

DUBLIN II

national asylum procedure in Poland



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National Asylum procedure in Poland

What are the different forms of protection existing in Poland?

There are three forms of international protection to be granted to a foreigner asking for asylum in Poland.

Refugee status (*status uchodźcy*) is granted to a person who has a well-founded fear of being persecuted in his/her country of origin because of their race, religion or nationality, political opinion or belonging to particular social group (e.g. common sexual orientation).

“Persecution” usually means a serious human rights violation, such as for example torture, inhuman or degrading treatment, slavery, physical or sexual violence or very serious discrimination, not only performed by the state but also by family, political group or terrorist organization.

If the foreigner does not fulfill the terms and conditions to be granted a refugee status, he/she is granted **subsidiary protection** (*ochrona uzupełniająca*) if in the country of origin he/she would be at a real risk of suffering a serious harm through:

- death penalty or execution ;
- tortures, inhuman or humiliating treatment or punishment ;
- serious and individualized threat to life or health resulting from common use of violence to civil population in the situation of international or internal armed conflict.

Tolerated stay permit is granted to a foreigner if his/her expulsion:

- would constitute a threat to his/her right to life, freedom and personal safety, when in the country of origin he/she could be subjected to torture, inhumane or degrading treatment or punishment; could be forced to work; deprived the right to fair trial ; or could be punished without any legal grounds – within the meaning of the Convention on Human Rights and Fundamental Freedoms;
- would violate the right to family life within the meaning of Convention for Human Rights and Fundamental Freedoms or would violate the child’s right determined in the Convention on Child’s Rights (unless further stay of foreigner on the territory of the Republic of Poland constitutes a threat to state security or defense or to public safety and public order);
- is unenforceable due to reasons beyond the authority executing the decision on expulsion and beyond this foreigner (e.g. the foreigner concerned is stateless or does not have any documents and his/her identity cannot be confirmed);

REMEMBER: Any economic, financial or environmental conditions do not itself constitute a basis to be granted international protection.

NOTICE: There is a form of international protection in Polish law which is called « asylum » (azyl) but it is granted only if it is in a good interest of the state and is hardly ever used. In fact when you apply for asylum, you apply for refugee status and in the same procedure all three forms of international protection mentioned above are examined. As « asylum » is a term generally for international protection in international law, here and after by « asylum » is meant any kind of international protection in Poland (not « asylum » granted only in a good interest of the state).

Procedure for claiming asylum

1- Submission of the asylum application:

The asylum application should be submitted **through the officer of the border guard** to the Head of the Office for Foreigners.

- **If you enter Poland illegally** you should apply for asylum as soon as possible (at the border, at the airport).
- **If you already stay in Poland** (also when you stay illegally) the application should be submitted through the officer of border guard division in Warsaw :
Nadwiślański Oddział Straży Granicznej
Ul. Taborowa 33
Warszawa
- **If you are detained** the application should be submitted through the officer of the border guard division covering the territory where the detention centre is located.

In any case, the application is to be submitted in person. The application of the family (spouse and minor children that are dependent on their parents) can be submitted as one. The border guard officer takes photograph of you and the person on whose behalf the application is made and takes their fingerprints (only in case of persons over 14 years old).

You should let the border guard know that you want to apply for asylum (in Polish – *azyl*) or refugee status (in Polish – *status uchodźcy*). The application is submitted on the form, so border guard makes a short interview with you in order to get some information: your personal data, name of the country you come from and basic information concerning the circumstances that made you apply for asylum in Poland. During this short interview with the border guard you are entitled to use your own language, so the interpreter should be provided.

Remember to give – if possible – detailed answers to the questions in the form, since this statement will be then compared with the statement given during the interview in the Office for Foreigners which is the most important part of the procedure.

When you decide to apply for asylum, visa on which you entered Poland (if you have one) is claimed invalid. Your travel document (passport) is taken by the border guard to the deposit of the Head of the Office for Foreigners. You are given instead a temporary ID document (Temporary Certificate of Foreigner/s Identity), valid for one month, which is afterwards prolonged by the Head of the Office for Foreigners until the end of the procedure of granting international protection.

The border guard cannot refuse to register your asylum claim. The Head of the Office for Foreigners is a competent authority to examine the application.

2- How the application is considered

First it should be checked if Poland is the responsible country for examining your application. That is when Dublin Regulation is implemented (see below the chapter on Dublin procedure).

If Poland is the responsible country for examining your application and it is your first application for granting refugee status, the in-merit procedure starts. This means that the competent authorities will consider if in your case there are any grounds to grant you international protection. All three forms (refugee status, subsidiary protection and tolerated stay permit) will be examined in one procedure.

