

**Protect children on the move**



# **SITUATION ANALYSIS OF CHILDREN ON THE MOVE IN POLAND**

**REGARDING INTERNATIONAL AND NATIONAL  
MIGRANT CHILDREN IN FOSTER CARE**



**Warsaw 2013**

# Situation Analysis Of Children On The Move In Poland

## Regarding International And National Migrant Children In Foster Care

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# 1. INTRODUCTION

## 1.1. GOALS OF THE ANALYSIS

This research was conducted as part of the Mario Project: Joint action to protect Central and South Eastern European migrant children from abuse, exploitation and trafficking in Europe. The main goal of this research was to assess the situation of children on the move within the context of the child protection system in Poland.

## 1.2. DEFINITIONS

### 1.2.1. CHILDREN ON THE MOVE

For the needs of the project “a child” is considered to be “a person under the age of 18”.

“Children on the move” is not a clearly defined term. For purposes of the Mario project the definition “children on the move” includes “the following categories of children: migrant children (internal or across borders; legal or illegal; accompanied or not), asylum-seeking and refugee children, trafficked children, internally displaced children or children outside of their protective environment. Therefore, the child should have already moved; may also be a returned migrant; is moving and/or is susceptible to impending migration. The child should possess citizenship or habitual residence in one of the Central or South Eastern European countries. Migration may be either internal or international”. (Milne, 2013).

For the purpose of the Polish research “children on the move” were identified mainly as children with an international migration experience, as well as children with an internal migration experience and returned migrants.

In the study the term “children on the move” could also apply to children in residential care facilities, especially intervention centres, since they are moved many times between different kinds of childcare facilities and residing in an intervention facility is always temporary – a period of waiting for the decision about the future of the child.

### INTERNATIONAL MIGRANTS

The definition of “international migration” from The Demographic Yearbook of Poland Central Statistical Office says that “the international migration of the population is understood as the movement of people related to change of the country of residence. Regulation (EC) 862/2007 of the European Parliament and of the European Council of 11 July 2007 includes the definition of migration taking into account the intended period of residence in another country for at least 12 months. According to this definition:

- Immigration means arrival in a country by a person who was previously a usual resident of another country with the intention of staying for a period of at least 12 months.
- Emigration means departure from a country by its usual resident with the intention of staying abroad for a period of at least 12 months.

An established resident of the country is a person who resides or intends to reside in a given country for a period of at least 12 months. This type of migration (related to a change in the country of residence for at least 12 months) is defined as long-term international migration”. (Central Statistical Office, 2013, p. 439).

For the purpose of this project “international migrants” are considered to be natural persons who leave their country of origin or that of their habitual residence and arrive/settle in Poland.

### INTERNAL MIGRANTS

For the purpose of this project “internal migrants” are natural persons who have had experience(s) of running away (from home or an institution/centre) and/or have had experience(s) of being moved between different institutions as well as administrative borders.

### RETURNED MIGRANTS

We have defined “returned migrants” as people who had lived in Poland before emigrating to another country for at least 6 months and then coming back to Poland.

### 1.1.1. CHILD PROTECTION SYSTEM

Poland still does not have a specific child protection unit. However there are several types of social services institutions, procedures and practices among whose responsibilities also include the protection of children in different situations.

Due to the aforementioned we have decided to focus on children in the foster care system, which is an established or at least stable system of support.

### FOSTER CARE

According to the Act on Family Support and the Foster Care System “foster care shall be exercised in the event that it is impossible for parents to provide care and education for their child”. (Article 32).

This foster care can take the form of a family-based or institutional facility.

The forms of family-based foster care are as follows (Article 39):

1) foster families:

- a) kinship families
- b) non-professional, non-relatives of the child
- c) professional foster families, including the professional foster family performing the function of an emergency foster family service, and a professional specialized family
- 2) a family-like home (one multi-child family for 4-8 children of all ages who cannot be placed in a foster family or adopted)

Institutional residential care shall be exercised in the form of (art. 93):

- a) an educational care facility
- b) a regional care and therapy centre
- c) a pre-adoption intervention facility

An educational care facility may take the form of (Article 101):

- a) a “socialization” educational care facility (practically a children’s home) which provides care for no more than 30 children with round-the-clock care and upbringing
- b) an intervention educational care facility: immediate, round-the-clock care for children in an emergency crisis situation – the child should be placed there for no longer than three months
- c) a specialised care facility for children with various kinds of disabilities and disorders

All types of foster care were covered in this project, however our research focuses mostly on educational care facilities: socialization and intervention facilities.

## 1.2. METHODS

The data for the Situation Analysis was collected in two phases: in the first phase extensive desk research was carried out, in the second phase stakeholders, guardians and children were interviewed. The memos and notes from the Council of Experts<sup>1</sup> meetings have been used as well.

### 1.2.1. DESK RESEARCH

For the desk research among available documents on children on the move the following were reviewed: official documents, statistics, research reports and legal documents about children on the move (internal migrants/runaway children and international migrants) who are in foster care.

### 1.2.2. INTERVIEWS

Semi-structured interviews with key stakeholders were conducted as well as with children.

At the beginning of the project the research was divided into two phases:

Phase 1 – 10 interviews with key stakeholders

Phase 2 – 10 interviews with children in the foster care system who are either:

- internal migrants/runaway children
- international migrants
- returned migrants

The 10 interviews with stakeholders were conducted with representatives of NGOs (Polish Migration Forum, the ITAKA Foundation, the International Organization for Migration Poland, the Foundation for Social Diversity), institutions (the Warsaw Family Support Centre, Children Institutional Care – where the Group for Unaccompanied Minors used to function – the Youth Social Rehabilitation Centre, the Intervention Care Facility) and the University of Warsaw.

While conducting desk research it turned out that there were not many children who were returned migrants and even fewer who were in foster care. That is why returned migrants were not part of our research.

During Phase 1 the stakeholders who were interviewed expressed their doubts about interviewing international migrants – unaccompanied minors. They said these children are very often interviewed because in Warsaw – where the research was conducted – there are not many unaccompanied minors. They claimed, as well, that these children had very often had traumatic experiences which were extremely difficult for them to talk about it with a stranger; that they were withdrawn; and that they most likely would not tell

<sup>1</sup> The Council of Experts within the “Mario” project has been operating since 2011. It is composed of professionals and academics with distinct areas of expertise from various backgrounds who are involved in the protection of foreign children and their rights. The main tasks of the Council of Experts consist of monitoring the situation of foreign children in Poland, initiating and consulting policy changes, ensuring better protection of foreign children’s rights and finally the promotion of good practices.

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the truth – as a defence mechanism they would change the most painful parts of their story. After discussing this problem within the research team as well as with experts, the original research plan was changed: it was decided to conduct interviews with the children's institutional guardians instead of interviewing unaccompanied minors. That is why five cases of unaccompanied minors in the research are analysed based on interviews with their guardians. These five cases of unaccompanied minors were developed on the basis of three interviews with the guardians or stakeholders who work at the intervention care facility and take care of the children. They also include one involving siblings, which is why, in total, the cases covered nine children: five boys and four girls, aged from 6 to 17 years old (from their first moment of contact with a Polish care institution). They were from Belarus, Afghanistan, Chechnya and Somalia.

According to the research plan five interviews with children in institutional care in Warsaw with runaway children were supposed to be conducted. However, this became difficult to carry out due to the specific nature of the respondents – an interview was postponed several times because a child had run away. That is why only four out of five interviews were completed. The interviewees were three girls and a boy from 12 to 16 years of age. At the time of the interview all of them were residents of the Children's Emergency Shelter. The interviews took place in a separate room, (a psychologist's office or a day room/common room) at the Children's Emergency Shelter. During three interviews there was only an interviewer and a child; at one interview a psychologist was also present (a requirement established by the institution), which influenced the interview – there was a moment during the interview, when it was clear that the child did not want to say anything because of the psychologist's presence. The interviews with children were difficult due to emotional problems of the respondents and the delicate nature of the subject.

### 1.2.3. OPEN GROUP DISCUSSION

Seven teenagers from the Youth Social Rehabilitation Centre participated in the group discussion – six boys and one girl, from 17 to 19 years of age. All of the teenagers were from the same class. The discussion was facilitated by two moderators and one observer. During the discussion the class' tutor was present.

### 1.2.4. CHILD PARTICIPATION IN THE RESEARCH

Child participation in the project was ensured through a group discussion with teenagers at risk of internal migration/running away as well as based on individual interviews with children with migration experience. All of the children's opinions and statements were taken into account during the research and analysis.

## 2. NATIONAL CONTEXT

### 2.1. LEGAL FRAMEWORK

In the Polish legal system there are three essential acts which regulate the legal aspects of child migration: the Act on Family Support and Foster Care System, the Act on Granting Protection to Foreigners within the Territory of the Republic of Poland and the Act on Foreigners.

#### 2.1.1. THE ACT ON FAMILY SUPPORT AND FOSTER CARE SYSTEM

The Act of 9 June 2011 on Family Support and Foster Care System (hereinafter: the Family Support Act) regulates the support and foster care system (including the legal procedures of adoption). The Family Support Act refers to Polish citizens residing within the territory of the Republic of Poland, as well as foreigners who have met the conditions mentioned in Article 7 of the Family Support Act, e.g. for citizens of European Union member states residing within the territory of the Republic of Poland, as well as their family members. A part of the act also applies to foreign minors residing within the territory of the Republic of Poland even if they don't meet the conditions mentioned above.

Under Article 8 of the Family Support Act, a family experiencing difficulties in the fulfilment of care and educational functions is entitled to receive support from a regional governor (województwo), including, among others: an analysis of the family's situation and the causes of the crisis in the family. Family support should be provided in the form of work with a family and assistance in the care and education of a child. Assistance for a family may be provided by the institutions and entities specialising in child and family support, including: day care centres and back-up families, which will be defined below. Work with a family should be conducted, in particular, in the form of consultations and specialist counselling, therapy sessions and family mediation; services for families with children; legal assistance; the organisation of meetings for families in order to assure a space for sharing experiences and preventing isolation.

##### 2.1.1.1. DAY CARE CENTRES

In order to support a family, a child may be covered by the care and educational services provided in a day care centre. Article 24 of the Family Support Act defines the possible forms of organising a day care centre: a care centre; a specialist centre and street work carried out by a tutor. It is allowed to combine the aforementioned forms. The day care centre operating in the form of a care centre should provide a child with care and educational services, as well as allow the child to develop their interests. A day support centre in the form of a specialist centre should organise a different type of therapy services and implement an individual intervention programme. A day support centre in the form of a street work centre should carry out motivational and socio-therapeutic activities.

##### 2.1.1.2. BACK-UP FAMILY

Granting the assistance of a back-up family is another form of family support for those experiencing difficulties in the performance of care and educational functions. A back-up family, in cooperation with a family assistant, should help a family experiencing difficulties in the care and education of a child; maintaining the household; as well as defining and fulfilling basic social roles. The back-up family may come from the child's direct environment.

##### 2.1.1.3. FOSTER CARE

When parents are unable to provide care and education for their child the authorities should assure foster care for them. This foster care may be either family-based or institutional. The county (powiat) authorities are responsible for organising the abovementioned form of care. The main goal of the foster care is to work with a family to make it possible for a child to return to their family, or – when this is impossible – undertake efforts aimed at assuring the child's adoption or preparing the child for an independent and responsible life.

A child should be placed in foster care pursuant to a court order. In exceptional cases (e.g. in case of urgency/emergency) a child may be placed in a foster family on the basis of an agreement between the foster family and the person in charge of a family-like children's home – a county governor (starosta) who is responsible for the family's place of residence or the location of the family-like children's home. The county governor should immediately inform the court about this concluded agreement, which expires on the same day as the court finishes proceedings regarding foster care. The child may be also escorted to the foster family by the police or an officer from the Border Guard.

It is important to mention that a child may be placed in a foster family or a family-like children's home when the foster parents and the person that runs a family-like children's home, respectively, give their consent.

Family-based foster care may be organised in the form of a foster family or a family-like children's home. Both forms should provide the child with round-the-clock care and educational activities.

A professional specialised foster family can accept under its care children with a disability certificate, or with a certificate of high or moderate level of disability; children in proceedings in cases involving minors and underage mothers with children. It is necessary to mention that a professional specialist foster family cannot simultaneously receive children with a disability certificate or a certificate of moderate or high disability and children in proceedings.

A child may be placed in a professional foster family performing the function of foster-family emergency services on the basis of a court ruling, in cases when a child has been escorted by the police or Border Guard, or upon the consent of the parents, the child or another person in accordance with the Prevention of Domestic Violence Act. A professional foster family performing the function of

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family emergency services may refuse to accept a child in particularly justified cases, e.g. if the total number of children placed in the family is more than three. A child should be placed in a professional foster family performing the function of foster-family emergency services until the child's situation has been clarified, however, the child should not stay for a period longer than four months. In justified cases, upon consent which has been given by the entity in charge of supervising foster care, this period may be extended for up to eight months, till completion of the court proceedings and the decision of the child's return to a family, adoption or placement in a family-based foster care facility.

### 2.1.1.4. FORMS OF RESIDENTIAL FOSTER CARE

Under Article 93 of the Family Support Act residential institutional foster care may be exercised in one of the following forms: an educational care facility; a regional care and therapy centre; or a pre-adoption intervention facility.

An educational care facility may be a socialization educational care facility; an intervention educational care facility; a specialist therapy educational care facility; or a family-based educational care facility. Under the law, the centre should provide a child with full-time care and education services, as well as satisfy its, among others, emotional, health, living, social and religious needs. Apart from that, the educational care facility should also provide a child with access to education appropriate to their age and level of development, therapeutic services and access to eligible healthcare. Work with a child in an educational care facility should be carried out in accordance with the child assistance plan prepared and implemented by a tutor in cooperation with a family assistant. Work with a group of children and individual work are organised by a tutor who performs tasks specified in the child assistance plan and maintains regular contact with the child's family.

The task of an intervention educational care facility is to provide immediate care for a child in a crisis situation, especially if the centre is required to place the child under immediate care. A child may not be placed in the centre when staying at a reformatory centre, juvenile detention facility, juvenile shelter or youth education centre; a medical entity that is not an enterprise; or a social assistance centre, if staying in the above-mentioned institutions has been ruled on proceeding in cases involving minors. A child cannot stay in the centre for a period longer than three months. In particularly justified cases this period may be extended until completion of court proceedings concerning: a child's return to a family; adoption; or placement under foster care. A child under 10 years of age who has been placed in the centre should immediately be covered by one of the family-based forms of foster care.

Children over 10 years of age who require special care or are having difficulties in adjusting to life in a family should be placed in social rehabilitation, socialization, intervention or specialist therapy educational care facilities. Placing a child under 10 years of age in a social rehabilitation, socialization, intervention or specialist therapy educational care facility is possible under exceptional circumstances, particularly due to their health state or the existence of siblings.

