First instance determination - Poland

Overview of first instance procedures

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Relevant EU legislation

Poland is bound by the recast Asylum Procedures Directive (APD), the recast Reception Conditions Directive and the Dublin III Regulation and has transposed their provisions through the following acts:

The Act on granting protection to foreigners on the territory of the Republic of Poland of 13 June 2003 [Ustawa z dnia 13 czerwca 2003 r. o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej, Dz.U. 2025 poz. 223 z późn.zm.]

The Ordinance of the Ministry of the Interior of 4 November 2015 on the form of application for international protection [Rozporządzenie Ministra Spraw Wewnętrznych z dnia 4 listopada 2015 r. w sprawie wzoru formularza wniosku o udzielenie ochrony międzynarodowej, Dz.U.2015 poz. 1859]

National legislation

The Act on Granting Protection to Foreigners refers to the procedure for granting and ending international protection in its Chapter 2 (Articles 23-54f).

Article 38 covers the admissibility procedure, while Article 39 covers the accelerated procedure.

The border procedure is not applicable in Poland.

Competent authority and other stakeholders

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National authorities: The Head of the Office for Foreigners (Department for Refugees Procedures | Departament Postępowań Uchodźczych) is responsible for examining/processing requests for international protection in the regular asylum procedure and in special procedures.

The Head of the Office for Foreigners is a specialised body of the central public administration, reporting to the Ministry of the Interior and Administration.

The Head of the Office for Foreigners is the central government administrative body which is competent for the entry of foreigners, transit through the country, stay in and departure from it, granting international protection, providing social assistance and medical care to persons applying for international protection, granting asylum to foreigners, and granting temporary protection except for matters reserved for other authorities.

Staff: The Head of the Office is not responsible for the registration and lodging of applications for international protection and for fingerprinting and identity verification. It is also not responsible for the provision of legal aid to asylum applicants.

In general, the same case officer from the Office for Foreigners who interviews the applicant also carries out the assessment of the application and prepares the decision.

In the Department of Refugee Procedures of the Office for Foreigners there are 42 permanent caseworkers.

Other actors: Other authorities involved in the procedure include:

The Border Guard – When receiving an application for international protection (at the border or within the territory), the Border Guard is obliged to establish the identity of the applicant and to obtain all relevant information needed to fill the application form (travel documents details, information on travel route and family members in the EU, basic information on reasons for applying). The Border Guard also photographs and fingerprints the applicant (for the purpose of recording in Eurodac and AFIS, and performing necessary register checks in VIS, SIS and national databases). If there are any doubts regarding the applicants' age, the Border Guard arranges the age assessment.

Authorities which carry out security screenings - During the proceedings for granting international protection, according to Article 45 of the Act on Granting

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Protection to Foreigners, the authority conducting the proceedings shall request the commander of the Border Guard unit, the provincial police commander, the Head of the Internal Security Agency to provide information on whether the exclusion clauses could apply or the applicant may pose security concerns.

NGOs, legal counsels/legal representatives, interpreters (if needed) can attend personal interviews (Article 44(4)3 of the Act Granting Protection to Foreigners).

On the basis of the Act on Granting Protection to Foreigners the interview is conducted without the presence of other persons whose presence the applicant has not consented to, in conditions ensuring an adequate level of confidentiality and allowing the applicant to present comprehensively the reasons for applying for international protection.

For unaccompanied minors, the personal interview is conducted in the presence of a guardian/legal representative or an adult indicated by the minor, a psychologist or a pedagogue, who drafts an opinion on the physical and mental state of the minor. In case of other vulnerable applicants, the interview can be carried out in the presence of a psychologist, physician or interpreter.

UNHCR can also attend the interview, upon the applicant's request.

Types of procedures and case processing

The following procedures are regulated: regular procedure, admissibility procedure, accelerated procedure and subsequent application procedure.

If an application for international protection concerns a person who may require special treatment, in particular: a minor, a person with a disability, an elderly person, a pregnant woman, a single parent, a victim of human trafficking, a person who is seriously ill, a person with mental disorders, a person who has been tortured, a victim of psychological, physical, including sexual, violence, as well as on SOGIESC grounds, the Head of the Office for Foreigners shall assess whether the person requires special treatment in the proceedings for granting international protection.

The border procedure is not applicable in Poland.

Time limit for a decision and length of the procedure

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Applicable time limits: According to Article 34 of the Act on Granting Protection to Foreigners, decisions on granting international protection should be issued within 6 months from the lodging of the application. This time limit can be extended to 15 months. The Office for Foreigners is obliged to inform applicants of the reasons behind delays and of the new deadline. Extensions are only possible for particularly complex cases, in cases of large numbers of applications within a short time frame, or if applicants do not fulfil their obligations to cooperate with the Office for Foreigners and to participate in the interviews as provided in Article 41.

The average length of the first instance regular asylum procedure in 2024 was 131 days according to ECRE (see page 14 here).

Different time limits apply for special procedures

If the case concerning the granting of international protection has not been resolved within the time limit, and the delay was not due to the fault of the applicant, the Head of the Office, at the request of the person concerned, issues a certificate that, together with a temporary foreigner's identity certificate, entitles that person to work in Poland on the terms and in the manner specified in the Act of 20 April 2004 on the promotion of employment and labour market institutions (Article 35 of the Act on Granting Protection to Foreigners).

Measures to enforce the legal time limit for processing an application: If the time limits are not respected, provide that the administrative body notifies the party about the failure to resolve the case, stating the reasons for the delay and indicating a new deadline and informing the applicant about the right to file an appeal.

A complaint against the inaction of an authority in proceedings for the granting of international protection is a legal remedy available to a party when a public administration authority fails to deal with a matter within the prescribed time limit or conducts proceedings in a protracted manner.

Before bringing a complaint to the Provincial Administrative Court, a reminder must be submitted to the Refugee Board. The authority has 7 days to consider the reminder (Articles 36-38 of the Law on Proceedings before Administrative Courts).

Penalty payment for exceeding processing time: The Provincial Administrative Court may oblige the Head of the Office for Foreigners to settle the case within a

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specified time limit. The court may also impose a fine on the authority or award compensation to the party. In the event of inaction, the court may also rule on the existence or non-existence of a right or obligation, if the nature of the case so permits.