As mentioned above, the most important part of the procedure is the interview (hearing), during which you are asked detailed questions about your situation in the country of origin.

You receive a letter by post (or fax – if you are in a refugee camp) informing you about the day and time of the interview. Remember to keep informing the Head of the Office for Foreigners about the current place of your stay in order to obtain all the necessary correspondence.

If you are in detention, the interview can be held in the detention centre.

During the interview you have a right to communicate in the language you understand and be provided with the interpreter. It is advisable to make sure beforehand that the interpreter can speak the same dialect. If not, let the officer know about it straight away. Your attorney, if you have any, can be also present at the interview.

You will be asked questions about the reasons why you left your country of origin and how you came to Poland. Your “*credibility*” plays a very important role, so it is very important that you give a detailed explanation during the interview of why you had to leave your home country. It is important to give concrete information that can be then verified (names, dates). Try to make sure that you do not make conflicting statements and keep in mind what you said during submitting the application for asylum.

Be aware that your officer, the interpreters, your lawyer and your social worker all have the strict obligation to keep everything what you say a secret. Nothing will be told to the authorities of your home country (not even the fact that you applied for asylum), if this could cause any danger for you or your family members.

After the interview you have a right to receive the copy of record of the hearing, which is prepared only in Polish. Its content should be translated orally to you. Signing the copy of the interview (which has to be done in order to obtain it) means that you agree with its content. That is why it is important to make sure beforehand that you and the interpreter understand each other well.

The interview can be recorded by means of audio-visual recording equipment if you are informed about it and there are no technical obstacles. In some cases conducting the interview by the Head of the Office for Foreigners is not obligatory.

Documents and other evidence, if you have any, may be presented at any stage of the proceedings (before, during or after the interview, before the authority makes a decision). It is necessary to present the original documents but you can submit only the copies and keep the original to yourself. You do not need to translate them. You have a right to present the documents in your language and if they are important for the proceedings, they will be taken into account.

Until the decision is made, you are obliged to stay on the territory of Poland.

There is also a special procedure in case your application is claimed “manifestly unfounded”, which means “clearly unjustified”. The application is claimed manifestly unfounded when you give other reasons for your application than fear of persecutions or serious injury or you come from a safe country or you give a false statement, conceal the information or documents, submit another application on the basis of another personal data etc. Such application is examined within 30 days, conducting the interview is not obligatory (unless you are an unaccompanied minor) and the appeal in case of a negative decision has to be lodged within 5 days.

If you apply for asylum again, after you previous application was rejected, and you do not give any new circumstances justifying your application (e.g. the situation in your country has changed significantly or your personal situation is different than before), your application can be claimed “inadmissible” and the proceedings can be discontinued.

a) Rights of the asylum seeker

- You have a right **to contact freely a representative of the United Nations High Commissioner for Refugees** as well as **any non-governmental organizations** dealing with the refugee matters.
- You have a right **to communicate in the language you understand.**
- You have a right **to an interpreter with whom you are able to communicate.**
- You have a right **to lawyer** (legal representative) that can be present at the interview, look into the acts and copy the documents regarding the case, visit you (even in the detention centre).
- After the interview you have a right **to obtain a copy of record of the hearing** (only in Polish).

b) How long does it take on average to process an asylum application

Under the law the decision-making process in the first instance proceedings should last 6 months (if the application is manifestly unfounded – 30 days). In practice, the regular proceedings usually take longer (even more than one year), but may as well take a few months – it depends on the particular case and the number of applications at the time. If the decision is not issued within the 6 months period, you can apply to the Head of the Office for Foreigners for the document, on the basis of which you can work legally in Poland for the defined period of time.

Rights of the asylum seekers

From the moment you apply for asylum your stay in Poland is legal. You give your passport to the deposit until the end of the procedure and instead you get the document called **Temporary Certificate of Foreigner's Identity** (Tymczasowe Zaświadczenie Tożsamości Cudzoziemca, TZTC). Temporary Certificate of Foreigner's Identity confirms your identity and entitles you to stay in Poland during its validity period. You get such document from the authority admitting your asylum application (border guard). First identity certificate is valid for one month. After this time you should apply to the Head of the Office for Foreigners for a new identity certificate. The Head of the Office issues this document for maximum 6 months, until the end of the procedure. You should apply to the Head of the Office for Foreigners for a identity certificate whenever its validity is finished or the data put in it should be changed.

