



## Comparative overview of national protection statuses in the EU and Norway

## Common Template of EMN Study 2019

# Comparative overview of national protection statuses in the EU

### **National Contribution from Poland**

*Disclaimer: The following information has been provided primarily for the purpose of contributing to a synthesis report for this EMN study. The EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of the EMN NCPs' Member State.*

### **Top-line factsheet [max. 1 page]**

The top-line factsheet will serve as an overview of the **national contribution** introducing the study and drawing out key facts and figures from across all sections, with a particular emphasis on elements that will be of relevance to (national) policy-makers. Please add any innovative or visual presentations that can carry through into the synthesis report as possible infographics and visual elements.

Please provide a concise summary of the main findings of Sections 1-3:

Besides EU-harmonised forms of protection, there are a few forms of national protection in Poland. Asylum is rather a specific example. This form of protection not only protects the foreigner, but also safeguards Polish interests. Asylum can only be granted if it can be demonstrated that it is to Poland's benefit and according to the individual security situation of the Applicant. The right of asylum is based on the Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws No 78, item 483), while regulations for the asylum granting procedure are set out in the Act on granting protection to foreigners within the territory of the Republic of Poland of 13 June 2003 (Journal of Laws 2018, item 1109). It should be stressed that, in practice, asylum is very rarely used due to its political nature.

Another type of national protection is residence permit for humanitarian reasons or permit for tolerated stay. Their legal basis is the Act of 12 December 2013 on foreigners (Journal of Laws 2018, item 2094). The procedure for these forms of protection is carried out as part of proceedings to oblige the foreigner to return carried out before the Chief of a Border Guard unit or the Chief of a Border Guard post, which are first instance authorities. Residence permit for humanitarian reasons is the most frequently granted form of national protection (see table below).

A foreigner shall be granted a residence permit for humanitarian reasons in the territory of the Republic of Poland if a return obligation for them:

- 1) can be exercised solely to the state in which within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms drawn up in Rome on 4 November 1950:
  - a) their right to life, freedom and personal security might be threatened, or
  - b) they could be subject to torture or inhumane or degrading treatment or punishment, or
  - c) could be subject to forced labour, or
  - d) they could be deprived of the right to fair trial or be punished without a legal basis, or
- 2) would violate their right to family or private life within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms drawn up in Rome on 4 November 1950, or
- 3) would violate the rights of the child, as defined in the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20 November 1989, in a manner which may represent a serious threat to their psychophysical development.

A foreigner shall be granted a permit for tolerated stay within the territory of the Republic of Poland if a return obligation for them:

## Comparative overview of national protection statuses in the EU

1) can be exercised solely to the state in which within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms drawn up in Rome on 4 November 1950:

- a) their right to life, freedom and personal security might be threatened, or
- b) they could be subject to torture or inhumane or degrading treatment or punishment, or
- c) they could be subject to forced labour, or
- d) they could be deprived of the right to fair trial or be punished without a legal basis – if there are reasons for refusing the issuance of a residence permit for humanitarian reasons, as referred to in Article 349, or

2) is not feasible for reasons beyond the control of the authority responsible for the forced execution of the decision on obliging a foreigner to return and beyond the control of the foreigner, or

3) can be effected only to a country, expulsion to which is inadmissible under a ruling of a court of law or because of a decision of the Minister of Justice on the refusal to expel a foreigner.

Polish law also includes temporary protection, which is based directly on Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof. Additionally, the Act on granting protection to foreigners within the territory of the Republic of Poland introduces the possibility of granting temporary protection to foreigners not covered by the Council decision under a Regulation of the Council of Ministers.

Temporary protection is granted to foreigners arriving in Poland on a massive scale who left their country of origin or a specific geographical area due to a foreign invasion, war, civil war, ethnic conflicts or gross infringements of human rights. Temporary protection can be also granted to foreigners in the territory of the Republic of Poland whether their arrival was spontaneous or a result of aid provided by the Republic of Poland or the international community.

Temporary protection was not previously used in Poland.

*Statistical data on granted forms of protection in Poland, in each year:*

	Asylum			Stay for humanitarian reasons			Tolerated stay		
	2016	2017	2018	2016	2017	2018	2016	2017	2018
<b>Number of positive decisions</b>	54	1	0	177	178	177	74	43	33
<b>Total</b>	<b>55</b>			<b>532</b>			<b>150</b>		

### Section 1: Overview and mapping of types national protection statuses

**Q1.** Aside from the EU-harmonised protection statuses, are there any other protection statuses currently available in your Member States? Yes/No

*Please note that any evolution in the type of statuses that were available in the past years but not currently available is to be developed in question 8.*

YES

**Q2. If no to Q1,** please elaborate.

*Please note question 12 (e.g. in case statuses reported in the 2010 study no longer exist, please note your answer there).*

N/A

**Q3. If yes to Q1,** please complete **Table 1** with the type of non-harmonised protection statuses currently available.

## Comparative overview of national protection statuses in the EU

Please indicate in **Table 1** the type of non-harmonised protection status(es) currently available

- Do not include any non-protection statuses: please refer to the scope of the study as defined in the introduction of the template.
- The type of statuses listed in **Table 1** is not exhaustive and is meant to act as a guide.
- National protection statuses can include for example those issued on the basis of ECHR Articles 3 and the principle of non-refoulement, medical reasons, climate change reasons, and other measures used to facilitate the legal admission and issuing of residence permits to persons in need of protection.

If a group of statuses (e.g. for medical, climate change and non-refoulement reasons) fall within a more general, overarching humanitarian status, please fill in the row below related to humanitarian status and include information on who is eligible for such status in Table 3. If there are differences in the content of protection, however, please indicate them in Table 4.

**Table 1** Type of non-harmonised protection status(es) currently available

Type of non-harmonised protection status	Yes	No	Comments
<b>Constitutional asylum</b>			
Please note section 3 in the template for background; if the status provided falls under an 'EU protection status' please note that that in your answer in the 'comments' column.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Asylum is a separate form of protection granted when a foreigner needs protection and when a vital interest of the Republic of Poland so requires. In practice, due to the latter requirement, asylum is very rarely granted. The foreigner has to specify in their application important events behind their desire for asylum. It must be stressed that in the Polish law, asylum does not equal refugee status. In English terminology these concepts usually mean the same ("asylum"). Furthermore, the lack of social benefits during the proceedings can also limit the ambit of these regulations.
<b>Collective protection</b>			
Please note section 3; if the status provided falls under an 'EU protection status' (e.g. the Temporary Protection Directive) please note that that in your answer in the 'comments' column.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Temporary protection is covered by Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection (Temporary Protection Directive).
<b>Other national (including humanitarian) statuses based on:</b>			
Medical reasons <i>See section 3 of the introduction in the study's template</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Stay for humanitarian reasons.
Statuses available for climate change reasons and natural disasters	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Statuses available for local personnel of armed forces of respective Member States (e.g. interpreters in Afghanistan or Iraq)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	In practice, individuals cooperating with Polish Armed Forces in Afghanistan who applied for protection in Poland are granted refugee status. After their

## Comparative overview of national protection statuses in the EU

			individual situation is examined, these persons are designated as members of a specific social group, to which a persecuting entity attributes specific views.
Special statuses available for unaccompanied/aged-out minors  <i>* Please note the recent EMN study on UAM and summarise where relevant</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	There are no separate forms of protection for unaccompanied minors. Such persons can obtain a residence permit for humanitarian reasons if their removal would violate rights of the child set out in the Convention of 1989 or a permit for tolerated stay, if they cannot be removed due to reasons specified in the Act. Likewise, there are no separate forms of protection for the elderly. They can apply for protection under general rules. However, in both cases there are special regulations for dealing with members of vulnerable groups.
Special statuses available for children  <i>* Please include only if status is different from the protection-related status provided to adults/unaccompanied minors for the above-listed reasons</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	As above.
Other (national protection) grounds  <i>Please specify and add as many rows as necessary.</i>  <i>Please note that study covers only national statuses granted to persons based on protection grounds – which could be applicable to persons that cannot be returned on the principle of non-refoulement. However, <u>legal statuses granted due to practical challenges to remove a third-country national fall outside the scope of the study</u> (see Section 3 in the introduction).</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	As above.

