

**ACT**  
**of 13 June 2003**

**on granting protection to aliens within the territory of the Republic of Poland**

**(Journal of Laws of 2003, No 128, item 1176, of 2004, No 96, item 959, No 173, item 1808,  
No 210, item 2135, of 2005, No 90, item 757, No 94, item 788)**

**Division I**  
**General provisions**

**Art. 1.**

The Act shall lay down the principles, conditions and procedure for granting protection to aliens within the territory of the Republic of Poland as well as the authorities competent in these matters.

**Art. 2.**

Notions used in this Act shall mean :

- 1) arrest for the purpose of expulsion - arrest for the purpose of expulsion within the meaning of the Act of 13 June 2003 r. on aliens (J.L . No 128, it. 1175);
- 2) safe country of origin - the country of alien's origin, in which, taking into account the system of law and its application as well as political relations prevailing therein, no persecutions take place due to race, religion, nationality, membership in a particular social group or political opinion, and non-governmental and international organizations are free to act for human rights observation;
- 3) safe third country - country other than the country of alien's origin, which has ratified and applied the Geneva Convention and New York Protocol, and in particular the country where:
  - a) there is no threat to life or liberty of aliens applying for the refugee status, according to art. 33 of the Geneva Convention,
  - b) aliens are provided with access to the refugee status proceedings,
  - c) there are no *de facto* or *de jure* obstacles for activities of non-governmental organizations acting for the protection of human rights,
  - d) international organizations are provided with access to the refugee status proceedings,
  - e) an alien applying for granting the refugee status is provided with protection against expulsion according to the Geneva Convention,
  - f) an alien applying for granting the refugee status is not exposed to torture or inhumane or degrading treatment;
- 4) alien – an alien within the meaning of the Act on Aliens of 13 June 2003;
- 5) travel document – a document recognized by an appropriate authority of the Republic of Poland, authorizing to cross the border, issued by the authority of a foreign country, or of the Polish state, or of an international organization, or by the subject entitled by the authority of a foreign state or by a foreign authority of the state nature;

- 6) border – the state border of the Republic of Poland within the meaning of the Act of 12 October 1990 on protection of the state border (J. L. No. 78, item 461, as amended<sup>1)</sup>;
- 7) residence card – a document issued to an alien who has been granted the residence permit for a fixed period, the permit to settle, the long-term resident's EC resident permit, the refugee status or the permit for tolerated stay;
- 8) Geneva Convention – Convention related to the refugee status, signed in Geneva on 28 July 1951 (J. L. of 1991, No. 119 item 515 and 516);
- 9) country of origin – a country of citizenship of an alien; in case when it is impossible to define alien's citizenship or when an alien does not possess the citizenship of any country – the country, in which he/she has resided permanently;
- 10) guarded centre - the guarded centre within the meaning of the Act on Aliens of 13 June 2003;
- 11) New York Protocol - the Protocol related to the refugee status signed in New York on 31 January 1967 (J. L. of 1991, No. 119 item 517 and 518).

### **Art. 3.**

On the territory of the Republic of Poland an alien may be granted protection in one of the following form:

- 1) the refugee status;
- 2) asylum;
- 3) the permit for tolerated stay;
- 4) temporary protection.

### **Art. 4.**

The proceedings in the matters regulated by this Act shall be carried out according to the provisions of the Code of Administrative Procedure unless this Act states otherwise.

### **Art. 5.**

An authority may refrain from justifying the decision or the ruling rendered on the basis of this Act, if it is justified by the state security or defence as well as by the public security or policy.

### **Art. 6.**

If the city of Warsaw is not included in the territorial scope of activity of the Border Guard divisions, the functions referred to in art. 19 sec. 1, art. 92 sec. 2, art. 114 sec. 3 and art. 120 p. 1, shall be - on this part of the territory - carried out by the Commandant in Chief of the Border Guard.

### **Art. 7.**

1. Decisions or rulings rendered in the matters specified in the Act may be transmitted by means of any devices that make possible reading and record of information in writing on

---

<sup>1)</sup> Amendments of mentioned Act were published in J. L. of 1997 No. 6, item 31 and No. 43, item 271, of 2000 No. 12, item 136 and No. 120, item 1268 and of 2001 No. 45, item 498.

the paper carrier, as well as by means of telecommunication networks and may be delivered to an alien in the form resulting from such a transmission.