REMEMBER: All the information above concerns foreigners who apply for asylum for the first time. If your procedure has already finished with negative decision, it means the decision on your expulsion (deportation) is in force. You can apply again for asylum and get the Temporary Certificate of Foreigner's Identity, but if the Head of the Office does not decide to withhold the deportation until the end of your second procedure, you can be deported. If the border guard or police check your documents and they find out that there is a decision on deportation in force in your case that has not been withheld, they can detain you in order to execute it, even if you applied again for refugee status.

1- Social and medical care:

During the procedure and up to two months after receiving the final decision in you asylum case you have a right to social assistance and medical care.

Social assistance can be granted in or out of the refugee camp. Social assistance granted in a refugee camp includes:

- accommodation,
- all-day meals or its equivalent (for example for the child attending classes at school),
- pocket money for personal expenses,
- permanent financial assistance for purchase of hygiene articles,
- one-time financial assistance or coupons for clothing and footwear,
- course of Polish language and basic materials necessary for learning,
- didactic equipment for children attending classes at primary schools, gymnasia or grammar schools, covering, as far as possible the expenses of extra classes and sports and recreational classes,
- financing tickets for public transport (if the journey is related to asylum procedure or medical purposes or in other justified cases)

Social assistance can be also granted out of the refugee camp, as a benefit in money. It can be granted for organizational reasons, to ensure safety to the foreigner (for example to single women), to secure public order or protect family relations (if a member of your family stays legally in Poland and you want to stay with him/her instead of staying in the camp). Then you have to arrange the accommodation and cover all expenses on your own, from the amount of money you get as this benefit.

No matter which kind of social assistance refers to you, you will be provided with **medical care**. Medical care covers all the health care services financed from the public funds, that a Polish citizen covered by obligatory or voluntary health insurance enjoy, except treatment in health-resort.

REMEMBER: All the information above concern foreigners who apply for asylum for the first time. If you apply for asylum again, after your previous application was rejected, and you do not give any new circumstances justifying your application (e.g. the situation in your country has changed significantly or your personal situation is different than before) you do not have a right to social assistance. However, if you voluntarily returned to your country of origin with assistance of the Head of the Office for Foreigners and within 2 years time applied again for refugee status, you have a right to medical care and 1/3 of social assistance granted as a benefit in money (so you cannot stay in a refugee camp).

2- Work permit:

As mentioned above, the regular decision-making process in the first instance proceedings should not exceed 6 months. If the decision is not issued within the 6 months period and you are not responsible for the delay (e.g. by leaving the country) you can apply to the Head of the Office for Foreigners for the document, which – together with your identity certificate – gives you (and your spouse covered by the same asylum application) a basis for working legally in Poland for the defined period of time. In this case no additional work permit is required.

3- Detention:

You can be detained in order to:

- establish your identity;
- prevent from abuse in proceedings of granting the refugee status;
- prevent a threat to other people safety, health, life or property;
- protect the defence or safety of the state or safety and public order;

You can also be detained when he/she illegally crossed or attempted to cross the border or entered Poland or stayed here without permission. However, under the law, such foreigner should not be detained if he/she comes directly from the country in which circumstances are justifying granting you refugee status or subsidiary protection. In such situation you should submit the asylum application immediately and present reliable reasons of your illegal entry or stay.

You can be placed in a guarded centre or detention centre (arrest) for the purpose of expulsion. The second one is far more rigorous and is applied if it is necessary for state security or defense or public safety and order.

The court can decide to place you in one of those detention centres for 30 to 60 days. Within 7 days from receiving the ruling you can appeal against it in Polish. After this period, your stay in detention can be prolonged, if the Head of the Office for Foreigners applies for it. The maximum time you can spend in detention is one year.

If you were already placed in the detention centre as an irregular immigrant and then decided to apply for asylum, your stay will be prolonged for three months ahead.

While in detention you have a right to telephone, correspondence or personal contact with the organizations that deal with refugee issues and organizations providing legal assistance. You also have a right to personal contact with the representative of the United Nations High Commissioner for Refugees.

Outcomes and consequences

The asylum procedure has four possible outcomes:

- you are granted refugee status;
- you are granted subsidiary protection;
- you are granted tolerated stay permit;
- your application is rejected and you should be deported (unless there was a decision on deportation issued before the asylum procedure; in such case your application is rejected without mentioning the deportation – but still the effect is the same: you can now be deported);

1- The international protection is granted

Effects of the recognition of the Refugee status, the subsidiary protection or of any form of protection (rights and obligations, status)

a) Refugee status:

Refugee status is granted for indefinite time (but it can be withdrawn). The **identity document** you get is called *karta pobytu*. It is valid for 3 years. You are also entitled to get **refugee travel document** valid for 2 years. These documents are issued by the Head of the Office for Foreigners.

