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POLAND

1,290 Immigration detainees 2017 132 Detained children 2019

4,190 New asylum applications 2019

12,658Refugees 2019

655,985 International migrants 2019



OVERVIEW

(October 2018) Poland has experienced a sharp drop in the numbers of people applying for asylum since 2017. Yet, anti-immigrant rhetoric dominates public discourse, foreigners are viewed as security threats, and pushbacks are common along the border with Belarus. While material conditions in detention centres appear to meet basic standards, Poland rarely considers "alternatives to detention," systematically detains families with children, does not have adequate mechanisms to identify victims of torture, and requires detainees to pay for their detention.



Types of facilities used for migration-related detention

Administrative Ad Hoc Criminal Unknown

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11 November 2021

The escalating crisis on the Belarus-Polish border has spurred a growing number of countries to accuse Belarus of weaponizing migrant and refugee movements, using them as pawns to destabilise the European Union. At the same time, there is growing international outrage over Poland's response to the situation--as well as that of other countries that border Belarus like Lithuania (see the 9 October 2021 Lithuania update)--which has included leaving people (including families and children) stranded at the border in freezing conditions, bolstering troop movements, and mobilising anti-immigrant public sentiment.

A family from Syria on the border between Belarus and Poland, November 2021. Photograph: Wojtek Radwański/AFP/Getty Images. "On the frozen frontiers of Europe with the migrants caught in a lethal game," The Guardian, 7 November 2021,

https://www.theguardian.com/world/2021/nov/07/on-the-frozen-frontiers-of-europe-with-the-migrants-caught-in-a-lethal-game? CMP=Share_iOSApp_Other

In late May, Belarusian President Alexandr Lukashenko, angered by EU sanctions, declared that he would no longer prevent migrants and refugees from entering Europe. There are reports that State-controlled travel bureaux in Belarus have been luring migrants from the Middle East to Belarus, promising an onward passage to the EU for the price of Euro 15,000 - 20,000. On arrival, migrants are accommodated in State-managed hotels and then bussed

to the Polish and Lithuania borders. There are videos of Belarusian security guards in full-combat gear pushing migrants towards the borders.

Thousands of desperate men, women, and children--many from Iraq and Afghanistan--have been transported to Belarus's borders with Poland, Latvia, and Lithuania

According to testimony from migrants, Belarusian soldiers have physically abused migrants. One person from Morocco told reporters: "They beat me in Belarus. There are gangs that stand behind the army and attack us. They beat you, take your money, split it 50-50, part for the gangs, part for soldiers." Other testimonies indicate that Belarusian police have helped migrants cross the border to Poland. A 40 year-old Iraqi man said that he had travelled for three days by car to Istanbul, took a flight to Minsk from Turkey, and upon arrival at the Polish border, "the Belarusian police cut the barbed wire and let us through."

Large numbers of migrants are now trapped between opposing security forces and forced to sleep in improvised camps in the middle of the forest along the border in freezing temperatures. By 22 October 2021, Polish authorities had announced the ninth recorded death in the forest region.

According to the Polish border guard, so far this year, there were 24,500 attempts to cross the eastern border with Poland, 12,800 in October alone. On 9 November, the Polish government announced that there were around 3,000 to 4,000 people settled in an improvised camp on the border close to the village of Kuźnica.

The majority of migrants crossing into Poland are pushed back into Belarus by the Polish security forces. They describe a Kafkaesque situation of being repeatedly pushed backwards and forwards by the security forces of both countries--pawns in a political conflict. Doctors Without Borders have reported that they have seen "first-hand the injuries people experienced when assaulted by border guards from both Poland and Lithuania. People have described being beaten with the butt of a gun, kicked in the ribs, electrocuted in the neck, and have had all their belongings taken or destroyed by European border guards. This is unacceptable and must end now."

The Polish government and the European Union argue that Belarus is deliberately encouraging migrants to enter the European Union through its borders. Lithuania's foreign minister, Gabrielius Landsbergis, said that Lukashenko's regime was negotiating visa liberalisation with several countries and adding flights to create new routes. Infomigrants reported that the number of countries whose citizens can enter Belarus without a visa has been expanded to 76 as of 20 October 2021.

In response to this situation, Lithuania has passed legislation tightening the rules on migration and asylum, approving the construction of a wall to prevent irregular crossings on the border with Belarus. On 9 November 2021, Lithuania declared a state of emergency on its border with Belarus, providing the police with additional powers to expel asylum seekers and restrict gatherings near the border.