### 2.1.1.5. CHILDREN WITH INDIVIDUAL NEEDS

Under Article 105 of the Family Support Act, a specialist therapy educational care facility should provide care for a child with individual needs, e.g. a child with a disability certificate or a certificate of a high or moderate level of disability. The centre provides different types of therapy and therapeutic activities which compensate for a lack of upbringing in the family and preparation for social life, as well as proper rehabilitation for disabled children. Children requiring special care who, due to their health state, need specialist care and rehabilitation cannot be covered by family-based foster care or placed in an educational care facility, but should instead be placed in regional care and therapy centres.

### 2.1.1.6. LEAVING THE FOSTER CARE CENTRE

A child may no longer remain under foster care starting from the date they reach the age of majority. A person who has reached the age of majority while in foster care who wants to continue education in one of the existing forms of school, or who has been granted a certificate of a high or moderate level of disability, may remain in their current foster care facility upon the consent of the foster family, the person in charge of the family-like children's home or the director of an educational care facility respectively, yet no longer upon reaching the age of 25.

### 2.1.1.7. ADOPTION

Polish legal regulations also establish a procedure of child adoption. The adoption proceedings and preparation of the persons willing to adopt a child fall solely within the competence of an adoption centre. Under Article 160 of the Family Support Act an adoption centre should cooperate with candidates for child adoption in the field of childcare and the child's upbringing.

If there is an application for adoption of a child whose brother or sister has previously been adopted, the family which has adopted the child's brother or sister should immediately be notified.

A child may qualify for an adoption that would involve a change in their previous place of residence within the territory of the Republic of Poland to a place of residence in another country, after exhausting all options of finding a candidate for adoption of the child within the territory of the country, unless there is a family relationship or kinship between those adopting and the child to be adopted, or when those adopting have already adopted a sister or brother of the child.

The adoption centre is obliged to enable contact with the child and facilitate information about the child to the candidates for adoption after the candidate has completed child adoption training, once a positive qualification opinion has been issued and the child has qualified for adoption - unless the adoption is taking place between family members.



## 2.1.2. THE ACT ON GRANTING PROTECTION TO FOREIGNERS WITHIN THE TERRITORY OF THE REPUBLIC OF POLAND

The second important act which refers to the legal situation of children on the move is the Act of 13 June 2003 on Granting Protection to Foreigners within the Territory of the Republic of Poland (hereinafter: “the Act on Granting Protection to Foreigners”). This act lays down “the principles, conditions and procedures for granting protection to foreigners within the territory of the Republic of Poland as well as defines the authorities competent in these matters”.

Under Article 3 of the Act on Granting Protection to Foreigners, a foreigner may be granted protection in the territory of the Republic of Poland in one of the following specified forms: refugee status; supplemental or temporary protection; asylum; or a permit for tolerated stay.

### 2.1.2.1. REFUGEE STATUS

The applicant must fulfil four conditions in order to be granted refugee status. They must be a foreigner who cannot or does not want to enjoy the protection of their country of origin due to a justified threat of persecution in their country of origin because of their race, religion or nationality, political beliefs or being a member of a specific social group. We shall highlight the fact that these persecutions, due to their essence or repeated nature, have led to a gross violation of human rights, or to the accumulation of diverse acts of discrimination or omission. Polish law allows the granting of refugee status to a foreigner who refers to a justified threat of persecution or a real risk of physical violence caused by events which might have occurred after the person has left their country of origin.

The proceedings for granting refugee status begin after an application has been personally submitted by the foreigner. Under Article 28 of the Act on Granting Protection to Foreigners a foreigner submits an application for granting refugee status to the Head of the Office, through the commanding officer of the Border Guard division or commanding officer of the Border Guard checkpoint.

According to the law, a decision on granting refugee status should be made within the time limit of six months from the date of submitting the application. All decisions on granting refugee status are issued by the Head of the Office. It is possible to submit an appeal regarding an issued decision to the Refugee Board.

### 2.1.2.2. REFUGEE STATUS FOR A MINOR

The application for granting refugee status to a minor living in Poland with their parents is included in the parents’ application.

If the minor wishing to apply for refugee status is unaccompanied, they should submit their own application. The provisions of Chapter 4 of the Act on Granting Protection to Foreigners define an extraordinary procedure for granting refugee status in the event that the applicant is an unaccompanied minor. Under the act an “unaccompanied minor” is “a minor foreigner who is arriving or staying in the territory of the Republic of Poland unattended by any adult person, responsible for them pursuant to the law or a customary norm”. In case of any doubts concerning an applicant’s age, the applicant claiming to be a minor may have to undergo a medical examination. To carry out the procedure of determining a minor’s actual age, the applicant or their legal representative needs to give their consent. If the applicant or their legal representative refuse to undergo a medical examination, the foreigner claiming to be a minor will be treated as a person of full legal age. According to the provisions of the act, the “results of the medical examination should include information about the age of the foreigner, as well as information about the acceptable margin of error”.

The authority which admits that the application for granting refugee status is being submitted by an unaccompanied minor should apply immediately to the Guardianship Court which has jurisdiction over the minor’s place of residence, requiring a decision on establishing a legal representative of the minor in the proceedings over granting refugee status, and placement of the minor in a care or educational centre.

According to the provisions of Article 61 (3) of the Act on Granting Protection to Foreigners, the Head of the Office shall undertake actions aimed at finding relatives of the unaccompanied minor. While undertaking the aforementioned actions, neither the authorities nor any public institution of the country of the applicant’s origin shall have access to data which would allow them to find out whether the proceedings for granting refugee status, asylum or a permit for tolerated stay have been completed; a decision having been issued; or that the proceedings are still being carried out.

The second measure to be taken by the authorities is to place the unaccompanied minor in a professional foster family, non-related to the child, functioning as an emergency foster family in crisis situations, or in an educational care centre. Under the legal regulations the unaccompanied minor should stay in the foster family until a decision has been issued by the Guardianship Court. When the authorities have refused to grant refugee status to an unaccompanied minor they issue a decision on expulsion of the minor. In this case the minor should remain in the care and educational institution until they have been handed over to the authorities or the organizations of their country of origin whose statutory functions include issues related to minors.

Under Article 64 of the Act on Granting Protection to Foreigners the Head of the Office shall inform the guardian of the unaccompanied minor about the date and place of the hearing. The guardian shall have an appropriate amount of time to inform the unaccompanied minor about the importance and possible consequences of the hearing as well as preparation for the hearing. In accordance with the provisions of Article 65 of the Act on Granting Protection to Foreigners, it is stated, prior to the hearing, that the Head of the Office shall instruct the unaccompanied minor about the actual and legal circumstances which may affect the result of the proceeding for granting refugee status, as well as the possibility to request a hearing in the presence of an adult indicated by them. The hearing shall be held in a language understood by the unaccompanied minor. The interviewer shall take into account the age of the unaccompanied minor, their maturity and mental state, as well as the fact that their knowledge of the real situation in their country of origin may be

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limited. During the hearing, the guardian has a right to ask questions or present remarks. The authority carrying out the proceedings shall inform the guardian about the possibility of recording the hearing by means of audio-video equipment.

The legal regulations define a list of people who can be present during the hearing of an unaccompanied minor. They are: a guardian, a custodian, an adult indicated by the minor (if it does not hinder the proceedings), a psychologist or a pedagogue who prepares an opinion about the psychophysical state of the unaccompanied minor. Article 66 of the Act on Granting Protection to Foreigners defines that the persons wishing to perform activities undertaken during the procedure for granting refugee status with the participation of an unaccompanied minor must meet at least the condition of being a graduate in law, with at least two years of professional experience working at a child care institution.

As a rule, under Article 88 of the Act on Granting Protection to Foreigners, an unaccompanied minor cannot be placed in a guarded centre or detention facility while waiting for expulsion.

### 2.1.2.3. OTHER FORMS OF PROTECTION

As mentioned above, the authorities can grant a foreigner not only refugee status, but also supplemental protection, asylum, tolerated stay status and the temporary protection of foreigners.

Supplemental protection may be granted to a foreigner who does not fulfill the terms and conditions for granting refugee status, in the event that their return to the country could expose them to the actual risk of, among other things, capital punishment, execution, torture, inhuman or humiliating treatment, imprisonment or serious threat to life or health resulting from the common use of violence against the civil population during international or national armed conflict. Moreover, due to the abovementioned risks they cannot or do not want to enjoy the protection of their country of origin.

Asylum can be granted to a foreigner upon request if it is necessary to provide them with protection, and if it is in the good interest of the Republic of Poland. Decisions on granting and withdrawing asylum are issued by the Head of the Office after obtaining the consent of the Minister of Foreign Affairs.

Tolerated stay status should be granted to a foreigner if their expulsion meets one of four conditions (this may apply only to a country where the foreigner's right to life, freedom and personal safety could be under threat; where they could be subject to torture, inhumane or degrading treatment or punishment, or be forced to work or deprived of the right to a fair trial, or punished/sentenced without any legal basis; where the foreigner's right to a family life or the child's rights may be violated). The authorities will also grant tolerated-stay status to a foreigner in case of unenforceable expulsion due to reasons beyond the competences of the executing authority, or those of the foreigner; in the event that extradition to the country of origin is inadmissible on the basis of the court's decision on the inadmissibility of a foreigner's extradition; or on the basis of the decision by the Minister of Justice on rejecting expulsion of the foreigner. This decision shall take into account the reasons for refusing the foreigner's extradition as well as the interests of the Republic of Poland.

Temporary protection within the territory of the Republic of Poland may be provided to foreigners who come to Poland in great numbers at the same time. In order to grant temporary protection some of the following circumstances must be fulfilled: the foreigners in question have left their country of origin or a specific geographical area due to a foreign invasion, war, ethnic conflict or serious human rights violations, and their arrival has been spontaneous or possible due to the help of the Republic of Poland or an international organisation. Under Article 106 of the Act on Granting Protection to Foreigners temporary protection should be provided up to the day on which the foreigners are able to return to their previous place of residence; however this period shall not exceed one year. In some cases, the period of protection may be extended by an additional six months; however, this period shall not be extended more than twice.

### 2.1.2.4. TEMPORARY PROTECTION FOR A MINOR

The provisions of the Act on Granting Protection to Foreigners establish an extraordinary procedure applicable in the case when the unaccompanied minor is a person applying for temporary protection of foreigners. The court responsible for the unaccompanied minor's place of residence shall appoint a guardian for the minor enjoying temporary protection. Legal custody should expire by virtue of the law, if the unaccompanied minor leaves the territory of the Republic of Poland upon expiration of their temporary protection, or if their legal representative is able to perform parental care. The minor should be placed in an educational care facility till the appointment of guardianship by the court.

### 2.1.3. THE ACT ON FOREIGNERS

The Act of 13 June 2003 on Foreigners establishes the principles and conditions governing entry, transit, residence and departure from the territory of the Republic of Poland which apply to foreigners, as well as the procedure and the competent authorities. Under Article 2 of the Act on Foreigners a foreigner (alien) is any person without Polish citizenship. A foreigner who is a citizen of two or more states should be treated as a citizen of the state which has issued the travel document presented by the foreigner at the border of the Republic of Poland. As a rule, to cross the border and remain in the territory of the Republic of Poland a foreigner from a non-Schengen country is obliged to have a valid travel document and a visa – which can be issued by a consul as a national visa or a Schengen visa.

#### 2.1.3.1. CHILDREN ON THE MOVE

The provisions of Article 53 of the Act on Foreigners define who may be granted a residence permit for a fixed period of time. In the case of children on the move the indispensable conditions are as follows: being a member of a family of a foreigner who has

a residence permit in Poland and who resides in the territory of the Republic of Poland; being a child of a foreigner who was born in the territory of the Republic of Poland and resides in that territory without any legal guardian (or their parents possess a residence permit to stay in Poland for a fixed period of time); being a family member of a foreigner who crosses the Polish border under the visa permission with which they have resided in the territory of another European Union member state – who accompanies a foreigner or intends to join them; being a victim of human trafficking and jointly fulfilling the conditions defined in Article 53 (15) Letters a-c. Under Article 53 a person who wishes to continue their studies in Poland may be granted a residence permit for a fixed time period.

According to the provisions of the Act on Foreigners, a family member of a foreigner is, above of all, any underage child of a foreigner and/or a person married to a foreigner – the marriage must be recognized under the binding Polish legal regulations, as well include their adopted child, if the foreigner exercises any actual parental authority over the child – and/or a child of a person married to a foreigner.

### 2.1.3.2. RESIDENCE PERMIT

A residence permit for a fixed time period is always granted upon a foreigner's application for a period necessary to fulfil the purpose of the foreigner's residence in the territory of the Republic of Poland – the period shall not exceed two years. However, the permit granted to a minor should be valid until the expiration date of the permit granted to their legal guardian. The decision on issuing a residence permit for a fixed period of time is made by the regional governor (wojewoda) responsible for the place of the foreigner's intended residence. A foreigner residing abroad shall submit an application for a residence permit for a fixed period of time through their consulate.

### 2.1.3.3. SETTLEMENT PERMIT

Under Article 64 (1) of the Act on Foreigners, the settlement permit should be granted to a foreigner, in particular to a minor, born in the territory of the Republic of Poland as the child of a foreigner who possesses a settlement permit, or is the underage child of a citizen of the Republic of Poland, if the parent exercises parental authority over the child. The settlement permit is granted at the foreigner's request.

### 2.1.3.4. EXPULSION

Article 88 of the Act on Foreigners defines a list of the conditions under which a foreigner (adult or minor) may be expelled from the territory of the Republic of Poland, e.g. in the event that they are residing on Polish territory without the required visa. According to the legal regulations there are exceptions to the aforementioned rules, e.g. the decision to expel a foreigner should not be issued – nor the issued decision be executed – if any circumstances allow for the granting of a permit for tolerated stay in the territory of Poland. Moreover, the decision to expel and send a minor foreigner back to their country of origin or to another country should be executed only if in the aforementioned country the minor will be provided with care by their parents, any other authorised adults or by a competent care institution in accordance with the standards provided for in the Convention on Children's Rights. The minor foreigner may be expelled only when they are under the care of a legal representative/guardian. That provision may not apply if the form of executing the decision on expulsion provides that the minor should be handed over to the legal representative or to a representative of the competent agencies of the country to which the minor will be sent.

Under the legal regulations in some cases a foreigner who receives a decision on expulsion may be detained for a period not exceeding 48 hours. The detention of a foreigner should be carried out by the Border Guard or the police. The foreigner shall be released from detention if, within 48 hours of the detention, they have not been handed over to the court together with a request for placement in a guarded centre or detention facility for the purpose of expulsion; if, within 24 hours of being handed over to the court, they have either not been delivered a decision on being placed in a guarded centre or detention facility for the purpose of expulsion or a court order, or if the cause of detention has ceased to exist. When the authorities have stopped an unaccompanied minor they may request the court responsible for said minor to place them in an educational care facility.