Possessing the identity document and the travel document you can **cross the border** and stay on the territory of other Schengen countries without visa for three months in every six months. Remember however, that you have to fulfill other general entry requirements, i.e. be able to justify the purpose and conditions of your stay, be in possession of sufficient funds to support your stay or prove the possibility to obtain them lawfully and not constitute a threat to public order, internal safety and international relations of the country you want to go to.

After 5 years of uninterrupted stay in Poland you can apply for a permit to settle. After 5 years' stay on the basis on the permit to settle you can apply for **citizenship**. The rules differ if you are married to a Polish citizen.

As a refugee, you have right to **assistance supporting your integration**. You should apply for such assistance within 60 days from receiving the decision granting you the refugee status to the county officer (*starosta*) through the county centre for family support (*powiatowe centrum pomocy rodzinie*). You are also entitled to obtain regular social assistance.

You have a right to **work** in Poland without permission and undertake **economic activity** on the same terms as Polish citizens. You have a right to study on the same terms as Polish citizens. Your children have a right to education on the same terms as Polish citizens.

You cannot be deported unless your **refugee status is withdrawn**. It can be done i.a. if you voluntarily accepted the protection of your country of origin or voluntarily settled there (in practice – also if you go visit your country), committed a crime against peace, gave false statement or documents in the proceedings for granting the refugee status.

b) Subsidiary protection:

Subsidiary protection is granted for indefinite time (but it can be withdrawn). The **identity document** you get is called *karta pobytu*. It is valid for 2 years and is issued by the Head of the Office for Foreigners. You are also entitled to get a **Polish travel document for a foreigner** valid for 1 year provided you do not have a travel document issued by the authorities of your country of origin (you lost or destroyed it or its validity is finished) and you have no possibility to obtain a new document. Polish travel document is issued by the authority called voivode (wojewoda).

Possessing the identity document and the travel document you can **cross the border** and stay on the territory of other Schengen countries without visa for three months in every six months. Remember however, that you have to fulfill other general entry requirements, i.e. be able to justify the purpose and conditions of your stay, be in possession of sufficient funds to support your stay or prove the possibility to obtain them lawfully and not constitute a threat to public order, internal safety and international relations of the country you want to go to.

After 5 years of uninterrupted stay in Poland you can apply for a permit to settle. After 5 years' stay on the basis on the permit to settle you can apply for **citizenship**. The rules differ if you are married to a Polish citizen.

You have right to **assistance supporting your integration**. You should apply for such assistance within 60 days from receiving the decision granting you the refugee status to the county officer (*starosta*) through the county centre for family support (*powiatowe centrum pomocy rodzinie*). You are also entitled to obtain regular social assistance.

You have a right to **work** in Poland without permission and undertake **economic activity** on the same terms as Polish citizens. You have a right to study on the same terms as Polish citizens. Your children have a right to education on the same terms as Polish citizens.

You cannot be deported unless the **subsidiary protection is withdrawn**. It can be done i.a. if circumstances because of which it was granted changed and the protection is no longer required, if you constitute a threat to state security or society or gave false statement or documents in the proceedings for granting the refugee status.

c) Tolerated stay permit:

Tolerated stay permit is granted for indefinite time (but it can be withdrawn). The **identity document** you get is called *karta pobytu*. It is valid for 1 year and is issued by the Head of the Office for Foreigners or voivode (wojewoda). If you do not have the travel document issued by your country, you are only entitled to get a **temporary travel document for foreigner** valid for maximum 7 days. If you are in Poland and want to go abroad it is issued by the authority called voivode (wojewoda) and if you are abroad and want to come back it is issued by the Polish consul.

Possessing the identity document and the travel document you can **cross the border** and stay on the territory of other Schengen countries without visa for three months in every six months. Remember however, that you have to fulfill other general entry requirements, i.e. be able to justify the purpose and conditions of your stay, be in possession of sufficient funds to support your stay or prove the possibility to obtain them lawfully and not constitute a threat to public order, internal safety and international relations of the country you want to go to.

