

Polish Response to Irregular Migration in Recent Years

La respuesta polaca contemporánea a la inmigración irregular

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ABSTRACT

The main aim of this paper is to examine the situation at the Polish borders, especially at the eastern border which is the external border of the EU. Poland's border is 3,500 km long. 1,580 km is the Polish section of the external European Union border. The paper presents the Polish position on European migration maps in recent years. The author focuses on the dimension of irregular migration based on data for illegal border crossings from 2014 to 2018. Those data are compared with situations of the other EU external borders. The author also refers to the number of asylum requests in Poland to present the scale of the phenomenon and demonstrate why Poland rejects so many requests. Those statistical data were analyzed in relation to the Polish governments' position against immigrant quotas. This position is politically justified by having a specific immigration situation due to a long border with Ukraine, a neighboring country with an unstable political situation that influences both irregular and legal migration. The author compares the government's position with the real situation and evaluates the existence of any possible threat to border security. As the Polish policy is changing a lot in the recent years the author also presents the legal reaction to the so-called "migration crisis".

Keywords: Irregular migration, migration policy, criminal policy, migration crisis.

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RESUMEN

El objetivo principal de este artículo es examinar la situación en las fronteras polacas, especialmente en la frontera oriental, que es la frontera exterior de la UE. La frontera polaca tiene 3500 km de largo y la sección polaca de la frontera exterior de la Unión Europea tiene una longitud de 1580 km. El artículo presenta la posición de Polonia sobre los mapas migratorios europeos en los últimos años. La autora se centra en la dimensión de la inmigración irregular basándose en datos de cruces fronterizos ilegales de los años 2014-2018 a través de las fronteras polacas. Estos datos son comparados con lo que ocurre en las demás fronteras exteriores de la UE. La autora también analiza el número de solicitudes de asilo en Polonia para presentar la magnitud del fenómeno y explicar por qué Polonia rechaza un gran porcentaje de las solicitudes presentadas. Estos datos estadísticos se analizaron en relación con la posición del gobierno polaco de no aceptar cuotas de inmigrantes. Esta postura política se encuentra justificada al tener un contexto migratorio específico vinculado con la larga frontera que mantiene Polonia con Ucrania, país vecino con una situación política inestable que influye tanto en los flujos migratorios regulares como en los irregulares. La autora compara la posición del gobierno con la situación real y evalúa la existencia de cualquier posible amenaza a la seguridad fronteriza. Dado que la política polaca está cambiando mucho en los últimos años, la autora también presenta la respuesta estatal a la llamada "crisis migratoria".

Palabras clave: Inmigración irregular, política migratoria, política criminal, crisis migratoria.

1. Introduction

Poland is centrally situated in the European continent. Its geographical location determines the course of irregular migration routes through its territory. Currently, these lead from Vietnam through Russia and the Baltic states to Poland (so called Baltic route); from Russia through Ukraine or Belarus to Poland and further through Germany to other Western European countries (Europol, 2016, p. 5, Europol, 2017, p. 49, von Lampe, 2005, p. 411, Di Nicola, 2014, p. 152). In the "post migration crisis" time there is an open question whether migrants from Syria or Iraq coming to Europe through Turkey, Greece, and the former Yugoslavia countries also used the transit route through Poland and thence to Germany or the Scandinavian countries.

The state border of the Republic of Poland is 3,511.52 km long: 232.04 km of which separate Poland from the Russian Federation; 104.28 km from the Republic of Lithuania; 418.24 km from the Republic of Belarus, and 535.18 km from Ukraine; 541.06 km from the

Slovak Republic; 796.04 km from the Czech Republic; and 489.37 km from the Federal Republic of Germany. The sea border amounts to 439.74 km. The Polish section of the EU internal border is 1,930.62 km long, whereas the Polish section of the EU external border amounts to 1,580.77 km; thus, the Polish section of the external EU border constitutes one quarter of the whole Eastern land route.

The main factors which influence irregular migration to and through Poland are its EU membership, its status as a Schengen state as well as its stable economic position if compared to other countries of the region. Third country nationals assume that by entering Poland or the Baltic states located in the Schengen area, they will be able to move freely around Europe, especially going further west.

The immigration crisis in Europe, in addition to its social and humanitarian impact, has led to some legal consequences which are reflected in recent amendments to Polish law. It must be noted that the example of Poland is not an exception when it comes to state responses to the perceived migration crisis (Perkowska, 2018, p. 209). A very important regulation in question is the Act on Anti-terrorism, which was introduced in Poland on 10 June 2016, and gives the state licence to limit the rights of foreigners.

The purpose of this paper is to discuss trends in irregular migration leading to Poland from 2014 through the “migration crisis” till 2018, compared with the situation in other EU countries. The migration phenomenon will be compared with the political response of Polish government to the problem. Hence, the article seeks to answer the following questions:

1. What are the dynamics of irregular migration to Poland?
2. What are the forms of irregular migration to Poland?
3. What is the government’s response to irregular migration to Poland?

For the purpose of this article, in order to analyse the problem of irregular migration in Poland, quantitative research methods were used together with desk research and statistical methods. Desk research was focused on the review of the literature concerning irregular migration to Europe and Poland and on the review of official reports.

The Polish Border Guard and Frontex databases were used for further analysis. The analysis of statistical data concerned the number of people apprehended for illegal border crossing. The data were available on the website of the Polish Border Guard², in their yearly reports; some data were shared at the individual request of the author. The data were gathered for the period from 2014 to 2018.

2. Situation on Polish borders from 2014 to 2018

In 2015, European Union (EU) Member States reported to Frontex more than 1,820,000 detections of illegal crossings along the EU's external borders. This number, the highest recorded ever, was more than six times the number of detections reported in 2014, which was an unprecedented year. There are eight established routes of irregular migration leading to the EU. Poland, as any other EU country that polices an external border, is also on the path of irregular migration. Poland's borders with the Russian Federation (Kaliningrad Oblast), Belarus and Ukraine are part of the eastern land border route that goes through Finland, Estonia, Latvia, Lithuania, Poland, Slovakia, Hungary and Romania. Poland does not have the longest section of the EU's external border. However, it has a unique position, since it borders three non-EU states. It is important to analyze whether, in comparison to other routes, irregular migration places significant pressure on Poland's borders.

The annual Frontex analysis on migration at external EU borders, aside from cataloguing the number of people crossing and the number of visas issued, provides data in respect of specific indicators (see Table 1) (Frontex, 2015, p. 12).

² <https://strazgraniczna.pl/pl/granica/statystyki-sg/2206,Statystyki-SG.html> access 15.01.2020.