For its part, Poland approved a plan to build a €353 million wall on its border with Belarus and adopted legislation providing that any non-nationals who are stopped after crossing the Polish border irregularly would be expelled from the country. Those expelled would be banned from entering the country for a period between six months to three years and Polish officials would be allowed to "leave unexamined" asylum applications filed by a non-national who is stopped immediately after entering the country irregularly. Poland has sent some 11,000 soldiers to the border area, created a militarised zone, and set up razor-wire fencing. Poland is also one of twelve EU member states requesting that the EU fund the construction of barriers at their borders. The EU has refused to fund the walls, adopting the same stance as in 2015-2016, when the European Commission refused to reimburse Hungary for fencing off its border with Serbia.

A group of doctors operating on the border have said they are prevented from accessing the zone where migrants are stranded. A Polish Red Cross worker from the border area said, "we have no access to the off-limits zone... we can't hand over aid packages ourselves." ECRE also reported that a group of 17 people located in the borderland forest between Poland and Belarus was left for 32 hours without food and water.

The president of the European Commission, Ursula von der Leyen, called upon EU member states to approve new sanctions against Belarusian authorities responsible for the influx of migrants at the Polish border, statingt: "The instrumentalisation of migrants for political purposes is unacceptable." She added that the EU would "examine how to sanction airlines from third countries" that bring migrants to Belarus. Subsequently, on Tuesday 9 November, the 27 EU member states agreed to suspend an EU-Belarus visa facilitation agreement. Belarus has denied having any involvement in directing the flow of people and the Belarusian border guard said that: "the indifference and inhumane attitude of the Polish authorities has prompted the refugees to take such a step of despair."

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10 September 2021

Poland has experienced important reductions in the number of arriving asylum seekers since the onset of the COVID-19 pandemic: in 2020, there were 2,803 asylum applications, compared with 4,096 in 2019. According to the European Council on Refugees and Exiles, as of 1 January 2021, there were 1,319 persons holding valid residence cards for refugees, 1,467 persons holding a residence card granted to subsidiary protection beneficiaries and 1.743 persons under the humanitarian protection scheme.

Polish Border Guards Detain People Attempting to Cross the Border Between Belarus and Poland on 9 August 2021 (Main Command of the Polish Border Patrol, Reuters, "Afghans Stranded in Poland Refuse to Return to Belarus," Infomigrants, 23 August 2021, https://www.infomigrants.net/en/post/34509/afghans-stranded-in-poland-refuse-to-return-to-belarus)

Despite the decrease in asylum pressures, public discourse in the country remains rife with anti-immigrant rhetoric. Few asylum seekers are granted protection: in 2017, 5,053 people lodged applications, but only 150 were granted refugee status and in 2020, 2,803 applications were lodged and only 161 were granted refugee status.

Following the withdrawal of US and coalition forces from Afghanistan and Taliban takeover, thousands of Afghan nationals have left the country. Poland airlifted some 1,000 Afghan nationals and gave them access to asylum procedures. However, Human Rights Watch reported on 2 September 2021, that Poland had "trapped" 32 Afghans for over three weeks at its border with Belarus, preventing them from entering the country to seek asylum and denying them access to food and medicine. The European Court of Human Rights (ECtHR) ordered Poland to allow aid to reach the group of Afghan nationals, but so far, the Government has not done so. According to Balkan Insight, Polish border guards have been unlawfully pushing people back across the border to Belarus using excessive force in some cases. UNHCR has also called upon Poland to allow the group to apply for asylum urging the "government to make an individualised assessment of each case before expelling these people or preventing them from entering the territory." Poland reported that it had detained 900 migrants who crossed from Belarus this year, 349 of them in the first week of August alone, compared to 122 migrants in the whole of 2020.

According to information provided to the GDP from part of the Polish Commissioner for Human Rights, the country refused to issue a moratorium on new immigration detention orders in the months after the onset of the pandemic (see Poland 7 July 2020 update on this platform). In addition, the National Integration Evaluation Mechanism (NIEM) reported that despite the national lockdown ordered during the COVID-19 crisis, Polish border guards continued the deportation of rejected asylum seekers to Chechnya. Poland also restricted access to asylum procedures during the COVID-19 crisis as the Office for Foreigners suspended direct customer services and certain limitations on the submission of asylum applications at border crossings. Also, according to an international organisation, who asked to remain anonymous, but whose identity was verified by the GDP, some detainees were released when deportations could not be performed due to border closures (see Poland 7 August 2020 update on this platform). Nonetheless, the GDP has been unable to obtain details on COVID-19 related measures taken to safeguard people in immigration custody.