### 2.1.3.5. GUARDED CENTRE

Article 102 of the Act on Foreigners defines a list of the conditions to be fulfilled on the basis of which a foreigner should be placed in a guarded centre, e.g. if it is necessary to ensure the effectiveness of the proceedings related to expulsion, a withdrawal of the settlement permit or the long-term resident's EC residence permit. A foreigner shall be placed in a guarded centre or detention facility for the purpose of expulsion based on the virtue of the court ruling. This ruling on placing a foreigner in a guarded centre or detention facility for the purpose of expulsion should specify the period of detention or detention facility (the maximum period is 90 days). The period of residing in the guarded centre or detention facility for the purpose of expulsion may be prolonged for a specified period of time necessary to execute the decision on expulsion, if that decision was not executed due to the foreigner's fault. The period of residing in the guarded centre or in the detention facility for the purpose of expulsion shall not exceed one year.

A foreigner admitted to the guarded centre should be placed in a room for foreigners. A foreigner admitted to the detention facility for the purpose of expulsion should be placed in a separate room. The area of a room for a minor foreigner should not be less than 4 sq. m. per minor. If possible, a foreigner placed in the guarded centre along with a minor remaining under their care should reside together in the same room for foreigners. An unaccompanied minor staying in the guarded centre ought to be placed in a separate part of the centre to prevent them from having contact with adults residing in the centre. If possible, the foreigners who – according to their declaration – are the closest family members shall be placed at their request in the same room for foreigners.

## NATIONAL CONTEXT

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### 2.1.4. SUMMARY

The main aim of The Act on Family Support and Foster Care System is to provide support for families experiencing difficulties in the fulfilment of care and educational functions. In the case of children on the move the most important regulations of the act are the provisions regarding the position of the family assistant who helps the family to resolve their problems. In the event that it is not possible to resolve family problems children can be placed in foster care. Under extraordinary circumstances, according to the legal regulation, adoption is allowed.

The Act on Granting Protection to Foreigners within the Territory of the Republic of Poland establishes an extraordinary procedure: when the applicant for refugee status is an unaccompanied minor. Under this procedure the applicant has special rights which make the refugee determination procedure easier to understand for an underage applicant in order to protect their rights.

The Act on Foreigners has not established any extraordinary procedure for a minor wishing to enter the territory of Poland. However, there are some provisions regarding cases where children are the family members of a person with a valid residence permit. It must be emphasized that an unaccompanied minor benefits from more rights during the expulsion procedure and/or detention than an adult in order to ensure that the best interests of the child are a primary consideration throughout the procedure.

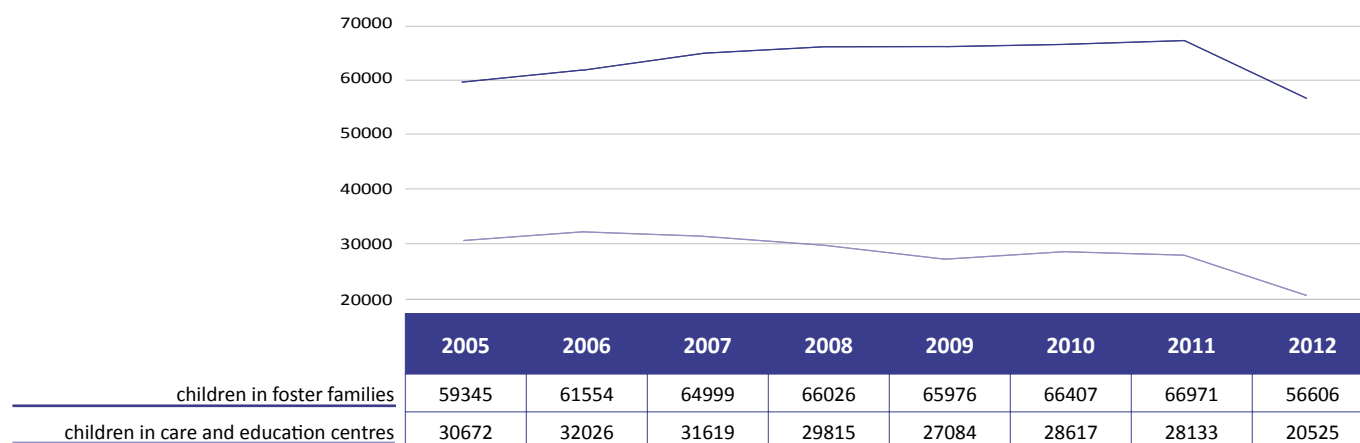
## 2.2. NATIONAL STATISTICS

As of 31 December 2011 there were 7,146,500 children (aged 0-17) in Poland (Central Statistical Office - CSO, 2012). Of these, 77,131 children were in foster care, 1.1% of the total population of children.

### Number of children in foster care\*

\* This significant change between 2011 and 2012 was caused by a modification in the counting method of official statistics data.

Source: Ministry of Labour and Social Policy



### The number of submitted applications for refugee status and the number of persons included in those applications in 2012

Citizenship	Applications	Persons
Russia	2407	6084
including Chechnya	2181	5529
Georgia	2074	3234
Armenia	204	413
Egypt	98	102
Kazakhstan	48	121
Ukraine	52	72
Pakistan	41	43
Belarus	59	69
Syria	76	107
without citizenship	29	41
Kyrgyzstan	17	41
Afghanistan	80	103
Iran	15	17
Iraq	24	25
Vietnam	56	57
Other	197	224
<b>Total</b>	<b>5477</b>	<b>10753</b>

Source: Office for Foreigners

## NATIONAL CONTEXT

Number of persons who were issued decisions on the granting of refugee status in the Republic of Poland by the Head of the Office for Foreigners in 2012

	Refugee status	Supplemental protection	Tolerated stay	Negative decision	Discontinued procedure
<b>Russia</b>	48	119	223	1098	4966
including Chechnya	44	104	187	949	4450
<b>Georgia</b>	0	0	23	468	2921
<b>Armenia</b>	0	0	20	111	314
<b>Egypt</b>	0	0	0	13	68
<b>Kazakhstan</b>	0	0	2	9	43
<b>Ukraine</b>	0	0	3	48	28
<b>Pakistan</b>	0	0	1	17	28
<b>Belarus</b>	24	4	3	18	26
<b>Syria</b>	0	5	0	0	24
without citizenship	1	0	2	3	24
<b>Kyrgyzstan</b>	0	2	0	13	20
<b>Afghanistan</b>	1	4	0	26	17
<b>Iran</b>	1	1	0	2	12
<b>Iraq</b>	1	1	0	9	12
<b>Other</b>	11	4	15	125	138
<b>Total</b>	<b>87</b>	<b>140</b>	<b>292</b>	<b>1960</b>	<b>8641</b>

Source: Office for Foreigners

Number of foreign children in foster care according to the type of care

Type of care	2008	2009	2010	2011	2012
<b>Foster family</b>	57	71	74	67	67
<b>Intervention educational care facility</b>	55	44	39	41	38
<b>Socialization educational care facility</b>	42	47	44	41	72
<b>Family-based educational care facility</b>	9	7	11	10	15
<b>Family-like home</b>	0	0	0	0	1
<b>Total</b>	<b>163</b>	<b>169</b>	<b>168</b>	<b>159</b>	<b>193</b>

Source: Ministry of Labour and Social Policy

## Number of foreign children in foster care by their country of origin

Country of origin	2008	2009	2010	2011	2012
Ukraine	34	34	38	39	45
Romania	65	53	53	45	36
Bulgaria	9	16	19	14	17
Afghanistan	1	0	1	1	14
Vietnam	10	9	10	7	13
Russia	6	15	16	13	9
Syria	0	0	0	0	9
Armenia	6	9	9	5	5
Mongolia	1	2	3	5	5
Italy	1	3	3	3	4
Belgium	1	1	0	4	3
Egypt	0	0	0	0	3
France	0	0	0	0	3
Bangladesh	0	0	0	0	2
Georgia	0	1	0	0	2
Lebanon	0	0	0	0	2
Latvia	3	3	2	2	2
Moldova	3	3	4	3	2
Germany	2	1	0	5	2
Slovakia	0	1	0	0	2
Belarus	5	3	2	4	1
The Czech Republic	2	0	2	1	1
Spain	0	0	0	0	1
India	1	0	0	0	1
Iraq	1	0	0	0	1
Kenya	0	0	0	1	1
Lithuania	1	1	0	0	1
Pakistan	0	0	0	0	1
Ruanda	0	0	0	0	1
Sri Lanka	0	0	0	0	1
Tunisia	0	0	0	1	1
Uganda	0	0	0	0	1
The Ivory Coast	0	0	0	0	1
Chechnya	1	5	0	0	0
Chile	0	1	0	0	0
Croatia	3	4	3	0	0
Estonia	2	0	0	0	0
Greece	2	0	0	0	0
The Netherlands	0	0	1	1	0
Norway	0	0	0	1	0
Somalia	0	0	0	2	0
USA	1	1	0	0	0
Tanzania	0	0	0	1	0
Uzbekistan	1	0	0	0	0
Hungary	1	3	2	0	0
UK	0	0	0	1	0
<b>Total</b>	<b>163</b>	<b>169</b>	<b>168</b>	<b>159</b>	<b>193</b>

Source: Ministry of Labour and Social Policy

## NATIONAL CONTEXT

### Number of foreign children in foster care by sex

Sex	2008	2009	2010	2011	2012
Female	70	97	82	84	80
Male	93	72	86	75	113
<b>Total</b>	<b>163</b>	<b>169</b>	<b>168</b>	<b>159</b>	<b>193</b>

Source: Ministry of Labour and Social Policy

### Number of foreign children in foster care by age

Age	2008	2009	2010	2011	2012
0-1	11	11	12	10	1
1	4	11	12	6	9
2	6	5	7	8	5
3	10	5	4	3	7
4	5	6	3	4	5
5	11	2	2	6	6
6	8	8	4	1	3
7	8	8	7	3	4
8	9	11	7	9	4
9	6	10	14	9	9
10	14	9	8	11	7
11	9	6	9	7	12
12	11	9	9	11	9
13	10	7	14	13	12
14	8	19	8	14	11
15	9	9	16	11	18
16	10	10	12	12	28
17	10	13	11	15	24
18	4	11	9	5	18
19	0	0	0	1	1
<b>Total</b>	<b>163</b>	<b>169</b>	<b>168</b>	<b>159</b>	<b>193</b>

Source: Ministry of Labour and Social Policy

### Number of foreign children in foster care by their length of stay

Length of stay	2008	2009	2010	2011	2012
1 day	5	20	6	3	10
2 days	13	2	4	6	3
3 - 5 days	13	6	1	7	10
6 - 10 days	5	7	2	2	7
11 - 30 days	1	9	5	5	18
1 month	3	1	5	13	9
2 - 6 months	34	19	17	20	28
7 - 12 months	13	39	28	20	18
1 - 2 years	24	18	25	15	21
2 - 5 years	14	17	27	25	25
more than 5 years	38	31	48	43	44
<b>Total</b>	<b>163</b>	<b>169</b>	<b>168</b>	<b>159</b>	<b>193</b>

Source: Ministry of Labour and Social Policy

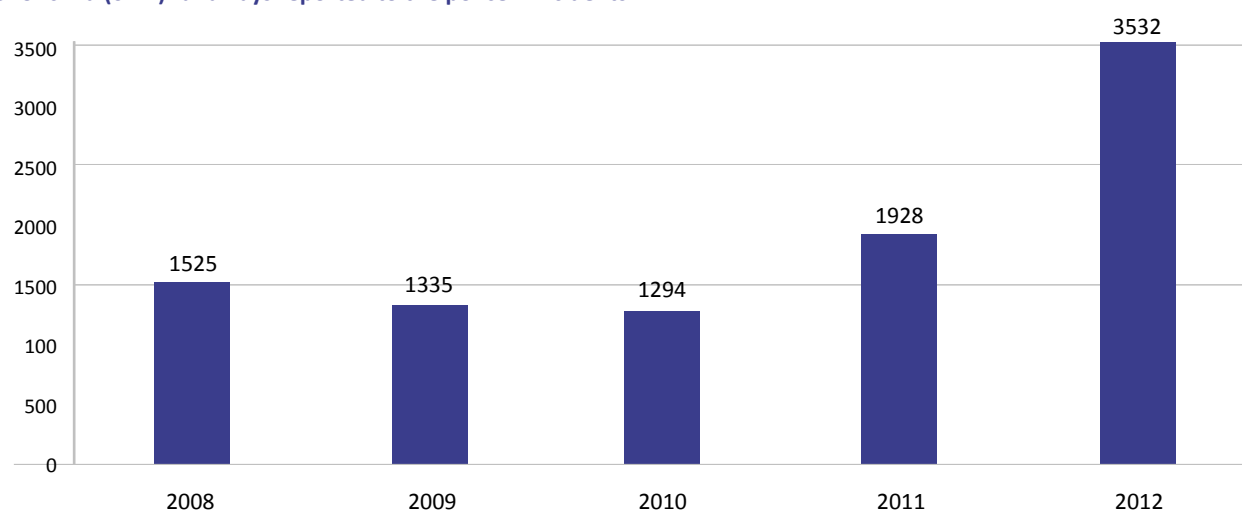


The legal status of foreign children in foster care

Legal status	2008	2009	2010	2011	2012
Refugee status	9	4	0	0	1
Asylum seekers	1	1	1	0	51
Subsidiary protection	0	8	6	0	0
Tolerated stay	9	5	10	10	11
Residence permit for a specified period of time	15	19	22	22	17
Settlement permit	1	1	2	0	6
Residence permit for a long-term EC resident	1	3	5	2	5
Citizens of member countries of EU or European Economic Area	34	28	34	39	33
Dual citizenship	0	1	3	0	0
Child - Polish citizenship, parents - Romanian citizenship	0	2	0	0	0
Pre-adoption family	0	1	0	0	0
Program of support and protection of victims/witnesses of trafficking	0	1	0	0	0
Unregulated legal status	58	53	43	52	41
No data	35	42	42	34	28
<b>Total</b>	<b>163</b>	<b>169</b>	<b>168</b>	<b>159</b>	<b>193</b>

Source: Ministry of Labour and Social Policy

Number of child (0-17) runaways reported to the police – incidents



Source: Police

## NATIONAL CONTEXT

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### RUNAWAYS FROM EDUCATIONAL CARE FACILITIES FOR CHILDREN AND YOUNG PEOPLE

According to an audit performed by the Supreme Audit Office (NIK, 2012) only one out of 28 educational care facilities for children and young people under investigation did not have a single runaway case over two-and-a-half years (from January 2008 to June 2010). Throughout that same time period 1,581 runaway cases were accounted for altogether. This situation is believed to be caused by placing socially maladjusted minors in these types of centres.