Table 1.*Illegal migration indicators in the EU according to Frontex*

Indicator / Year	2014	2015	2016	2017	2018
Illegal border crossing between border check points	283 532	1 822 337	511 047	204 719	150 114
Clandestine entry at border check points	3 052	3 642	2 219	1 622	2 258
Fraudulent document users	9 420	8 373	7 042	6 725	6 667
Refusal of entry	114 887	118 495	215 403	183 548	190 930
Illegal stay	441 780	701 625	491 918	435 786	361 636
Returns – decisions	252 003	286 725	305 463	279 215	286 875
Returns – executed	161 309	175 220	175 377	151 398	148 121

Source: Frontex (2015). *Annual Risk Analysis 2015*, Warsaw; Frontex (2019). *Annual Risk Analysis 2019*, Warsaw.

As Frontex indicates, the year 2015 was marked by an unprecedented number of detections of illegal border crossings between border check points at the external sections of the border, revealing a migration crisis in Europe of a scale that had not been seen since the Second World War. During 2015, three bottlenecks emerged: (i) the maritime border between Turkey and Greece; (ii) the Central Mediterranean border; and (iii) because of entry through Greece, the Western Balkan route (Frontex, 2016, p. 17).

In 2015, the number of detected illegal border crossings between border check points even outnumbered detected illegal stays. Illegal stay is most frequently an outcome of illegal entry into EU territory but might also result from the extension of the stay when a visa or another residence permit expires. Clandestine entries at border check points during border checks is an infrequent phenomenon in the European context. Likewise, the use of fraudulent documents at border check points is rare. Those who are identified by authorities as a result of illegal border crossing between border check points or illegal stay are issued return decisions, which can take the form of either voluntary or forced returns.

However, from the legal and criminological perspective, it is inappropriate to state that there were “illegal border crossing between border check points” detected in this case. Firstly, most of the people who came without documents or valid visas applied for international protection within the EU as it is indicated in Table 2. Secondly, according to

article 31 of the United Nations Convention Relating to the Status of Refugees from 1951, the state “shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.” Under these circumstances the border crossing of those migrants cannot be treated as illegal in any state regardless of the corresponding criminal law provisions.

Table 2.

Asylum and first-time asylum applicants in the European Union

Year	2014	2015	2016	2017	2018
European Union	626 965	1 322 850	1 260 920	712 250	647 170

Source: Eurostat

Another indicator used in the Frontex statistics is refusal of entry into the EU issued by virtue of Article 14 of the Schengen Borders Code. These statistics show the pressure of irregular migration at Europe’s borders but not the status of irregular migration as such, as the refusal of entry prevents irregular migration.

As Table 3 shows, Frontex identified eight routes used for illegal migration leading to Europe from 2014 to 2018. Most of them concern the southern coasts of Europe. The year 2015 was marked by an unprecedented number of foreigners who crossed the external EU border on all these routes.

Table 3.*Detections of undocumented border crossings between border check points**

Routes/ Year	2014	2015	2016	2017	2018
Eastern Mediterranean	50 834	885 386	182 277	42 305	56 561
Western Balkan	43 357	764 038	130 261	12 178	5 869
Central Mediterranean	170664	153 946	181 376	118 962	23 485
Western Mediterranean	7 842	7 164	9 990	23 143	57 034
Circular from Albania to Greece	8 841	8 932	5 121	6 396	4 550
Eastern borders	1 275	1 920	1 349	776	1 084
Western African	276	874	671	421	1 531
Black Sea	433	68	1	537	0
Total	282 962	1 822 337	511 047	204 719	150 114

* Note: These data refer to the number of detections of undocumented border crossings at the external borders of the EU. Irregular border crossings at the external borders may be attempted several times by the same person. Source: Frontex (2016). *Annual Risk Analysis 2016*, Warsaw, Frontex (2019). *Annual Risk Analysis 2019*, Warsaw.

The land route, which is described as the eastern land or eastern border route, runs to the EU through Estonia, Finland, Latvia, Lithuania, Poland, Slovakia, Hungary and Romania; this route in 2015 was mainly exploited by nationals from Afghanistan, Vietnam, Georgia and Syria (Frontex, 2016, p. 17). In 2015 third country nationals started to use a new, so-called Arctic route, which runs from Russia to Norway and Finland. Since 2016 there were mostly nationals from Vietnam, Ukraine, and Russia detected (Frontex, 2016, p. 19). The eastern land border in 2018 saw an approximately 24 % increase in detections compared with 2017, partly due to migrants abusing the FIFA Fan ID, which allowed travelers visa-free entry to Russia, from where, coming also via Belarus and Ukraine, third country nationals attempted to enter the EU illegally. With a share of around 34 %, Vietnamese nationals represented an even larger portion of illegal border-crossings at the Eastern Land Border route compared to 2017, followed at a distance by Iraqis, Russians and Ukrainians (Frontex, 2019, p. 17).

Despite the total length of all the border sections (6,000 km), detections on this eastern route tend to be lower than on other routes, possibly due to the long distances between major hubs and many countries of origin. Also, according to several reports published in 2014, visa fraud and counterfeit border crossing stamps tended to be a dominant *modus operandi* on this

route, as opposed to detections of illegal border crossing. Detections of illegal border crossing remained decreasing, with 1,275 detections in 2014 and 1,084 in 2018. Most detections were reported at the land border between Lithuania and Belarus. Most of these detections were of Vietnamese nationals arriving after transiting through Belarus. By contrast to other routes, large proportions of these detections (concerning Russian and Ukrainian nationals) were connected with the smuggling of goods rather than irregular migration. Regarding the border with Ukraine, Frontex monitors the situation, but since 2014 no important changes were noticed. Detections for illegal border crossing remain insignificant along all green border sections with Ukraine and the number of refusals of entry remained comparable to previous years (Frontex, 2015, p. 24-25, Perkowska, 2017, pp. 59-75, Perkowska, 2018, p. 196).

The statistical data presented above (Table 3) concern the number of detections of illegal border crossings at the eastern section of the EU land border (the Schengen area). Detailed analysis of the data referring to irregular migration onto the territory of Poland (including its borders) will be provided later in this chapter.

The data provided below in Table 4 on the number of persons apprehended after having illegally crossed the border of the Republic of Poland act as an indicator of the so-called 'migration pressure'. In contrast to the Frontex data shown in Table 3, the data of the Border Guards concerning the persons apprehended encompass all cases of illegal border crossing, not just illegal border crossing between border check points. These data (apart from the data concerning, for example, the number of refusals on entry and the number of illegal stays) are, however, difficult to interpret, as they do not indicate the scale of irregular migration, but, rather, the efficiency of the actions taken by various services. Moreover, the number of foreigners who legalize their stay within the framework of abolition (for foreigners who had been staying in Poland illegally) or other mechanisms which allow them to regulate their legal status is a crucial indicator demonstrating the scale of irregular migration in Poland.³ The general rule was that the foreigner could legalize his / her irregular stay in the territory of Poland if s/he stayed for an uninterrupted period from at least 20 December 2007

³*Polityka Migracyjna Polski – stan obecny i postulowane działania*, Ministerstwo Spraw Wewnętrznych i Administracji Departament Polityki Migracyjnej, Warsaw 2011, p. 40.