Prioritisation policies: Information is currently not available.

Quality assurance of first instance procedures

Who: The Office for Foreigners ensures quality check. There is no external stakeholder providing support at the moment.

Methods/criteria: To ensure the quality of the first instance procedures and decisions, the following are provided by the Office for Foreigners:

- templates for decisions,
- languages macros,
- training series for employees at every stage of the procedure.

Working groups are also created within the department, as needed, to develop common procedures, decision templates, etc.

The 4-eyes principle is applied, so that draft decisions are checked and approved by coordinators or heads of units.

Case officers are in constant contact with their managers and regular meetings are organised within the units to discuss more difficult/complicated cases.

There is no internal unit dedicated only to quality assessment, but at the turn of 2024/2025, a working group was created within the department to provide quality assessment of 100 randomly selected decisions. Based on the results, the procedures were improved, as well as trainings and templates.

Frequency: At the turn of 2024/2025, the first quality assessment was carried out and the Office for Foreigners plans to carry this out once a year.

Interinstitutional cooperation

Beyond the exchange of information on individual appeal procedures, regular meetings and consultations take place between the Office for Foreigners and the Refugee Board, in which the following may be discussed: emerging problematic

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issues, the latest rulings of both instances and new factual and legal issues emerging in cases.

Moreover, when repealing the decision of the Head of the Office for Foreigners and submitting it for reconsideration to the Head of the Office for Foreigners, the Board indicates in its decision what circumstances should be taken into account when reconsidering the case.

Additionally, if the Head of the Office for Foreigners in the contested decision incorrectly interpreted the legal provisions that may be applicable to the case, the decision of the Board specifies the guidelines for the interpretation of the provisions (Article 138(2) and (2a) Code of Administrative Procedure).

For information regarding cooperation with other organisations involved in the asylum procedures, see the section on competent authorities and other stakeholders above.

Regular asylum procedure at first instance

Legal basis

The Act on Granting Protection to Foreigners refers to the procedure for granting and ending international protection in its Chapter 2 (Articles 23-54f).

Competent authority and stakeholders

The Head of the Office for Foreigners (Department for Refugees Procedures I *Departament Postępowań Uchodźczych*) is responsible for examining/processing requests for international protection in the regular asylum procedure.

Personal interview

Article 44(1) of the Act on Granting Protection to Foreigners provides that the authority conducting the procedure for granting international protection shall interview the applicant in order to clarify the facts relevant to the resolution of the case, including allowing him or her to provide additional explanations regarding inconsistencies or contradictions in statements.

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According to Article 44(2) of the Act on Granting Protection to Foreigners , interviews may be omitted when evidence collected is sufficient to grant refugee status or when the applicants' are not physically or mentally fit to be interviewed.

Interviews are conducted in the majority of cases in a regular procedure.

Assessment of an application

Articles 13-20 of the Act on Granting Protection to Foreigners provide an overview of the principles followed by the Office for Foreigners when analysing asylum applications.

Additional legal provisions relevant for assessment of the application for asylum:

- The Constitution of the Republic of Poland of 2 April 1997.
- The Act of 12 December 2013 on foreigners.

Scope and outcomes of a decision

Possible outcomes: According to Articles 47-53 of the Act on Granting Protection to Foreigners, the Office for Foreigners may decide to:

- Grant refugee status or subsidiary protection;
- Refuse refugee status or subsidiary protection;
- Declare the application inadmissible;
- Discontinue the proceedings.

The determining authority does not consider a national form of protection if international protection is refused.

The Office for Foreigners issues a single decision, covering the applicant and any other persons on whose behalf the applicant acts.

The decision is translated into a language the applicant understands and includes the legal basis, the outcome, and the instruction. The decision is communicated to the applicant at the place of residence or stay.

The decision on asylum issued by the Office for Foreigners does not include a return order, as the Polish system does not allow for the simultaneous issuance of a joint asylum and a return decision.

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Withdrawal of an application

Competent authority to withdraw an application

According to Article 40 of the Act on Granting Protection to Foreigners, the Office for Foreigners can issue a decision to terminate the proceeding when an applicant declares he/she withdraws the application, or when the application is deemed to be implicitly withdrawn.

Implicit withdrawal

Grounds for implicit withdrawal: According to Article 40(2) of the Act on Granting Protection to Foreigners, an application is considered to be implicitly withdrawn in the following cases:

- Failure to report to the first reception centre (within 2 days of lodging the application/release from detention centre);
- Leaving the reception centre without permission for more than 7 days;
- Leaving the territory of Poland;
- Change of the place of residence without informing the authorities;
- Non-compliance with the obligation to report (lost contact);
- Absence from the personal interview without a valid reason (reason not presented within 7 days of the interview's date).

Consequences of implicit withdrawal: A formal decision to discontinue the examination is issued (Article 40(1) of the Act on Granting Protection to Foreigners).

Applicants can request the re-opening of their applications within 9 months from the discontinuation decision. To do so, they must declare their intention to re-open the procedure to the Border Guard, who will then transmit the request to the Office for Foreigners.

Appeal against a decision to discontinue the examination due to an implicit withdrawal: Based on the general provisions of the Administrative Code, appeals against decisions to discontinue applications can be lodged within 14 days from the communication of the decision. The Refugee Board is competent for the appeal.

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Explicit withdrawal

Grounds for explicit withdrawal: To explicitly withdraw the application, the applicant must submit an oral or written request and confirm it in person.

Consequences of explicit withdrawal: A formal decision to discontinue the examination is issued (Article 40(1) of the Act on Granting Protection to Foreigners).

Applicants can request the re-opening of their applications within 9 months from the discontinuation decision. To do so, they must declare their intention to re-open the procedure to the Border Guard, who will then transmit the request to the Office for Foreigners (Article 40(6) - (9) of the Act on Granting Protection to Foreigners).

In case of re-opening of the procedure, the time limit for settling the application starts to run from the date of expiry of the decision to discontinue the procedure for granting international protection and actions taken in the course of the discontinued proceedings remain in force (Article 40(11) and (12) of the Act on Granting Protection to Foreigners).