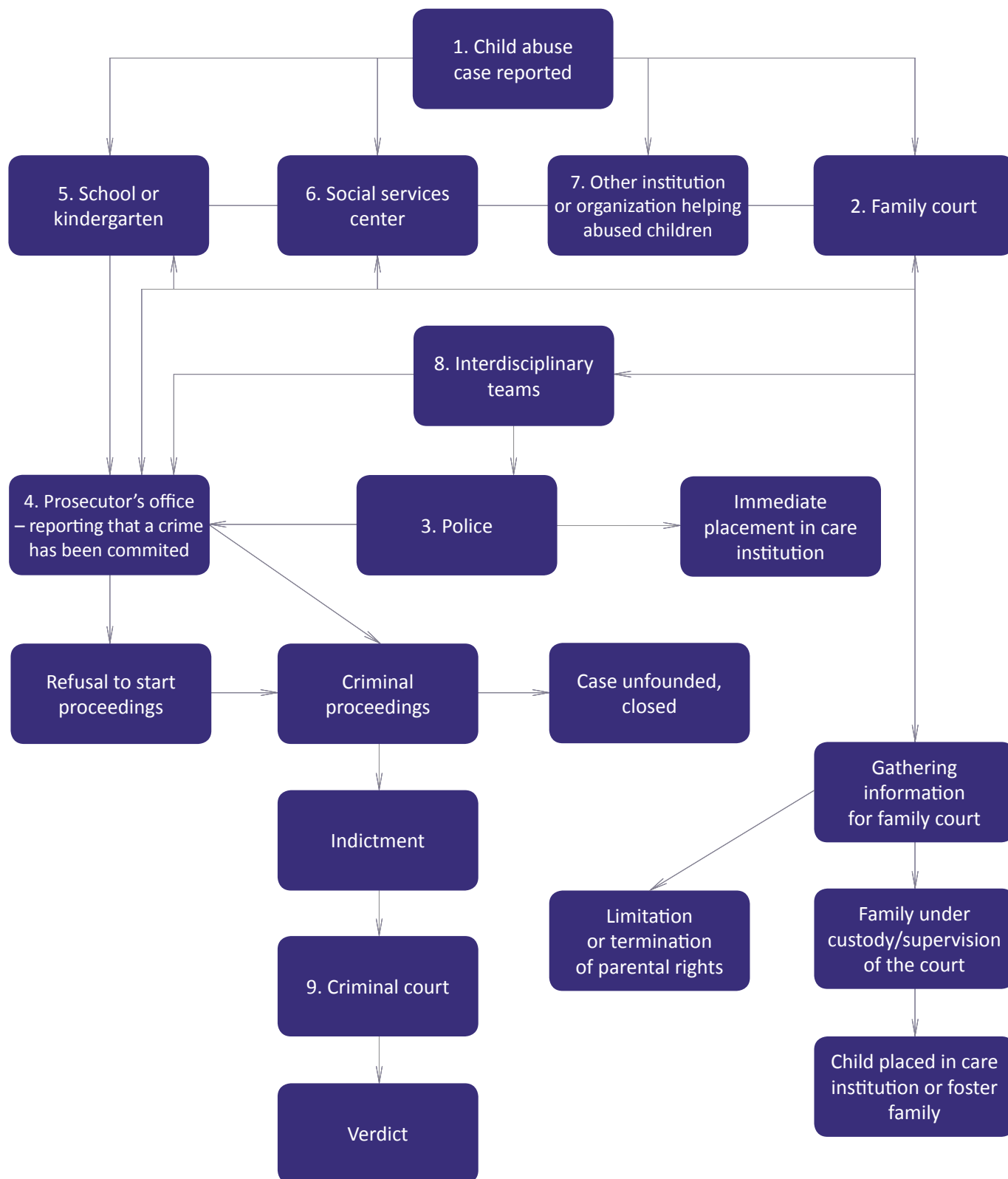
### RUNAWAYS FROM YOUTH EDUCATION CENTRES

According to a study conducted by the ORE (Kulesza, 2012), the highest percentage of runaways from youth education centres during the school year 2010-11 was observed in October (12.85%). That month there were 395 runaways in 69 youth education centres which participated in the research. There were no runaways in only one out of these 69 youth education centres. In 11.8% of these youth education centres there were 151-200 runaways per 100 children; in 16.2% there were 101-150 runaways per 100 children – which means that every child placed in these centres had run away at least once. The analysis shows that there is no significant difference between the number of runaways and the type of centre, its location and size. There were more individual than group runaways. During the school year 2010-11 there were 2,368 individual and 575 group runaways. When considering the duration of these runaways, the most common lasted longer than 24 hours (1,531); there were 521 that lasted less than 24 hours and 850 runaway cases which ended in expulsion of the child from the centre.

The study showed that the most common excuses for running away from the youth education centres were the following: homesickness (31.8%), freedom (16.9%), a girlfriend/boyfriend or friends (12%), refusal to accept the situation (10.8%), difficulties in adjusting to the situation (9.2%), pathological runaways (7.8%) and fear of humiliation (4.6%).

### 2.3. CHILD PROTECTION SYSTEM IN POLAND

Poland still does not have a specific child protection unit. However there are several types of social services, institutions, procedures and practices among whose responsibilities also include the protection of children in different situations. Services provided to children in need, especially to the victims of abuse, will be analysed in this chapter.



## NATIONAL CONTEXT

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A case of child abuse can be reported by a parent, a caregiver or any other person professionally involved in the supervision or care of a child, as well as any other person who has witnessed a child being abused or neglected. The mandatory reporting of child abuse cases to family courts, the police or the prosecutor's office refers, in particular, to employees of health care, education and social services, as well as care institutions.

1. A person who witnesses a child being abused can report it directly.
2. Family Court – a court dealing with cases in which minors are involved. After assessing the situation of a child and acting in its best interests the court can, among others options, hold an interview with the parents, limit parental rights by appointing a guardian to the family, place a child in a residential care centre or in a foster family. Depending on the seriousness of the abuse committed by the parents, the court can also terminate parental rights.
3. Police – in cases when a child's life or health is at immediate risk. If a child is under serious threat the police may decide on immediate placement in an educational care facility.
4. Prosecutor's Office – to report suspicions that a crime has been committed. It may also be reported to the police, which is then responsible for forwarding that information to the prosecutor's office. If a crime involving a child is being investigated, the prosecutor should inform the family court so that it can take appropriate measures to protect the child.

A witness of child abuse can also turn to the school or kindergarten where the child is enrolled (5), to social care services (6) or to other institutions and organizations helping abused children (7). After screening the family's situation according to their duties, employees of the abovementioned institutions can decide to report the case to the family court, the police or the prosecutor's office. Representatives of different institutions can work together in interdisciplinary teams (8).

The procedure of intervention is the same for Polish and foreign children.

## 3. THE SITUATION OF CHILDREN ON THE MOVE IN FOSTER CARE

### 3.1. ON THE MOVE

For the purpose of this research, “children on the move” are mainly those with either an international migration experience or an internal migration/runaway experience. This research focuses on children in foster care, which gives an additional dimension of “being on the move” – children in foster care, in particular intervention facilities, are often moved between educational care centres/facilities and family-like homes, and have had the experience of running away – both migrants and Polish citizens.

There are two groups of international migrants in foster care:

1. International migrant children applying for refugee status – most of them have come to Poland without their parents, which is why they are unaccompanied minors, sometimes taken away from their parents due to cases of abuse. The problem of foreign unaccompanied minors in Poland has arrived with the opening of international borders and a climate of increased social mobility. These children often come from Chechnya, African countries or other nations involved in military conflicts, like Afghanistan, Georgia and Syria; most of them are teenagers over 15 years old.
2. International migrant children cannot apply for refugee status, unless they have been taken away from their parents due to cases of abuse (the same reason for placing a Polish child in foster care). These children often come from Ukraine, Belarus or other Eastern European countries.

Some of the international migrants, especially those from the first group, have arrived in Poland illegally – transported across the border by smugglers. It is difficult to determine their reasons for coming to Poland, a decision possibly motivated by their parents/caregivers, who had intentionally agreed to this form of entering the country, without having assessed the risks they have exposed their minors to. They have entrusted their children to the custody of other adults, or have contributed to their children’s departure by neglecting their parental responsibilities (Ministry of Foreign Affairs and Administration – MSWiA, 2009). Sometimes a whole village collects money to pay for smugglers to take a child to what they believe is a better world. The journey is very dangerous, tiring and dramatic. Sometimes they are victims of trafficking or other crimes. The smugglers often mislead them – a family has paid for them to transport their child to Western Europe, e.g. the Netherlands, but they instead leave the child in Poland. They are sometimes caught by border guards or the police, which may result in a dramatic situation for the child, because when a migrant applies for refugee status in Poland, they cannot travel to another EU country. If they have been caught in another EU country (sometimes smugglers lie that they can travel around the EU) they are then deported back to Poland – according to the Dublin II Regulation. Some of these migrants had never even intended to come to Poland:

*In any case, the boy actually said [...] how dramatic the journey was, how it wasn't really fair that he had to leave the X, how he'd been unjustly accused by someone, how they'd made death threats against him, that under such dramatic circumstances his parents had decided that he had to leave, that he really misses them and that for him it really is inconceivable that he had to leave his country for such unjust reasons, and that it terrifies him that his parents do not know where he is – because he was supposed to be in the Netherlands, but didn't get there. He doesn't know how to tell his parents that he's somewhere in Europe, in a strange country, which his parents probably don't know much about – they may have no idea, maybe they do, maybe they don't – that they'll consider it to be a failure that their son didn't arrive at his destination, that he is stuck somewhere, and that they really don't know. He doesn't know what to do, doesn't really know how to tell his parents. This is all very traumatic for him. (Case: migrant child from Somalia)*

*The whole European legal system runs contrary to what people would want, and it leads to the creation of such movements [...], that people move to the West, they are sent back, then they leave again, and are sent back in return. They waste their power, energy, time on this. With regards to their everyday functioning this is a waste of time [...]. Apart from this Polish-European context there is also a purely Polish context of such misunderstandings [...], or erroneous expectations, as it also happens that migration to Poland is somehow motivated by people who make money on this. We've also encountered people [...] whose journey was in some way organized and paid for. Later, in Poland, they are frustrated because the person who organized the transport had promised them things that turned out not to be true. It produces great discontent, a feeling of defeat, of being cheated, which generally doesn't evoke good feelings towards Poland. (NGO)*

The first group also includes abandoned children, some of whom remain unidentified – neither their parents nor their nationality are known. This category refers to child beggars, even infants, taken off the street by the police or left at hospital anonymously.

The second group are migrant children who cannot apply for refugee status, but have been taken away from their parents due to cases of abuse. They are in a very similar situation to Polish children in foster care, who have also been taken away from their families because of inadequate parental care. These children from incomplete families have often been raised by a single parent or grandparent who themselves have been victims of abuse, witnessed domestic violence or had many conflicts with their peers. Many of them have experienced running away from home and truancy:

*My dad beat me. So, I ran away from school because I didn't want to go there. I didn't go back home for the night, because I spent the night at my friend's. Then, the next day, I went to school and the police caught me". (Young runaway)*

*The police came to my house many times. Because there were various fights – because of different reasons – between me and my mum. It just so happened that I went to the police station, because my mother had been making a fuss again. Well, the police came with me again. Mom said that she wouldn't claim me. Since she didn't accept me, they've brought me here. (Young runaway)*

## THE SITUATION OF CHILDREN ON THE MOVE IN FOSTER CARE

Children in foster care, especially in intervention facilities, often run away. Some of them, especially international migrants, run away just after arriving – within a few hours or days of their arrival. International migrants who wanted to arrive in Western Europe often run away almost immediately in order to get to their original destination country. Sometimes the runaway is planned with the help of smugglers or friends. They are aware that searching for international migrants is difficult or even impossible, especially if they do not have documents, which is why they take the risk and run away:

*Actually, I don't remember a foreign child who would have stayed here [...]. Immediately, on the second day, the third, within seven days [...], they'd fled [...]. The problem with foreign women and the search for them is that they're children who don't have a PESEL [Polish ID number] [...]. Today the Police are looking for a system where they could register the child as missing throughout the entire territory of Poland. They could also issue an order for an international search, but in order to introduce a child into this system, they would need to have a PESEL number [...]. So this child [without a PESEL] is not being looked for officially [...]. And these children disappear. (Intervention Care Facility)*

Polish children in foster care also run away, especially from intervention facilities, though less often than foreign minors. The main difference is that they stay in the same city, go to their family, friends, boy/girlfriend, or to see a person they are forbidden to maintain contact with – sometimes due to addiction problems (e.g. they are looking for drugs). They also go abroad, especially girls, leaving with someone they have met on the internet. There is a strict rule regarding the visitor's permit – their family and friends can apply for permission which will allow them to come and visit. If a child does not know anyone with a permit they can feel discriminated against, which is sometimes yet another reason for running away. Polish children also tend to come back themselves, or, more often, are found by the police and brought back to the centre. International migrants who want to stay in Poland run away from the centres as well, but in that particular case their reasons are similar to those of the Polish children:

*Every escape/run away was reported. I mean, every [...]. Well, not all of them, because if all of them had been reported, the police wouldn't have had anything (else) to do. But sometimes I would spend about two weeks away from home. That's what it was like. My mom was just in jail, and I was at my grandmother's. So everyone was looking for me.*

*This wasn't the first escape from the centre. As it's rare that this is the first element like that, they're often already teenagers who've run away from home. For example, the parents, after some time, usually a parent caring for the child alone, can't manage to do it, so the child goes to the centre, after having been sent there by the court, and from there the child also runs away. (NGO)*

A common element in the situation of children on the move in intervention care centres is uncertainty about the future. Being in an intervention care centre is like being stuck “in-between”, waiting for an institution to make a decision, for the completion of the procedure. Since children don't have influence over their situation they just need to wait, which is devastating for them:

*Besides, when foreigners come here they're fully aware that this is very temporary, very uncertain. In theory, minors aren't deported – even if they get a negative decision, they won't be deported – but, regardless, they live the entire time in such uncertainty regarding what decision will be made, so their mental state is completely different. And the dynamic consists in that, unfortunately, among the people who come here, there are those who've spent half an hour, people who've spent 3-5 days, a month, less than a month: a diverse group. We've even had people who've lived here for more than two years. This environment is constantly being modified, changed, etc., so those who still live here are of course subject to these continuous changes as well, having to get used to new people, welcoming, farewells, which in some way disturbs their functioning. In such a group you work differently, and you also live differently. (Case: migrant child from Afghanistan)*

*Here none of the children knows what'll happen, so the tense situation discomforts them”. (Case: migrant child from Belarus)*

*I don't know how it's going to be. They can still send me to a YEC [Youth Centre]. There's also a hostel and a juvenile [where I could go] [...]. It might turn out that I'll stay here, or I may have to go to the YEC or somewhere else. (Young runaway)*

According to the Supreme Audit Office children very often stay in intervention institutions – which are temporary for them – much longer than they should. The reason for this are dilatory court proceedings – which last anywhere between six months and three years, whereas children should stay in intervention institutions for at most three and in some special cases six months (NIK, 2012).