(prior to Poland's access to Schengen area) until 1 January 2012. The exception concerning the period of uninterrupted stay concerned the asylum seekers. They need to prove both that they had stayed in Poland from at least 1 January 2010, and that prior to that date they had been issued a final negative asylum decision along with a judicial deportation order. In consequence of abolition proceedings, the foreigner who fulfilled the requirement of undocumented stay was granted a residence permit for a fixed period of 2 years.⁴ As a result, 4,593 foreigners were granted this residence permit (48% of all applicants) mostly nationals of Ukraine, Vietnam and Armenia. Nevertheless, the so-called 'abolition tourism' appeared as an intensified illegal inflow of foreigners who were attracted by the possibility of legalizing their stay in Poland but who did not meet the conditions prescribed in the Abolition Act (mostly it referred to Pakistani and Bangladeshi nationals) (Perkowska, 2015, p. 33).

Table 4.

Number of people apprehended after having illegally crossed Polish borders

Year	External border	Internal border	Total
2014	2 124	2 787	4 911
2015	3 365	3 615	6 980
2016	3 525	4 041	7 566
2017	3 191	4 094	7 285
2018	3 486	2 038	5 524

Source: The Border Guard Headquarters

The number of people apprehended after having illegally crossed Polish borders tended to increase until 2017. In 2018 a decrease was registered. The increase in 2015 could be easily attributed to the migration crisis. However, it was not the case. It was caused mainly by the influx of migrants (legal and illegal) leaving Ukraine due to the military conflict with Russia (Gomółka, 2017, p. 80; Szulecka, 2016, p. 233). According to the data presented in Table 4, the highest number of people who illegally crossed or attempted to cross the Polish

⁴ Abolition was introduced by Act of 28 July 2011 on Legalization of Stay of Some Foreigners in the Territory of the Republic of Poland and on amendments to the Act on Granting Protection to Foreigners in the Territory of the Republic of Poland and to the Act on Foreigners, Journal of Laws 2011 No 191, item 1133.

border was recorded in 2016, but mainly at the internal border, i.e. whilst they were leaving Poland (Perkowska, 2016, p. 199).

The data presented in Table 4 reveal an unusual situation, in which the Polish Border Guard detects more illegal border crossings on internal EU borders than on external borders. It may be surprising as there are no border crossing points there and those borders can be crossed at any time and in any point without any border control. Nevertheless, the lack of border control checks does not affect police powers or security checks. The Border Guard has the competence to conduct criminal proceedings in the event of suspicion of committing a crime or misdemeanor, especially in the border zone (15 km from the border line). In this case it seems that Border Guard uses its police powers to detect illegal border crossings. As it was indicated in Szulecka's research, Border Guard officers inform that they focus their policing actions on the internal border and inside the national territory (Szulecka, 2016, p. 213). Another important aspect that could explain this phenomenon is the will to prove the necessity of existence of Border Guard units in monitoring internal border areas. If they show the results of their work – in this case, a particular number of detected illegal border crossings – they will simply keep their jobs (Klaus and Woźniakowska-Fajst, 2015, p. 198-199). Another aspect is that the Polish external section of EU border is well protected as far as technology is concerned (including even the *sistema*⁵). The Polish section of internal EU border is treated as a gateway to Schengen zone without any border controls for those who managed to cross the external border on their way to Western Europe. It is also important to highlight the problems of the border section with Lithuania. It is a 104,28 km long internal border section placed between a 232,04 km long border with Russia and a 418,24 km long border with Belarus (both external borders). The border with Lithuania is a bottle neck for irregular migration coming from former USSR countries and Asia through Baltic countries and heading towards Western Europe. Experts claim that the external borders of Lithuania, Latvia and Estonia are not well protected. For example, these countries abandoned the *sistema*, which is still used on the Polish-Belarusian border and appears to be effective. Third

⁵ Sistema is an electronic fence that is a part of electronic systems triggering an alarm any time the fence is touched.

country nationals use this Baltic route and legal migration channels existing in Poland to go further into the EU. Foreigners also abuse the local border traffic to get easily into the Polish territory and then continue their migration instead of staying in Poland. This factor causes that Polish borders with Germany and Czechia are crucial in terms of detecting illegal migration (Szulecka, 2016, p. 218-219).

When Poland joined the Schengen area in December 2007 it seemed that there would be more detections on the Polish section of the EU external border. From then on, Poland strengthened its position as a kind of bridge between the East and the West (Laskowska, 2003: p. 19; Laskowska, 2009, pp. 229-230; Plywaczewski, 1999, pp. 281-282). Third country nationals wrongly presume that crossing the Eastern border of Poland would enable them to smoothly reach any EU Member States. Simultaneously, it is worth highlighting that Poland is increasingly perceived as the country of destination, which may lead to the conclusion that it is becoming more attractive in terms of labor market, remuneration or life and social conditions, which is best reflected in the following statistics. From 2001 to 2013, over 155,000 people registered in Poland for permanent residence, and only in 2013 almost 81,000 foreigners registered for a temporary residence permit (Raport, 2013, p. 121, Okólski, 2000, p. 63, Kaczmarczyk, 2015, p. 29). In 2019, according to the Foreigners Office, over 370,000 foreigners (in total) possessed temporary or permanent residence permits⁶.

As far as legal and economic migration is concerned, Poland has become a leader among EU countries in accepting new migrants. Over the years, employers have got used to the presence of Ukrainians on the Polish labour market. Low unemployment, which has been decreasing steadily since 2013 and was below 6 percent in June 2018, along with an economic boom and significant emigration of Poles to other EU states has resulted in shortages in the labour market (Klaus, 2020, p. 83). This loophole was filled mostly by the Ukrainians. However, the need for foreign workers supported by the actions of ministers responsible for economy and labor faced the restrictions from the Ministry of Home Affairs; therefore, the legalization of their residence and work procedures was tightened, especially

⁶ <https://udsc.gov.pl/statystyki/raporty-okresowe/raport-roczny-legalizacja-pobytu/2018-2/>
https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_resfirst&lang=en accessed 10.04.2020.

as far as declarations on entrusting work to foreigners were concerned. It is easier for a foreigner to get employed based on the declarations on entrusting than to receive the work permit. Nevertheless, although the regulations enabled people to arrive legally, a lot of them took up illegal forms of employment (Szulecka, 2016a, p. 87).