If you were granted tolerated stay permit because your expulsion:

- would constitute a threat to your right to life, freedom and personal safety, when in the country of origin you could be subjected to torture, inhuman or degrading treatment or punishment, or could be forced to work or deprived the right to fair trial, or could be punished without any legal grounds – within the meaning of the Convention on Human Rights and Fundamental Freedoms;
- would violate the right to family life within the meaning of Convention for Human Rights and Fundamental Freedoms or would violate the child's right determined in the Convention on Child's Rights (unless further stay of foreigner on the territory of the Republic of Poland makes threat to state security or defense or for public safety and public order);

You can apply for a permit to settle after 10 years of uninterrupted stay. After 5 years' stay on the basis of the permit to settle you can apply for **citizenship**. The rules differ if you are married to a Polish citizen.

If you were granted a tolerated stay permit because your expulsion is unenforceable due to reasons beyond the authority executing the decision on expulsion and beyond you (e.g. you are stateless or do not have any documents and your identity cannot be confirmed) you are excluded from applying for a permit to settle. That means that you can apply for **citizenship** only under particularly justified circumstances.

No matter which was the basis to grant you tolerated stay permit, you do not have a right to **assistance supporting your integration**. You are entitled to obtain social assistance only in the form of a shelter, meal, essential clothes and purposeful benefit.

You have a right to **work** in Poland without permission and undertake **economic activity** on the same terms as Polish citizens. Your children have a right to education on the same terms as Polish citizens.

You cannot be deported unless the **tolerated stay permit is withdrawn**. It can be done i.e. if the reason for granting tolerated stay permit stopped to exist, if it constitutes a threat to state security, defense, public security or policy, if you voluntarily applied for the protection of your country of origin or permanently left Poland.

2- The asylum application is rejected

a) Appeal

You have a right to appeal if you disagree with the decision. This means that you can appeal when your application have been rejected, but also if you were granted international protection but not the form that you expected (e.g. you were granted subsidiary protection but want refugee status).

The appeal should be submitted within 14 days from receiving the decision to the Council for Refugees (*Rada do Spraw Uchodźców*) through the Head of the Office for Foreigners. In your appeal you can just state in writing that you do not agree with the decision and sign it. You can also ask a lawyer from one of the organizations helping refugees (see the end of the brochure) to help you prepare a full, motivated appeal.

After examining your application the Council for Refugees can:

- accept your appeal and grant you refugee status, subsidiary protection or tolerated stay permit;
- cancel the decision of the Head of the Office for Foreigners, and order the Head of the Office to re-consider your case (your procedure will re-start);
- reject your appeal and accept the decision as it is.

The decision made by the Council for Refugees is **final in administrative proceedings**. Within 30 days you can lodge a complaint to the Regional Administrative Court in Warsaw (*Wojewódzki Sąd Administracyjny w Warszawie*) through the Council for Refugees. The proceedings in front of the administrative court is payable so it is advisable you get legal assistance from one of the organizations (see the end of the leaflet) to explain you in details the matter and help you write the complaint. If you are not satisfied with the ruling of the court you can appeal against it to the Supreme Administrative Court, but such complaint is specific – it is so called cassation complaint and it has to be prepared by an advocate (to get further details contact one of the organizations from the list).

Remember, that in case of final rejection of your application in administrative proceedings (i.e. not granting any form of international protection) the decision given to you contains the decision on expulsion (deportation), unless you received such decision before you applied for asylum. If so, its execution has been withheld until the end of the proceedings and it can be now executed. Under the law you have 30 days to leave the country. The border guard can detain you in order to execute the decision if you do not leave voluntarily. If you lodge a complaint to the administrative

court, it is important to apply to the court to withhold the deportation until the end of the proceedings.

b) Return

As mentioned above after the final negative decision in administrative proceedings regarding your case, you should leave Poland within 30 days. Within this period you can inform the Head of the Office for Foreigners that you want to return voluntarily to your country of origin.

There is also an organization that you can contact when you want to go back to your home country (also when the procedure has not yet finished and you decide to go back):

International Organization for Migration (IOM)

Mariensztat Street 8

00-302 Warsaw

tel. no. (+48 22) 5389103

iomwarsaw@iom.int

When you return voluntarily (e.g. with IOM or you pay the costs of your deportation yourself), entry to Poland and other Schengen countries will be forbidden to you for 3 years. If the border guard detain you and deport you, entry will be forbidden to you for 5 years. During this period you will be refused visa to these countries, but you can still apply for asylum again at the border. However in such situation the border guard may detain you.

Special provisions for unaccompanied minors and vulnerable persons

If you are an **unaccompanied minor** applying for asylum, the authority admitting your asylum application (border guard) should bring you to professional foster family functioning as emergency shelter in crisis situations, or care and educational centre. Then this authority or the Head of the Office for Foreigners immediately apply to the custody court for establishing a guardian to represent you in the proceedings for granting the refugee status and place you in care and educational centre.