2. Whenever this Act relates to delivery of a decision, it shall also mean its announcement.

#### **Art. 8.**

1. The following personal data of an alien may be processed in the proceedings and registers run on the basis of this Act:

- 1) name (names) and surname;
- 2) previous surname;
- 3) name at birth ;
- 4) sex;
- 5) father's name;
- 6) mother's name and family name at birth ;
- 7) date of birth or age;
- 8) place and country of birth;
- 9) country of origin;
- 10) fingerprints;
- 11) description:
  - a) height in centimetres,
  - b) colour of eyes,
  - c) distinctive features;
- 12) citizenship;
- 13) nationality;
- 14) race or ethnic origin;
- 15) religious persuasions as well as political and philosophical opinions;
- 16) membership in a religious group;
- 17) membership in a particular social group;
- 18) health condition;
- 19) marital status;
- 20) education;
- 21) profession performed;
- 22) place of work;
- 23) place of residence or stay;
- 24) information referring to criminal records, penal and petty offences proceedings pending against the alien and to any decisions rendered in relation to this alien in any

judicial or administrative proceedings;

25) military service status;

26) information on any abroad travels and stays within the last 5 years;

27) information on results of checks concerning an alien, carried out in the central unit, according to the Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention (OJ L 316 of 15.12.2000) as well as information on activities undertaken on the basis of the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, signed in Dublin on 15 June 1990 (Journal of Laws of 2005, No 24, it. 194) and the Council Regulation No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ L No 50 of 25.02.2003).

#### **Art. 9.**

An alien's data on the basis of which it is possible to ascertain:

- 1) whether the proceedings for granting him/her the refugee status, asylum or the permit for tolerated stay have been completed or are still pending;
- 2) whether the alien has been granted or refused the refugee status;
- 3) whether the alien has been granted or refused asylum or the permit for tolerated stay

- must not be made available to authorities or public institutions of the country of his / her origin.

#### **Art. 10.**

In case when an alien who participates in the proceedings conducted pursuant to the Act cannot or is unable to write, an alien's signature on the document shall be replaced by an ink fingerprint, which shall be followed by the name and surname of the person who cannot or is unable to write, written by another person, who shall put his/her own signature as well as the annotation that the signature has been put upon the request of the person who cannot or is unable to write.

#### **Art. 11.**

1. The authority which conducts the proceedings, shall ensure – if necessary – the translation into Polish of documents written in a foreign language, accepted as the evidence in the proceedings concerning the refugee status or asylum.

2. If the interpreter participates in interrogations of an alien, during the procedure conducted in the case regulated in the Act, the name and surname of the interpreter shall be indicated in the record of interrogation of the alien.

### **Art. 12.**

The President of the Office for Repatriation and Aliens, hereinafter referred to as “the President of the Office” and the Refugee Board, each within the scope of its competencies, until 31 March of each year shall present to the commission of the Lower Chamber of the Parliament of the Republic of Poland competent with respect to the internal affairs, the report on the application of the Act in the preceding year as to fulfillment of obligations of the Republic of Poland resulting from the Geneva Convention and the New York Protocol.

## **Division II**

### **The refugee status**

#### **Chapter 1**

#### **Proceedings for granting and withdrawing the refugee status**

### **Art. 13.**

1. The refugee status in the Republic of Poland shall be granted to an alien who fulfils the conditions for being recognized as the refugee, specified in the Geneva Convention and the New York Protocol.
2. The refugee status shall also be granted to a spouse and a minor child of the alien referred to in sec. 1, if the application for granting the refugee status is related to them, and to an alien’s minor child born on the territory of the Republic of Poland.

### **Art. 14.**

1. An alien shall be refused the refugee status for the reason of manifestly unfounded nature of the application for granting the refugee status, if this application:
  - 1) does not contain any grounds to recognize that there is well-founded fear of persecution referred to in art. 1A of the Geneva Convention;
  - 2) aims to mislead the authority or to abuse the procedure for granting the refugee status;
  - 3) indicates, that an alien has arrived from a safe country of origin or a safe third country to which he/she has the right to return to.
  - 4) (deleted)
2. An application for granting the refugee status does not contain any grounds to recognize that there is well-founded fear of persecution referred to in art. 1A of the Geneva Convention, in particular if the alien:
  - 1) presents reasons for applying for granting the refugee status other than fear of persecution due to his/her race, religion, nationality, membership in a particular social group or his / her political opinions;
  - 2) does not provide any information on the circumstances related to his/her fear of persecution;

