

The use of detention and alternatives to detention in the context of immigration policy in Poland

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Detention Center for Foreigners	Number of people	Including:	
		foreign minors under the guardianship of parents/guardians	foreign minors without the guardianship of parents/guardians
Detention Center in Kętrzyn	285	143	27
Detention Center and Arrest for purpose of expulsion in Białystok	239	0	0
Detention Center in Biała Podlaska	301	172	0
Detention Center and Arrest for purpose of expulsion in Przemyśl	307	15	0
Detention Center in Lesznowola	34	0	0
Detention Center in Krosno Odrzańskie	157	0	0
Total	1323	330	27

Types of detention facilities (2013)

- **Specialised detention facilities adopted only to the needs of families with children and unaccompanied minors**

Purpose?

"to adjust the scope of their operation to the current migration situation and opportunities guaranteed by the staff of these centres in order to provide foreigners with optimum living conditions" (Ministry of Interior)

- **Detention facilities for men and women without children**



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NGOs position on placing children in detention centers:

- **We proposed a complete abolishment of the obligation to place immigrant children in detention centers**

The Ministry of Interior position on placing children in detention centers:

- **It's impossible due to the potential *"threat of using children in an instrumental way, commitments resulting from the need to protect the external border of the EU and the structure of immigration to Poland. (stating that "families with children constitute over 70% of the total number of people who require placement in a guarded center)."***



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Changes in conditions for detainees (2014)

- 1) greater freedom of movement
- 2) implementation of compulsory education
- 3) removing bars from windows
- 4) equipping libraries
- 5) providing foreigners with computer access with a Wi-Fi connection
- 6) purchasing televisions and other devices for recreation rooms



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Free-of-charge legal assistance

Compared to the 6621 asylum applications filed in Poland in 2014 there were only 15 NGOs lawyers working pro bono on asylum cases





GROUNDS FOR DETENTION

- Act of 13 June 2003 on granting protection to aliens within the territory of the Republic of Poland (Journal of Laws of 2003, No 128, item 1176)
- Act on Foreigners of 12 December 2013 (Journal of Laws of 2013, No 128, it. 1175)

Grounds for detention

Foreigners Act:

■ „risk of absconding”

Article 315 of Foreigners Act:

The likelihood that a foreigner will escape is evident in particular when a foreigner:

- declared unwillingness to fulfill his/her obligations arising from the return decision
- has crossed or attempted to cross the border illegally
- entered the territory of Poland in the duration of his/her inclusion in the Schengen Information System for the purpose of refusing entry



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Grounds for detention

Protection Act:

Article 87 of Protection Act :

An asylum seeker might be detained if:

- she/he crossed the border illegally, as long as there are no grounds justifying granting international or subsidiary protection
- she/he did not apply for granting refugee status immediately after crossing the border giving the valid reasons for entering and remains in Poland without regulated legal status
- she/he constitutes a potential threat to security, health or life of other foreigners staying in the open center or for the staff of this center



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Common grounds applicable to third country nationals and asylum seekers:

- noncompliance to the alternatives to detention
- a need of identity confirmation



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Length of detention

Before 1st May 2014:

■ asylum seekers and migrants awaiting return could be detained for up to 12 months, including the detention period during asylum and return procedures

After 1st May 2014:

- foreigners under return procedure - up to 18 months
- asylum seekers - up to 6 months

(altogether 24 months)



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The H. Nieć Human Rights Association
Ul. Sobieskiego 7/3, 31-136 Cracow
www.niecassociation.org

Right to challenge the decision:

- on placing foreigner in the guarded center ✓
7 days from the date the decision on placing in the guarded center has been delivered
- on prolonging foreigner's stay in the detention center ✓
7 days from the date the decision on placing in the guarded center has been delivered

Alternatives to detention (since 2014)

- reporting to immigration authorities at regular intervals
- residing at a particular address
- posing an obligation to surrender a travel document
- release on bail without sureties



Statistical data on detention and alternatives to detention (2014)

- The total number of foreigners detained in guarded centres - 1322
- The average period of stay in the detention center - 65 days
- The maximum period of stay in the detention center - 360 days

Alternatives to detention:

- Total number: 364
- 126 – return procedure
- 238 – asylum procedure



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Future plans:

- implementation of a national programme dedicated to foreigners in return proceedings staying outside the guarded centers (Border Guards initiative)
- introducing an alternatives to detention monitoring program
- providing careful case-by-case reviews when determining their use for individuals not complying with their release conditions
- H. Niec Human Legal Aid Center will continue the implementation of the comprehensive monitoring program that will cover all detention centers in Poland



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Thank you for your attention ☺