Appeal against a decision to discontinue the examination due to an explicit withdrawal: Appeals against decisions to discontinue applications can be lodged within 5 days from the communication of the decision (Article 40(5) of the Act on Granting Protection to Foreigners). The Refugee Board is competent for the appeal.

If the applicant declares in writing to the Head of the Office within 9 months of the date of the decision to discontinue the proceedings for granting international protection that he/she intends to continue to apply for such protection, the decision to discontinue the proceedings shall expire by operation of law on the date of receipt of the declaration by the authority. A statement of intent to continue applying for international protection shall be submitted to the Head of the Office through the commander of the Border Guard unit or the commander of the Border Guard post.

Personal interview

Competent authority: Interviewers

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Article 44 of the Act on Granting Protection to Foreigners provides that the authority conducting the procedure for granting international protection interviews the applicant to clarify the facts relevant to the resolution of the case, including allowing additional explanations regarding inconsistencies or contradictions in statements.

There are no separate recruitment procedures for interviewers and case officers. After hiring, the Office for Foreigners conducts EUAA trainings including techniques for interviewing persons.

Special procedural guarantees during the interview

Interviews are conducted in the majority of cases in the regular asylum procedure and special procedural guarantees are foreseen for applicants with special procedural needs/vulnerabilities.

Minors: The case officer assesses if a minor can contribute to the establishment of material facts during the personal interview and, in general, interviews with minors take place only if it is indicated that the minor is in the appropriate condition to be interviewed. The physical presence of the minor is then required. No fixed age limit is set.

There are specific procedures for interviewing accompanied minors.

Unaccompanied minors: The case officer assesses if an unaccompanied minor can contribute to the establishment of material facts during the personal interview and, in general, interviews with unaccompanied minors take place only if it is indicated that the minor is in the appropriate condition to be interviewed. No fixed age limit is set.

Proceedings for granting international protection involving an unaccompanied minor may be conducted by a person who meets at least one of the following conditions:

1) has completed a master's degree in law and has 2 years of work experience in institutions whose activities include childcare;

2) has completed a master's degree or higher vocational education and has 2 years of work experience in public administration and has undergone training in conducting proceedings for granting international protection involving minors;

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3) has completed a master's degree in pedagogy, psychology or sociology and has 2 years of work experience in public administration.

Victims of trafficking or other forms of violence: In the case of a foreigner who is a person requiring special treatment, the proceedings for granting international protection shall be conducted:

1) in conditions ensuring the foreigner's freedom of expression, in a manner adapted to his or her mental and physical condition;

2) within a time limit adapted to his or her mental and physical condition, determined taking into account the time limits for the foreigner's use of health services;

3) at the place of residence of the foreigner, where justified by his or her state of health;

4) where necessary, with the participation of a psychologist, doctor or interpreter.

In justified cases, activities in proceedings for granting international protection shall be performed by a person of the same sex, with the participation of a psychologist, doctor or interpreter of the sex indicated by the foreigner.

Applicants with disabilities or other health issues:

In the case of a foreigner who is a person requiring special treatment, the proceedings for granting international protection shall be conducted:

1) in conditions ensuring the foreigner's freedom of expression, in a manner adapted to his or her mental and physical condition;

2) within a time limit adapted to his or her mental and physical condition, determined taking into account the time limits for the foreigner's use of health services;

3) at the place of residence of the foreigner, where justified by his or her state of health;

4) where necessary, with the participation of a psychologist, doctor or interpreter.

In justified cases, activities in proceedings for granting international protection shall be performed by a person of the same sex, with the participation of a psychologist, doctor or interpreter of the sex indicated by the foreigner.

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Possibility to omit the personal interview

The decision to omit the personal interview is taken by the case worker. The omission is documented and the reasoning behind the decision is provided in the applicant's file.

Positive decision	Yes (Act on Granting Protection to Foreigners, Article 44(2)). There is a possibility to omit the personal interview if the determining authority has enough information to grant refugee status without interviewing the applicant.
Previous meeting - essential information	Not applicable
Issues raised are not relevant or of minimal relevance	Yes (not applicable to unaccompanied minors)
Safe country of origin	Not applicable
Safe third countries	Not applicable
Inconsistent, contradictory, improbable, insufficient representations	No
Subsequent application	Yes (not based on legal provisions, but accepted in practice)
Application to merely delay/frustrate enforcement	No
Not reasonably practical to conduct it	Yes (not based on legal provisions, but accepted in practice)

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Applicant unfit or unable to be interviewed	Yes (Act on Granting Protection to Foreigners, Article 44(2); e.g. due to health or psychological issues which persist for more than 6 months

Organisational aspects

Preparation and timing of the interview:

Interviews are conducted in the majority of cases in the regular asylum procedure.

The foreseen timeframe between the lodging of an application and the interview depends on the availability of an interpreter for the respective language.

Applicants are summoned for a personal interview by written invitation (available in various languages) communicated to them at least 7 days before the interview. Along with the invitation, applicants receive additional information on practical aspects of the interview.

The invitation for the interview is also forwarded to the applicant's representative for information. For unaccompanied minors, an invitation is communicated to the representative. The invitation states the exact location, time and other information regarding the interview, as well as the consequences of not attending it. There is no information on the language of the interview; however, when submitting an application the applicant indicates the language in which he/she wants to have the interview.

When preparing for the interview, the assigned case officer reviews the applicant's file, including all personal documents and evidence submitted. This, among others, includes written information about the grounds for seeking protection, and a written report of the initial/registration interview. The case officer has access to internal COI reports and country-specific policy guidelines. They may also request COI on an ad-hoc basis at each stage of the procedure.

Information provision (before the personal interview)

Applicants are informed about the date of the interview at least 7 days before the interview. Along with the invitation, applicants receive additional information on practical aspects of the interview. Prior to the interview, the applicant receives, in written form, information about the purpose of the interview, the confidentiality of information, the importance of the interview, the authority responsible for the

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interview, the roles of different actors in the process, on the procedure after the interview, and their rights and obligations. This includes the obligation to provide all information and evidence needed to substantiate the grounds of the application and cooperate with the authorities; the consequences of non-cooperation and non-compliance with their obligations; the right to present a witness; the right to submit new evidence; and the right to appeal. This information is also provided orally during the interview.