- 3) presents manifestly incredible or impossible information as well as incoherent or manifestly contradictory facts.
3. An application for granting the refugee status aims to mislead the authority or to abuse the procedure for granting the refugee status in particular when an alien, without a reasonable explanation:
  - 1) has not informed about prior submission of the application for granting the refugee status in another country or in other countries;
  - 2) presents false data on his/her identity, false evidence, in particular falsified or altered documents;
  - 3) has damaged or concealed evidence significant in the procedure or has disposed of it;
  - 4) has applied for granting the refugee status only in order to avoid expulsion though he/she had possibilities to submit such an application earlier ;
  - 5) does not fulfill obligations referred to in art. 27, sec. 1. p. 1, 3 and 4.

#### **Art. 15.**

1. An alien shall be refused the refugee status, if:
  - 1) he/she does not fulfill conditions to be recognized as the refugee, referred to in the Geneva Convention and the New York Protocol, in particular when he/she claims the fear of persecution, if this persecution is limited only to certain parts of the territory of his/her country of origin or another country in which he/she has permanently resided, while he/she could freely move to other part of the territory of such country and enjoy there protection provided in art. 33 sec. 1 of the Geneva Convention;
  - 2) the circumstances excluding the recognition as the refugee, referred to in the Geneva Convention, have arisen;
  - 3) has been granted the refugee status in another country, which provides him/her with real protection.
2. An alien who claims the fear of persecution, which is limited to a part of the territory referred to in sec. 1, p. 1 must not be refused the refugee status only for this reason, if the circumstances of the case indicate that it would not be reasonable to expect him/her to move to another part of the country in which he/she has been persecuted.

#### **Art. 16.**

1. In the decision on refusal of granting the refugee status an alien shall be:
  - 1) granted the permit for tolerated stay, if the circumstances referred to in art. 97 sec. 1 point 1 have arisen, or
  - 2) ordered to leave the territory of the Republic of Poland within the time limit specified in the decision, not exceeding 30 days.
2. If an alien appeals against the decision on refusal of granting the refugee status, the appeal authority shall specify the new time limit, not exceeding 14 days, for leaving the territory of the Republic of Poland by him / her.
3. An alien shall not be ordered to leave the territory of the Republic of Poland, if:
  - 1) he/she in a possession of the residence permit for a fixed period, the permit to settle, the long term resident's EC residence permit, the residence permit, the temporary residence permit;

- 2) he /she is imprisoned as a result of a judgments rendered on the basis of laws or is subjected to a preventing measures in a form of prohibition to leave the country;
  - 3) prior to being rendered of the decision on refusal of granting the refugee status, he / she was rendered the decision on expulsion, which has not been executed;
  - 4) he / she is a spouse of a Polish citizen or a spouse of an alien being in a possession of the permit to settle or the long term resident's EC residence permit and the alien's further stay on this territory does not constitute a threat to State defense or security or public security and policy, unless the marriage has been concluded in order to avoid expulsion.
- 3a. The time limit to leave the territory of the Republic of Poland shall not be specified in the decision refusing the refugee status, if an alien has been placed in the guarded centre or in the arrest for the purpose of expulsion.
4. The provisions of section 1-3 shall also apply to the spouse and the minor child of the alien, if they are referred to in the application for granting the refugee status, as well as to an alien's minor child born on the territory of the Republic of Poland.
  5. The provisions of the Act of 13 June 2003 on aliens concerning proceedings on expulsion, shall apply to the proceedings for granting the refugee status in part of this proceedings referred to the order to leave the territory of the Republic of Poland.

#### **Art. 16a.**

1. An alien who has been issued a decision on his / her transfer to another Member State of the European Union responsible for examining his / her application for granting the refugee status according to the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, signed in Dublin on 15 June 1990 and the Council Regulation No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, may be escorted to the border or to the border of the state to which transfer is executed, or to the airport or sea port of this state.
2. Obligation to escort an alien to the border shall be carried out, on the request of the President of the Office, by the commanding officer of the Voivodship Police headquarter, competent with respect to the place of an alien's stay.
3. Obligation to escort an alien from the border to the border of the state to which transfer is executed, or to the airport or sea port of this state shall be carried out, on the request of the President of the Office, by the Commandant in Chief of the Border Guard or the commanding Officer of the Border Guard division competent with respect to the place of crossing the border by an alien.