**Q4. If yes to Q1**, please complete **Table 2** with the type of statuses currently available for relocated and resettled persons, persons who are admitted through private/community sponsorship or other type of special programmes

*If statuses available also include non-harmonised protection status(es), please also complete Table 3 and Table 4 in section 2.*

**Table 2** Type of protection status(es) currently available for relocated and resettled persons, persons who are admitted through private/community sponsorship or other type of special programmes

Type of protection status	Yes	No	Comments
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## Comparative overview of national protection statuses in the EU

	EU-harmonised protection status	Non-harmonised protection status		
<b>Status(es) available for resettled persons</b>				
<i>*Please note: EMN study on resettlement and humanitarian admission programmes</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Relevant rules are set out in the Act on granting protection to foreigners within the territory of the Republic of Poland.
<b>Status(es) available for relocated persons</b>				
<i>*Please note the EU relocation programmes (introduction of the template)</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Relevant rules are set out in the Act on granting protection to foreigners within the territory of the Republic of Poland. The issue is addressed by the Interministerial Team for ensuring security in the process of resettlement and relocation of foreigners. The team was established under the Act on the Council of Ministers of 8 August 1996 by way of Prime Minister's Regulation of 25 February 2016.
<b>Status(es) available to beneficiaries of community/private sponsorship programmes</b>				
<i>*Please note: EMN study on resettlement and humanitarian admission programmes</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>Statuses available to beneficiaries of other special programmes</b>				
<i>E.g.: special programmes designed to assist persons in need of protection to enter and reside in the EU (e.g. in the frame of humanitarian admission programmes; family members of third-country nationals already legally residing in Member States)</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	In 2016, asylum was granted to families of foreigners evacuated from Ukraine. The evacuation concerned spouses of individuals carrying a Karta Polaka (Card of a Pole) who cannot, however, prove their Polish ancestry.

## Section 2: Rationale, procedure and content of protection of national protection statuses

## Comparative overview of national protection statuses in the EU

**Q5. If yes to Q1** and indicated in Tables 1 and 2 types of non-harmonised protection status(es), please elaborate on rationale for the adoption of the status(es) and the determination procedure for each of the non-harmonised protection statuses.

Please refer to the relevant law or policy throughout.

Please add as many tables as necessary, filling one table per status, clearly indicating to which type of non-harmonised category it belongs to.

**Table 3** : Rationale for national protection status and determination procedure

<b>Type of category the national protection status belongs to</b> (as mentioned in Table 1 or Table 2):	
<b>Constitutional asylum</b>	
<b>Status A</b> [refer to the full name used in national legislation] <b>Asylum</b>	
<b>Background</b>	
Why was the status adopted? <i>* please briefly brief outline of the policy background that led to the adoption of this status</i>	To protect the foreigner or secure a vital national interest.
In what year was this status established?	This form of protection was introduced under Article 56 of the Constitution of the Republic of Poland of 1997. The Article states that foreigners shall have a right of asylum in the Republic of Poland in accordance with principles specified by statute (Act).
Is this status established on: a) A permanent basis? b) A temporary (or ad-hoc) basis? If it is temporary/ad-hoc, when did/will it cease operation?	A) After the foreigner is granted asylum, they apply for a permanent residence permit. The residence permit issued to a foreigner is valid for 10 years.
<b>Legal basis</b>	
Is the <i>status</i> set out in: a) Legislation? b) Administrative decision/regulation/circular? c) Other (e.g. case law, public policy guidance surrounding the application of any provision in practice)? Please elaborate	A) asylum as a form of protection is based on Polish legislation: the Constitution (Article 56) and the Act on granting protection to foreigners within the territory of the Republic of Poland (part III, chapter 1).
<b>Eligibility</b>	
Who is eligible to receive this status?	According to the Act on granting protection to foreigners within the territory of the Republic of Poland, a foreigner may be granted asylum, at their request, if it is necessary to protect them and a vital interest of the Republic of Poland requires so.
<b>Determination procedure</b>	

## Comparative overview of national protection statuses in the EU

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Constitutional asylum	
Status A [refer to the full name used in national legislation] Asylum	
Is an application procedure set out in: a) Legislation? b) Administrative decision/regulation/circular? c) Other (e.g. case law)?	A) The application procedure is detailed in the Act on granting protection to foreigners within the territory of the Republic of Poland.
When is application for the national protection status possible: a) Immediately, as part of a single procedure examining the need for international protection? b) Immediately, as part of a separate procedure? c) After exhausting the asylum procedure in-country? d) Other (please explain).	B) Immediately, as part of a separate procedure. For the procedure to begin, the foreigner must include in the application their information and the information on the person they represent, their country of origin, and specify relevant events behind their application for asylum. The foreigner who applies for asylum must agree to be fingerprinted and photographed.
Where does the application take place: a) In the territory of your State? b) In a third country? c) Both are possible.	C) Both options are possible. If the application is submitted by a foreigner who is not in Poland, then they must attach a photo to a complete and correct application and, after arriving in the territory of Republic of Poland under a national visa to take part in asylum proceedings or due to being granted asylum – submit to fingerprinting. If this condition is not met, the application is not considered (failure to meet formal requirements).
Briefly outline the procedure in terms of: – Authorities involved in examining the application and, if applicable, the issuance of a permit of stay; please clarify if these are the <u>same authorities as those responsible of examining international protection applications</u> ; – Existing timelines and notification of the (first instance) decision, information to the beneficiary	The decision on granting asylum is taken by the Head of the Office for Foreigners with prior consent of the Minister of Foreign Affairs. The Head of the Office is the same authority which issues decisions on granting international protection. An asylum application should be generally examined, similar to an international protection application, within 6 months after submission. The foreigner is informed about the decision according to rules resulting from the Code of Administrative Procedure.
Appeal procedures	
Is there an appeal in the event of a negative decision?	YES
If yes, is it a two-level system of appeal or one level?	TWO-LEVEL
If yes, is it: - An administrative appeal? - A judicial appeal? - Judicial review? - Other? (please explain)	According to the Code of Administrative Procedure, in administrative procedures the competent authority for considering an appeal is generally a higher-level public administration authority. However, in this case it is an appeal against a decision of the minister (mandatory approval by the Minister of Foreign Affairs on granting asylum). In this situation, the foreigner has the right to apply to the Head of the Office for Foreigners to re-examine the case (according to Article 127 § 3 of the Code of Administrative Procedure). Without exercising the right to apply for re-examination of the case, the foreigner can