Modalities of carrying out the interview

The staff of the Office for Foreigners meet the applicant face to face. If there are special circumstances, such as long-term hospitalisation, imprisonment or detention, the interview is either postponed or carried out by videoconference.

In person interviews: Interviews usually take place at the Office for Foreigners (in Warsaw or in the Regional Branch Office in Biala Podlaska), in a detention centre or in the current place of residence, while the needed arrangements are made to ensure confidentiality and provide for an overall comfortable environment (appropriate decoration for vulnerable groups, water, tissues). Interviews involving minors take place in specially dedicated rooms.

Remote interviews: When in detention, applicants are interviewed in detention facilities by videoconference (the Border Guard secured Internet connection is used for this). In such cases, interpretation is conducted remotely (i.e. from the teleconferencing room in the Office for Foreigners), if needed.

Choice of gender of the interviewer/interpreter

The authority conducting the proceedings shall ensure that the applicant is interviewed by a person of the same sex if the circumstances of the case indicate that this will enable the applicant to provide a comprehensive justification for the application for international protection.

Objecting to the interviewer/interpreter

The applicant can object to a particular interviewer/interpreter if, for example, the applicant thinks that they do not fully understand the interpreter.

During or at the end of the interview, applicants are invited to share any objections they may have to the interviewer. Objections on the interpreter on grounds of nationality and religion are however not considered.

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Language and interpretation

Interviews take place in the language indicated by applicants in the application form as their mother language, or in another language they are reasonably expected to understand; free interpretation is provided.

In general, applicants cannot bring their own interpreters for the interview. If an applicant refuses to conduct the interview in the determined language, they are asked for the reasons for refusal. If there are no relevant reasons, the applicant is informed about the consequences of refusing to conduct the interview. If applicants state that they face difficulties in communicating in a given language, another interview is scheduled with a different interpreter.

The contract concluded between the Office for Foreigners and the translation office (selected in a tender procedure) regulates the quality, liability, and specifies the field for which interpretation takes place (i.e. asylum).

The interpreters are bound by a code of conduct. They are employed by an external company and therefore do not undergo the security verification process. If an interpreter participates in the interrogation of a foreigner, the interpreter's first name and surname shall be entered in the minutes of the interview.

Interpretation is available in most languages spoken by applicants in Poland. The interpreter is required to be a member of a professional association. If no professional interpreter is available, the assistance of a non-professional interpreter may be accepted. Interviews can be also conducted in a language both the caseworker and the applicant speak, which is often the case for Russian.

At the end of the interview, applicants are invited to share any objections they may have to the interviewer. Objections on the interpreter on grounds of nationality and religion are however not considered.

Persons present during the interview

Persons present during the interview include:

- A legal counsel or representative (including from NGOs), who may make observations and ask questions during the interview (the applicant is responsible for seeking legal assistance - there is no obligation in law to ensure that applicants have legal assistance during the procedure).
- An interpreter (if needed).

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- A legal representative or guardian for minors or an adult indicated by the minor, who can similarly make observations and ask questions during the process.
- A trusted person of choice, e.g. family member (if deemed necessary) who is required to remain silent, while supporting the applicant with their presence.
- A psychologist or pedagogue for unaccompanied minors, to assess and draw an opinion on their physical and mental state.
- A psychologist or physician for other vulnerable applicants, if needed, to assess and draw an opinion on their physical and mental state.
- UNHCR, although rarely, upon the applicant's request.
- Other eligibility officers or trainees, upon a request by the applicant.

The interview is carried out without the people on behalf of whom the applicant is acting unless their presence is necessary to clarify the case. When spouses are applying for international protection, only the main applicant is interviewed. If the spouse has separate reasons for applying for international protection, they will also be interviewed. However, in general, the main applicant represents the spouse.

In practice, most often only an interpreter and the applicant's representative are present.

Structure/steps of the interview

Interviews last on average at least 2-3 hours and an applicant usually has one interview.

There is no specific checklist or template with interview sections, but each caseworker is trained in interview techniques, including all obligatory questions that need to be asked.

Interview sections include:

- An introduction;
- The main part of the interview, which follows a flexible format of free questioning;
- A conclusion, which aims to inform the applicant about the next steps in the procedure.

An interview follow-up is possible, if a need emerges for the applicant to complete or clarify information, as well as if new evidence becomes available.

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Such follow-ups differ from the personal interview in scope and length.

Interviewing vulnerable applicants: The conditions in which the interview is conducted are accommodated to the needs and preferences of vulnerable applicants (there is one specific interview room used in such cases, equipped with a sofa bed instead of regular chairs; there are also toys and designated playing areas for women with children). In special situations, such as serious illness, the interview can be conducted at the place of residence of the applicant. Applicants for international protection with disabilities can indicate another person who should be present during the interview and can be assisted by a psychologist, if needed.

Representation of UAMs: The presence of the legal representative or guardian appointed by the court is mandatory for UAMs. If the applicant is under 15 years old and the representative is a family member, the presence of the minor is not required and information is elicited from the representative. No representation is appointed for UAMs who are married, as married UAMs are considered adults. Training on interviewing minors, as well as other categories of vulnerable persons, is provided whenever possible to all caseworkers.

Audio/Video recording and written report

The interview report is written simultaneously while the applicant responds to questions (a specific form is used). Usually, it is written on a computer, while in specific cases, e.g. when the interview is conducted in detention centres, it is handwritten. At the end of the interview, the report is read back to the applicant and they are given the opportunity to make additions and corrections, if needed. The applicant approves the content of the interview report by signing each page. The interviewer and any other persons present during the interview sign the last page of the report. Applicants and their legal representatives receive a copy of this report and the applicant may refuse to sign the report.

Audio or video recording is possible upon applicant's consent, and if the technical means are available. Records are kept in a digital file format and are attached to the interview report. Access to those records can be also granted to applicants and their legal representatives, upon request.

