

POLAND

Poland is a state party to the United Nations Convention Relating to the Status of Refugees and its Protocol, as well as to the International Covenant on Civil and Political Rights and its First Optional Protocol. Some 4,519 asylum seekers applied for asylum in 2000, and at the end of the year, decisions were pending on 1,095 applications.¹ Some 4,506 asylum applications were lodged in 2001, and there were an estimated 1,500 asylum decisions pending at year's end.² In the first quarter of 2002, 868 applications were filed.³ No information was available on the number of asylum seekers detained.

According to 1999 and 2001 reports, border applicants are required to remain at the border for up to seven days while border police undertake identification procedures. Additionally, rejected asylum seekers may be detained for up to 90 days to ensure removal.⁴

According to a 2002 report, asylum seekers are usually housed in one of several government-run refugee centers,⁵ where families are separated, to the extent possible, and single women with young children are accommodated separately from men. Cooking facilities are available in some instances. Permission to leave the centers for up to 72 hours may be given. Financial assistance and medical care are generally available only to those housed in the centers.⁶ Asylum seekers are eligible to live in the refugee centers for

¹ U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2001 at 243, *available at* <http://preview.refuges.org/world/worldmain.htm> (Immigration and Refugee Services of America 2001) [hereinafter USCR WORLD REFUGEE SURVEY 2001].

² U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2002 at 186, *available at* <http://www.refugees.org/WRS2002>. (Immigration and Refugee Services of America 2002) [hereinafter USCR WORLD REFUGEE SURVEY 2002].

³ UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, ASYLUM TRENDS IN 28 INDUSTRIAL COUNTRIES: JANUARY TO MARCH 2001—JANUARY TO MARCH 2002, *available at* <http://www.unhcr.ch/cgi-bin/texis/vtx/home/+2wwBmelFXx8wwwwwwwwwwhFqAIRERfIRfgItFqA5BwBo5Boq5AFqAIRERfIRfgIcFqF+8afDm15BGowcoSnmagd1DBGon5Dzmxwwwwww/opendoc.pdf> (June 13, 2002) (last accessed Aug. 29, 2002) [hereinafter *Asylum Trends in 28 Industrialized Countries*].

⁴ E-mail from Kasia Zdybska, Uniwersytet Jagiellonski, Human Rights Centre, to Emily O'Connor, Debevoise & Plimpton, (Sept. 9, 2002) (on file with Debevoise & Plimpton).

⁵ USCR WORLD REFUGEE SURVEY 2002, *supra* at note 2, at 187.

⁶ DANISH REFUGEE COUNCIL, LEGAL AND SOCIAL CONDITIONS FOR ASYLUM SEEKERS AND REFUGEES IN CENTRAL AND EASTERN EUROPEAN COUNTRIES, *available at* <http://www.english.drc.dk/publications/> (Apr. 1999) [hereinafter DRC E. EUR. REPORT 1999], *Poland*.

up to 14 days following a negative first instance decision. If they appeal such decision, however, they have the right to remain in the center until the 2nd instance decision is issued. Following a second instance decision, asylum seekers may remain in the center for up to 14 days, with the possibility of extension to up to 3 months in exceptional circumstances.⁷

Is there independent review of the detention decision? Yes.

Other than in the case of asylum seekers required to remain at the border during identification procedures, above, the decision to detain is made by a local court and may be appealed to the district court within seven days of the date of issuance of the decision.

⁸ The district court's decision is final. The Aliens Act provides for government compensation for foreign nationals who have been wrongfully detained.⁹

Are there limits on the period of detention? Yes; seven to ninety days.

Detention at the border while awaiting identification is limited to seven days.¹⁰

Detention of asylum seekers awaiting deportation is limited to ninety days, according to a 2001 report. If an asylum seeker is not removed within that period, or if the reasons for detention no longer obtain, she must be released.¹¹

Is there periodic review of detention? No.

There appears to be no automatic review of detention outside of the asylum seeker's right to appeal.

Is there access to government-funded legal aid? Limited.

⁷ E-mail from Dr. Halina Niec, Uniwersytet Jagiellonski, Human Rights Centre, to Emily O'Connor, Debevoise & Plimpton, (May 9, 2002) (citing Article 40 of the Amended Polish Act on Aliens and related ordinances)(on file with Debevoise & Plimpton) [hereinafter Uniwersytet Jagiellonski Correspondence (May 9, 2002)].

⁸ EUROPEAN COUNCIL ON REFUGEES AND EXILES, STUDY ON THE AVAILABILITY OF FREE AND LOW-COST LEGAL ASSISTANCE FOR ASYLUM SEEKERS IN EUROPEAN STATES at 237, available at <http://www.ecre.org/research/legalassistance/index.shtml> (November 2001) [hereinafter ECRE EUR. STUDY 2001]; Uniwersytet Jagiellonski Correspondence (May 9, 2002), *supra* note 7; Jack Chlebny & Wojciech Trojan, *The Refugee Status Determination Procedure in Poland*, 12 Int'l J. Refugee L. 212, 230 (2000) [hereinafter Chlebny & Trojan].

⁹ ECRE EUR. STUDY 2001, *supra* note 8, at 237.

¹⁰ *Id.* at 230.

¹¹ *Id.* at 237; DRC E. EUR. REPORT 1999, *supra* note 6, *Poland*.

Legal representation is not compulsory. The applicant must pay a court fee, which may be waived by the court. The court may also grant legal aid, though this is not well-established practice.¹²

NGOs have taken a more active role to ensure access to the refugee status procedure. The Helsinki Foundation for Human Rights, UNHCR, the Human Rights Center of the Jagiellonian University Legal Clinic, and Caritas have established legal assistance programs for asylum seekers and refugees.¹³

Alternatives to detention:

The Aliens Act provides certain exceptions to detention, stating that an alien should not be detained if it may cause a serious threat to life or serious consequences for the alien's family. Additionally, an alien may be housed in a medical facility if the state of the alien's health so requires.¹⁴

Vulnerable groups: Unaccompanied minors are appointed a guardian to represent them in the asylum procedure, though the appointment procedure is reported to be lengthy.¹⁵ In practice, the guardian does not have to maintain personal contact with the child, and the appointment is regarded as legitimizing the refugee status procedures or deportation proceedings.¹⁶ According to a 1999 report, those under 13 are housed in special facilities, and those over 13 in the refugee centers, where special services are provided to them.¹⁷ The European Council on Refugees and Exiles reported that in 2001, all unaccompanied minors were housed in a separate section of a central reception center, and permitted to leave during the day but not allowed longer absences without being accompanied by a legal guardian.¹⁸

¹² Chlebny and Trojan, *supra* note 8, at 224.

¹³ *Id.* at 225-226; E-mail from Kasia Zdybska, Uniwersytet Jagiellonski, Human Rights Centre, to Emily O'Connor, Debevoise & Plimpton, (Sept. 11, 2002) (on file with Debevoise & Plimpton).

¹⁴ Act on Aliens, Art. 60 (1997) (Pol.), *available at* <http://www.ujhrc.org/en/legaldocuments/polish/01/01ch07.htm> (last accessed Aug. 29, 2002).

¹⁵ ECRE REPORT 2001 *supra* note 2 at 187.

¹⁶ Chlebny & Trojan, *supra* note 8, at 228.

¹⁷ DRC E. EUR. REPORT 1999, *supra* note 6, *Poland*.

¹⁸ ECRE REPORT 2001, *supra* note 2, at 187.