The uncertainty of their situation is related to another common feature of children on the move, that is to say, their mental state. The children's stories are difficult, as they include abuse, domestic violence, a lack of support, poor parenting, poor living conditions and, even, war experiences (international migrants). Neither migration nor their age helps them to cope with these traumatic experiences – being a teenager is a difficult time for everyone. That is why children on the move are often, on one side, very independent and, on the other, very mistrustful and withdrawn. It can be difficult to encourage them to open up, which takes time. But sometimes, after a while, the children will finally start to talk about their problems and work with the professionals:

*Anyway, in general, as a rule, those who are on the run are very independent people, with a very low degree of trust in adults. They only say as much as they have to. And they like to keep their world for themselves. (Youth Social Rehabilitation Centre)*

*Emotional problems appear once these children have been registered at schools, when they feel safe. When they know that they can get a lot of support from us, they begin to open up too, they begin to talk about the violence they've suffered from their fathers. We've started to look for support for them here. (Case: migrant children from Chechnya)*

In situations when it has been possible to establish good contact with a child and get to know the issues necessary in order to work with them (including psychological problems), the work has been satisfactory for everyone in most cases:

*His first moments were quite difficult emotionally, he reacted very emotionally, but I'd say rather in a tearful way, even [...] it's hard to call it hysteria, but “hysteria” would be the word that best conveys the image. He had such a strong emotional reaction to behaviour that he interpreted every answer as, I do not know, persecution, or a sign of racism, which doesn't have this [...] the situation was inadequate to his reaction, that is, he interpreted it immediately as a racist attack, or an attempt to persecute him,*

*which wasn't our intention at all. Therefore it took us some time to explain to him that this was a friendly environment, that no one here would persecute him, no one here wanted to do him any harm [...]. It turned out that as we'd already passed through the first stage of fear and then a state of vigilance – when he feared persecution – he became a very cheerful man, [...] there was a complete return to the other side. He turned out instead to be a person who liked peace, didn't like affairs or conflicts [...].*  
(Case: migrant child from Afghanistan)

### 3.2. PROCEDURES

However, even if the situation of children on the move – both international and national – could be very similar, the procedures in the case of international migration and runaways are quite different.

#### 3.2.1. INTERNATIONAL MIGRATION

In Poland there is no uniform strategy for foreign children in foster care. Foreign unaccompanied minors in Poland can be divided into three groups:

- children who were born in Poland and have been abandoned by their foreign parents
- children who have come to Poland on their own, in the company of a group or accompanied by their parents or other people who have abandoned them
- minors found on the street – when begging, committing offences (Kolankiewicz, 2013)

Information about foreign unaccompanied minors can be collected when:

- after crossing the border they apply for refugee status
- there is an intervention regarding an abandoned or abused child
- there is an intervention in a case of demoralization or the commitment of an offence

In the first case (crossing the border) the status determination procedure begins and at the same time the child is protected through the appointment of a legal guardian or placement in a refugee centre, foster family or institutional care. Whereas in many cases it is problematic to appoint a legal guardian, in the other two cases the situation of an unaccompanied foreign minor is similar to that of a Polish minor: the family court decides which care measures are best based on the Family and Guardianship Code or the procedure for cases involving juveniles under the Juvenile Justice Act.

There is no legal act in Poland which could comprehensively regulate the situation of unaccompanied foreign minors. These actions which are taken by different institutions and organizations providing assistance to foreign minors depend on institutional cooperation and other factors concerning the minor, such as: their country of origin, age, knowledge of the language and the legality of their residence in Poland (Skwara, 2013).

The procedures include the following actions:

- legal actions related to establishing a competent court to issue a decision regarding the minor, applicable law and, in particular, establishing the jurisdiction of the Polish court
- actions undertaken by the Family Court and other institutions providing appropriate care (placing a minor in an educational care facility or foster family)
- ensuring the proper representation of the foreign minor
- actions aimed at assuring the immediate return of the minor to their native country and family, or permitting residence in Poland to the minor, thus regulating their status as residents of Poland

#### 3.2.2. GUARDIANSHIP AND LEGAL REPRESENTATION

A legal guardian can be appointed for the foreign minor if their parents are dead or deprived of parental rights, or if the parents are unknown. The family court cannot appoint a legal guardian if a foreign minor is deprived of parental custody because their parents reside in the territory of another country. The legal guardian who represents the child in court may be a representative of a non-governmental organization, a diplomatic outpost from the country of the child's origin or a social worker. In the procedure for granting refugee status the legal guardians in court are usually law students from the Warsaw University Law Clinic (MSWiA, 2009). It is important to add that these students are most likely not the best candidates due to a lack of experience and training in working with children, especially those from abroad.

The issue of representing a foreign child is regulated only with respect to those applying for refugee status (in this case a legal guardian is appointed). In other cases, courts do not always appoint a guardian, which means that these children have no representative. There is an ongoing debate as to who should represent foreign children as there are no clearly defined legal regulations regarding this issue. (Council of Experts)

Traditionally students from the Department of Law at the University of Warsaw represent the abovementioned children. The downside of this approach is that there is a high turnover rate among these students and they are only available during the academic year. Although they may represent the child during the refugee proceedings, they are not authorised to represent them in any other proceedings, such as matters related to medical assistance or requests for integration support (a legal guardian is not entitled to make such a request). These students also do not receive any specific training on how to interact with children, so their skills are limited only to legal knowledge. (Council of Experts)

## THE SITUATION OF CHILDREN ON THE MOVE IN FOSTER CARE

A child born in Poland, whose parents have not revealed their identity is treated as a foreigner or a Pole. This depends on whether or not their parents have legally documented the birth of their child at the consulate in their country. However, if the child's mother does not reveal her identity, the child will retain Polish citizenship. A foreign child who has been left at the hospital or abandoned by their parents or a neglected and abused child who requires protection are all covered by the foster care system. As in each of these cases the child may lack documentation, a birth certificate needs to be obtained from another country. It is also difficult to establish the origin of a child when their parents/caregivers use false documents.

A foreign minor's residence in Poland can be legalized by their parent or legal guardian. An additional difficulty is that the application must include a document with the child's photo (birth certificates do not contain photos). Sometimes even the legal guardian cannot obtain the child's passport because – as is the case at the Romanian embassy – only their parents are authorized to do it:

*I was the legal guardian of a child who was born in Poland. The child was Romanian, and I became the legal guardian only because the mother was a minor, which is the basis for establishing a guardian. When I wanted to legalise the child's residence at the Office for Foreigners, they denied my request because the application had to be accompanied by a document with a photo. We have a birth certificate, but the baby doesn't have a document with a photo. And in order to apply for a document with a photo, a passport, which I applied for at the Romanian embassy, I got a reply saying this wasn't possible because I wasn't the child's parent. And the circle was closed. (University of Warsaw)*

If for a long time it is not possible to contact nor find the parents, a request for deprivation of parental authority is submitted to the family court, a very long and complicated procedure which depends on private international law and bilateral agreements between Poland and the country/countries of origin of the child's parents. If the child's parents are deprived of parental authority a legal guardian should be established for the child, although this also depends on the bilateral agreements and the family court judge (Kolankiewicz, 2013).

The court may deprive the foreign parents of their parental rights if it is in accordance with private international law, bilateral agreements with, as well as legislation in, their home country. However, the judge must be determined, as the proceedings are complicated and often take years to complete:

*The judge is very resistant to restricting or depriving parental authority [...]. She wants to deal with the case on the basis of the Belarusian regulations (she has received an interpretation from the Ministry of Internal Affairs that it should be like this). The problems related to legal guardianship will make the girl stay too long at the children's emergency shelter – she only should have stayed for a maximum period of three months, but has already spent half a year there. (Case: migrant child from Belarus)*

Therefore judges with experience are needed and procedures must be adapted with the same standards. However, the situation nowadays is better than before. Currently in Warsaw there is a judge of International Affairs in every court (mainly due to increased emigration by Poles themselves, mixed marriages, etc.). However it still occurs that in similar cases different decisions are issued:

*It may be that one judge can decide one way, and another differently. We had such a situation that for the same case one court established a foster family, and the other did not [...] they justified their decision in that in order to establish a foster family, they must have parental consent – because this is in accordance with Romanian law – and because of that the case was blocked. (University of Warsaw)*

In Poland there are no specialized facilities that provide assistance to foreign children. There was a group for foreign unaccompanied minors who were applying for refugee status in one of the educational care facilities in Warsaw where all foreign children from Poland went to receive special treatment by the trained staff. The group functioned for eight years: from 1 September 2005 to 1 September 2013 (in fact, it was closed on 1 August 2013). The group had a fluctuating number of children – at most 16, but normally 6-8 children. During eight years of functioning there were 135 children in total.

### Statistics: Children in the group for foreign unaccompanied minors applying for refugee status in the educational care facility in Warsaw from 1 September 2005 to 1 September 2013

country of origin	number of children
Chechnya	51
Afghanistan	21
Georgia	10
Vietnam	7
Ingushetia	6
Somalia	4
Bangladesh	4
Other	32
Total	135



## THE SITUATION OF CHILDREN ON THE MOVE IN FOSTER CARE

age at the time of admission	number of children
1 year	2
2 years	0
3 years	1
4 years	0
5 years	1
6 years	1
7 years	3
8 years	3
9 years	5
10 years	1
11 years	2
12 years	3
13 years	0
14 years	4
15 years	13
16 years	32
17 years	34
18 years	30
<b>Total</b>	<b>135</b>

length of stay	number of children
less than 1 month	35
1-6 months	51
6 -12 months	31
more than 12 months	18
<b>Total</b>	<b>135</b>

reason for leaving*	number of children
runaway	47
other help	40
legal age (turned 18)	36
placed with mother/father	25
moved to another centre	17
assisted voluntary return	12
Dublin II Regulation	8
subsidiary protection	8
permit for tolerated stay	5
proven legal age (18 years or older)**	5
refugee status	3
deportation	1

\*multiple indications

\*\*left after turning 18, becoming an adult

### 3.2.3. RECEPTION CONDITIONS

At that time unaccompanied foreign children applying for refugee status did not go to the intervention care facilities, where they now are sent:

*The Group for Foreign Minors in the refugee procedure operated under a tripartite agreement between the Office for Foreigners, City Hall and the Children's Home. It turned out that since this was a service provided by the Office for Foreigners, they were given a room – plus the staff and the Office paid the rent for these rooms, as well as the staff's salaries. Three educators were employed who were in charge of basically everything, including the workshop we had created, which was adjusted according to the needs of the foreigners as well as the dynamics of the group that functioned there. Of course, some things were the principle from the beginning, for example the rules of the house/centre had to be respected, which was clear. The Act on Granting Protection to Foreigners within the Territory of the Republic of Poland was the second deed that we had to respect, and we functioned according to them, while the same substantive content of what we introduced there was tailored to the needs of our beneficiaries. So, in addition, we developed certain things even further, adapting rather to the needs of the foreigners, because if the Children's Home rules implied certain things about Polish children, then we had to extend them. If there was a certain procedure for accepting children it was one for Polish children, and it had to be transposed. So we created our own procedure which didn't have to be translated literally, but simply rather adapted to the conditions prevailing within the group. Therefore we worked out something relatively quickly, learning and observing what foreigners needed. We also participated in many training courses, which for us were also very important, because the manager had offered us a job here not only thanks to our knowledge of languages, but also because of our willingness to work with foreigners. However, apart from our willingness, we needed to have some other basis to rely on. (Case: migrant child from Afghanistan)*

Since the introduction of the Act on Family Support and Foster Care System (01/01/2012) children have been sent to a wide variety of childcare centres. This solution was met with widespread criticism (for example, at an institution there can be only one foreign child, while at the same time there is no specialization or qualified staff in these institutions) (Council of Experts):

*I know that this Law, in my opinion, has been harmful to foreigners, as they've been treated in a very instrumental way [...]. You have to remember that a young person who comes here to Poland to ask for protection, in most cases, is not a person who's coming here on vacation, but rather arrives with a heavy bag of life experiences – sometimes very difficult ones experienced during their journey to the Polish border. Sometimes they're not immediately caught at the border, and only a small percentage of them are also people who've wandered here before or been stopped somewhere before disclosing their identity. So their lives are already really quite tragic at the beginning, and they don't have any chance to find themselves in an environment of people similar to them, where they would be able to support each other as well as be treated with respect for their cultural differences, where they could have a smooth start. Instead, they're just sent straight away to a Polish group, without any knowledge of the language, without assuming that in the place where they've been sent there is a person who has experience in working with foreigners. They're almost like dogs who've been sent to a shelter. I'm not taking any merit away from the people who work with these children, because that's not what I'm talking about. I'm talking about how the legislator has treated a potential client who's seeking protection here, about a minor much more exposed to danger than an adult, in many cases without knowing the language, lost, really exposed to great danger. (Case: migrant child from Afghanistan)*

*At the moment they're all separated in different institutions, appropriate/correspondent to their place of detention. So they go to different institutions with different profiles – I suspect that in most cases they're children's emergency shelters or children's homes, where the staff is not prepared to work with these [children]. I know they're professionals who'll learn [...], but they'll learn at the expense of the kid. They'll learn about the procedures, but probably all of that energy which'll be used on learning these procedures will be used only for this one child, because it's possible that they'll never again receive such a child [...]. This system has been removed, because the different offices couldn't get along [...]. It was a system that everyone thought was the best, that we could show it off to other countries [...]. Anyway, I asked the Border Guard how it worked at that time, and they said it didn't work. We have over a dozen clients spread across Poland [...]. In addition to that, if such a child becomes a part of a Polish group, there's the danger that there'll be conflicts based on cultural background. The child may become radical because they'll be looking for a sense of security and turn themselves towards this known direction. [...] We had a similar situation [...]. They were transferred to another facility [...]. Well, we got information that the girl who was with us (in the group for foreign unaccompanied minors) functioned very well [...], we saw how a little, intimidated, frightened girl becomes someone who feels confident. She benefited from the practices of VLC [...]. She was transferred [...]. The girl has become radical – at our facility she dressed normally, whereas there she has started to wear a headscarf, and her room walls are full of Muslim signs. (Children Institutional Care)*

After the Act on Family Support and Foster Care System had been passed a loophole occurred. Under the new regulations the Head of the Office for Foreigners financed the children's stay only in the intervention facilities (three months). Because the procedure takes much longer than it should, they stay in the intervention care centre much longer than they are supposed to – the defined maximum period is three months, although it is almost never three months, but rather six or longer. This is damaging for those children due to their status of being “in-between”, which is very harmful from a psychological point of view.

Then these children end up in foster care, financed according to the general principles of the counties (powiaty), which are often not willing to finance the children's stay in residential institutions. There was a case when the Office for Foreigners at first said that it would pay for medical care of a girl staying in an emergency shelter, and then, after issuing invoices, they decided that they would not be financially responsible for the girl because the act mentions that it is only responsible for “foreign children without care”. The girl's mother was in Poland, however, deprived of her parental rights. Nevertheless, the Office for Foreigners assumed that she was not a child without care, so nobody paid for the girl's stay. She needed medical care and did not have any health insurance. The case remains unsolved.