## Comparative overview of national protection statuses in the EU

<b>Type of category the national protection status belongs to</b> (as mentioned in Table 1 or Table 2):	
<b>Constitutional asylum</b>	
<b>Status A</b> [refer to the full name used in national legislation] <b>Asylum</b>	
	also file a complaint with the Voivodeship Administrative Court in Warsaw via the Head of the Office for Foreigners.
Does the appeal have an automatic suspensive effect? Yes/No  If <u>no</u> , can it be requested and what is the procedure in this case?	NO  Submitting an asylum application and taking part in the procedure does not make the foreigner's stay in the territory of the Republic of Poland legal.
Are the authorities involved <u>the same as those in appeal procedures against a negative decision in the <i>international protection procedure</i></u> ?	No. If asylum is denied, the foreigner applies to the Head of the Office for Foreigners for re-examination of the case, and if the foreigner is denied refugee status or subsidiary protection the appeal authority would be the Refugee Council.
If the decision on the appeal is negative, will it result in a return decision being issued? Yes/No	NO
If there is no possibility for appeal, please explain what happens.	N/A.
<b>Change of status</b>	
In case the applicant fails on appeal or his/her status ends or is not renewed, can s/he apply for:  a. International protection status? (please specify which)  b. Other legal migration statuses? (please specify which)	a) Yes. There are no regulations that would exclude such a possibility. A foreigner can apply for international protection and the conditions for granting refugee status or subsidiary protection will then be checked.  b) Yes, all generally available forms of legalising the stay.
<b>Relevant case law</b>	
Is there any relevant case law (by the highest instance courts and final judgements) that led to <i>systemic</i> changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No  If so, please briefly provide references to case law and briefly describe the changes brought about by this case law.  <i>In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)</i>	NO

## Comparative overview of national protection statuses in the EU

<b>Type of category the national protection status belongs to</b> (as mentioned in Table 1 or Table 2): <b>Constitutional asylum</b>	
<b>Status A</b> [refer to the full name used in national legislation] <b>Asylum</b>	
<b>Type of category the national protection status belongs to</b> (as mentioned in Table 1 or Table 2): <b>Other national (including humanitarian) statuses based on: medical reasons</b>	
<b>Status A</b> [refer to the full name used in national legislation] <b>stay for humanitarian reasons and tolerated stay</b>	
<b>Background</b>	
<p>Why was the status adopted?</p> <p><i>* please briefly brief outline of the policy background that led to the adoption of this status</i></p>	<p>Stay for humanitarian reasons and tolerated stay are national forms of protection granted to foreigners who cannot be returned to their country of origin. In practice, stay for humanitarian reasons is sometimes granted when the foreigner is not healthy enough to travel, the foreigner leads a family life in Poland, the foreigner's children are so integrated into the Polish society that removing them would infringe on the rights set out in the Convention on the Rights of the Child of 1989.</p> <p>The foreigner is granted a permit for tolerated stay when it is not possible to grant them a residence permit for humanitarian reasons, e.g. for security reasons (including when the foreigner has committed a serious crime under international law, committed an act that violates the UN Charter, committed or encouraged an act considered a serious crime under the Polish law, poses a threat to the state and public order). Furthermore, a permit for tolerated stay is granted when the foreigner cannot be removed for reasons beyond the control of the authority or when the competent authority decided to refuse extradition.</p>
In what year was this status established?	Tolerated stay was introduced by the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland. Residence permit for humanitarian reasons was established as a separate form of protection with the new Act on foreigners of 2013.
<p>Is this status established on:</p> <p>c) A permanent basis?</p> <p>d) A temporary (or ad-hoc) basis?</p> <p>If it is temporary/ad-hoc, when did/will it cease operation?</p>	It is established in the Polish law on a permanent basis under Act on foreigners of 12 December 2013 (Journal of Laws 2018, item 2094).
<b>Legal basis</b>	
<p>Is the <i>status</i> set out in:</p> <p>d) Legislation?</p> <p>e) Administrative decision/regulation/circular?</p>	Act on foreigners of 12 December 2013 (Journal of Laws 2018, item 2094).

## Comparative overview of national protection statuses in the EU

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
<b>Constitutional asylum</b>	
<b>Status A [refer to the full name used in national legislation] Asylum</b>	
f) Other (e.g. case law, public policy guidance surrounding the application of any provision in practice)? Please elaborate	
<b>Eligibility</b>	
Who is eligible to receive this status?	<p>According to the Act a foreigner shall be granted a <u>residence permit for humanitarian reasons</u> in the territory of the Republic of Poland if a return obligation for them:</p> <ol style="list-style-type: none"> <li>1) can be exercised solely to the state in which within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms drawn up in Rome on 4 November 1950: <ol style="list-style-type: none"> <li>a) their right to life, freedom and personal security might be threatened, or</li> <li>b) they could be subject to torture or inhumane or degrading treatment or punishment, or</li> <li>c) they could be subject to forced labour, or</li> <li>d) they could be deprived of the right to fair trial or be punished without a legal basis, or</li> </ol> </li> <li>2) would violate their right to family or private life within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms drawn up in Rome on 4 November 1950, or</li> <li>3) would violate the rights of the child, as defined in the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20 November 1989, in a manner which may represent a serious threat to their psychophysical development.</li> </ol> <p>In practice, residence permit for humanitarian reasons is most often granted to individuals who lead family life in Poland, whose children are significantly integrated into the Polish society, attend a Polish school and their removal would negatively impact their mental and physical state.</p> <p>A foreigner is granted a <u>permit for tolerated stay</u> if a return obligation for them:</p> <ol style="list-style-type: none"> <li>1) can be exercised solely to the state in which within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms drawn up in Rome on 4 November 1950: <ol style="list-style-type: none"> <li>a) their right to life, freedom and personal security might be threatened, or</li> <li>b) they could be subject to torture or inhumane or degrading treatment or punishment, or</li> </ol> </li> </ol>