#### **Art. 16b**

Commanding officer of the Border Guard border crossing point shall inform immediately the President of the Office on the fact of leaving the territory of the Republic of Poland by an alien:

- 1) referred to in art. 16a or
- 2) in relation to whom the President of the Office or the Refugee Board rendered a decision refusing the refugee status and ordering to leave the territory of the Republic of Poland.

#### **Art. 17.**

1. The proceedings for granting the refugee status shall be initiated upon an application submitted personally by the alien.
2. An application for granting the refugee status shall also refer to the minor children accompanying the alien and may refer to the spouse upon his/her written consent.
3. The proceedings for granting the refugee status to an alien's minor child born on the territory of the Republic of Poland shall be initiated upon an application of his/her legal representative.
4. The party in the proceedings for granting the refugee status shall be an alien who has submitted an application for granting the refugee status.

#### **Art. 18.**

The following data shall be included in the application for granting the refugee status:

- 1) data of an alien, minor children accompanying him/her and a spouse, if they are referred to in the application, within the scope necessary to conduct the proceedings for granting the refugee status;
- 2) indication of alien's country of origin;
- 3) indication of core events because of which an alien applies for granting the refugee status.

#### **Art. 19.**

1. An alien shall submit an application for granting the refugee status through the commanding officer of the Border Guard division, which territorial scope of activity includes the city of Warsaw or through the commanding officer of the Border Guard checkpoint, hereinafter referred to as the "authorities admitting the application"
2. An alien who is not authorized to enter the territory of the Republic of Poland shall submit an application for granting the refugee status during the border control upon entry to the Republic of Poland, through the commanding officer of the Border Guard checkpoint.

#### **Art. 20.**

1. The initiation of the proceedings for granting the refugee status shall cause by the virtue of law:
  - 1) cancellation of a visa issued to the alien;
  - 2) expiry of the decision on obligation an alien to leave the territory of the Republic of Poland;
  - 3) suspension of execution of the decision on expulsion – until the date of the delivery to the alien the final decision in the case for granting the refugee status.
2. The admitting authority shall record in the alien's travel document the fact of cancellation of the visa as well as the fact of expiry of the decision referred to in sec. 1, p. 2.
3. If an alien is a subject of the proceedings for granting the refugee status and proceedings for issue or prolongation of a visa, which are conducted simultaneously, the proceedings for issue or prolongation of a visa shall be discontinued.

#### **Art. 21.**

1. If there are doubts as to the age of an alien who claims to be a minor, he/she may be undergone to medical examinations for the purpose of determination of his/her actual age.
2. Medical examination referred to in sec. 1 may be carried out only at the consent of the alien or at the consent of his/her legal representative.
3. Results of the medical examination should contain the information about age of an alien, as well as the information about the acceptable margin of error.
4. An alien who claims to be a minor shall be treated as a person of full legal age, if he/she or his/her legal representative refuse the consent to carrying out medical examinations referred to in sec. 1.

#### **Art. 22.**

The authority admitting the application shall inform an alien in a language understandable to him/her about principles and procedures of the proceedings for granting the refugee status as well as about rights vested to him/her, his/her obligations, and legal effects of non-performance of his/her obligations and also shall provide an alien with information on organizations dealing statutorily with refugees matters.

#### **Art. 23.**

1. An alien applying for the refugee status may contact freely a representative of the United Nations High Commissioner for Refugees as well as any organizations dealing statutorily with the refugee matters.
2. A representative of the United Nations High Commissioner for Refugees shall be allowed at any time to contact an alien applying for the refugee status.
3. A representative of the United Nations High Commissioner for Refugees at his/her request and upon a written consent of an alien referred to in sec. 1 shall have the right to obtain any information on the course of the proceedings for granting the refugee status from authorities conducting those proceedings, as well as to examine files of the case and to prepare notes and copies thereof, except the files referred to in Art. 74 § 1 of the Code of Administrative Procedure. The authority admitting the application shall inform an alien about his/her right to express his/her consent.
4. A representative of the United Nations High Commissioner for Refugees shall have neither the right of appeal referred to in art. 74 § 2 of the Code of the Administrative Procedure nor the right of complaint to the administrative court.
5. Opinions, documents and materials transmitted by a representative of the United Nations High Commissioner for Refugees to the authority carrying out the proceedings on granting or withdrawing the refugee status, shall be attached to files of the case.
6. In the proceedings for granting the refugee status to a minor staying on the territory of the Republic of Poland without a legal representative, a representative of the United Nations High Commissioner for Refugees may exercise rights referred to in sec. 3, without the necessity to obtain a written consent of this alien.
7. Information and personal data obtained from an alien and from the authorities carrying out the proceedings for granting or withdrawing the refugee status may be used only for the purposes referred to in art. 35 of the Geneva Convention
8. The authorities of the Republic of Poland shall undertake any efforts in order to facilitate the United Nations High Commissioner for Refugees to fulfill duties according to art. 35 of the Geneva Convention.