Your interview (hearing) in the proceedings should be held in presence of the guardian, an adult that you can indicate (if this person will not cause any disturbance) and the psychologist or pedagogue, who prepares an opinion about your psychophysical state. The guardian has a right to ask questions and make remarks.

If you have been refused granting the refugee status, you wait for the deportation remaining in the care and educational institution until you are handed over to the authorities or the organizations of your country of origin, whose statutory functions include issues of the minors.

If you are **disabled** or were a **victim of violence** you should inform about it the Head of the Office. The authority ensures then carrying medical or psychological examinations in order to acknowledge such circumstances. If those circumstances are confirmed, the proceedings for granting the refugee status should be carried out in a particularly tactful manner, adjusted to your psychophysical state. The dates should be adjusted according to your mental and physical status, taking into consideration the dates of medical treatments, if you undergo any. All the activities in the proceedings should be undertaken with the participation of a psychologist or medical specialist and – if needed – of an interpreter of the sex indicated by you. You also have a right to indicate the sex of the officer undertaking activities in the proceedings (e.g. conducting interview) and activities related to granting assistance in the refugee camp, who should be vocationally trained beforehand. If justified in your situation, the activities in the proceedings can be held in the place of your stay or you can have transport assured.

Implementation of the Dublin regulation in Poland

In the European Union only one EU member state should deal with the case of an asylum-seeker. This country is usually the first country that the asylum-seeker entered. Therefore, in the refugee status procedure, the Office for Foreigners will first check which EU country is responsible for examining your asylum application. This is the so-called “**Dublin procedure**”.

1- Situation n°1:

When the asylum seeker falls within the scope of the Dublin regulation while he/she has lodged his/her asylum application in Poland

If you are already in Poland, the Dublin procedure generally applies in two situations:

a) there are reasons to claim that you have already asked for asylum or had visa or stay permit or that you travelled through any of the following countries:

Austria,	Finland,	Latvia,	Slovenia,
Belgium,	France,	Lithuania,	Spain,
Bulgaria,	Germany,	Luxemburg,	Sweden,
Cyprus,	Greece,	Malta,	Switzerland,
Czech Republic,	Hungary,	Norway,	United Kingdom.
Denmark,	Iceland,	Portugal,	
Holland,	Ireland,	Romania,	
Estonia,	Italy,	Slovakia,	

[Note that Iceland, Norway and Switzerland are not EU member states, but they are still part of the “*Dublin system*”.]

The Office for Foreigners checks if Poland is the responsible country to examine your application when:

- the authority finds out on the basis of your fingerprints (which are stored in a common European database called “Eurodac”), that you have already asked for asylum in any of these countries,
- you have a visa in your passport for any of the countries mentioned above or have a valid residence document in any of these countries;
- you tell the authority that you crossed any of these countries on your way to Poland
- there are other signs: for example any documents that certify that you were in another EU country before coming to Poland (tickets, receipts, etc.)

In such case the Office for Foreigners apply to the competent authority of the other EU country The Dublin procedure can take a long time, several weeks or even months. This is because it takes time to get an official answer from another EU state. Therefore, if the Office for Foreigners starts a Dublin procedure in your case, **your refugee status procedure will be suspended until the Dublin procedure is finished.**

If it turns out that Poland is the responsible country to examine your application, you continue your stay here and the procedure will now be concentrated on your personal situation in your country of origin.

If another EU country should deal with your asylum application, you will be transferred to this country. If you do not want to be sent back to that other country, **you can appeal from the decision on transfer.** You should submit your appeal to the Council for Refugees **within 14 days**

through the Head of the Office for Foreigners. You will wait for the final decision of the Council for Refugees and be transferred if the Council decides so.

b) a member of your family is in another EU country (no matter if he/she is already granted refugee status or his/her application is still examined) and you want to join him/her:

You should apply to the Head of the Office for Foreigners for starting the Dublin procedure in your case. Together with such application you should submit **the documents certifying your relation with the member of your family that you want to join** (birth certificate, marriage certificate). Then the Office for Foreigners applies to the country where your family member stays to accept you.

Mind that this relation should have existed in your country of origin, if you want to join a person that has not yet been granted refugee status and his/her application is still examined.