## Comparative overview of national protection statuses in the EU

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
<b>Constitutional asylum</b>	
<b>Status A [refer to the full name used in national legislation] Asylum</b>	
	<p>c) they could be subject to forced labour, or</p> <p>d) they could be deprived of the right to fair trial or be punished without a legal basis – if there are reasons for refusing the issuance of a residence permit for humanitarian reasons, or</p> <p>2) is not feasible for reasons beyond the control of the authority responsible for the forced execution of the decision on obliging the foreigner to return and beyond the control of the foreigner, or</p> <p>3) can be effected only to a country, expulsion to which is inadmissible under a ruling of a court of law or because of a decision of the Minister of Justice on the refusal to expel a foreigner.</p> <p>A decision on granting a permit for tolerated stay obliges the Party to report within set time intervals to the Chief of a Border Guard unit or the Chief of a Border Guard post indicated in the decision or competent for the current place of residence of the foreigner and to notify them on any changes of residence.</p>
<b>Determination procedure</b>	
<p>Is an application procedure set out in:</p> <p>d) Legislation?</p> <p>e) Administrative decision/regulation/circular?</p> <p>f) Other (e.g. case law)?</p>	<p>It is not possible to separately apply for residence permit for humanitarian reasons or permit for tolerated stay. The above is decided as part of a negative decision on obliging the foreigner to return.</p>
<p>When is application for the national protection status possible:</p> <p>e) Immediately, as part of a single procedure examining the need for international protection?</p> <p>f) Immediately, as part of a separate procedure?</p> <p>g) After exhausting the asylum procedure in-country?</p> <p>h) Other (please explain).</p>	<p>The procedure on obliging the foreigner to return, of which the decision on granting or refusing a residence permit for humanitarian reasons or permit for tolerated stay is an integral part, can be carried out after exhausting the refugee status procedure before it begins.</p> <p>The procedure on granting a permit for humanitarian or tolerated stay is part of the procedure on obliging the foreigner to return. Before this decision is issued, the competent authority should examine the reasons for granting or refusing a permit for humanitarian or tolerated stay. This permit can be granted by a first instance authority – Chief of the Border Guard, or an appeal authority – Head of the Office for Foreigners, in both cases as part of the procedure on obliging the foreigner to return.</p> <p>The procedure can be started after issuing the foreigner a negative decision on granting them international protection in connection with executing a decision on return obligation.</p>

## Comparative overview of national protection statuses in the EU

<b>Type of category the national protection status belongs to</b> (as mentioned in Table 1 or Table 2):	
<b>Constitutional asylum</b>	
<b>Status A</b> [refer to the full name used in national legislation] <b>Asylum</b>	
Where does the application take place: c) In the territory of your State? d) In a third country? e) Both are possible.	As previously explained, the foreigner does not separately apply for residence permit for humanitarian reasons or permit for tolerated stay. Reasons for granting this form of protection are examined when issuing a decision on return obligation. The procedure takes place in the territory of the Republic of Poland.
Briefly outline the procedure in terms of:  – Authorities involved in examining the application and, if applicable, the issuance of a permit of stay; please clarify if these are the <u>same authorities as those responsible of examining international protection applications</u> ; – Existing timelines and notification of the (first instance) decision, information to the beneficiary	In this case, the first instance competent authorities are Chief of a Border Guard unit or Chief of a Border Guard post. Head of the Office for Foreigners is the appeal authority. Hence, these are different authorities than those responsible for the international protection procedure (in that case the first instance authority is Head of the Office for Foreigners and the second instance authority is Council for Refugees). A foreigner who obtained a residence permit for humanitarian reasons or permit for tolerated stay can also request a residence card from the Chief of the Border Guard responsible for the decision. It is valid for 2 years. A residence card issued on the basis of tolerated stay does not give the foreigner the right to cross the border.
<b>Appeal procedures</b>	
Is there an appeal in the event of a negative decision? Yes/No	Yes, the Head of the Office for Foreigners is the appeal authority.
If yes, is it a two-level system of appeal or one level?	Two-level system.
If yes, is it:  - An administrative appeal? - A judicial appeal? - Judicial review? - Other? (please explain)	First, the foreigner can appeal the decision to the second instance authority, i.e. Head of the Office. The decision of the Head of the Office can be appealed to Voivodeship Administrative Court (judicial review).
Does the appeal have an automatic suspensive effect? Yes/No  <u>If no</u> , can it be requested and what is the procedure in this case?	As long as the decision is examined by the appeal authority and is not final, there is no legal basis to remove the foreigner. If the foreigner appeals the decision on imposing the return obligation along with submitting the application for the suspension of its enforcement to the Voivodeship Administrative Court, the deadline for voluntary return or the deadline for forcibly executing the decision by law is extended until the Voivodeship Administrative Court decides on this application. However, it should be stressed that this rule does not apply in cases related to threats to public security and public order.

## Comparative overview of national protection statuses in the EU

<b>Type of category the national protection status belongs to</b> (as mentioned in Table 1 or Table 2):	
<b>Constitutional asylum</b>	
<b>Status A</b> [refer to the full name used in national legislation] <b>Asylum</b>	
Are the authorities involved <u>the same as those in appeal procedures against a negative decision in the <i>international protection procedure</i></u> ?	No. In proceedings on granting international protection the Refugee Council is the appeal authority, while for tolerated/humanitarian stay it is the Head of the Office (Legalisation Department).
If the decision on the appeal is negative, will it result in a return decision being issued? Yes/No	Yes. If the decision becomes final and the foreigner does not file a complaint with the Voivodeship Administrative Court, they will be issued a return obligation decision.
If there is no possibility for appeal, please explain what happens.	N/A
<b>Change of status</b>	
In case the applicant fails on appeal or his/her status ends or is not renewed, can s/he apply for: <ul style="list-style-type: none"> <li>c. International protection status? (please specify which)</li> <li>d. Other legal migration statuses? (please specify which)</li> </ul>	<ul style="list-style-type: none"> <li>c. Yes, the foreigner can submit an application for international protection at any time. However, if it is a subsequent application and the applicant does not provide new evidence or factual or legal circumstances that would significantly increase the likelihood of granting international protection, this application is deemed inadmissible. In practice, after a foreigner is issued a decision obliging them to return, they usually decide to apply for international protection in Poland. This is method is used to avoid removal and legalise the stay.</li> <li>d. No. The temporary residence permit procedure is not initiated if the foreigner stays in the territory of the Republic of Poland after they were obliged to return.</li> </ul>
<b>Relevant case law</b>	
Is there any relevant case law (by the highest instance courts and final judgements) that led to <i>systemic</i> changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No  If so, please briefly provide references to case law and briefly describe the changes brought about by this case law.  <i>In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)</i>	No

## Comparative overview of national protection statuses in the EU

**Q6. If yes to Q1** and indicated in Tables 1 and 2 types of non-harmonised protection status(es), please also fill in **Table 4 for each status**. Please add as many tables as necessary, completing one table per status, clearly referring to the name/title of the status used in Table 3.

**Table 4:** Content of protection of national statuses

Status [A] ASYLUM <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
<b>Residence permit</b>				
Issuance of a residence permit required?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	A foreigner who obtained asylum in Poland is granted, at their request, a permanent residence permit for an indefinite period of time.
Validity of the first residence permit (or initial length) (in years)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The first residence card is valid for 10 years.
Possibilities of renewal/extension?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Yes, before the current card expires the foreigner must submit an application to the voivode competent for their place of residence.
Validity of the residence permit after renewal? (in years)	-	-	-	10 years.
Time period required to be entitled to permanent residence permit (in years) <sup>1</sup>	-	-	-	A permanent residence permit is granted at the foreigner's request immediately after granting asylum.
Does this time period differ from the general rule for applying for permanent residence permit?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Foreigners who were granted refugee status, international protection or permit for humanitarian stay immediately before filing an application for a permanent residence permit should have stayed continuously in the territory of the Republic of Poland for at least 5 years, and in the case of persons granted a permit for tolerated stay – 10 years.
<b>Travel document</b>				
Is a travel document issued ?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	If the foreigner has lost their travel document or their travel document has been destroyed or has expired, and it is not possible for the foreigner to obtain a new travel document.
If so, what type of document is it ?	-	-	-	Polish travel document for a foreigner
Validity (in years)	-	-	-	1 year
<b>Accommodation</b>				
Access to accommodation (on the same basis as other legally residing third-country nationals) ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

<sup>1</sup> See definition of permanent residence used in the Long-Term Residence Directive, i.e. third-country nationals who have resided and continuously within its territory for five years prior to the submission of the application for a permanent residence permit.