The country has begun a national vaccination campaign against COVID-19 and also passed legislation that guarantees that all foreigners in Poland (including refugees and asylum seekers) the right to be vaccinated free of charge. Nonetheless, this "right" only applies to those persons that can provide evidence of their residence in the country. Yet, asylum seekers who are in reception centres are vaccinated depending on their priority status, according to the national vaccination campaign.

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07 August 2020

Although the number of confirmed cases continues to rise in Poland, authorities have continued to refuse to issue a moratorium on new immigration detention orders (this was previously confirmed by the Polish Commissioner for Human Rights in early July, see 8 July

J. Plucinska and A. Koper, "Poland Reports Record Increase in COVID Cases as Coal Mines Hit," Reuters, 4 August 2020, https://www.reuters.com/article/us-health-coronavirus-poland/polandupdate). According to an international organisation who asked to remain anonymous, but whose identity was verified by the GDP, some new measures have however been put in place, such as the extension of identity documents' validity, and the release of some

reports-record-increase-in-covid-cases-as-coal-mines-hit-idUSKCN25011C

detainees when deportations could not be performed due to border closures. (Previously, in early July, the Border Guard had argued that the pandemic did not justify the release of non-citizens already in detention because their detention orders purportedly remained valid.) After undergoing quarantine, the international organisation confirmed that asylum seekers released from detention were placed in open reception facilities.

Reports elsewhere indicate that the number of deportations has been increasing recently. According to one media outlet, removals have affected families with children, elderly persons, and persons with disabilities or chronic illnesses.

With the numbers of confirmed cases rising in Poland, on 31 July it was announced that new restrictions may be imposed for certain parts of the country, as well as mandatory testing for returning travellers and quarantine for individuals coming from specific countries.

- Anonymous international organisation, GDP Covid-19 Survey, https://docs.google.com/forms/d/e/1FAlpOLSe16r5vVHGhg8AmhOBHG-LzW wTKk nIPNt3RiVfiZzaonBsO/viewform
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08 July 2020

Responding to the Global Detention Project's Covid-19 survey, the Polish Commissioner for Human Rights (Ombudsman's office) contacted the Polish Border Guard to obtain information concerning Covid-19 measures for migrants and refugees.

Biala Podlaska Guarded Centre (No Borders Group Warsaw, accessed on 8 July 2020, https://migracja.noblogs.org/obozy-strzezonedetention-camps/biala-podlaska/english/)

The commissioner said that the Polish Border Guard had informed them that on 17 March, the Deputy Commander-in-Chief of the Border Guard ordered the commanders of the Border Guard units not to impose administrative and criminal sanctions against:

- Non-citizens who exceed the permitted period of stay in the country as a result of restrictions on international traffic, provided that the alleged breach took place after 14 March 2020;
- Non-citizens who fail to depart the country as per Article 299(6) of the Act on Foreigners because of restrictions on international traffic, provided that the alleged breach took place after 14 March;
- Non-citizens who fail to respect the deadline of a voluntary return order, provided that the deadline for the voluntary return expired after 14 March.

In its letter to the commissioner, the Border Guard argued that the Covid-19 pandemic did not justify the release of non-citizens already in detention because those orders purportedly remained valid. In contrast, many other European countries have called into question the validity of many detention orders during the pandemic precisely because one of the key rationales for immigration detention--detention for removal--has become untenable in many cases (see, for example, the updates on this platform for Spain, Switzerland, and Portugal).

The Border Guard said that the legitimacy of non-citizens' detention was analysed and assessed on a current basis so as to not violate the provisions on the release of non-citizens set out in the Act of 12 December 2013 on foreigners and the Act of 13 June on granting protection to foreigners within the territory of Poland.

In particular, the Border Guard said that removals had continued throughout the crisis period. Regarding forced repatriations that took place from 13 March to 10 April, the Border Guard reported that under the forced repatriation procedure, a total of 49 non-citizens were removed from the territory, of whom 29 had been detained in a "guarded centre," which is a type of immigration detention facilities in Poland (see GDP report on Poland, link provided below in sources).