Remember, that by **family member** is meant only:

- your spouse (husband or wife)
- minor children (if they are not married and depend on you economically)
- you parent or guardian (if you are an unaccompanied minor)

You can be taken to other member of your family if you need their help because of being pregnant, seriously ill, handicapped or of old age. This is so called **humanitarian clause**. Mind that in this case there is no obligation to take you to another country in order to examine your application. That means that it is going to be decided in the procedure: the country you want to go to may disagree to accept you and you may as well have to stay in Poland.

If the other EU country refuses to accept you, **you do not have a right to appeal**. The decision is received by the Office for Foreigners and they inform you about it. However, if you present any new documents (e.g. medical certifications), the Office for Foreigners may apply again to the country where you family member stays to **reconsider your case**.

NOTICE: A vulnerable person or a person affected by a psychological or a physical disease cannot be transferred.

2- Situation n²:

When the asylum seeker is transferred to Poland (responsible state for examining the asylum application):

Generally you can be transferred to Poland in these situations:

a) you applied for asylum in Poland and then left to another EU country:

As a general rule, once you applied for asylum in Poland, **you should stay on its territory until the end of the proceedings**. If you want to join your family member you should apply for it as explained above. If you go to another EU country by yourself, there is a high possibility that you will be brought back to Poland.

REMEMBER: if you gave your passport to the deposit like you were supposed to applying for asylum or you somehow kept you passport but came on the basis of visa valid only in Poland, by continuing your trip to another EU country **you cross the border illegally**. This is a sufficient reason to be detained by the border guard (**even if you only attempt to do it**) and to be **placed in a detention centre** (guarded camp or detention centre for the purpose of deportation) for 30–60 days.

Precisely speaking, when you are transferred back to Poland you are being handed over to the border guard. Within 48 hours the border guard can apply to the court to place you in a detention centre because you crossed the border illegally. If you arrive by plane, the border guard is informed about it and escorts you to the allocated zone at the airport. It is not obligatory for the border guard to detain you, so (especially when you are a woman with minor children) you can be directed to the Office for Foreigners, where you can apply to re-open your case and apply for social assistance.

Be aware, that the moment you left Poland your procedure has been **discontinued**. When you are transferred back to Poland, you should apply for **re-opening your case**. You do it through the border guard officer. You are entitled to get social assistance if you were receiving it before leaving Poland, unless you are placed in detention centre.

b) you have a valid residence permit in Poland or valid Polish visa and you applied for asylum in another EU country;

This rule also apply if you came to Poland a visa to enter Poland is not required for the citizens of your country and you first came to Poland and then apply for asylum in another EU country

BUT: if the residence document expired more than 2 years ago or your visa on which you entered EU expired more than six months ago.

c) you entered Poland illegally (no matter how), then left to another EU country and applied for asylum there;

BUT: Poland is no longer responsible for examining your application if you applied for asylum in another EU country after 12 months from crossing the border illegally.

d) if you came to Poland, you did not need a visa to enter it and then you applied for asylum in another EU country where you should have visa in order to enter it legally;

It may also happen that you applied for asylum in another EU country and you are brought to Poland for the first time, as Poland was found the responsible country for examining your application.

In case you have not yet applied for asylum in Poland, you should do it as soon as possible. If you arrive by plane you can do it at the airport through the border guard officer. In any case you submit your application to the Head of the Office for Foreigners through the border guard officer. Then the regular procedure is applied (see above). The border guard should inform you about your rights and obligations in the asylum procedure. If not, you can contact any of the organizations mentioned below to get further information.

Contact information in Poland

1- Partner organization activities and contact details

Helsinki foundation for Human rights

Karolina Rusilowicz or Boguslawa Orzol

@ k.rusilowicz@hfhr.org.pl or b.orzol@hfhr.org.pl

+48 225 564 466

Website: www.hfhr.org.pl

Activities (brief description): organization protecting human rights and developing human rights culture in many fields, i.a. by providing cost-free legal assistance to refugees and migrants.

2- Support organizations for asylum seekers

a) International Organizations

National Office of UNHCR

ul. Szucha 13/15 lok. 17

Warszawa

www.unhcr-rrbp.org/poland

International Organisation for Migration (IOM)

ul. Mariensztat 8

Warszawa

<http://www.iom.pl>

+48 225 389 169

iomwarsaw@iom.int

b) Non-governmental organizations

Polska Akcja Humanitarna Centrum Pomocy Uchodźców

Polish Humanitarian Action Refugee Aid Centre

ul. Szpitalna 5/3

Warszawa

www.pah.org.pl/uchodzcy

+48 228 289 086

ucho@pah.org.pl

Stowarzyszenie Interwencji Prawnej *Legal Intervention Association*

Al. 3 Maja 12/510

Warszawa

www.interwencjaprawna.pl

+48 226 215 165

Caritas Polska –Centrum Pomocy Migrantom i Uchodźcom
Caritas Poland –Aid Centre for Migrants and Refugees