## Comparative overview of national protection statuses in the EU

Status [A] ASYLUM <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Access to specific schemes/programmes to support access to accommodation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Dispersal mechanism? <sup>2</sup>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>Family reunification</b>				
Right to family reunification ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The foreigner must meet specific criteria, i.e. prove that they have health insurance, a stable and regular source of income sufficient to sustain them and their family members who depend or will depend on them, and have secured a residence in the territory of the Republic of Poland.
Eligible family members, for example:				
- partner in a legal marriage or in a comparable relationship	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- unmarried partner (e.g. registered partnership, cohabitation, attested long term relationship)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- underage partner	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- minor child (beneficiary's and/or partner's; foster or adopted child)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- adult dependent children (beneficiary's and/or partner's or adopted child)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- brother or sisters	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- dependent parents	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
- parents of UAMs	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Material requirements sponsor must guarantee, for example:				
- accommodation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- health insurance	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- sufficient income/financial means	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- other (e.g. criminal record, medical certificate)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

<sup>2</sup> In asylum policies, a 'dispersal mechanism' refers to a policy implemented by national authorities to 'distribute' asylum seekers or beneficiaries of protection across the territory of the State, to ensure an even distribution among local authorities and avoid 'overburdening' available accommodation or housing facilities.



## Comparative overview of national protection statuses in the EU

<b>Status [A] ASYLUM</b> <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Is there an equivalent of a 'grace period' <sup>3</sup> during which no material conditions are required?  If so, please indicate the duration of the grace period in the comments column.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No. No, the Act on foreigners provides for a grace period only in the case of individuals who obtained a refugee status or subsidiary protection in Poland.
What is the validity of the residence permit of the family member?	-	-	-	
<b>Labour market and qualifications</b>				
Specific conditions to be granted access (e.g. hold work permit)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	As a permanent residence card holder, a foreigner does not have to apply for a work permit to work in the territory of the Republic of Poland.
Access to procedures for recognition of qualifications?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The need to recognise professional qualifications is based solely on general rules on access to certain professions. If the profession is unrestricted, it is the employer who is responsible for confirming qualifications. Access to regulated professions is subject to general national rules.
<b>Social assistance</b>				
Social assistance limited to core benefits ?  <i>*please note definition of 'core benefits' in the introduction</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Health care</b>				
Access to emergency health care?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Access to mainstream services ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Specific support to those with special needs (e.g. to persons who have undergone torture, rape, or other serious forms of psychological, physical or sexual violence)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Education</b>				
Access to general system of education (same as nationals)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Additional support provided (e.g. preparatory classes, additional classes of official language, remedial classes, assistance of intercultural assistant)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>Integration</b>				

<sup>3</sup> See Article 12 of the Family Reunification Directive: material requirements do not have to be fulfilled or may be subject to a grace period before these requirements apply (minimum 3 months).

## Comparative overview of national protection statuses in the EU

Status [A] ASYLUM <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Access to 'mainstream' support (available for legally residing third-country nationals)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Access to targeted support (i.e. specifically for beneficiaries of the status)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If so, how long is the support granted for?	-	-	-	
<b>End of protection</b>				
Are there any <i>formal</i> ways foreseen to end or refuse to renew the national protection status (e.g. it is foreseen in national legislation)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	An asylum is revoked if the reasons for granting it have ceased to exist or if the foreigner acts against state defence or security or public safety and order. Asylum revocation decisions are issued by the Head of the Office for Foreigners upon prior consent of the Minister of Foreign Affairs.
How can national protection end?				
- The person no longer qualifies for protection	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- Protection was fraudulently acquired	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- Status ceased	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- Status can no longer be renewed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Not applicable
- Other (please explain)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Naturalisation/citizenship acquisition</b>				
Minimum legal residence required to apply for citizenship/naturalisation  <i>*please note that a 2019 EMN study will research in more depth the issue of acquisition of citizenship in Member States</i>				These issues are regulated by the Act on Polish citizenship of 2 April 2009. According to this Act, citizenship is granted to a foreigner who has a stable and regular source of income in Poland as well as a legal title to living premises and has continuously resided in the territory of the Republic of Poland on the basis of a permanent residence permit <u>for at least 3 years</u> .  A foreigner can be also granted citizenship if they have continuously resided in the territory of the Republic of Poland <u>for at least 2 years</u> on the basis of a permanent residence permit but has been married to a Polish citizen for at least 3 years.

## Comparative overview of national protection statuses in the EU

Status [A] ASYLUM <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
<b>Status offers more or less favourable conditions (compared to either refugee or subsidiary protection)</b>				
Please describe the extent to which the status offers				A foreigner who has obtained asylum can immediately apply for a permanent residence permit. In the case of refugee status, it can be only done after 2 years.
a) <i>more</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
b) <i>same</i> or	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
c) <i>less favourable</i> conditions compared to either refugee or subsidiary protection?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	An individual who has been granted asylum is not covered by the integration programme. Neither are they issued a Geneva travel document.
<b>Relevant case law</b>				
Is there any relevant case law (by the highest instance courts and final judgements) that led to <i>systemic</i> changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No  If so, please briefly provide references to case law and briefly describe the changes brought about by this case law.  <i>In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

Status [A] stay for humanitarian reasons and tolerated stay <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
<b>Residence permit</b>				
Issuance of a residence permit required?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Validity of the first residence permit (or initial length) (in years)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2 years
Possibilities of renewal/extension?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Validity of the residence permit after renewal? (in years)	-	-	-	2 years

## Comparative overview of national protection statuses in the EU

<b>Status [A] stay for humanitarian reasons and tolerated stay</b>	<b>Yes</b>	<b>No</b>	<b>Other</b>	<b>Details</b>
<i>Please insert name as used in Table 3</i>				
Time period required to be entitled to permanent residence permit (in years) <sup>4</sup>	-	-	-	5 years for residence permit for humanitarian reasons. 10 years for permit for tolerated stay – except when the foreigner’s obligation to return is not feasible for reasons beyond the control of the authority responsible for the forced execution of the decision on obliging the foreigner to return and beyond the control of the foreigner themselves.
Does this time period differ from the general rule for applying for permanent residence permit?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>Travel document</b>				
Is a travel document issued ?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Only to holders of residence permit for humanitarian reasons. When the foreigner has lost their travel document or their travel document has been destroyed or has expired, and it is not possible for the foreigner to obtain a new travel document.
If so, what type of document is it ?	-	-	-	Polish travel document for a foreigner
Validity (in years)	-	-	-	1 year
<b>Accommodation</b>				
Access to accommodation (on the same basis as other legally residing third-country nationals) ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Access to specific schemes/programmes to support access to accommodation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Dispersal mechanism? <sup>5</sup>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>Family reunification</b>				
Right to family reunification ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	If the foreigner holds a residence permit for humanitarian reasons they must prove that they have health insurance, a stable and regular source of income sufficient to sustain them and their family members who depend or will depend on them, and have secured a residence in the territory of the Republic of Poland.  If the foreigner has a permit for tolerated stay they cannot be granted the right to family unification.