The Border Guard also said that removed non-citizens had been effectively transferred to the authorities of "third countries" concerned. No further details were provided about whether this implied deportation (or readmission) to third countries and if so to which.

The Border Guard did not provide any information regarding measures taken to protect migrants and asylum seekers released from immigration detention from Covid-19. However, concerning measures taken within immigration detention centres, the Chief Commandant of the Border Guard said that a uniform procedure had been introduced in all centres, based on the guidelines of the Chief Sanitary Inspector of the Ministry of the Interior and Administration. The procedure is aimed at preventing the spread of Covid-19 and at minimising the effects of the risk of infection. The procedures include:

- The obligation to carry out a medical examination of a detained migrant before their placement in a detention centre. When symptoms are present further actions are carried out in the same way as they would for citizens, including a Covid-19 test.
- After a person is admitted to an immigration detention centre, they are placed in preventive isolation from other persons for the purpose of observation by medical personnel and also subjected to a medical examination within the centre. The person will have minimal contact with others in isolation; only medical personnel, social workers, and security officers are authorised to contact them. Migrants placed in isolation have access to "virtual visits" by way of an "online communicator" or a telephone as well as access to everyday outdoor leisure activities.
- Measurement of the body temperature of all detainees as well as of everybody entering a centre; temperatures of detainees taken daily.

- Restriction of the activities of the detention centre staff requiring direct contact with migrants to the minimum necessary.

 Prohibition of visits to the centres. In the detention centres for migrants, a strict prohibition of in-person visits has been introduced, replaced with so-called "virtual visits" using an electronic communicator.
- Restriction of the purchase of products for migrants to the minimum necessary, i.e. only to particularly justified cases.

According to the Commissioner for Human Rights, due to the current epidemiological situation, there have been amendments to Polish legislation under Act of 2 March 2020 on special solutions related to the prevention and combating of Covid-19, other infectious diseases and crisis situations caused by them, providing, inter alia, special solutions for non-citizens in Poland. Current regulations allow for legal stay in the country for persons who wish to remain or those that cannot leave Poland due to the spread of Covid-19.

The Act extends the deadlines (by approximately a month) for leaving Polish territory for non-citizens, under Article 299 p.6 of the Act on Foreigners (e.g. in connection with the delivery of a final decision refusing to grant a temporary residence permit), if these deadlines were to fall within the period of an epidemic emergency. In addition, the deadline for voluntary return specified in a decision to return a non-citizen, the end of which would fall within the period of an epidemic emergency, was extended. This means that such removals would take place 30 days following the lifting of the epidemic emergency. The same applies to deadlines for submitting applications for legalising one's residence; the validity of issued work permits, seasonal work permits, and declarations on entrusting work to foreigners; as well as for applications for residence permit applications, visa extensions and extensions of stay under the visa-free regime.

- Biala Podlaska Guarded Centre (No Borders Group Warsaw, accessed on 8 July 2020,
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15 April 2020

On 1 April 2020, the Polish Government decided to extend visas for all non-citizens who hold work permits, national visas, or a temporary residence permit, for 30 days after the end of the emergency state. The Office for Foreigners stated that "based on this extended stay, a foreigner will not be able to travel on the territory of the other member states of the Schengen area. But, the alien will be able to further realise the purpose of their stay in Poland, for example, the execution of the work."

 Schengen Visa Info, "Poland Extends Visas and Permits for Foreigners for Another 30 Days," 1 April 2020, https://www.schengenvisainfo.com/news/poland-extends-visas-and-permits-for-foreigners-for-another-30-days/

23 March 2020

On 23 March 2020, the Ministry of Justice announced plans to extend a programme under which some prisoners are allowed to serve their sentence at home to help curb the spread of coronavirus. The proposal could benefit up to 12,000 prisoners and they would be kept under electronic supervision.

The GDP has been unable to find any reports indicating that authorities have taken measures to assist migrants and asylum seekers, including those in detention.

- A Polish police officer stands at the country's border with Germany, symptoms testing drivers entering the country (https://uk.reuters.com/article/uk-health-coronavirus-poland-prisons/poland-to-let-more-prisoners-serve-sentences-at-home-amid coronavirus-idUKKBN21A2OC)
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