In October 2013, eight children were under the custody of the Office for Foreigners, placed in different institutions in Poland. (Council of Experts)

Children not applying for refugee status are identified by the Border Guard and the police – representatives of these services apply to the court for permission to place children in a centre for foreigners or another institution. In the guarded centres for foreigners the main aim is to catch and expel foreigners without documents. Minors often do not have the documents related to residence. These centres have almost a prison regime, with outer walls, barbed wire and uniformed employees (even those working with children wear a uniform), and the centre's regime is often modelled on that of a prison, as well. These centres are operated by the Border Guard. Only third-country nationals are placed there. They can be persons without a valid residence document or persons applying for refugee status, but suspected of irregularities. Minor foreigners applying for refugee status must not be placed there, whereas others may be. There are also unaccompanied children (about 1-2). The Ministry wants to extend this group of persons, by including teenagers, almost 18-years old. The courts approve applications submitted by the Border Guard for allocation to these centres in almost 100% of cases, since nobody puts up a protest. Minors remaining in the guarded centre should not have contact with adults, based on the principle of not "mixing" adult prisoners with minors, but when establishing the procedure it was not thought that it would also apply to foreign minors. In practice, the children are alone, less frequently with other children (there is often an age difference; in one centre there are not many foreign children, and there is also a language barrier between them). There is also a serious problem regarding access to education for all of the minors residing in these guarded centres. Educational activities for children of different ages, as well as different cultures, are often held in Polish. And there is no willingness to change this. The Law on Foreigners, which the Polish Parliament (Sejm) has just completed work on (a third reading of the draft), has failed to introduce the argument that children should not be placed in guarded centres. Although a minimum age (15 years) for such a placement has been introduced, no child younger than that has ever been placed there before, so this is not a regulation that will change the current practice in this area. (Council of Experts)

If an unaccompanied minor applying for refugee status has reached the age of majority, they should remain in the centre for the protection of persons seeking refugee status or asylum, or offsite use of financial support to cover living costs until the decision has been issued.

Children are often frustrated because as they are growing up they hear that it is not known whether they will be allowed to stay there. The Polish legislation does not in any way guarantee that the person can remain in the country – a court order protects the child only until they are 18 years old. When foreign children come to Poland they do not receive any information that once they turn 18, they can be sent back to a country they do not know, with a language they sometimes no longer speak anymore. Therefore, if a little child is a foreigner with no chance to acquire Polish citizenship, they should be sent to their home country and placed in foster care as soon as possible. Of course, if the home country is safe:

*He came to Poland illegally [...]. Someone had issued a residence permit, and the boy had no birth certificate, nor any other document. Now he's 18 years old and they say: "go to Ukraine to apply for ID documents". He, first of all, wouldn't have money to pay for the documents; second, he didn't have anywhere to stay; third, he wouldn't have any money to live for some time there; and fourth, he doesn't speak the language anymore and wouldn't know how to manage things there [...]. (University of Warsaw)*

### 3.2.4. RETURN

The International Organization for Migration Poland runs the Voluntary Returns from Poland Project, which supports migrants in returning to their home countries. This procedure is also available for children. With regards to children the transport conditions are better than for adults – the shortest and most convenient journey possible is chosen, and they receive more support for on-site integration, taking into account their educational needs. The procedure for unaccompanied children is more complicated than that for children with families, but all of the aforementioned is also taken into account.

First, consultations with the children themselves are held to make sure that they actually want to come back and that the institution does not want to "send the child away". Then documents are checked, statements by the parents are collected, as well as by the family who is to receive the child, and then integration support upon their return is determined. The child is usually sent on a direct flight, and, if necessary, the company of an adult is provided – usually an employee of the children's home. Onsite the adult escort also checks the identity of the parents/family who are receiving the child. There are problems in the case of children from Chechnya, because IOM works within the UN system and Chechnya is considered a danger zone according to the United Nations. Therefore, in accordance with the normal procedure, extra security measures are necessary. Generally, the procedure is quite time-consuming, mainly because it is necessary to check the situation in the destination country:

*Since the beginning of this program, which started in 2005, perhaps, a few of the unaccompanied children have returned. They were only those who'd sought refugee status [...]. First of all, it occurs that the child wants to go back. Once we had a case of two little girls, and besides that there were teenage boys – 16-17 years old – who let us know that they wanted to come back. However, the decision was also made by them, the guardian of the children's home who represented the child in the refugee procedure, and, of course, their parents. As such, a return couldn't be organised if there wasn't any legal guardian for the child who not only wanted to accept/host the child, but could also declare that they'd provide them with adequate living conditions and receive this child, etc. So this is the whole process [...]. We also had, now I recall, one case of a boy who was not under the refugee procedure. In the end he didn't leave [...]. There was a problem with his mother, who wasn't interested at all in his return. (NGO)*

## THE SITUATION OF CHILDREN ON THE MOVE IN FOSTER CARE

If the foreign children are not placed in detention centres, they are subject to the general regulations concerning foster care. They are sent to an institution or a foster family that will accept them. Sometimes it is not formally considered a foster family (due to complications related to international law), as there is only a court order stating that the child may be under the care of a person at a given address. This solution is not good, because the court effectively makes it the family's problem. Judges state that in the case of foreigners, since they can only use the security procedure and not the care procedure, they will not appoint a foster family, but rather establish a security solution in the place of residence, which does not result in the creation of any legal ties with their parents. The family takes care of the child, but does not receive any money or support, nor are they the child's legal guardians. Each time it is necessary for them to apply to the court for permission to represent the child in a procedure.

### 3.2.2. RUNAWAYS

Runaways from foster care facilities, especially intervention facilities, are common in both international and national migrant children cases and are one of the most crucial challenges faced by children on the move.

These children on the move run away from any place – first from home, then from educational care facilities. Due to various problematic issues – among them runaways – they are often shifted between different types of care centres: a Social Rehabilitation Youth Centre, an Intervention Care Facility, a Socialization Care Facility or a Youth Educational Centre.

The highest percentage of runaways are observed in Youth Educational Centres. These children travel around Poland. This is a system-related problem when a child receives a placement order to a Youth Educational Centre, which is valid only for a month. If during this period of time the child is not brought to the indicated Youth Educational Centre, the referral expires. After a few months another placement order is issued to another Youth Educational Centre and the situation repeats. Some of these children have more than eight executed referrals (due to repeated runaways). Due to the aforementioned they can often avoid the Youth Educational Centre until the age of 18. Moreover, if a person who has been placed in a Youth Educational Centre runs away after a period of about eight months, they will automatically be deleted from the list. But until that happens they block places for other children, who are instead placed in institutions where they should not be.

For children it is worth it to run away because most of them do not want to stay in a Youth Educational Centre and they know that it is not very likely that they will ever be found: "Children know how it works. Everyone knows that it's worth it to run away. Some children travel around Poland in order to confuse the system". (Intervention Care Facility)

One of the reasons might be that these children do not want to go to a Youth Educational Centre, since they are more restrictive and the children living there are more aggressive and troublemaking. Youth Educational Centres are institutions for juveniles at risk of demoralization or social maladjustment. However, because of the long wait for a place in such institutions, these children are often put into intervention centres instead – which is why other children know what kind of problems they have. According to the Supreme Audit Office there were no acts of vandalism, aggression and physical or mental violence used by the pupils against each other in only 3 of the 28 audited intervention centres. In 24 of these centres there were 254 police interventions [over two-and-a-half years] and 1,581 runaways. The main cause of these events was that socially maladjusted juveniles, who on the basis of court decisions should have been placed in an institutional type of social reintegration (e.g. a Youth Educational Centre, a shelter for juveniles, correctional facilities), were instead living in intervention centres, disrupting the educational process, often endangering other pupils. (NIK, 2012).

In our interviews with children the fear of being placed in a Youth Educational Centre was evident:

| *I don't want to go there. I won't be able to cope. (Young runaway)*

| *And just tell me, what would you say to a person who wants to run away? Would you say that it's a good idea?*

| *I mean [...], I would tell them not to run away, because you can end up with more problems, you can go to YEC [a Youth Educational Centre]. I would just stop the person.*

| *And have you ever been in a YEC?*

| *No [...].*

| *Do you think it's worse or better there?*

| *Worse.*

| *Why is it worse?*

| *Well, because these girls who are in MO are certainly the type that swear and use invectives against everybody, who beat others. (Young runaway)*

As mentioned before, when a foreign child runs away the measures are very limited due to the lack of documents, and, above of all else, a Polish ID Number. This part of the analysis contains a more detailed overview of the procedures in cases of runaways by Polish children in foster care.

The first measure to be undertaken is for an authorised person (a member of the child's family, a legal guardian, another person if a crime is suspected) to notify a police officer about the missing child. The police officer must then immediately deliver this information to the nearest police station. If there is any real possibility of finding the missing person quickly, or if it is a minor, a person who requires care or is under any threat to their life or health, the police officer on duty at the police station initiates the search procedure. During the process of accepting the notification of the missing person, the following information shall be gathered: personal data, appearance features and identifying marks; a description of the person's clothes, their blood type, a description of items carried by the person; their mobile number; the place and circumstances of the person's disappearance and their health condition, as well as any information regarding the form, time of duration and results of any previous incidents related to the person's disappearance; a probable cause of the disappearance, addresses of the people and institutions where the person might have gone, the type and range of actions undertaken by the family and other people upon noticing that the person had gone missing; information about the legal guardian; social networking

sites where the person has an account; and a photo of the person. The police officer should inform the person who is filing the report about the nearest organisation that provides support to the families of missing children, as well as the helpline 116 000. The missing person is automatically registered in the police records and in the Schengen Information System (SIS). The category of the missing person (1st, 2nd or 3rd) is defined by the police officer after an analysis of the obtained facts and circumstances. The person who reports to the police officer receives confirmation of the report.

The initial response by the authorities depends on the category of the missing person (1st, 2nd or 3rd). In the case of the 1st and 2nd categories the initial response includes registration of the missing person, introducing the person's photo into the police system and publishing the information about the missing child (if the parents give their consent) on the police website. Minors belong to the 3rd category (the lowest level of risk), unless they are under 15 years old or suffer from a particular disease – in which case they are qualified for the 1st category. Regarding the 3rd category the procedure consists in registering the missing person. Usually the police consider these cases to be a waste of time and energy. They believe it is more a family affair or they are frustrated that on the following day the same child could run away from the centre again.

The measures undertaken by the Police include attempting to trace their mobile phone (but children know this and therefore usually turn them off) and IP address, notifying hospitals and checking addresses, if there are any presumed where the child might be.

Often in the case of runaways from institutions the police do not carry out sufficient search measures:

*The girl escaped from the Police Emergency Youth Shelter (prior to being taken to the children's emergency shelter). She sat a few blocks away and wondered whether to return or not, and whether they'd look for her. After that, she said she had left her phone on and waited to see if someone would call, but no one did. At the same time, the mother, who later went to a psychologist, heard that she shouldn't do anything since the girl would come back on her own. Some professionals don't deal well with these situations. (NGO)*

| *You shouldn't [trust the Police], they do the necessary minimum so that nobody will notice that they're not searching at all. (Group)*

In Poland there is a non-governmental organisation which works in the area of runaways: ITAKA – the Centre for Missing People. There is a formal agreement between the police and ITAKA for cooperation in the area of missing persons (adult as well as children). The agreement was concluded between the police headquarters and the foundation, but cooperation with every police officer in the country is still valid. The police and ITAKA both cooperate with the Border Guard, fire department, Mountain Volunteer Rescue Service, Water Volunteer Rescue Service, and even the Tatra Volunteer Rescue Service in some cases. ITAKA operates a toll-free nationwide hotline for missing children and their families which is available 24 hours, 7 days a week – 116 000. The actions undertaken by ITAKA are complementary to the police measures. The NGO tries to contact the child by sending an email, text messages, as well as posts on Facebook. They then try to inform the child that they may call the hotline to talk to a psychologist or a lawyer.

One of the main conclusions from the interviews and the group discussion has been that children on the move know the procedures very well and know how to use them for their own benefit. That is why it is very difficult to find them without collaboration with people from the child's own environment. During the group discussion teenagers recalled stories about their friends who had run away and hid for several years until someone finally called the police:

*A friend of mine ran away at the age of 15, before she'd had four cases in court and was sent to a reformatory. She ran to a family in another city and hid there for three years [...]. A friend from the children's home was seeing a much older boy and became pregnant. She ran away because she was afraid that they would take her child away (as the head of the children's home had threatened). Someone revealed her address, she was caught and now lives with the child in the children's home. (Group)*

### 3.3. PROFESSIONALS/INSTITUTIONS

During the procedures these children on the move have contact with many professionals and institutions, including the police, Border Guard, the court, legal guardians, educators, psychologists and pedagogues, among others.