#### **Art. 24.**

1. The authority admitting the application for granting the refugee status:
  - 1) shall verify whether the application has been filled in correctly and, in particular, whether an alien has indicated his/her name and surname as well as his/her country of origin;
  - 2) shall determine the identity of the alien;
  - 3) shall take photographs and fingerprints of the alien;
  - 4) shall determine information related to:
    - a) an alien's country of origin,
    - b) data of the alien's spouse and minor children staying on the territory of the Republic of Poland,
    - c) visas or residence permits issued to the alien by the authorities of foreign countries,
    - d) route of travel to the border and the place of border crossing,
    - e) the fact of applying for granting the refugee status in another country,
    - f) the alien's family members, referred to in art. 4 of the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, signed in Dublin on 15 June 1990 and in art. 2 let. i) of the Council Regulation No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.
2. The authority admitting an application may search the alien and his / her luggage in order to exclude the possibility of committing a crime or a petty offence or in order to determine his / her identity.
3. An alien shall be obliged to undergo procedures referred to in sec. 1, p. 3 and sec. 2 as well as to present information referred to in sec. 1 p. 4.
4. Fingerprints shall be taken from an alien of at least 14 years of age, by means of dactyloscopic cards or device for taking fingerprints electronically.

#### **Art. 25.**

An application for granting the refugee status shall be left unacknowledged, if:

- 1) it does not contain an alien's name and surname or the determination of the country of origin, and this incompleteness cannot be removed as a result of activities referred to in art. 24 sec. 1 p. 2, 3 and sec. 2;
- 2) an alien has refused to undergo the procedure of taking fingerprints or the photograph.

#### **Art. 26.**

1. Prior to sending the application for granting the refugee status to the President of the Office, the authority admitting the application:
  - 1) shall determine, whether:
    - a) at the moment of submitting the application an alien was authorized to enter the territory of the Republic of Poland or he/she has legally stayed therein;
    - b) the circumstances referred to in art. 1 sec. F of the Geneva Convention have arisen;

- 2) shall provide for the performance of medical examinations and necessary sanitary treatments of alien's body and clothes.
2. An application for granting the refugee status shall be immediately send to the President of the Office, no later however than within 48 hours from the moment of submitting an application by the alien.
3. If an alien refuses to undergo the activities referred to in sec. 1 p. 2, the authority admitting the application shall notify this fact to the sanitary inspector competent with respect to the place of submitting an application for granting the refugee status.

**Art. 27.**

1. An alien applying for the refugee status is obliged to:
  - 1) report at summons of the President of the Office in order to submit testimonies and explanations;
  - 2) make available all evidence to prove the circumstances that justify granting the refugee status;
  - 3) inform about each change of his/her place of residence;
  - 4) stay on the territory of the Republic of Poland until the day of delivery of the final decision on the refugee status.
2. An alien shall be heard by the President of the Office and provided with a copy of record of such a hearing, upon demand.

**Art. 28.**

1. The President of the Office, prior to rendering the decision on:
  - 1) granting the refugee status;
  - 2) refusal of granting the refugee status, if grants to an alien the permit for tolerated stay - shall apply to the Chief of Internal Security Agency, or if necessary to any other state authorities, to provide information necessary to examine whether the circumstances referred to in art. 1 sec. F of the Geneva Convention have applied to the alien or whether the alien's residence on the territory of the Republic of Poland constitutes a threat to the state security and defense.
2. In all other cases the President of the Office may apply to the Chief of Internal Security Agency, or if necessary to any other state authorities to provide the information referred to in sec. 1.
3. The Chief of Internal Security Agency and other state authorities shall provide the information referred to in sec. 1 within the time limit of 30 days from the date of delivery of the request.
4. If the authorities referred to in sec. 3 do not present the information within the time limit of 30 days, it shall be presumed that the required information has been obtained.
5. In particularly justified cases the period indicated in sec. 3 may be prolonged up to 3 months. The authority obliged to provide information shall notify this fact to the President of the Office.