Institutional efforts to change the regulation about declarations were triggered by the EU mandate to implement Directive 2014/36/EU on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers (which partially overlapped with the declarations' system). As a result, the legislation concerning declarations was slightly modified in 2018 by granting more control over the process to various public services. Moreover, there was some consideration over how to incorporate the new seasonal work permits into the system existing in Poland. The Ministry of Home Affairs insisted that they are to be controlled by the government, which would render the legislation practically defunct, making it too bureaucratic and difficult to manage. Eventually, the permits are issued by local authorities, which are also responsible for registering declarations in the central electronic system. The procedure itself is not overly complicated. In fact, both legal schemes complement each other – any work deemed seasonal requires seasonal work permits, while the remaining ones are based on declarations of entrusting work to a foreigner. In addition, as a result of pressure exerted by employers and their organizations, many Polish regions did away with labour market tests for certain occupations in the process of issuing work permits. The role of the test was to verify whether the vacancy might be filled by a Pole. Since the shortage of candidates in some low-skilled jobs has been very acute, the test is disregarded in construction, and for truck drivers, domestic workers, and kitchen workers. Owing to this change, employing a foreigner became a less time-consuming affair (Klaus 2020, p. 84-85).

The increase in the number of foreign nationals suspected for illegal border crossing offences in 2015 could easily be attributed to the migration crisis in Europe, as the Border Guard recorded more illegal border crossings and forged documents. In 2014 the Border

Guard apprehended⁷ 4,911 people for illegal border crossing, whereas in 2015 the number amounted to 6,980. This was an increase of 42%.

It should be noted, however, that our analysis of the Border Guard's information concerning citizens of countries which are the origin of asylum seekers' flows (Syria, Afghanistan, Iraq, Pakistan), who came to Europe on a mass scale in 2015, does not confirm the big influx to Poland (Raport, 2017, p. 97). The citizens of Syria, Iraq and Pakistan attempted to enter Poland using forged or fake documents which authorized them to cross the border (similarly as the citizens of Ukraine, Russia, Belarus or Albania). They used air travel services as they took contact with criminal groups in Greece that arranged for them false documents (including Polish passports or ID cards) and flight tickets inside the Schengen area, including flight tickets to Poland. If we examine the number of nationals from states which are under migratory pressure who were apprehended for crossing the Polish border illegally in 2015, as opposed to 2014, an increase can be observed. However, in nominal numbers it was not so considerable if compared to the situation on the other external borders of the European Union (see table 3).

The migration crisis did not in any way contribute to the increased illegal migration at the Polish sections of the EU *external* border. In general, most interceptions in 2015 took place at the Polish sections of the internal EU border. Foreigners mainly used counterfeit or fraudulent documents. They rarely crossed the state border illegally using violence, threat, deceit or in cooperation with other persons. Therefore, the rise in the number of persons apprehended for illegally crossing the Polish border in 2015 was affected by the increased number of intercepted Ukrainian citizens (2,454 in 2014 and 3,713 in 2015, respectively), but not by the number of apprehended persons who came from migration risk countries (Perkowska, 2019, p. 379, Klaus, Lévy, Rzeplińska & Scheinost, 2018, p. 481). Constantly in the analyzed time span Ukrainian nationals constituted the largest number of people

⁷ According to the definitions adopted by the Border Guard, apprehension may also mean detection. It covers the cases of detection of a particular event and apprehension and detection of the person committing the act. It also encompasses the apprehension of people accused of offences other than illegal crossing (e.g. forgery of documents). Komenda Główna Straży Granicznej informacja o sytuacji na granicy państwowej. Działania Straży Granicznej w 2012 roku (porównanie do 2011 roku), p. 2.

detected by the Border Guard for illegal crossing, followed by Russian, Belarussian and Vietnamese nationals. This is an inevitable consequence of the fact that these border sections are mostly crossed by the citizens of Poland's neighboring countries (Pogoda, 2014, pp. 214–215). However, it is worth stressing that a significant number of nationals of Moldova, Georgia and Vietnam were detected at the border as well. These people aim to join their communities that have been existing and functioning well in Poland for years; thus, they use both regular and irregular migration channels to achieve this aim (Perkowska, 2018, p. 201).

Table 5.

Number of people apprehended for illegal border crossing at Polish borders by nationality

Nationality	2014	2015	2016	2017	2018
Afghanistan	33	36	43	35	55
Armenia	43	35	70	75	39
Belarus	234	236	247	251	332
China	27	36	43	50	50
Georgia	168	119	65	43	133
India	22	45	63	89	98
Moldova	31	25	102	88	111
Pakistan	38	58	44	68	44
Russia	466	613	685	678	461
Syria	108	175	145	124	118
Ukraine	2454	3713	3981	3910	2730
Vietnam	210	279	193	146	227
Poland	323	372	667	657	n.a.
Others	754	1238	1218	1071	1126
Total	4911	6980	7566	7285	5524

Source: The Border Guard Headquarters

It can be concluded from the data on the number of people apprehended for illegal border crossing at the Polish border that this is a marginal phenomenon when compared with the other sections of the EU borders (both external and internal), particularly the sea border sections. This is chiefly due to 'push' factors in the sending states (lately, Syria, Eritrea and Afghanistan), whose geographical routes run to Europe through its Southern borders. In

addition, Frontex has reported some illegal border crossings between border check points by nationals of Vietnam, Afghanistan and Georgia at the Eastern land section of the EU external border (Perkowska, 2018, pp. 201-202).

Migration pressure revealed by the data provided by the Polish Border Guard concerning the refusal of entry into EU territory (Table 6) needs to be taken into consideration as well. Refusal of entry measures can only be issued at the EU external border. The number of refusals at the Eastern land border accounts for over 90 per cent (frequently around 95–97 per cent) of all refusal measures issued at the Polish border (the remaining refusals are issued at air and sea border crossing points). The data included in Table 6 indicate that the number of refusals is significant. These refusals have mainly involved citizens of Ukraine, Russia, Belarus, Armenia and Georgia. In addition, nationals of remote countries such as Syria and Pakistan have also been reported to attempt crossing the border of Poland and the EU illegally (Perkowska, 2016, p. 129).

Table 6.

Refusal of entry measures issued at the Polish section of the EU external border from 2014 to 2018*

Nationality	2014	2015	2016	2017	2018
Afghanistan	n.a.	14	4	7	4
Armenia	n.a.	1 225	3 703	1 372	156
Belarus	3588	3 423	3 717	5 423	5 555
China	n.a.	10	17	30	42
Georgia	3583	2 383	1 085	491	642
India	n.a.	15	40	41	32
Tajikistan	n.a.	3 117	8 215	1 369	961
Moldovia	n.a.	178	799	2 621	2 002
Pakistan	n.a.	18	16	13	20
Russia	5 133	18 880	75 886	30 614	20 203
Syria	n.a.	153	64	30	9
Ukraine	13 147	22 427	22 864	29 722	46 735
Vietnam	n.a.	4	7	11	0
Other countries	2 236	1 299	1 643	2 332	922
Total	27 687	53 146	118 060	72 704	77 283

* No detailed citizenship data were obtained for 2014. Source: The Border Guard Headquarters.