<sup>4</sup> See definition of permanent residence used in the Long-Term Residence Directive, i.e. third-country nationals who have resided and continuously within its territory for five years prior to the submission of the application for a permanent residence permit.

<sup>5</sup> In asylum policies, a ‘dispersal mechanism’ refers to a policy implemented by national authorities to ‘distribute’ asylum seekers or beneficiaries of protection across the territory of the State, to ensure an even distribution among local authorities and avoid ‘overburdening’ available accommodation or housing facilities.

## Comparative overview of national protection statuses in the EU

Status [A] stay for humanitarian reasons and tolerated stay <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Eligible family members, for example: <ul style="list-style-type: none"> <li>- partner in a legal marriage or in a comparable relationship</li> <li>- unmarried partner (e.g. registered partnership, cohabitation, attested long term relationship)</li> <li>- underage partner</li> <li>- minor child (beneficiary's and/or partner's; foster or adopted child)</li> <li>- adult dependent children (beneficiary's and/or partner's or adopted child)</li> <li>- brother or sisters</li> <li>- dependent parents</li> <li>- parents of UAMs</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Material requirements sponsor must guarantee, for example: <ul style="list-style-type: none"> <li>- accommodation</li> <li>- health insurance</li> <li>- sufficient income/financial means</li> <li>- other (e.g. criminal record, medical certificate)</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Applies only to foreigners with a residence permit for humanitarian reasons. As above As above
Is there an equivalent of a 'grace period' <sup>6</sup> during which no material conditions are required?  If so, please indicate the duration of the grace period in the comments column.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
What is the validity of the residence permit of the family member?	-	-	-	
<b>Labour market and qualifications</b>				
Specific conditions to be granted access (e.g. hold work permit)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	As a permanent residence card holder, a foreigner does not have to apply for a work permit to work in the territory of the Republic of Poland.

<sup>6</sup> See Article 12 of the Family Reunification Directive: material requirements do not have to be fulfilled or may be subject to a grace period before these requirements apply (minimum 3 months).

## Comparative overview of national protection statuses in the EU

<b>Status [A] stay for humanitarian reasons and tolerated stay</b> <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Access to procedures for recognition of qualifications?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The need to recognise professional qualifications is based solely on general rules on access to certain professions. If the profession is unrestricted, it is the employer who is responsible for confirming qualifications. Access to regulated professions is subject to general national rules.
<b>Social assistance</b>				
Social assistance limited to core benefits ? <i>*please note definition of 'core benefits' in the introduction</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Health insurance and social assistance are available according to national law, same as for Polish citizens.
<b>Health care</b>				
Access to emergency health care?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Access to mainstream services ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Specific support to those with special needs (e.g. to persons who have undergone torture, rape, or other serious forms of psychological, physical or sexual violence)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Education</b>				
Access to general system of education (same as nationals)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Additional support provided (e.g. preparatory classes, additional classes of official language, remedial classes, assistance of intercultural assistant)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>Integration</b>				
Access to 'mainstream' support (available for legally residing third-country nationals)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Access to targeted support (i.e. specifically for beneficiaries of the status)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If so, how long is the support granted for?	-	-	-	
<b>End of protection</b>				

## Comparative overview of national protection statuses in the EU

Status [A] stay for humanitarian reasons and tolerated stay <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Are there any <i>formal</i> ways foreseen to end or refuse to renew the national protection status (e.g. it is foreseen in national legislation)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>A foreigner can have their residence permit for humanitarian reasons revoked if the reasons for granting the permit cease to exist, it comes to light that the foreigner provided false information or documents crucial for granting the permit, they permanently leave the territory of the Republic of Poland or return to their country of origin or there are new security considerations</p> <p>2. The foreigner can have their residence permit for humanitarian reasons revoked, if circumstances justifying refusing a permit come to light.</p> <p>A permit for tolerated stay is revoked if the reason for granting the permit ceases to exist, the foreigner leaves the territory of the Republic of Poland, continued presence of the foreigner can threaten state defence or safety or public security and order or the foreigner refuses to fulfil their obligations imposed by the permit decision (residence registration).</p> <p>By law, a decision granting a foreigner a residence permit for humanitarian reasons or permit for tolerated stay expires when they are granted refugee status or subsidiary protection; when they become Polish citizens; when they inform a Border Guard authority in writing that they waive their right to exercise, respectively, their residence permit for humanitarian reasons or permit for tolerated stay; or when they obtain a permanent residence permit.</p>
How can national protection end?				
- The person no longer qualifies for protection	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- Protection was fraudulently acquired	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- Status ceased	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- Status can no longer be renewed	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- Other (please explain)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Naturalisation/citizenship acquisition</b>				

## Comparative overview of national protection statuses in the EU

Status [A] stay for humanitarian reasons and tolerated stay <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
<p>Minimum legal residence required to apply for citizenship/naturalisation</p> <p><i>*please note that a 2019 EMN study will research in more depth the issue of acquisition of citizenship in Member States</i></p>				<p>These issues are regulated by the Act on Polish citizenship of 2 April 2009. According to this Act, citizenship is granted to a foreigner who has a stable and regular source of income in Poland as well as a legal title to living premises and has continuously resided in the territory of the Republic of Poland on the basis of a permanent residence permit <u>for at least 3 years</u>.</p> <p>A foreigner can be also granted citizenship if they have continuously resided in the territory of the Republic of Poland <u>for at least 2 years</u> on the basis of a permanent residence permit but has been married to a Polish citizen for at least 3 years.</p>
<b>Status offers more or less favourable conditions (compared to either refugee or subsidiary protection)</b>				
Please describe the extent to which the status offers				
d) <i>more</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
e) <i>same or</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
f) <i>less favourable conditions compared to either refugee or subsidiary protection?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	no integration programme
<b>Relevant case law</b>				
<p>Is there any relevant case law (by the highest instance courts and final judgements) that led to <i>systemic</i> changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No</p> <p>If so, please briefly provide references to case law and briefly describe the changes brought about by this case law.</p> <p><i>In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

### Section 3: National debates and challenges as regards national protection statuses



## Comparative overview of national protection statuses in the EU

**Q7.** Are the national protection statuses the **subject of debate** in your Member State (e.g. political, academic and civil society debate)? Yes/No

Please outline the key debates referencing parliamentary questions or policy documents media, academic literature and commentary or literature from civil society organisations.

Please note that future plans – if any – should be mentioned under question 10.

NO

**Q8.** What are the **key practical or operational challenges** in your Member State regarding national protection statuses?

Please consider in particular any challenges related to the implementation and uptake of these statuses in practice, challenges observed to ensure consistency with other EU-harmonised protection statuses, etc.

Because asylum cases are few, no major practical or operational problems were identified in this area. One of the biggest challenges in such cases is contacting the applicant. There were situations when an asylum case was initiated with an application mailed by a foreigner located outside Poland. Such a person is then asked to correct any formal errors. However, if the foreigner did not provide a return address or did not fulfil formal requirements, it is possible that such an application will not be considered.