 www.caritas.pl/

Krakowskie Przedmieście 62

Warszawa

 +48 228 269 910

 migranci-waw@caritas.pl

ul. Prymasa Stefana Wyszyńskiego 2

Lublin

 +48 817 437 186

 migranci-lublin@caritas.pl

ul. Warszawska 32

Białystok

 +48 857 325 553

 migranci-bialystok@caritas.pl

ul. Wojska Polskiego 140

Słubice

 +48 957 374 006

 migranci-slubice@caritas.pl

Centrum Pomocy Prawnej im. Haliny Nieć

The Halina Nieć Legal Aid Center

ul. Krowoderska 11/7

31–141 Kraków

 www.pomocprawna.org

 +48 126 337 223

 biuro@pomocprawna.org

**Fundacja „Studencki Ośrodek Pomocy Prawnej przy Wydziale Prawa i Administracji
Uniwersytetu Warszawskiego –Klinika Prawa UW”**

*‘Student Legal Aid Center at the Faculty of Law and Administration at the University of Warsaw –
Legal Clinic at University of Warsaw’ Foundation*

Krakowskie Przedmieście 26/28

(temporarily Dobra 68/70)

Warszawa

 www.klinika.wpia.uw.edu.pl

 +48 225 524 318

 klinika@wpia.uw.edu.pl

Stowarzyszenie na rzecz Integracji i Ochrony Cudzoziemców "Proxenia"

‘Proxenia’ Association for Integration and Protection of Aliens

ul. Ostrobramska 98

Warszawa

 www.proxenia.org.pl

 +48 226 100 252

Fundacja „Ocalenie”

‘Ocalenie’ Foundation

ul. Ordynacka 9/21
Warszawa 00–364
 +48 228 285 054
 ocalenie@wp.pl

Ośrodek Praw Człowieka Uniwersytetu Jagiellońskiego

Al. Z. Krasińskiego 18
Kraków
 www.opc.uj.edu.pl
 +48 124 272 480

Instytut na rzecz Państwa i Prawa

Ul. Chopina 14/70
20–023 Lublin
 www.fipp.org.pl
 +48 817 436 805
 +48 815 324 069

Fundacja Edukacji i Twórczości

Centrum Integracji Uchodźców
ul. Św. Mikołaja 9
15–419 Białystok
 +48 (085) 7424041 (42) (43)
 +48 085) 8691026
 biuro@mentoring.pl

Stowarzyszenie „Jeden Świat”

‘One World’ Association

Ul. Prusa 16A/13
Poznań
 www.jedenswiat.org.pl/
 +48 61 848 43 36/37
 info@jedenswiat.org.pl

Polskie Forum Migracyjne

Polish Migration Forum

Izabelin 05–080, ul.
Orła Białego 44a
 www.forummigracyjne.org/pl
 +48 605 888 753;
 info@forummigracyjne.org

c) Administrations :

Urząd do Spraw Cudzoziemców *(Office for Foreigners)*

Taborowa street 33
Warsaw

✉ Koszykowa street 16
00–564 Warszawa

🌐 www.udsc.gov.pl

☎ +48 22 60 174 02,

@kierownictwo@uric.gov.pl

Dublin Procedure Department

☎ +48 22 60 141 27

@dublin.pl@uric.gov.pl

Activities:

The central authority of governmental administration is competent with respect to entry of the foreigners in the territory of Poland, transit through that territory, residence and granting to foreigners the refugee status, subsidiary protection and tolerated stay permit.

Rada do Spraw Uchodźców *Council for Refugees*

Al. Szucha 5

00–582 Warszawa

🌐 www.rada-ds-uchodzcow.gov.pl

Activities:

Authority of the second instance in cases regarding granting international protection, which examines the appeals against the decisions of the Head of the Office for Foreigners

Wojewódzki Sąd Administracyjny w Warszawie *Regional Administrative Court in Warsaw*

Ul. Jasna 2/4, 00–013 Warszawa

🌐 www.bip.warszawa.wsa.gov.pl

Activities:

It examines complaints against decisions of the Council for Refugees regarding granting international protection.

Naczelny Sąd Administracyjny *Supreme Administrative Court*

ul. Gabriela Piotra Boduena 3/5

00–011 Warszawa

🌐 www.nsa.gov.pl

Activities:

It examines cassation complaints against the rulings of the Regional Administrative Court.