According to Frontex, Poland issued the highest number of refusal of entry measures from 2014 to 2018 in absolute terms, mostly to nationals of Ukraine at the land borders. Their number dropped both in relative and absolute terms due to drops in refusals of Russians, Tajiks and Armenians. According to Frontex, in 2014 and 2015 Ukrainians were the top-ranking nationality for refusals of entry at the EU level (Frontex, 2017, p. 21).

The Frontex data, however, do not correspond with Eurostat data on refusal of entry procedures. Spain ranks first in this Eurostat table, followed by France and Poland. The gap between these two databases is significant (Table 7). Spain's high number of issued decisions refers to land border, as it is also the case in Poland. In 2018, nearly half of the total number of refusals were recorded in Spain, with France (70,400 refusal measures) and Poland (53,700 refusal measures) ranking second and third; together these three EU member states accounted for three quarters of the total number of non-EU citizens who were refused entry into the EU-28 in 2018. The overwhelming majority of non-EU citizens who were refused entry into Spain were Moroccan citizens who tried to enter one of the two Spanish territories on the African continent, namely Ceuta and Melilla (Eurostat, 2019, p. 11).

Table 7.

Third country nationals refused entry at the external borders

	2014	2015	2016	2017	2018
European Union	286 805	297 860	388 280	439 505	471 155
Spain	172 185	168 345	192 135	203 025	230 540
Poland	20 125	30 245	34 485	38 660	53 695
France	11 365	15 745	63 390	86 320	70 445
United Kingdom	15 905	14 950	14 480	14 280	16 540
Greece	6 445	6 890	18 145	21 175	14 295

Source: Eurostat

The refusal of entry scenario changed in 2016 with a very significant increase (of around 170%) in the number of refusal of entry measures issued to Russian nationals at the Polish land border with Belarus. Most of these refusals were issued to Russian nationals of Chechen origin (Frontex, 2017, p. 21). This shift stemmed from the fact that Poland introduced asylum restrictions on an unprecedented scale, targeting asylum seekers arriving at its Eastern border with Belarus. For years the Polish–Belarusian port of entry in Terespol was the primary location for the majority of applications for international protection submitted in Poland, mostly by refugees from Chechnya and other countries of the former USSR. From mid-2015 onwards, more and more refugees have been denied entry into Poland there. People intending to apply for refugee status have had their applications withdrawn by the Border Guard on the ground of no valid visa or no valid travel document. The number of such withdrawals stood at 17,376 between January and September 2015, whereas between January and September 2016 it increased fivefold to 72,528. Border Guard officials claimed that foreigners attempting to cross the border in Terespol did not state their intention to apply for international protection. Although refugees themselves have a different opinion, NGOs and employees of the UNHCR have been barred from monitoring border check point interviews in which the intention to request asylum should be pointed out. According to NGOs working in this field, a lot of foreigners explicitly requested protection during border control, but the officials turned a deaf ear. The problem is particularly true for Chechens and Tajiks, who have in the last years repeatedly ‘bounced off’ the border in Terespol in their hundreds since Border Guard officials allow through only a few families a day. Unable to return to their home country and deprived of livelihood, whole families camped in the railway station building in Brest, on the Belarusian side (Chrzanowska et al. 2016A, p. 94). The situation on the border deteriorated after the statement by the Minister of Home Affairs, Mariusz Błaszczak, in August 2016, who opined that Chechens did not need protection since their country was not at war and that in Terespol they were ‘testing a new transit route for the influx of Muslim migrants into Europe’⁸ (Klaus et. al. 2018, pp. 481-482).

⁸ <https://tvn24.pl/polska/czeczeni-koczowali-na-granicy-szef-mswia-rzad-pis-nie-narazi-polski-na-zagrozenie-terrorystyczne-ra672450> accessed 10.04.2020.

Table 8.*Applications for international protection in Poland 2014-2018⁹*

Year	Number of applicants	Status accorded on Geneva Convention	Subsidiary protection	Tolerated stay	Negative decisions	Discontinuance of proceedings
2014	8 193	262	170	300	1 997	5 558
2015	12 325	348	167	122	2 877	8 724
2016	12 321	108	150	49	2 188	9 502
2017	5 078	150	340	19	2 091	2 747
2018	4 135	168	191	16	2 128	1 942

Source: Office for Foreigners

Although the number of individuals applying for international protection increased in 2015 (Table 8), this was not due to the migration crisis in Europe but to the military conflict in Donbas (Russia). The appearing and disappearing conflicts in former USSR countries are the main driver of asylum applications in Poland. The subsequent decrease in 2017 could be explained mostly by the changing Polish Border Guard policies and practices. For years the highest number of applications was submitted at the border check point in Terespol, on the Polish-Belarusian border, mostly by refugees from Chechnya and other countries of the former USSR. As was previously mentioned, since 2015, foreigners claim that the Border Guard “does not hear” their applications and refuse their entry into Polish territory due to lack of necessary travel documents. This is mirrored by the increasing number of decisions on refusal of entry issued since 2016 (see Table 6), especially targeting Russians (Russian nationals with Chechen background rank first as far as applications submitted in Terespol are concerned). The evaluation of this situation is problematic as the positions of the Border Guard and foreigners are of contradictory nature (Górny, 2017, p. 38; Chrzanowska, Mickiewicz, Słubik, Subko, Trylińska, 2016, pp. 37-38). Moreover, Frontex indicated that third country nationals showed up at Polish borders without visas and then applied for asylum. Later, they also applied for asylum in Germany, where the vast majority of them

⁹ A certain number of decisions granting international protection are referred to applications submitted in previous years.

received negative decisions. Indeed, at the EU level in 2015, about 80% of first instance applications of Russians were rejected. This situation lasted well into 2016, when Poland and Germany reported increasing numbers of asylum applications submitted by Russian nationals. Since then, both the number of refusals of entry and that of asylum applications of Russian nationals decreased in Poland (Frontex, 2017, p. 21). In the following years the situation changed again, as the number of refusals of entry increased and the number of applications for protection decreased, and according to NGOs the situation in Terespol has not changed recently¹⁰.

In Poland, many proceedings concerning international protection are discontinued, in what may be considered as a specific characteristic of the Polish international protection system. From 1992 to 2016, 60% of all decisions were of discontinuance of proceedings. From 2014 to 2018 this rate was even higher – 67%¹¹. Some scholars claim that this procedure is used as a strategy for legal entry into the EU territory. Third country nationals cross Polish borders legally as they submit the application for international protection and then continue their journey to other Western European countries (Rafalik, 2012, p. 40, Szulecka, 2016, p. 228-229, Klaus 2020, p. 77-78). As Górny (2017) indicates, according to the information provided by the Border Guard only one out of six applicants wait in Poland for the final decision concerning their international protection. This is a very complex situation. The pre-integration¹² of foreigners is weak, social funds are limited (especially, if compared with those of Western European countries) and the odds of having a well-paid employment after having been granted refugee status are limited. These are the push factors that encourage third country nationals to leave Poland. The political situation in the neighboring countries is the most critical factor influencing the number of submitted applications. Therefore, the number of discontinued decisions leads one to the conclusion that Poland is not treated by applicants as a destination country (Górny, 2017, p. 41-42).