The main challenge in procedures on obliging a foreigner to return, which can result in granting a residence permit for humanitarian reasons or permit for tolerated stay, is – beside political, legal, social and religious aspects – assessing the risk of infringing on values like family and private life, rights of a child (including infringing on the rights of a child to the extent when their mental and physical development is threatened due to removing the child with a parent or removing one of the parents).

**Q9.** Did your (Member) State adopt any **measures to tackle the above-mentioned challenges**? Yes/No

If so, please elaborate.

In order to streamline administrative procedures in cases that can result in protection against removal, 9 unit coordinators for protection against removal were established, as a good practice, on the Border Guard unit level (including one coordinator in a training centre and one coordinator in the Border Guard Headquarters). Their main task is to increase the knowledge on applying the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and case law of the European Court of Human Rights. The coordinators also have to acquire and verify information on how human rights and fundamental freedoms derived from the Convention are respected in the foreigners' countries of origin. Additionally, the coordinators provide advise during the identification of reasons for granting a residence permit for humanitarian reasons or a permit for tolerated stay. When verifying the information provided by a foreigner, Border Guard authorities use the Office for Foreigners information database of countries of origin, the Austrian Red Cross information database and UNCHR database.

**Q10.** Is your Member State planning to introduce any **new protection statuses** that have been announced publicly (i.e. in the form of official strategy documents, existing draft legislation or proposal)? Yes/No

If so, when and why?

NO

## Comparative overview of national protection statuses in the EU

**Q11.** Is your Member State planning to **terminate or significantly change** any of the protection statuses currently available? Yes/No

If so, when and why?

NO

**Q12.** If applicable, have any of the statuses identified within **the 2010 EMN study**,<sup>7</sup> and within the scope of the present study, ceased to exist or been significantly amended since 2010? Yes/No

Alternatively, if your Member State did not participate in the 2010 EMN study, have any statuses within the scope of the present study and available at the time of the study in 2010 ceased to exist or been significantly amended (regarding grounds and content of protection) since 2010? Yes/No

If so, how, when and why?

An important change introduced by the new Act on foreigners of 12 December 2013 was shifting the burden of examining the reasons for granting a permit for tolerated stay from the Head of the Office for Foreigners to Border Guard authorities. In practice, it meant that a permit for tolerated stay is given as part of a decision on obliging the foreigner to return, and not, like before, as part of the procedure for granting refugee status. Currently, the Head of the Office for Foreigners is the appeal authority (before the change, the Refugee Council was the second instance authority). The reasons for granting a permit for tolerated stay did not change.

The same change also introduced a new form of protection – residence permit for humanitarian reasons.

## Section 4 Conclusions [max 2 pages]

**Q13.** With regard to the aims of this study, what conclusions would you draw from your findings reached in elaborating your national contribution? In particular, what is the relevance of your findings to (national and/or EU level) policy-makers?

Except for the forms of protection harmonised with EU law, Poland has national forms of protection, the most common being the residence permit for humanitarian reasons. It is aimed at protecting a foreigner from removal. This form of protection is usually used when removal would infringe the foreigner's right to family or private life or would infringe on the rights of a child specified in the Convention on the Rights of the Child. In practice, it applies to foreigners who lead a family life in Poland or have children who have significantly integrated with the society.

One typical case of granting a permit for tolerated stay should be highlighted. In this example, a foreigner is excluded from the possibility of obtaining the refugee status or subsidiary protection under Article 12(2) of the Qualification Directive, based on Article 1F of the 1951 Refugee Convention, and under Article 17 of the Qualification Directive. When they still cannot be returned to the country of origin because it would infringe on their rights under the Convention for the Protection of Human Rights and Fundamental Freedoms, such a foreigner is granted a permit for tolerated stay.

The above examples clearly show that national forms of protection supplement asylum institutions harmonised with EU law, which may not be used in certain situations for various reasons.

It is also important to remember that the procedure for granting a residence permit of a long-term EU resident is denied to a foreigner who, on the day of applying for this permit, stays in the territory of the Republic of Poland in connection with having obtained one of the national forms of protection, i.e.: residence permit for humanitarian reasons, permit for tolerated stay, asylum or temporary protection.

<sup>7</sup> 'The Different National Practices Concerning Granting of Non-EU-Harmonised Protection Statuses'. Member States that participated in the 2010 EMN study, were Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Malta, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden and United Kingdom.

Study is available at : [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/non-eu-harmonised-protection-status/0\\_emn\\_synthesis\\_report\\_noneuharmonised\\_finalversion\\_january2011\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/non-eu-harmonised-protection-status/0_emn_synthesis_report_noneuharmonised_finalversion_january2011_en.pdf).

## Annex 1 National statistics

Please note the scope of national statistics:

- Temporal scope 2010–2018 to capture changes from previous study.
- Ask Member States and Norway for total number of national protection statuses granted where available.
- Ask Member States and Norway for the above data to be disaggregated by individual status where available.
- The data will be disaggregated by year and country of origin, sex and age if available, but these will not be cross tabulated.

These data will not be comparable.

Please complete the following tables with available information:

**Table A1.1:** Number of persons granted national protection status by nationality (2010-2018).



A1.1\_nationality  
and total.xlsx

**Table A1.2:** Number of persons granted national protection status by age (2010-2018).



A1.2\_age.xlsx

**Table A1.3:** Number of persons granted national protection status by gender (2010-2018).



A1.3\_gender.xlsx



## Annex 2 Overview of EU-harmonised statuses and implementation by Member States

All Member States implemented the provisions of the recast Qualification Directive, with the exception of Ireland and the UK,<sup>8</sup> and of the Temporary Protection Directive. Norway, a State not participating to these Directives, has adopted in its national legislation equivalent protection statuses.

**Table A2.1** will present an overview of the content of protection under each of the three harmonised statuses. A more detailed overview of the implementation of these standards by Member States will be included in Annex 2 in the synthesis report. This will support a comparative analysis in the synthesis report between the minimum standards of protection as set out in EU legislation and the content of protection offered by national protection statuses.

This Annex will be prepared by the EMN Service Provider with the support of EASO.

**Table A2.1** Content of protection of EU-harmonised statuses

Content of protection	Refugee Protection	Subsidiary Protection	Temporary protection
<b>Residence permit</b>	<b>Article 24 recast QD</b>	<b>Article 24 recast QD</b>	<b>Articles 4 and 8 TPD</b>
<i>Issuance of a residence permit required?</i>	Yes  As soon as possible after refugee protection status has been granted	Yes  As soon as possible after subsidiary protection status has been granted	Yes
<i>Validity of the first residence permit (or initial length) (in years)</i>	Minimum 3 years	Minimum 1 year	Minimum 1 year
<i>Possibilities of renewal/extension?</i>	Yes	Yes (at least 2 years)	Yes (up to maximum 2 additional years)
<i>Time period required to be entitled to permanent residence permit (in years)</i>	No harmonisation	No harmonisation	No harmonisation
<i>Does this time period differ from the general rule for applying for permanent residence permit?</i>	No harmonisation	No harmonisation	No harmonisation
<b>Travel document</b>	<b>Article 25(1) QD</b>	<b>Article 25(2) QD</b>	<b>No harmonisation</b>
<i>Is a travel document issued ?</i>	Yes	Yes	-
<i>If so, what type of document is it ? (e.g. Geneva travel document or a national travel document)</i>	Travel documents in the form set out in the Schedule to the Geneva Convention	If unable to obtain a national passport should be issued with documents which enable to travel	-

<sup>8</sup> Ireland participated in Directive 2004/83/EC but is not bound by the recast Directive 2011/95/EU. The UK participated in Directive 2004/83/EC and is not bound by the recast Directive 2011/95/EU.