This contact with professionals is crucial for children on the move, as they need professional and adequate support. One of the most important things is to gain the child's trust and maintain it, because only then will they cooperate. This is difficult, as children on the move generally do not trust adults due to their previous experiences:

| *Because I don't trust anybody when it comes to any education office, some [...] I do not know, institutions and those others. I don't even trust educators, psychologists, I don't trust anyone. I know people". (Young runaway)*

Unfortunately their first contact with professionals is unsatisfactory, as it very often takes place with a representative of the police, whom most of the children have had very bad experiences with. During our group discussion the teenagers considered notifying the police a ridiculous idea, referring to them rather as an enemy than an ally, a perspective which was confirmed in the interviews:

| *And what's more, he yelled at me. And what, I just went to him – and I was innocent – and he yelled at me. Well, then he apologized for yelling, but [...]. There was a fuss in general and the police came, because the neighbours had called them. Well, and he said that it was all my fault. But when he saw that my mom was running towards me to hit me, he said: "well, I'm sorry". (Young runaway)*

There is also a problem with legal guardians. Children often do not know who their legal guardian is. Some of them said that they did not know if their legal guardian was a woman or a man. In other situations they have contact with their legal guardian but it is not good from the child's perspective, as it has a negative impact on their situation:

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*Because I don't get along too well with my guardian and we don't like each other much. We were only able to say a few words to each other. And she did things to make me angry because I had done something to piss her off. And she, in order to hurt me during the proceedings, said she was sure that I'd stop going to school if I went home. So they sent me to a children's home. (Young runaway)*

Problems related to the judges in cases involving foreign unaccompanied minors were mentioned in the previous chapter. Proceedings involving Polish minors are problematic as well. According to the child's point of view the judge is not on their side and does not want to know their opinion:

*If you could change anything in court, what would you change?*

*Certainly the judge.*

*Really? Any unpleasant experiences?*

*Well, she was just so mean that [...] immediately from the very beginning: "you're guilty".*

*But what, no one heard you?*

*I mean, no, the lady wanted to hear me, but when she started with the texts like, "you're demoralized, you're this, you're that [...]", I said, "Well, that's cool". So I made my statement, but didn't tell her anything, and that's all.*

*So she didn't want to know your opinion at all, right?*

*No. It was according to this rule.*

*And this is what it really looks like? Is that just in the courtroom?*

*Yes. Only in the court room, because that was where the stenographer was sitting and writing everything down, the judge too.*

*Well, that's all. And I was with my mom.*

*Ah, your mother was present, right? Did you have contact with anyone else there? Was there perhaps a psychologist in the courtroom?*

*There was nobody like that there.*

At the care centres children often have contact with psychologist and pedagogues. Whereas some of them have regular therapy sessions, others only receive irregular/ad hoc consultations. The children have usually had good experiences talking to the aforementioned professionals, mentioning that these are the people they can ask for help. However, relations with their educators tend to be even better. Some children treat them like family (in one case, an international migrant called their educator "Polish mum"), calling them by their first names<sup>2</sup> or even using nicknames:

*And do you have a good relationship with Ms. X?*

*Ms. X is cool. I like her a lot. But I like them all.*

*Really? So, when something bad is going on, then you can [...].*

*Yes. Or to Ms. X or to Mr. Y, and everything is OK. Well, I mean to the educators. It's the way Ms. Z is, we call her "darling". She's just [...] cool. (Young runaway)*

"Sometimes teenagers who run away from care centres maintain contact with their educator, send them text messages that they're alive, that everything's OK. They tell them not to worry, that it wasn't their fault – sometimes they just hate the institution, but are afraid of hurting the educators' feelings". (NGO)

*When contact with the educators at the care centre is good, it is much easier for the children to integrate and feel comfortable: "I mean, now everything is OK. Before, when I first came here, I was sad. I didn't want to be here. And then everything was OK..." (Young runaway)*

However, staying at the care centre can be difficult at the beginning. The children who go there are often neglected, so they do not know the basics of normal everyday life, even regarding hygiene. They have to learn, and it is difficult for them to change their habits.

Sometimes their social and economic situation before coming to the care centre was much better, which also makes it more difficult to adapt to the new conditions:

*Well, everything was getting on my nerves. That I had to do something like that [...]. I used to have such an easy lifestyle. I mean, easy [...] I just got up, made breakfast for me and my brother, I bathed, got dressed and went to school. And here you have responsibilities, you have something to do [...]. I'd sit here all the time. I'm so fed up with sitting. Because I've never had anything banned. I grew up so that when my mom went to jail I was mature enough to earn my own money. I didn't do things, didn't play or wait for pocket money, like the other girls here. They get 10 PLN a month – 10 PLN each, and if one of them works harder she receives 30 PLN. And I used to earn 600 PLN. (Young runaway)*

Even if most of the children have good relations with their educators, they almost always go first to their friends/peers and family – if they have one – when they have a problem.

### 3.4. FAMILY

The main problem for children on the move who are foreign unaccompanied minors is a lack of contact with their family or difficulties in maintaining that contact. These children feel very lonely, miss their families and worry about their safety. They try to contact them, using all available channels of communication: institutional (embassies, NGOs), telephone, the Internet (even social networking

<sup>2</sup> To show respect in Poland children usually refer to adults who are not their familiars or friends by using "Sir" or "Madame".

sites), etc. They suffer from not having anyone nearby in Poland, especially when it comes to going out during the weekend or holidays – since other children go to visit their families, while they have to stay at the care centre, which makes them feel unfairly treated.

Another group of foreign children in foster care are those who came to Poland with their families or were born here, but have been taken away from their family due to cases of abuse – physical, psychological or sexual – which they often do not want to talk about. Sometimes their parents are not able to take care of them: because of chronic illness or impairment, which requires more attention. Usually, they cannot look after them because they live in poor conditions, work a lot or live in a small room at their employer's (e.g. "persons nursing elderly people, cleaners, domestic help"), and the employer will not allow the child to stay with their parent. In such cases, it is necessary to try to help them recover their children, because they often want to get them back. Both consular assistance and financing a parent's return to their home country together with the child are examples of possible forms of help. Often parents eventually recover their children. On the other hand, in many cases they are illegal immigrants working in Poland illegally who are not able to take care of a child, and do not want to disclose their identity to the authorities because of the potential consequences of their illegal residence. Sometimes they are immigrants who have had a child "by accident" while an immigrant in Poland and they cannot/do not want to go back to their home country with the child. It is difficult to make these parents go to court in order to, for example, present a statement of intent on waiving parental rights, since they are afraid of these type of institutions.

Polish children in foster care almost always have a history of domestic abuse, which is why they are in foster care:

*When the children came to us, it turned out that they'd been quite neglected, emotionally, with marks of violence, very neglected physically as well, in poor health condition. (Case: migrant children from Chechnya)*

In general they come from families with problems, e.g. alcoholism, educationally incompetent parents. Often the child is under the custody of a single parent or grandparent. During our research we observed many cases of children being brought up by their grandmothers. Sometimes parents are not even interested in taking the child back from the care centre:

*The police came to my house many times. Because there were various fights, for different reasons, between me and my mum. It just so happened that I went to the police station, because my mother was making a fuss again. Well, the police came back with me. Mom said that she wouldn't claim me. Well, so, since she wouldn't accept me, they've brought me here. Like every normal mother, when she wants her child she just goes and claims it, right? And here the child wasn't needed. So, what for? (Young runaway)*

The group discussion where all the participants had experienced domestic abuse shows that children in such a situation feel hopeless and do not know what to do. So their only answer is also violence – sometimes towards their abusers: their parents.

### 3.5. SCHOOL

The compulsory age at which children start school in Poland is 6 years old. This means that foreign minors, independent of their legal status or the legal basis of their residence in Poland, are obliged to attend school. Children who reside in Poland illegally or whose status is unknown have access to education free of charge. According to the amended version of the Education System Act (art. 94a), "people who are not Polish citizens benefit from education and care in public preschools/kindergartens, and those who (due to their age) are obliged to attend school are entitled to education and care in public primary schools, lower secondary schools, called gymnasiums, public art schools, including institutions of art, under the conditions set out for Polish citizens". However, there are some difficulties, such as a low level of education (especially among refugee minors who as a result of war conflicts have not attended school), poor knowledge of the Polish language by foreign minors who have been in Poland only a short period of time, cultural differences, a lack of interest in learning, skipping classes and a lack of appropriately trained teachers (especially in smaller towns), who are unprepared to work with foreign students. (MSWiA, 2009; Lachowicz, 2012)

In accordance with the legal regulations, every foreign child must be sent to school. Younger children are sent to the nearest elementary school (a public Polish school) – children aged 8-9 can still easily catch up with their education, finish elementary school, go to a Polish gymnasium and then on to high school. In the case of older children (15-16 years old), sending them to a Polish school does not usually lead to good results, mainly due to the language barrier and differences between their previous education and the Polish education system:

*Something like this worked only once – there was a boy, very motivated, who studied Polish textbooks at night and asked his teachers all the time how to say this or that. As a result, he learned Polish in two months so that he could easily participate in all subjects at school. (Children Institutional Care)*

Motivation is very important in the education of a foreign minor. It is often difficult to involve their parents – who do not see the need and are usually busy with work and out earning money – so motivating the child is very important. Motivation is mainly related to whether the child wants to stay in Poland. If someone wants to stay in Poland, they will learn the language and be able to receive a professional education.

Language problems are mostly visible at school. Children in Poland need to attend school and often do not have sufficient language skills (do not speak enough Polish). Some children (teenagers) would like to be prepared first, to learn Polish, whereas, on the other hand, children who initially skip school for a few months are then sometimes stigmatized, experiencing more problems in catching up with the material later.

When all the children (requesting refugee status) were in the group for foreigners there was a multicultural class for those who did not speak Polish. They could participate in activities which were effective – a lot of lessons in Polish (as a foreign language)

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during the first year, as well as subjects that do not require a high level of Polish, such as PE, art and music. This was done so that they would not get frustrated while attending classes which they could not effectively participate in (due to not speaking Polish). Now if these foreigners were sent to different care institutions in Poland they would have problems with education. If children are placed in a children's emergency shelter, they will go to school at the centre, which will increase their difficulties, since these schools are usually attended by children who are not motivated to learn, which leads to behavioural problems or serious trauma. Taking into account the aforementioned, the teacher will most likely not have the power to deal with a foreigner yet.

The school itself produces some problems, the first of which concerns finding a school near the child's place of residence which will accept a foreign child. Commuting is usually necessary. Another problem lies in the fact that schools do not have any opportunity to adjust to the education of foreigners. Teachers are not trained in this and they sometimes see no point in teaching a foreign student who cannot speak Polish (and often does not want to learn it). If teachers have a negative experience like this they usually become discouraged from any such work at all. It sometimes ends up that the child comes to school (because they have to) and just sits without participating. The school principals also become reluctant to get involved:

*There are no precise regulations about sending foreigners to school. It often comes down to the fact whether the head of the school 'wants' to accept foreigners. (NGO)*

*Recently, one of the directors who was going to accept a child from Somalia asked fearfully, 'but is the child black?'. (Warsaw Family Support Centre)*

From the point of view of the school the problems associated with foreign minors relate primarily to determining their level of education (which class the child will go to). First it is necessary to determine the education level of the child based on their school documents (certificates, grades, etc.). If these documents do not exist (a very common situation in the case of unaccompanied foreigners) the school determines which class the child will go to, based on their conversation with the director (and possibly with the teachers too). As a result, these children usually go to a class below their educational level due to an insufficient knowledge of the Polish language. It is assumed that in the meantime the child will "catch up" with their Polish. There is, however, a lack of awareness on the specifics of learning Polish as a foreign language. An additional effect of this decision is that the child usually ends up in a class with Polish children younger than themselves.

Issues with identifying learning problems are also partly related to the difficulty of distinguishing when they arise from the fact that a child is a foreigner, and when they come from other problems, such as dyslexia, ADHD, trauma, depression or PTSD.

This is also a difficult situation for those teachers who do not know how to deal with students who possess a lower level of Polish. There are no magical solutions – although there are some methods which allow teachers to carry out such lessons, they are still, however, not familiar with them. Sometimes it ends up with the child sitting in the classroom completely ignored. On the basis of the amended act, foreign students who do not speak Polish well are entitled to a year of assistance help by a teacher's assistant during their school lessons. Though schools are allowed to employ culture assistants, they do it very seldom.

Due to the aforementioned problems, intercultural trainings are conducted for teachers, but they are held mainly in Warsaw (which is another argument for placing foreign children there). One example is the project "Multicultural School", implemented by IOM Poland, which supports the education of foreign children in Poland. They host trainings on multiculturalism and migration which are based on specific methodology – teachers work by referring to their own experience of migration, or to the experience of someone from their family – the purpose being to understand and empathize with their migrant children's situation.

There are also organized events, festivals and competitions for schools. Moreover, an e-learning program is also available which allows teachers to get to know the cultures of the children they work with – if, for example, a teacher has a Georgian child, they can choose the e-learning version about Georgian culture which even contains details about the life of children in Georgia (and by analogy it is possible to choose any nationality). Currently, a new series related to anti-discrimination training is being prepared for teachers.

In Warsaw there are several specialized schools – the middle school (Gymnasium) on Raszyńska Street, and schools located near refugee centres. A lot of foreigners in foster care go to the school on Raszyńska Street, a place which has many advantages, but also one major disadvantage: a loose approach to discipline which creates an atmosphere where not all feel obliged to learn:

*I'd like to say a lot about this school, but quickly, since I want to emphasize the role of the school at Raszyńska. The director here, Mrs. Starczewska, actually tried to help foreigners with a very open heart. She understood that, above all else, people who come here at the age of seventeen, like this boy, can't enter the Polish educational system because the distance is too great – even if they've completed an educational cycle in their own country, they just need time to learn Polish, which will be the most important language for them; and [she understood] that you have to place the strongest emphasis, and other things too - if they're motivated they'll have the ability and desire, the will to reach them, and if not, Polish will be their greatest treasure. She actually created the basis for what at the moment is growing quite large, because the class is multicultural, on several levels, the teaching is adjusted, where possible, to the needs and abilities of the foreigners. However, it was a little bit earlier, when there was only one class, where we enrolled the guys and they actually learned Polish there, a little bit of English, according to their abilities, there was also PE. There were attempts to teach them some other subjects, but it was quite difficult because it would have to have been done by using I don't know what language. Because if you don't have anything – well, that's why you can't put this person into a public school, because he simply can't deal with it. And here we're forever grateful to Mrs. Starczewska, because she understood the problem. (Case: migrant child from Somalia)*

Schools often neglect the issue of Ukrainian, Russian and Belarusian children, which happens to be relatively significant. They are, in a way, part of an invisible group, one that does not have all that different an appearance. They learn Polish easily and are therefore often regarded as "semi-foreigners", yet they have different needs.



Apart from their school education elder children can also receive vocational education – mainly in cooperation with the Voluntary Labour Corps (VLC). The primary objective of VLC is to create adequate conditions for the proper social and vocational development of young people, including special actions that are addressed to disfavoured young people supported by VLC. The support consists of organising diversified actions which are aimed at escaping poverty, unemployment, as well as reducing the effects of social pathology. Minor foreigners participate in apprenticeships conducted by the Voluntary Labour Corps, which offer people from 15 to 18 years of age a general or vocational education combined with practical vocational training – practical work which they are paid for. This vocational preparation may relate to professions such as salesman, cook, and hairdresser. To start this training it is necessary to use the Polish language at a sufficient level:

*We enrolled him because he really wanted to learn a profession – one that he'd been dreaming about – but it turned out that, after consultation with a VLC employee, the labour market for this profession was basically non-existent. So he proposed a completely different profession which turned out to be in quite high demand. The workplace where he works gives him the chance to earn much better money than a student would – whereas a student there receives only pocket money, his boss gives him the opportunity to earn more – which is very favourable for him. I'm happy about this. And he's also learning this profession quickly, he has prospects that'll allow him to remain in this profession, which is very important because it means that if the decision is positive it'll give him a chance to function here at a good economic level. (Case: migrant child from Afghanistan)*

### 3.5.1. POLISH CHILDREN

There are naturally less problems in the case of Polish children. Sometimes they do not even change schools, but when they do, it may also be difficult for them, because the level of education might be different:

*I have nothing to learn. I used to go to a normal school but here the level is terribly low, it's horrible [...]. You don't take a test for 100 points here, like in normal schools, because there's no such thing. When I ask the teacher – I'm sitting – she says something about how we're going to do tenses today. And she comes up with present simple. Well, I sit there with my mouth open and say that this is for first-graders in primary school. (Young runaway)*

### 3.5.2. SUMMARY

It is necessary to remember that attending school not only provides one with knowledge, but also teaches them a systematic attitude and respect for rules, integration with peers and learning everyday cultural practices. Thus a dilemma arises as to whether foreign children should be grouped in school: all foreigners placed together or separated, so as to promote integration with Poles. The argument that supports grouping is the friendlier atmosphere for foreigners, whereas one of the arguments for separation into classes with Polish children is primarily that this leads to faster learning of Polish.