¹⁰ <https://interwencjaprawna.pl/przepraszamy/>; <http://www.granicaprawczlowiecka.pl/> access: 03.04.2020

¹¹ Information from the Office for Foreigners available at <https://udsc.gov.pl/statystyki/raporty-okresowe/zestawienia-roczne/>

¹² Pre-integration is an initial phase preparing the foreigner for the subsequent integration process in the host country, that should start while the asylum decision is still pending (Maciejko, Olszewska, 2007, p. 2).

Table 9.*Illegal stays in Poland in 2014-2018*

	2014	2015	2016	2017	2018
Number of foreigners staying illegally	9 117	12 557	18 493	22 558	26 547

Source: The Border Guard Headquarters

The data shown in Table 9 indicate that illegal stay is not a significant phenomenon in Poland; however, a rising trend can be observed since 2015 as with other forms of illegal migration. Most people (approximately 60 per cent) who have been staying illegally in Poland are detected when they attempt to cross the external border to leave Poland for their country of origin. Most frequently these are nationals of Ukraine and Belarus. On the other hand, one third of those staying illegally are detected inland. These illegal stays mainly relate to people overstaying their tourism visas and residence permits (Perkowska, 2018, p. 205).

3. State reactions to migrants' influx in Poland

As it was presented above Poland has not been affected by the migrant crisis of 2015 in any way. The country had no transit routes from the Middle East and was also circumvented by the refugees travelling from the Balkans. Additionally, Poland did not participate in any relocation or resettlement programme. In April 2016, the new far-right government pulled out of earlier resettlement commitments made by the previous government (following the decision of the European Commission, Poland was to become home to around 6,000 refugees relocated from Italy and Greece, as well as around 1,000 people resettled from Lebanon). Nevertheless, the narrative concerning the migrant crisis had a direct impact on the policies of Poland (Klaus et al., 2018, p. 481).

In September and October 2015, during a public debate on relocations and resettlements of refugees, the then Prime Minister Ewa Kopacz stated: 'The problem of refugees is the biggest humanitarian crisis in Europe'; the 'Polish government does not have to but should show solidarity with Europe'. Hence, the government made the commitment to resettle around 7,000 refugees in 2016 and 2017 (implementing the decisions of the EU

Council passed on 14 September 2015 and 22 September 2015). It was a time of an electoral campaign for the Polish Parliament during which politicians of the then opposition parties often and eagerly exploited social phobias of, as they put it, deluge of Poland by immigrants from other cultures (by implication, Muslims). The subsequent Prime Minister, Beata Szydło, claimed that the undisputed priority of the Polish authorities should be the safety of Polish citizens. She stated that, as a country, 'we must not yield to blackmail or, in the name of political correctness, any immigrant quotas imposed on us' (Klaus et al., 2018, p. 482). The present Prime Minister Mateusz Morawiecki confirmed the previous statement and said that 'Poland opposes the mandatory quota system for immigrants from North Africa and the Middle East. (...) On the Eastern borders of the European Union we contribute a lot to lowering tensions since we have already received tens of thousands and maybe even hundreds of thousands of refugees from Ukraine - but we don't give them asylum status.'¹³ Just to illustrate the statement of the present Prime Minister, from 2015 to 2018 33,859 foreigners applied for international protection in Poland. Among them 4,748 (14%) were Ukrainians while 23,254 (69%) were Russians mostly of Chechen origin. However, from 2015 to 2018 only 425 Ukrainians were granted any form of international protection in Poland.¹⁴ As Klaus indicates, the relatively low number of Ukrainian asylum seekers in Poland was a consequence of an assumption accepted by many EU states, according to which Ukrainians should seek support in their home country since they are entitled to a internally displaced person status based on the internal flight alternative (Klaus, 2020, p. 78). Those data challenge the Prime Minister's statement and confirm that despite its geographical proximity Poland was not on the first line in receiving the Ukrainian wave of asylum seekers.

¹³ Mateusz Morawiecki. Prime Minister of Poland. Interview for Euronews, 2nd January 2018, <https://www.euronews.com/2018/01/02/poland-refuses-mid-east-migrants> It is important to mention that the European Commission sued Poland (together with Hungary and the Czech Republic) for refusing to host asylum seekers according to the relocation procedure. The Court of Justice of the European Union ruled in April 2020 that "By refusing to comply with the temporary mechanism for the relocation of applicants for international protection, Poland, Hungary and the Czech Republic have failed to fulfil their obligations under European Union law". Judgment in Joined Cases C-715/17, C-718/17 and C-719/17 Commission v Poland, Hungary and the Czech Republic.

¹⁴ Information provided by the Office for Foreigners. Available at <https://udsc.gov.pl/statystyki/raporty-okresowe/zestawienia-roczne/> access: 5.04.2020.

The new government undertook measures with the aim of changing Polish migration policy. The first step of the new securitisation agenda was the Anti-terrorism Act of 10 June 2016. Article 10(1) of the Anti-terrorism Act authorizes the officers of both the Internal Security Agency and the Border Guard to take fingerprints, record face image or non-invasively collect genetic materials to determine the foreigner's DNA profile. These officers may use this power when: (i) there are doubts regarding identity; (ii) there exists a justified suspicion of having crossed Poland's border in violation of law or doubts regarding the declared objective of stay in the territory of Poland; (iii) there exists a justified suspicion that the person intends to stay in Poland illegally; and (iv) there exists a justified suspicion that the person was involved in a terrorist attack or participated in a terrorist training.

Therefore, the Act allows public security officers to collect biometric data and DNA samples in the event of doubts regarding the identity of the individual or suspicion of illegal border crossing. It should be remembered that persons who cross the border in violation of the law frequently do not possess any documents that would confirm their identity (in the European context, this is usually seen when migrating on sea routes). Therefore, collecting data or DNA samples may be the only way to identify the person concerned or at least register this information (as frequently there are no data to compare). Such registration would then be used for future identification of the person in Poland, and in other EU states (Perkowska, 2018, p. 219).

The group most affected by the new regulations are foreigners (including citizens of other EU countries). In addition to all previous regulations, each foreigner might become a target of practically unrestricted surveillance authorised by the Head of Internal Security Agency, taking the form of phone tapping, bugging the house (also with cameras), access to all forms of correspondence along with all the data aggregated or sorted electronically by the person (Art. 9 of the Anti-terrorism Act); the Head of Internal Security Agency may have access to all databases where information about foreigners is kept, and all these data can be acquired and stored without limitation (Klaus, 2017, p. 525).

