<http://www.migracje.uw.edu.pl/en/about/general/>

## Media

Polish Press Agency – English-language News Service

<http://www.pap.pl/eng>

Polish Press Review

<http://polishpress.wordpress.com/>

Polish Refugee Newspaper

<http://www.refugee.pl/?LANGVER=en>

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