## Comparative overview of national protection statuses in the EU

Content of protection	Refugee Protection	Subsidiary Protection	Temporary protection
<i>Validity (in years)</i>	No harmonisation	No harmonisation	-
<b>Accommodation</b>	<b>Article 32 recast QD</b>	<b>Article 32 recast QD</b>	<b>Article 13 TPD</b>
<i>Access to accommodation (as other legally residing third-country nationals) ?</i>	Yes	Yes	Yes (but only access to 'suitable accommodation' or provide 'means to obtain housing')
<i>Access to specific schemes/programmes to support access to accommodation?</i>	No harmonisation	No harmonisation	-
<i>Dispersal mechanism?<sup>9</sup></i>	Allowed on condition of non-discrimination of beneficiaries of international protection (Article 32(2) QD)	Allowed on condition of non-discrimination of beneficiaries of international protection (Article 32(2) QD)	No harmonisation
<b>Family unity &amp; reunification</b>	<b>Articles 2 and 23 recast QD</b>	<b>Articles 2 and 23 recast QD</b>	<b>Article 15 TPD</b>
<i>Right to family reunification?</i>	Yes Obligation of MS to maintain family unity <sup>10</sup>	Yes Same as for refugees	Yes
<i>Eligible family members</i>	Family ties should have already existed in the country of origin  Spouse; unmarried partner in a stable relationship; minor unmarried children; father, mother or another adult responsible for the refugee  Possibility to restrict family reunification with close relatives on the condition that family ties have already existed in the country of origin and who were dependant on the sponsor	Same as for refugees	Family ties should have already existed in the country of origin  Spouse, unmarried partner in a stable relationship, minor unmarried children of the sponsor or of the spouse, other close relatives who lived together as part of the family unit and who were dependent on the sponsor
<i>Material requirements sponsor must guarantee</i>	Articles 6-9 Family Reunification Directive: Accommodation, health insurance and/or sufficient financial resources	Excluded from the scope of the FRD	No harmonisation

<sup>9</sup> In asylum policies, a 'dispersal mechanism' refers to a policy implemented by national authorities to 'distribute' asylum seekers or beneficiaries of protection across the territory of the State, to ensure an even distribution among local authorities and avoid 'overburdening' available accommodation or housing facilities.

<sup>10</sup> According to the recast QD (Article 13(2)), family unity involves ensuring that family members who do not qualify for international protection status nevertheless have access to the same rights as the family member with refugee or subsidiary protection status.

## Comparative overview of national protection statuses in the EU

Content of protection	Refugee Protection	Subsidiary Protection	Temporary protection
'Grace period'? <i>If so, please indicate the duration of the grace period</i>	Article 12 Family Reunification Directive: Exemption to from the obligation to meet the material requirements for a minimum period of three months after the granting of refugee status	Excluded from the scope of the FRD	No
<i>What is the validity of the residence permit of the family member?</i>	It may be valid for less than 3 years and renewable (Article 24(1) recast QD)	It may be valid for less than 3 years and renewable (Article 24(1) recast QD)	For the duration of the temporary protection of the sponsor (Article 15(6) TPD)
<b>Labour market and qualifications</b>	<b>Articles 26 and 28 recast QD</b>	<b>Articles 26 and 28 recast QD</b>	<b>Article 12 TPD</b>
<i>Specific conditions to be granted access (e.g. hold work permit)?</i>	Yes, possible  (Article 26(1): access can be subject to rules generally applicable to the profession and to the public service)	Yes, possible  (as for refugees)	Yes  Member States may give priority to EU and EEA citizens, and to legally resident third-country nationals receiving unemployment benefit
<i>Access to procedures for recognition of qualifications?</i>	Yes  (equal treatment with nationals)	Yes  (as for refugees)	No harmonisation
<b>Social assistance</b>	<b>Article 29(1) recast QD</b>	<b>Article 29(2) recast QD</b>	<b>Article 13 TPD</b>
<i>Social assistance limited to core benefits ?</i>	No	Yes	Yes ('necessary assistance in terms of social welfare and means of subsistence, if they do not have sufficient resources')
<b>Health care</b>	<b>Article 30 recast QD</b>	<b>Article 30 recast QD</b>	<b>Article 13 TPD</b>
<i>Access to emergency health care?</i>	No harmonisation	No harmonisation	Yes ('emergency care and essential treatment of illness')
<i>Access to mainstream services ?</i>	Yes	Yes	No
<i>Specific support to those with special needs (e.g. to persons who have undergone torture, rape, or other serious forms of psychological, physical or sexual violence)?</i>	Yes	Yes	Yes
<b>Education</b>	<b>Article 27 recast QD</b>	<b>Article 27 recast QD</b>	<b>Article 14 TPD</b>

## Comparative overview of national protection statuses in the EU

Content of protection	Refugee Protection	Subsidiary Protection	Temporary protection
Access to general system of education (same as nationals)?	Yes	Yes	Yes
Additional support provided (e.g. preparatory classes, additional classes of official language, remedial classes, assistance of intercultural assistant)?	No harmonisation	No harmonisation	No harmonisation
<b>Integration</b>	<b>Article 34 recast QD</b>	<b>Article 34 recast QD</b>	<b>No harmonisation</b>
Access to 'mainstream' support (available for legally residing third-country nationals)?	Yes Access to integration programmes which are considered to be appropriate so as to take into account the specific needs of beneficiaries of international protection or create pre-conditions which guarantee access to such programmes	Yes Same as refugees	-
Access to targeted support (i.e. specifically for beneficiaries of the status)?	Yes	Yes	-
If so, how long is the support granted for?	No harmonisation		-
<b>Ending or refusal to renew protection</b>	<b>Articles 11, 12 and 14 recast QD</b>	<b>Articles 16, 17 and 19 recast QD</b>	<b>Article 6 TPD</b>
Are grounds to end or refusal to renew protection formally foreseen?	Yes	Yes	Yes
<b>Change of status</b>			<b>Articles 3 and 17 TPD</b>
Possibility to lodge an application for another protection status?	Yes, to subsidiary protection <sup>11</sup>	Yes	Beneficiaries of TP can lodge an application for asylum at any point in time.

<sup>11</sup> See CJEU, joined cases C-175/08, C-176/08, C-178/08 and C-179/08, *Aydin Salahadin Abdulla, Kamil Hasan, Ahmed Adem, Hamrin Mosa Rashi & Dier Jamal v Bundesrepublik Deutschland*, 2 March 2010, ECLI:EU:C:2010:105, para 76.