Postponing the personal interview

Information is currently not available.

Failure to appear

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If the applicant fails to appear for the personal interview without a valid justification (i.e. the applicant does not provide a proper justification within 7 days from the date of the interview), the application is considered implicitly withdrawn and a decision on the discontinuation of proceedings is issued.

Other aspects

Information is currently not available.

Special asylum procedures at first instance

Admissibility procedure

Legal basis and grounds

Article 38 of the Act on Granting Protection to Foreigners provides for the admissibility procedure.

Applications are deemed inadmissible when:

- The applicant was already granted protection by another Member State;
- The first country of asylum concept applies;
- An applicant lodged a subsequent application without any new elements that would increase the likelihood of protection being granted;
- The spouse who has previously consented to the lodging of an application by the applicant on his or her behalf has lodged a separate application for international protection and there are no facts concerning that spouse which justify the lodging of a separate application.

Competent authority and other stakeholders

The Head of the Office for Foreigners is the competent authority in matters related to admissibility procedure.

Procedural aspects

No specific tracks are created to process cases under this procedure in Poland.

An application for international protection is inadmissible if another MS has already granted international protection to the applicant, a third country is

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considered to be the country of first asylum for the applicant, it is a subsequent application for international protection and no new evidence has arisen or been presented by the applicant which significantly increase the likelihood of international protection being granted, the spouse who previously consented to the applicant submitting the application on his or her behalf has submitted a separate application for international protection and there are no factual circumstances relating to that spouse which justify the submission of a separate application.

The authority conducting the proceedings for granting international protection shall interview the applicant in order to clarify the facts relevant to the decision, including allowing him or her to provide additional explanations concerning inconsistencies or contradictions in his or her statements.

The interview covers admissibility and eligibility (substance) aspects.

In accordance with a general rule applicable to the asylum procedure in Poland, each applicant should be interviewed. According to Article 44(2) of the Act on Granting Protection to Foreigners, interviews may be omitted only when evidence collected is sufficient to grant refugee status or when the applicant is not physically or mentally fit to be interviewed.

Decision and time limits to decide

A decision is issued within the standard 6-month time limit.

The 6 months time limit may be extended to 15 months if the case is particularly complex, or a large number of foreigners apply for international protection within a short period of time.

The decision on asylum issued by the Office for Foreigners does not include a return order, as the Polish system does not allow for the simultaneous issuance of a joint asylum and a return decision in the regular asylum procedure and in the case of admissibility procedures.

Appeal

Refer to thematic area of Second Instance in the country page.

Impact on reception conditions

There is no impact on reception conditions.

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Accelerated procedure

Legal basis and grounds

Article 39 of the Act on Granting Protection to Foreigners refers to the accelerated procedure.

The accelerated or expedited procedure is applicable in cases when:

- The application is clearly unfounded (e.g. the applicant invoked reasons unrelated to grounds for international protection).
- Withholding of information or provision of false information or documents relating to the identity or nationality of the applicant.
- The applicant makes inconsistent, contradictory, improbable or insufficient explanation of the persecution they claim to flee from, which are clearly inconsistent with the COI.
- An application was made merely to frustrate or delay a removal order.
- The applicant constitutes a danger to public order or a threat to national security.

Competent authority and other stakeholders

The Head of the Office for Foreigners is the competent authority in matters related to the accelerated procedure.

Procedural aspects

No specific tracks are created to process cases under this procedure in Poland.

A decision to accelerate applications is taken during initial screening after registration/lodging.

In proceedings conducted under the accelerated procedure, a decision on granting international protection shall be made within 30 days, and an appeal against the decision shall be lodged within 7 days of its delivery.

Special safeguards for vulnerable applicants: Victims of human trafficking are exempted from the application of the accelerated procedure.

Personal interview: Personal interviews are foreseen within the accelerated procedure. According to Article 44(2) of the Act on Granting Protection to Foreigners, interviews may be omitted only when evidence collected is sufficient

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to grant refugee status or when the applicant is not physically or mentally fit to be interviewed.

Decision and time limits to decide

The Office for Foreigners must issue a decision within 30 days after the application was lodged. If a decision cannot be issued within 30 calendar days, the law provides for an extension of up to 3 months. The Office for Foreigners must inform the applicant about the reasons for the delay and the date when a decision will be issued. If a decision cannot be issued within 3 months after the application was lodged, the application will be channeled for assessment in the regular procedure.

In practice, decisions under the accelerated procedure can take up to 3 months. This is because it takes several days for the Office for Foreigners to receive applications from the Border Guard, and that interviews are normally organised within 3-4 weeks.

The decision on asylum issued by the Office for Foreigners does not include a return order, as the Polish system does not allow for the simultaneous issuance of a joint asylum and a return decision.

Appeal

Refer to thematic area of Second Instance in the country page.

Impact on reception conditions

There is no impact on reception conditions.

Border procedure

Legal basis and grounds

The border procedure is not applicable in Poland.

Competent authority and other stakeholders

Not applicable.

Procedural aspects

Not applicable.

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Decision and time limits to decide

Not applicable.

Appeal

Not applicable.

Impact on reception conditions

Not applicable.

Subsequent application procedure

Legal basis and grounds

Subsequent applications include:

- Applications made after a final and binding decision on the merits was issued (not including decisions issued by other Member States);
- Applications made by a dependent adult who has previously consented to the application being lodged on his or her behalf.

Competent authority and other stakeholders

The Head of the Office for Foreigners is the competent authority in matters related to the subsequent application procedure.

Procedural aspects

Subsequent applications are subject to an admissibility procedure. If the application is considered admissible, i.e. containing new circumstances relevant for the case, the Office for Foreigners will issue a decision considering the application admissible and the application continues within the regular procedure. Otherwise, the Head of the Office will issue a decision on inadmissibility of the application and conclude the procedure.

Preliminary examination: A preliminary examination of documents and statements provided by the applicants is carried out.

Personal interview: Usually, it is not necessary to conduct a personal interview in the preliminary examination of the subsequent application. If there are no new elements, the case officer will assess interview report produced during the first

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application.