We have to agree that the possibility of collecting personal data on noncitizens on the grounds of Article 10 of the Anti-terrorism Act will undoubtedly facilitate monitoring their

stay in Poland or in other EU states in the context of irregular migration and illegal stay, which was pointed out by the legislator in the explanatory memorandum attached to the Act. Furthermore, the adopted solutions aimed at data exchange with third-country law enforcement services seem justified in the context of the abolition of border controls based on the Schengen agreement¹⁵.

The term ‘suspicion of illegal stay or relation with a terrorist action’ used in the article in question appears to be imprecise as the legislator did not even add an adjective ‘justified’ before the word ‘suspicion’, which could allow judicial actors to adopt a restrictive interpretation of these police interventions. Some questions might be posed in this context. For instance, what behaviour demonstrates the intent of the perpetrator to stay in the territory of Poland illegally? Is it enough to cross the border in violation of the law, for example at a place which is not designated for that purpose, like the green border, or to use false or someone else’s documents? To what extent is the suspicion enough when justified suspicion (i.e. supported by evidence) it is not required by the law? (Perkowska, 2018, p. 221).

In accordance with Article 10(1) of the Anti-terrorism Act, suspicion is a sufficient condition to collect biometric data and DNA samples but subsequent proceedings relating to illegal border crossing or terrorist offences as well as petty offences concerning illegal border crossing or illegal stay will require, under Article 17(1) of the Code of Criminal Proceedings and Article 5(1) of the Petty Offences Procedure Code, the production of evidence which justifies the suspicion of having committed the offence. Hence, the decision to initiate a criminal proceeding will verify the legitimacy of this suspicion but will not erase the data which have already been included in the relevant databases. In addition, a problem of consent or lack of consent for taking fingerprints or DNA samples arises. Neither the Anti-terrorism Act nor the Decree of the Prime Minister of 25 July 2016 on collecting and transferring fingerprint images and genetic materials and recording the image of the face of a person who is not a national of the Republic of Poland include the provisions thereon.

¹⁵ Explanatory memorandum to Anti-terrorism Act and other acts, Print No 516, p. 10.

The provisions of the Anti-terrorism Act go far beyond the provisions of either the Code of Criminal Proceedings or other Acts, as collecting the data is not related to any procedure stipulated in the Act. In some illegal migration cases the foreigner does not consent to have fingerprints taken. Could coercive measures be applied in this situation? This case is not provided for in the current legislation, and one should bear in mind that any limitation of human rights and freedoms may only be imposed by law¹⁶.

The Helsinki Foundation for Human Rights finds the provisions discussed above arbitrary towards foreigners as they exclude Polish citizens from the scope of Article 10 of the Anti-terrorism Act. If the Act aims to provide public security, it should come to terms with the fact that a threat might be posed both by a foreigner and by a Polish citizen¹⁷.

A similar claim may be made with regard to Article 9 of the Anti-terrorism Act¹⁸, which authorizes the Head of the Internal Security Agency, in order to detect, prevent and combat terrorist offences, to take classified actions, for a period of up to three months, against a person who is not a national of the Republic of Poland when there is a concern that this person might conduct terrorist activities (Kurek, 2016, p. 435). These actions encompass: (i) obtaining and recording the content of conversations and other information conveyed through telecommunications networks; (ii) obtaining and recording images and sounds of the investigated people in premises, in means of transport and in places other than public spaces; (iii) obtaining and recording the content of correspondence, including the content of electronic correspondence; (iv) obtaining and recording data in digital data media, telecommunications terminal equipment and information and ICT systems; and (v) gaining access and control of the consignment composition. As it is rightly pointed out by Buczkowski (2016, p. 29), these provisions distinguish the legal status of people who are Polish citizens and enjoy the full protection of the law from that of noncitizens and whose rights are restricted, which may infringe the principle of freedom and equality before the law

¹⁶ Art. 31(1) of the Constitution of the Republic of Poland.

¹⁷ Uwagi Helsińskiej Fundacji Praw Człowieka do projektu ustawy o działaniach antyterrorystycznych (Print No 516), p. 14. <<http://www.hfhr.pl/ustawa-antyterrorystyczna/>> accessed 18.01.2020.

¹⁸ Importantly, the head of the Internal Security Agency does not have to obtain any permission to take actions against foreigners.

enshrined in Articles 31 and 32 of the Constitution of the Republic of Poland in conjunction with Article 37(1), which ensures that people under the sovereignty of the Republic of Poland, hence also foreigners, may enjoy freedoms and rights provided for in the Constitution. Moreover, the said provisions include imprecise, hence ambiguous, terms like ‘concerns as to the possibility of conducting terrorist activities’ (Marszałek, 2016, p. 139).

The political agenda aimed at restricting foreigners’ freedoms and rights have also had an impact on the Act on the Entry into, Residence in and Exit from the Territory of the Republic of Poland of Nationals of the European Union Member States and their Family Members (2006)¹⁹. Now, an expulsion order may be issued when there is a concern that a person may conduct terrorist and espionage activities or is suspected of having committed these offences. The decision in question has immediate effect, which limits the right to appeal and the right to a fair trial²⁰.

In 2017, the Minister of Internal Affairs additionally presented a draft amendment to the Act on granting protection to foreigners in the territory of the Republic of Poland. Its aim, according to the Minister, was to increase the level of national security. We do not know what shape the regulations might ultimately take, as the work has only just begun, but their current shape raises a considerable concern. The project will revolutionize Polish migration law, introducing the so-called accelerated border procedures to examine applications for international protection. The conditions have been formulated very broadly and sketchily, enabling a great majority of asylum procedures to be conducted in the accelerated mode (it should be concluded by issuing a final decision within 20 days), which leaves very little time to investigate the case thoroughly. Furthermore, detention of asylum seekers will now be possible on a much larger scale. Again, almost every person seeking protection in Poland might be placed in a detention center. Due process rights have also been limited, anticipating

¹⁹ Act of 14 July 2006 on the Entry into, Residence in and Exit from the Territory of the Republic of Poland of Nationals of the European Union Member States and their Family Members, Journal of Laws 2006 No 144, item 1043.

²⁰ Uwagi Helsińskiej Fundacji Praw Człowieka do projektu ustawy o działaniach antyterrorystycznych (Print No 516), p. 14. <<http://www.hfhr.pl/ustawa-antyterrorystyczna/>> accessed 18.01.2020. p. 22.

the possibility of immediate deportation of the person whose application has been rejected by the Office for Foreigners in any of the accelerated procedures.