The ideal solution would join these two options. Foreign children should have contact with Polish children, but they should also have the space and time to take a deep breath from “forced integration” – a space where they can feel normal and not like a stranger – e.g. in the form of weekly meetings with kinsmen from their own nationality, where no one will be surprised by their customs or language.

## 3.6. INTEGRATION

Integration of international migrants is very important, because it allows them to function well and feel like they are full members of society. This type integration should cover the following three areas: care facility, school and community. Integration at school has been described in the section above.

Integration at care facilities is crucial because these are places where a child should feel safe and comfortable, as if they were in their own home. This integration includes learning the rules of the facilities and how to relate with educators and peers – both foreign and Polish. The first and most important obstacle is the language. There are many different languages, but a combination of English and Russian makes it possible to communicate with the majority of children. If this does not work, sign language, drawings, gestures and google translator may be used. In the case of foreigners who do not understand much at all, the centre/facility staff tries to arrange for an interpreter to explain the rules of the institution to them at the beginning. Former foster-children frequently help in this aspect:

*And in addition to our initial actions, which were routine activities – that's to say activities aimed at making children feel comfortable in the group, integrated with the rest of the inhabitants, so that they'll feel safe – we also had to enrol the children in school, as well as make a complete diagnosis of their needs, including their health needs. So there was a wider range of activities which we immediately undertook when it came to taking care of that family. (Case: migrant children from Chechnya)*

*Even if someone doesn't speak Polish, English, Russian or French, we already rely on our former Afghan children who then come; or those who live here, we ask them to come – or have asked them to come – because we talk about the past all the time. We've asked some of the Afghans, who've already left our facility and speak good Polish, to come so we could communicate and then we get a person acquainted with the rules [...]. They themselves prove what's happening here, and therefore immediately come and present their point of view, according to their experience, what the living conditions and rules are here, what they can expect, what it looks like. They help a lot in the presentation of the administrative procedure, which is also very important. (Case: migrant child from Afghanistan)*

*In the case of adopting little children, the main determinant of whether or not this will be allowed is the health state of the child, not their origin: “Finding an adoptive family for healthy foreign children is as easy as it is for the Polish ones. If a child is sick - it's just as difficult as in the case of the Polish”. (University of Warsaw)*

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All children who are under the custody of the Office for Foreigners must attend mandatory courses in Polish (unless they already speak the language) – this is a condition for receiving aid. These courses, financed by the European Union, are free of charge and take place in Warsaw. It is also possible to provide for a teacher to go to someone's home/family – for example, in the case of single mothers with children.

When it comes to relationships with their peers, they are usually the same for foreigners as they are for Polish children. Sometimes only little children (Polish) were surprised by the different appearance of foreigners (e.g. black skin). Sometimes even the presence of foreigners motivates the Poles to learn English because they want to communicate with them. Educators claim that there are no ethnic conflicts between foreigners and Poles, only those related to personal issues, between specific people. However, those working with foreigners outside institutions say that it is difficult to identify peer conflicts from cultural conflicts, which result from prejudices and stereotypes, so educators often prefer to consider them “ordinary conflicts” rather than see the background of ethnic prejudices. Sometimes there are also disagreements with teachers about cultural background:

*The tutor thought the girl wasn't integrated and didn't work because she didn't want to go on a holiday trip to the seaside which, after much trouble, had been arranged by the educators. Meanwhile, the girl, a Muslim, was afraid that all the women on the beach would be undressed and that she, too, would have to undress, or that she'd be dressed and the other children would laugh at her. (NGO)*

When working on the integration of foreign children it is very important to respect their identity, as well as allow them to cultivate their culture, traditions and religion. For example, when Muslims want they are taken to a mosque in Warsaw, where they can maintain contact with the Imam and celebrate holidays. For children it is extremely important to be able to cultivate their traditions, even if they do not use the opportunity – they want to be sure that it is their choice:

*The biggest commotion always has to do with Ramadan – all the Muslims want to fast before Ramadan, so the kitchen and canteen are adjusted accordingly. Then it often turns out that they aren't very willing to do it. (Children Institutional Care)*

*He's going to the mosque, but isn't celebrating Ramadan – because he said he wasn't ready, but warned that when he is, he would like to celebrate it. (Case: migrant child from Afghanistan)*

On the other hand, in some respects educators require foreign children to adapt to Polish cultural norms according to the principle: “Since you are guests, you have to respect Polish customs”. Two examples of this are the banning of headwear at home and requiring the use of cutlery while eating, both of which sometimes cause resistance, as some of them are very proud, despising any culture other than their own. However such problems have been created mainly by those children who cause trouble in other dimensions. Cultural conflicts are usually just an excuse when the people themselves are in conflict with the environment in general.

Sometimes, however, there is a lack of sensitivity towards cultural differences, such as the celebration of Polish holidays without explaining what they are. During history lessons the school presents the Polish point of view, which is often a problem for Ukrainian and Belarusian children, who may be familiar with a completely different perspective on some historical events.

Integration on the level of community includes support in getting a job and a place to live after the leaving foster care facilities. According to the Act of 12 March 2004 on Social Assistance, foreigners residing and staying in the territory of the Republic of Poland who possess either a residence permit or refugee status, as well as citizens of the European Union and European Economic Area residing in the territory of Poland who possess a residence permit, are entitled to social assistance benefits (MSWiA, 2009). The Act on Social Assistance also provides integration assistance to persons covered by international protection. At present, this applies to refugees and foreigners who have been granted supplemental protection in the territory of Poland.

Assistance for persons covered by international protection is provided within an individual integration programme, agreed upon by the County (powiat) Family Support Centre (PCPR) and the foreigner, specifying the amount, the scope and form of assistance, depending on the individual living situation of the foreigner and their family. This assistance is provided during a period no longer than 12 months, the principal components of which include:

- cash benefits covering expenses related to learning the Polish language
- payment for health care insurance contributions which have been specified in the provisions on general insurance with the National Health Fund
- specialised counselling<sup>3</sup>

However, foreign unaccompanied minors have limited access to individual integration programmes (IIP), which they cannot take advantage of before turning 18 years old. Moreover, the quality of the aid rendered by the programme may not be satisfactory (FDN, 2011).

In Warsaw the project “Integration for Independence” – implemented in 2007 – allows foreigners to benefit from additional services and receive support for a longer period of time (guidance counsellors, psychologists and child care services). The biggest problem for foreigners, especially young people integrating into society, is finding a place to live and work. Most of them rent the cheapest flats/rooms on the open market, though the Warsaw Family Support Centre has five flats reserved for foreigners within the public housing system – they are in protected housing, very affordable and available for six months, with a possible

<sup>3</sup> <http://www.mpips.gov.pl/en/social-assistance/>

three-month extension in certain cases. But an average of 80 families apply for each flat. Foreigners can also use the resources of the town district's public housing neighbourhoods.

Regarding work, it is still difficult for foreigners to find a job. Most employers do not know that a refugee can be employed without any additional permits, just like a Polish citizen. Therefore, the majority of foreigners work illegally. They also do not care much also about social security:

*One of the most important objectives for us was to prepare those staying with us for a relatively independent life after reaching the age of majority – already in a normal situation in society, or a little bit outside, but with the tendency to integrate into society. So this was a very important objective, in principle, as it always should be, hence all the discussions on this subject, in general, were focused on what Poland is, what it looks like, what rules apply here; moreover, on how to rent a flat, how to conclude an agreement, how to write a curriculum – just based on our experience, but we initiated cooperation with non-governmental organizations which help foreigners very quickly. That's how, step by step, we got support from the foundation, as much as was possible, which is why our range of activity is limited – when you turn 18, you leave. We're always here for you, we can always help you, but it's a different level of help. We can't always focus a lot on the foreigner's needs because here we have our pupils – so we may not have enough time, or something might happen and we won't be available one hundred percent – which is why it was important for the non-governmental organizations to cover our protégé with their protection. (Int.14)*

Problems with getting a job and a flat reflect a general problem in the perception of foreigners in Poland, which affects their overall integration on the societal level:

*Poland's not exactly a friendly country, particularly for black people, but let's say you can find an environment for yourself here where you can live safely. However, actually living in Poland is quite difficult and the traditions that accompany us – Poles are quite strict, and when a person learns them and tries a little bit to understand this, they're able to find their place somewhere. Anyway, I've usually passed this ideology along to foreigners: "look, observe, learn and draw conclusions". Not everything that's in this tradition and not everything that happens in this country is good and holy and wonderful, just like in any other country there are good and bad people. Don't lose sight of your traditions, your beliefs and what you've learnt at home, don't say that they're bad now, because you need to force yourselves to be Poles. No, you have to be people, good people, live your life in a good way. So keep for yourself what's good in your traditions, accept what's good and what you can take from our tradition, and out of this make a coherent totality in your head. (Case: migrant child from Somalia)*

*We're not a country open to foreigners. These young people have huge problems when they leave the centre. (University of Warsaw)*

### 3.7. EXPECTATIONS

Do these activities carried out by professionals and services reflect the children's expectations? When children call the helpline, they talk about their problems, the situation at home, the fact that they are afraid to return because they fear the adults' reaction: they are afraid of abuse. Children from educational care centres (or those placed in an educational care centre) sometimes call and say that they would go back if they were sure they would not return to the same centre where they used to be, but rather another one – or they do not want to return to the centre at all but to their family, etc.

According to the interviews conducted as part of our research, their main expectations refer to stability – knowing what would happen to them would have an impact on their future. They would like to be sure that they will not be deported, and that they can study what they want.

"He wants to stay in Poland – he likes it here – and would like to be in the children's home already. He'd like the legal situation to be stable enough that he'd know he could stay in Poland. He plans to stay in Poland and study pharmacy". (Case: migrant child from Afghanistan)

Polish children would like to go back home to their families, but to safe and loving ones:

*So now describe for me the ideal situation.*

*The ideal situation? I'd leave this place – because my little brother was born. Well, my step-brother is, like usual, with my step-father, but I can reconcile with him. If I reconciled with my step-father, Kuba, everything would be OK.*

*Who do you live with?*

*My grandma. I'd like to live with my grandma, because my grandma is alone. (Young runaway)*

*And tell me, what would you like to happen now? [...].*

*I want the court to let me go back home. (Young runaway)*

## 4. SUMMARY

In Poland there is no clear definition of who “children on the move” are. For the purposes of the project two groups of children were considered to be “on the move”: international migrants (foreign minors) and internal migrants (those who have experienced running away).

There is also no centralized child protection system in Poland, which is why we have chosen to focus on foster care: the most centralized system concerning children. The foster care system (children’s institutions) cooperates with other institutions, such as social services, the police, prosecutors and the judiciary.

However, as it has been shown above, the foster care system is maladjusted when it comes to the specific case of children on the move. First of all, it does not cover all children on the move. The groups which are most invisible to the system are unaccompanied minors who run away very soon after having been observed by an institution – they very often just disappear and are not looked for after the fact. Also, some international migrants who run away from children’s institutions can and do disappear from the system, only not as often.

One of the main problems lies in insufficient coordination between different institutions. A child on the move has contact with different institutions but these are individual contacts, lacking one organized plan or agenda for the child, let alone shared discussion or the quick transmission of information. This is why these children very often feel lost in the system. This problem may also be magnified by a lack of data about children on the move – even if some exists, it is spread out among different institutions, with no single organization receiving all data about these children.

There are standards of support for international and internal migrants which are at least partially applied in practice – as procedures. However, these procedures are not child friendly and do not always serve children. The big disadvantage of these procedures is time – they often take a long time, especially in court, which essentially puts children in the situation of being “in between”, without knowing what their future will look like, lacking a sense of security. A good yet sad example of this would be a long stay at these intervention care facilities.

## 5. RECOMMENDATIONS

- Simplification and shortening of the procedures related to both foreign and Polish children, so that their stay at the intervention care facilities will be as short as possible.
- A comprehensive solution for the guardianship and legal representation of foreign children, which would also cover other issues that involve minors.
- There should be a single procedure for establishing the guardians of unaccompanied minors. The guardian would be appointed *ex officio* or at the request of a Border Guard officer. This would refer to all minor foreigners (both from the EU and third countries).
- It is necessary to introduce modifications to the Act on Family Support and Foster Care System within the following scope:
  - Modification of the regulations regarding the financing of minors' stay in care facilities by counties (*powiaty*). The places for these children should be – as they have been up to the present moment – financed by the Office for Foreigners.
  - Covering foreign children with a procedure which facilitates independence (the Act on Social Assistance included – right now it is defined by the Law on the Foster Care System). Within the above-mentioned procedure they could apply for protected housing, financial assistance for further education, etc.
  - The creation of several specialized institutions which exercise custody/care of foreign children (or such forms of family foster care specialising in the care of children) – such as the group for foreigners that has ceased to exist (a group for foreign unaccompanied minors).
  - Solutions related to determining the best interests of the child – the courts alone should not identify what is in the child's best interests. The determination of best interests has a multi-disciplinary character. Information on the child and their needs should also result from work done by specialised interdisciplinary teams cooperating with centres/facilities for foreign children.
- Changes in the scope of data collection on where foreign children are placed at the moment (families, centres/facilities) must be introduced. If they were identified, the staff of these forms of foster care could be properly trained.
- The procedure for appointing an individual who is responsible for the regulations on unaccompanied foreign children in the Ministry of Labour and Social Policy must be modified.
- There is no effective procedure for identifying victims of human trafficking.
- The creation of effective procedures for identifying a foreign child – establishing his/her identity (e.g. it would be good idea to take a photo of the child when they are being admitted to a centre/facility, as these children do not often have any photo documents).
- There is a lack of specialized doctors and judges. With regard to doctors, this includes expert knowledge on exotic diseases, vaccinations, as well as skills in determining the child's medical history. These physicians should also have an appropriate cultural approach to the minors. With respect to the courts, it has been stated that there are now judges carrying out cases of the so-called foreign element (also in district courts). They should be in charge of cases regarding foreign minors.
- If a young child is a foreigner with no chance for Polish citizenship, he/she should be sent as soon as possible to foster care in their home country – if it is safe and the child has a family there who can take care of them.
- Creating a plan which establishes and improves cooperation between the representatives of different institutions and organizations appointed to assist families at risk and other vulnerable groups, such as dysfunctional children at risk of social maladjustment.
- Understanding the possibilities and principles of support by, and mutual expectations of, social workers, the police, courts, clinics and schools.
- Improving procedures for family assistance centres, social welfare centres and adoption and care centres in the courts, in order to effect an immediate adjustment in the legal situation of children deprived of parental care – which would make them eligible for early adoption or placement in foster care, where they could feel more stable.
- The procedures involving children should be carried out more quickly, especially if the child is residing in an intervention institution during that time.

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