Elements or findings are considered to be new (in accordance with Article 40(2-3) of recast Asylum Procedure Directive, if they occurred after a final decision was issued.

It does not matter how many applications the person has already submitted in terms of procedure, material conditions and benefits. There are no different (faster) procedures in place for applicants who repeatedly lodge a subsequent application.

Decision and time limits to decide

A decision is issued within the standard 6-month time limit. This deadline may be extended to 15 months in special cases (when the case is very complicated or there is a massive influx of applications). The applicant must be informed about the change of deadline and the reason (administrative procedure), and the applicant has the right to submit a reminder/complaint to the Refugee Board and a complaint to the administrative court.

The decision on asylum issued by the Office for Foreigners does not include a return order, as the Polish system does not allow for the simultaneous issuance of a joint asylum and a return decision.

The Polish asylum system provides that if a person applies for asylum, their case is examined in administrative proceedings and they cannot be deported during that time.

Appeal

Refer to thematic area of Second Instance in the country page.

Impact on reception conditions

There is no impact on reception conditions.

Last-minute application pending removal

The international protection procedure, including last-minute applications stays common form used by third country nationals to suspend performed return activities and their return to the country of origin.

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Last-minute applications lodged by first time applicants pending a removal

Article 330.1b of the Act on Foreigners refers to situations where a third-country national is to be returned and declares his or her wish to apply for asylum. The return decision is enforceable despite the declaration if:

- the third-country national declares such a wish not for the first time, but did not submit the application after the previous declaration, or

- the previous application for international protection was assessed as inadmissible because it was a subsequent application and the foreigner did not present new evidence, or

- a negative decision on granting refugee status and subsidiary protection was issued to the third-country national previously.

Last- minute applications usually occur in detention, while the removal is in preparatory phase, before deportation. However, persons seeking international protection may be placed in detention only if it is necessary to establish or verify their identity, if it is necessary to gather information on which the application is based and which cannot be gathered without the applicant if there is a significant risk of absconding and for security reasons.

General rules apply as for all the first-time applications. There is no specific procedure for last-minute application pending removal. However, such applications are monitored for priority and processed as such.

Last-minute applications lodged as subsequent applications pending a removal

If a third-country nationals declares his or her wish to apply for asylum for the first time, it is justified to suspend the removal. In accordance with provisions of the Act on foreigners, the first two applications for international protection suspend the return procedure until they are final.

In a case where a third-country nationals was issued a final negative decision on asylum and right before the enforcement of the return decision declares to apply for international protection for the second time, so that the Border Guard cannot receive from him or her an application for international protection, the removal can be continued.

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Applicants who made last minute applications may be detained.

Interviews for applicants in detention may be held through a videoconference system.

The regular asylum procedure is applied for the examination of the application.

The Border Guard is responsible for registering and submitting of applications for granting international protection. Third-country nationals submit these applications to the Head of the Office for Foreigners through the commander of the Border Guard unit or the commander of the Border Guard post (Article 24, Act on granting protection to foreigners). The Border Guard is obliged to forward the application to the Head of the Office within 48 hours of submission.

If the application is rejected as inadmissible, unfounded, or manifestly unfounded, both in relation to refugee status and subsidiary protection status, or as withdrawn, in a separate administrative procedure, taking into account the principle of non-refoulement, the third-country national is issued a return decision. However, a return decision is not issued if it was in legal circulation before the asylum application was submitted. The competent authority to issue a decision ordering return is the commander of a Border Guard unit or post. In turn, the Border Guard Headquarters considers appeals in this matter. A third-country national has the right to lodge an appeal with the Chief Commander of the Border Guard in writing within 7 days of the date of delivery of the return decision.

Additionally, Article 356 of the Act on foreigners, refers to the procedurę of the authority conducting proceedings on the obligation of a third-country national to return in the event of identifying circumstances justifying the granting of a humanitarian residence permit or a tolerated stay permit. *Non-refoulement* assessment remains an essential component of the final decision on the matter.

In accordance with subsequent last-minute applications it is first assessed if any new circumstances appeared since the previous application was processed. If not, the application is considered inadmissible.

There is a team dedicated to processing applications for international protection of foreigners who remain in Border Guard detention centers. These applications should be processed faster taking into consideration that the applicants are detained. Note however that persons seeking international protection may be placed in detention if it is necessary to establish or verify their identity, if it is necessary to gather information on which the application is based and which

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cannot be gathered without the applicant if there is a significant risk of absconding and for security reasons.

The interview of applicants in detention takes place by videoconference which speeds up the procedure significantly. Also, there are regional offices responsible for the regional flow of documents which shortens the administrative procedure.

Non-refoulement should be re-assessed by the Border Guard before the deportation.

Applicants usually remain in detention due to a previously initiated deportation procedure. Otherwise there are no specific reception conditions in place.

There are no specific rules for appeal.

Communication between asylum and return authorities takes place in accordance with the rules set out in the Act on granting protection to foreigners within the territory of the Republic of Poland and the Act on foreigners.

Safe country concept

Safe country of origin

The concept of a safe country of origin is not defined in law.

Safe third country

The concept of a safe third country is not defined in law.

First country of asylum

The concept of a first country of asylum is defined in the Act on granting protection to foreigners within the territory of the Republic of Poland, Article 38.2.2. The concept has not been applied in practice.

A country which is not a Member State of the EU is the country of first asylum for an applicant if they can be admitted to that country where they:

- Have been recognised as a refugee in that country and are still eligible for related protection; or

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- They otherwise enjoy sufficient protection in that country, including protection against removal or return referred to in the Geneva Convention, Article 33.

European safe third country

The concept of European safe third country is not defined in law.

Assessment of an application at first instance

Legal provisions relevant for an assessment

Articles 13-20 of the Act on Granting Protection to Foreigners provide an overview of the principles followed by the Office for Foreigners when analysing asylum applications.

Additional legal provisions relevant for assessment of the application for asylum:

- The Constitution of the Republic of Poland of 2 April 1997.
- The Act of 12 December 2013 on foreigners.

Competent authority for the assessment

Competent authority: For general information on the national authority or other actors responsible/involved to carry out the first instance assessment and determination, internal organisation, structure and staff see: Hyperlink to Overview of first instance procedures. Competent authorities and other stakeholders sections of this page.