The aim of the new regulation is in fact restricting access to asylum in the territory of Poland, discouraging potential asylum seekers from submitting applications, and enabling a prompt return of those foreigners who received a negative decision. In fact, negative decision denying international protection are final decisions. No administrative court proceedings can prevent the expulsion of the foreigner from the territory of Poland. Allegedly, the draft reform is a response of the authorities to the crisis on the Polish border in Terespol described above. It is the expression of the policy of closure towards foreigners, including limited access to obtaining asylum in Poland (Klaus et. al., 2018, p. 483). The objective of this legislation is to obstruct asylum seekers' access to international protection. In the explanatory memorandum to the latest draft of amendments it is indicated that the majority of applicants are not 'genuine refugees' and they just aim to circumvent the legal conditions for crossing the external border of the European Union. Using the 'logic' of the Polish government, special legal measures should be introduced to prevent 'abuse of refugee procedures by economic migrants.' These new mechanisms are intended not only to efficiently manage asylum processes, but also to 'contribute to internal security of the state and protect the public order' (Klaus, 2020, p. 82).

4. Discussion

Taking into consideration the geopolitical location of Poland on the map of Europe one could undoubtedly state that it is situated on the migration routes from Eastern to Western Europe. They lead mainly from Asian and Middle East countries. Poland's membership in the European Union and its status in the Schengen area should also affect the inflow and through-flow of legal and irregular migrants, especially through its Eastern border which is also the EU external border. The analysis of the Border Guard data on the number of persons apprehended for crossing the border illegally leads to other conclusions. In comparison to

other sections of the European Union's internal borders, the phenomenon on the Polish borders may be considered as a marginal one.

The number of issued refusals of entry is high if compared with other EU border areas, although not the highest. However, it is a result of restrictive policies in this field, which are not always compliant with international and humanitarian law. The situation in Terespol described above presents how immigration is "managed" in Poland. Being Poland a country that issues very few positive decisions on international protection, the government reduced the number of applications by not allowing foreigners to enter its territory. In this regard, we cannot forget that the Border Guard, being a police-like security body, plays an important role in the regulation of migration. As a body supervised by the Ministry of Home Affairs, it follows the current state agenda, which is rather hostile to immigrants, especially to those who do not fulfil legal requirements to enter the territory. This is an example of political actions that shape migration and criminal policies from a securitisation perspective (van der Leun and van der Woude 2013, p. 43). Politicians create a false image of the scale of immigration flows which, in their opinion, should justify their political actions i.e. new laws and amendments thereto on one hand and the real action as the measures taken in Terespol limiting the access to state's territory, on the other. The foreigner is presented as a stranger that may bring risks, what is in fact untrue.

The number of asylum seekers in Poland is among the lowest in the EU; however, this has not prevented the government from gradually limiting access to Polish territory since 2015.

This situation, at odds with the Polish and international law, is the result of political decisions and a manifestation of the government's reluctance to accept refugees, Muslims in particular. And it is not a coincidence that both Chechens and Tajiks, targeted mostly by this policy, are usually followers of Islam. In a similar fashion, the systematic refusal to grant Chechens international protection is a manifestation of the same trend. The Polish government maintains that Chechnya is a peaceful, war-free region. Therefore its nationals do not have any reasons not to return to their home country. Nevertheless, if for some unlikely reason they cannot stay in Chechnya, other regions of Russia are available. This is an example

of ideological blindness that contravenes international organizations' reports on the situation in the region (Klaus, 2020, p. 83). As far as Ukrainians are concerned, their influx to apply for asylum in Poland was insignificant also because there existed many legal channels of migration. Still, the claims that Poland has taken in a million refugees from Ukraine (as the Prime Minister declared) is clearly untrue. Most of the Ukrainian newcomers did not come from the regions affected by the conflict, nor did the Polish government offer them any integration support. Having arrived, these individuals were left to their own devices and subject to laws applied to economic migrants (Klaus, 2017a, p. 19).

Although Poland was not affected by a significant influx of asylum seekers during the migration crisis, those events coincided with the parliamentary elections, and the migration issue became one of the main points of the 2015 electoral agenda. Many politicians displayed a negative attitude towards refugees and to migration writ large, while Law and Justice (PiS, Prawo i Sprawiedliwość), the party that won the elections and formed the government, was at the forefront of the negative campaign, intimidating the public with images of "Islamic terrorists" and diseases spread by refugees. The new government embraced anti-immigrant rhetoric as the main instrument of communication, followed by legal changes that increased state control over foreigners, notably by proposing a new anti-terrorist bill, on the basis of which any person without Polish citizenship is deemed suspicious and subject to unlimited surveillance, e.g., in the form of phone tapping (Klaus, 2017a, p. 19-20)

That influenced the works on the new Anti-terrorism Act. Almost all amendments introduced in the Polish legislation which aim to prevent and combat irregular migration and terrorism have stemmed from the transposition of international and European law provisions. For example, the aforementioned Article 10(1) of the Anti-terrorism Act that authorizes both Internal Security Agency and Border Guard officers to take fingerprints, record face image or non-invasively collect genetic materials to determine the foreigner's DNA profile. It is clear that identification is of key importance in the context of refugee procedure, which is frequently abused by economic migrants. Scientists highlight that there are no measures which would facilitate monitoring the status of an asylum seeker whose proceedings were

dismissed. Although these dismissals are based on the person's absence, it is not possible to confirm whether the given noncitizen left Poland or stayed there illegally. The fact that there is no confirmed information as to what has happened to the people whose applications were refused or whose proceedings were dismissed makes the scale of any abuse difficult to determine (Szulecka, 2016, p. 233). However, the question is open as to whether this justifies a regulation such as that introduced by the Anti-terrorism Act. Should any undocumented person be treated as a suspicious criminal? Following Huysmans's approach (2000, p. 758), I have focused on the examples of securitization of Polish policy towards migrants taking into consideration the security field, not its political and societal production. Furthermore, these are the control measures for foreigners that cannot be used against Polish citizens. The provisions of Article 9 and Article 10 of the Anti-terrorism Act distinguish foreigners from Polish nationals, which directly contravene the Polish Constitution.

In this article I have aimed to demonstrate that immigration phenomena, and especially asylum-seeking flows, have been turned into a security issue rather than a human-rights issue. The priority of protecting borders from the influx of unwanted migrants has been the main goal of the Polish government since 2015.

Taking into consideration the threat to security and public order, an individual threat may be posed by either a regular migrant or an irregular migrant. Such a threat might also be posed by a Polish citizen, and therefore the introduction of a law which exclusively restricts foreigners' rights, which is contrary not only to the Constitution of the Republic of Poland but also to the European Convention on Human Rights, cannot be justified. Legal measures that are used to prevent and combat criminality must be equally targeted at both nationals of a particular country and foreigners who live there. The fact that a person does not possess Polish citizenship may not constitute grounds for undertaking procedural actions whose priority is crime prevention.

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