In most cases, the case officer who conducted the personal interview will assess the application.

The work of case officers is organised in the following Units:

- Unit I – responsible for accelerated procedures and for the assessment of applications submitted by foreigners from former USSR countries;
- Unit II – responsible for the assessment of applications submitted by foreigners from the Middle East, Africa, Asia and South America;

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- Division for Detention Matters – responsible for the assessment of applications submitted by detained foreigners.

If necessary, the Regional Branch of the Department for Refugee Procedures in Biała Podlaska (located in the proximity of Poland's eastern border) may assist the above-mentioned Units in their regular activities, e.g. by conducting interviews.

The Regional Branch was created in the context of relatively high number of applicants who moved to other Member States shortly after arriving to Poland, and before their interviews took place.

Required qualifications: In general, case officers are expected to have a higher education degree and relevant knowledge or competences, but this is a legal pre-requisite only for case officers dealing with cases of unaccompanied minors. According to the Act on Granting Protection to Foreigners officers involved in proceedings involving unaccompanied minors must fulfil one of the following conditions:

- Have a master's degree in law and 2-years working experience in institutions dealing with childcare;
- Have a master's degree in law and 2-years working experience in public administration, and have received specific training on international protection procedures involving minors;
- Have a Master's Degree in pedagogy, psychology or sociology and 2-years working experience in public administration.

Also, when recruiting a new case officer, one of the essential selection criteria is a thorough knowledge of the basic legal framework, i.e. Act on Granting Protection to Foreigners on the Territory of the Republic of Poland, the Civil Service Act and the Code of Administrative Procedure.

Case officers must also undergo security screening and cannot have been sentenced for intentional crimes or intentional fiscal crimes.

A system of specialisations is applied for case officers according to applicants' countries of origin, age (e.g. minors), profile (e.g. vulnerable). Only qualified staff members are allowed to decide on applications submitted by vulnerable persons.

Training: Initial obligatory training for newly recruited case officers includes drafting decisions as well as following EUAA's training modules: interviewing techniques, interviewing children, interviewing vulnerable persons and evidence

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assessment. Junior case officers also work closely with their senior colleagues and shadow them during personal interviews, support the assessments in less complex cases. On an ad-hoc basis, trainings organised by external partners (as part of various projects) are offered to case officers.

Grounds

The Act on Granting Protection to Foreigners provides in Article 13 that a foreign national shall be granted refugee status if, owing to a well-founded fear of being persecuted in the country of origin for reasons of race, religion, nationality, political opinion or membership of a particular social group, is unable or unwilling to avail themselves of the protection of that country. Refugee status is also granted to a minor child of a foreigner who has obtained refugee status in the Republic of Poland, born on this territory.

Persecution may consist in particular of:

- the use of physical or psychological violence, including sexual violence;
- the application of legal, administrative, police or judicial measures in a discriminatory or discriminatory manner;
- the initiation or conduct of criminal proceedings or punishment in a manner that is disproportionate or discriminatory;
- the absence of a right of appeal to a court against a disproportionate or discriminatory penalty;
- the initiation or conduct of criminal proceedings or punishment for refusing to perform military service during a conflict, if performing military service would constitute a crime or acts referred to in Article 1(3);
- acts directed against persons on the grounds of their sex or minority.

According to Article 15, a foreign national who does not fulfil the conditions for refugee status shall be granted subsidiary protection where his or her return to the country of origin is likely to expose them to a real risk of serious harm by:

- the death penalty or execution,
- torture, inhuman or degrading treatment or punishment,
- serious and individual threat to life or health arising from the widespread use of violence against civilians in situations of international or internal armed conflict
- – and because of this risk, he/she cannot or does not want to benefit from the protection of the country of origin.

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According to Article 17, a well-founded fear of persecution or a real risk of serious harm may be caused by the action of the foreign national after leaving the country of origin, in particular where they were the expression and continuation of beliefs or sexual orientations held in the country of origin.

Guidelines for case officers

In general, the Office for Foreigners uses guidance developed by other institutions and organisations (e.g. EUAA, UNHCR). National guidance has usually been developed within the framework of different projects.

The following is available to case officers:

- Procedural guidance, including on the treatment of potential victims of trafficking in human beings developed by the Ministry of the Interior in cooperation with the Office for Foreigners; 'Identification procedure of people with special needs among applicants'; developed by the Różnosfera Foundation and the Academic Centre of Psychotherapy and Development upon the Office for Foreigners' request; EUAA practical tools.
- Thematic guidance, including UNHCR Guidelines.
- Country guidance developed by the UK Home Office.

Information on the availability of guidance is generally disseminated by the management of the Department for Refugees Procedures or by persons responsible for quality-related activities, either via email or during meetings.

When faced with cases of applicants with unusual or rare profiles (e.g. coming from countries that are not common countries of origin), case officers can initiate query processes (e.g. via the EUAA or IGC) to obtain insights from colleagues with relevant expertise.

There are text samples to support the drafting of the decision.

Credibility assessment

Article 41 and 42 Act on Granting Protection to Foreigners

Assessment of facts and circumstances when aspects of the applicant's statements are not supported by documentary or other evidence

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Information is currently not available.

Time limit for submitting evidence during credibility

Applicants can produce additional evidence at any time and in any form. The late submission of evidence has no impact on the credibility of the evidence in question.

COI research

Case officers can consult reports produced by the independent COI Unit in the Department for Refugee Procedures at the Office for Foreigners as well as ask specific questions in the form of COI queries through the COI database (pl. *Światowid*). Case workers can also review all the existing COI products available in the COI database.

Applicants can access the same COI that the authority used for the assessment by accessing their case file during the procedure.

Decision and outcomes

As an outcome of the asylum procedure, an applicant can be issued one of the following types of decision:

- Decision granting refugee status;
- Decision on refusal to grant refugee status and granting subsidiary protection;
- Decision on refusal to grant a refugee status or subsidiary protection;
- Decision on recognition of the application for international protection as inadmissible;
- Decision on discontinuation of international protection proceedings.

All case officers are entitled to sign decisions in asylum proceedings.

The decision on asylum issued by the Office for Foreigners does not include a return order, as the Polish system does not allow for the simultaneous issuance of a joint asylum and a return decision.

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After the examination and assessment of the application case officers prepare a draft decision, which will then be checked by their supervisors.

Decision templates are available to case officers.

The legal basis and the operative part of decisions, as well as information on applicants' rights are attached to decisions in applicants' mother tongue or in another language they can understand.

The decision indicates the timeframe to appeal, the place to do so and the possibility to obtain legal aid.

The decision to grant or refuse international protection shall also determine whether protection is granted or refused to persons on whose behalf the applicant is acting.

If applicants are accommodated in reception facilities, decisions are faxed to the centre and delivered through a social worker. Applicants must acknowledge receipt with a legible signature, including the name, surname and the date of receipt. If applicants refuse to sign, the social worker can acknowledge receipt of the decision. Decisions that cannot be served in the above-mentioned manner are kept in the reception facility for a period of 7 days, and a notice is posted on the centre's notice board. The decision is considered notified on the last day of the period referred to in the notice.

Applicants accommodated outside reception facilities will receive decisions by post to the address they indicated.

Applicants in detention will receive decisions through border guard officials.

In rare cases, the case officers may also deliver decisions in person or through border guard officials.

Notification of decisions to minors and unaccompanied minors: In the event that an unaccompanied minor declares to the Border Guard authority their intention to apply for international protection, the guardianship court appoints a guardian to represent him or her in proceedings for international protection. If an unaccompanied minor is accompanied by an adult relative in the direct line of the second degree or in the collateral line of the second or third degree, the Border Guard authority may designate that relative as a foster parent. On behalf of an unaccompanied minor, the decision on granting international protection is received by a guardian or a representative of a non-governmental organisation

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providing assistance to foreigners.

When the decision is for a family unit, it is notified to the ‘main applicant’.

COI units

Background information

COI unit: The Country of Origin Information Unit is part of the Department for Refugee Procedures in the Office for Foreigners.

The COI Unit is provided in the internal regulations within the Office for Foreigners.

Structure and capacity

Organisation: The Country of Origin Information Unit (COI Unit) is part of the Department for Refugee Procedures in the Office for Foreigners.

Mandate and tasks: The COI Unit is responsible for acquiring, analysing and storing information on countries of origin and for providing it to employees of the Office for Foreigners taking decisions on applications for international protection in Poland. More specifically, the COI Unit:

- Prepares responses to queries (in the form of short thematic reports) related to the situation in countries of origin (approximately 500-600 per year, concerning a variety of countries and issues and based on various open sources);
- Develops a specialised COI database/system (takes care of its content, creates, supports and manages the so-called country pages, manages the query module);
- Develops the COI library (purchases new publications, documents them in an electronic library system – there are currently more than 11,000 books, maps, films and commissioned publications in the COI Unit's collection, covering subjects related directly to countries of origin as well as to migration, asylum and integration matters, plus dictionaries, guides and encyclopaedias);
- Participates in meetings and projects, both domestic and international, regarding COI.

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Staff capacity The COI Unit is comprised of 9 employees (1 Head of Unit and 8 researchers). It presents a flat structure, without any sub-units.

Requirements: COI researchers must have a master's degree and experience working in the administration. Additionally, it is highly advisable that COI researchers have an educational background related to specific regions, countries or cultures, or generally to political sciences, ethnology, etc. It is also advisable that COI researchers have experience in working with information on a specific region or country. Tasks of all the COI Unit's employees are similar, however, there is a general regional specialisation.

Regular training and updates: COI researchers participate in various COI working groups and COI-related workshops (mostly within the framework of the EUAA and the IGC).

The COI Unit also organises workshops or updates for case officers, usually on demand, not on a regular basis.

COI products

Type of COI products produced and frequency: The COI Unit prepares responses to queries related to the situation in countries of origin which are approximately 500-600 per year. Other products, like COI reports of external experts (prepared on request of COI Unit) or albums with photos taken during fact-finding missions (FFM) are not produced on a regular basis.

Responses to queries are prepared by the COI Unit in the form of short thematic reports. There are several defined types of these responses or thematic reports, e.g.: "Security situation and threats for civilians (regarding: countries, regions, cities)", "Race/nationality (concerning: nations, ethnic groups, clans, families)", "Religion (concerning: religions, rites and rituals)", "Political views (regarding: political parties and organizations)", "Social groups", "Military service", "Particular events (concerning: demonstrations, armed clashes, etc.", "Medical information", etc.

Methodology and sources: A variety of sources is used, depending on the subject of the request and the region of interest.

COI platforms/databases consulted include:

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- ACCORD`s ECOI.net (reports and answers to queries of international, national and non-governmental organizations, plus more types of information from various sources).
- ACLED (information on security incidents in most countries of the world).
- The EUAA's COI Portal (reports and answers to queries of the EUAA COI team and EU+ COI Units).
- specialised websites, Factiva and other news agencies' websites or databases and social media.
- EUAA's MedCOI database.

Other sources of information include: the Polish Ministry of Foreign Affairs, the Centre for Eastern Studies (a Polish analytical centre with a special focus on the situation in former USSR countries), individual external experts. Information may be also requested from other EU+ or IGC countries via the EUAA or IGC expert networks. Finally, insights may be elicited through fact-finding missions to countries of origin, where information from a variety of sources on the ground is collected.

The COI Unit is not responsible for producing Country Guidance or Policy Briefings.

Languages: The sources utilised are most commonly in Polish, English and Russian, but also French, Ukrainian and Belarussian. The COI products produced are in Polish, except for products meant for an international audience (e.g. EU+), which are written in or translated into English.

Quality check: Products are reviewed by the head of Unit. Other COI researchers are invited to review as well.

Other aspects of COI units

There is no department or unit in the Office for Foreigners that would strictly deal with the development of country or policy guidelines. As a rule, applications for international protection are considered on an individual basis. Nevertheless, COI provides a basis for a better understanding of the situation in a given country and the situation of a given group in that country, and as such helps in issuing uniform decisions in similar cases.

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