**Art. 29.**

1. The decision on granting or refusal to grant the refugee status should be rendered within the time limit of 6 months from the date of the submission of the application, with reservation of sec.2.
2. The decision on the refusal to grant the refugee status for the reason of manifestly unfounded application should be rendered within the time limit of 30 days from the date of submission of the application.
3. The provision of sec. 2 shall not apply to rendering of a decision on refusal the refugee status if the application for granting the refugee status has been regarded as unfounded for the reason that an alien has not perform the obligation referred to in art. 27 sec. 1 points 1, 3 and 4.

#### **Art. 30.**

1. Decisions on granting and withdrawing of the refugee status shall be rendered by the President of the Office.
2. The decisions of the President of the Office on granting and withdrawing of the refugee status may be appealed against to the Refugee Board.
3. The decision on refusal to grant the refugee status for the reason of manifestly unfounded nature of the application may be appealed against within the time limit of 3 days from the date of its delivery to an alien.

#### **Art. 30a**

1. If a first instance decision has not been rendered within the time limit of one year from the date of submission of an application for granting the refugee status, and the proceedings was prolonged for the reason beyond the applicant, the President of the Office, upon an alien's request, shall issue the certificate, which accompanied by the alien's provisional identity certificate constitutes a basis for obtaining the work permit according to the Act of 20 April 2004 on promotion of employment and institutions of labour market (J. L. No 99, it. 1001, No 273, it. 2073 and of 2005 No 64, it. 565).
2. The certificate referred to in sec. 1 shall confirm the time limit which has passed from the date of initiation of the proceedings as well as the circumstance that the proceedings was prolonged for the reason beyond the applicant and also shall specify expected time limit for the completion of the proceedings for granting the refugee status.

#### **Art. 31.**

1. An alien who submits the application for granting the refugee status shall be obliged to deposit his/her travel document as well as travel documents of minor children accompanying him/her and of the spouse referred to in the application, to the President of the Office through the authority admitting the application.
2. If the application for granting the refugee status is submitted by an alien residing on the territory of the Republic of Poland on the basis of the residence permit for a fixed period or the permit to settle, the obligation to deposit the travel document arises when the residence permit for a fixed period or the permit to settle expires or is withdrawn.
3. In the case referred to in sec. 2 the travel document shall be deposited to the President of the Office.
4. With reservation of sec. 5 the President of the Office shall store travel documents deposited until the final decision on granting the refugee status is rendered, and then shall return them to the alien.

5. An alien shall be given back the travel document:

- 1) in the Border Guard check point while crossing the border, if he / she was granted assistance in voluntary repatriation, according to the art. 68;
- 2) in the Border Guard check point, through which the expulsion of an alien from the territory of the Republic of Poland takes place or on the border of the state to which an alien is expelled or at the airport or the sea port of this state, if the decision on expulsion is being executed;
- 3) in the Border Guard check point through which an alien shall be transferred according to the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, signed in Dublin on 15 June 1990 and the Council Regulation No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, or at the border of the state to which transfer is executed, at the airport or sea port of this state, if art. 16a applies to the alien.

**Art. 32.**

1. An alien who has submitted an application for granting the refugee status shall be issued the provisional identity certificate of an alien, hereinafter called „the identity certificate”, for the period of validity of 30 days.
2. The identity certificate, within the period of its validity, confirms an alien’s identity and entitles him / her to stay on the territory of the Republic of Poland.
3. When the validity of first identity certificate has expired, the successive identity certificates may be issued to an alien, for the periods of validity not exceeding 6 months until the completion of the proceedings for granting the refugee status.

**Art. 33.**

1. The identity certificate shall contain the name of the issuing authority, date of issue as well as the period of its validity and the following information of the alien:
  - 1) name (names) and family name as well as parents’ names;
  - 2) date of birth or age;
  - 3) place and country of birth;
  - 4) citizenship;
  - 5) names, family names and dates of birth of minor children accompanying the alien.
2. The identity certificate shall also contain the photograph and signature of its holder.
3. The identity certificate may contain coded record of the data referred to in sec. 1.

**Art. 34.**

An alien is obliged to replace the identity certificate in case of:

- 1) change of the data contained therein;
- 2) change in his/her appearance, which makes confirming of his/her identity difficult;
- 3) loss or damage of the identity document, which makes its use difficult.

**Art. 35.**

1. The first identity document shall be issued by the authority admitting the application.
2. The successive identity documents shall be issued and replaced by the President of the Office, upon an alien's application.
3. The application referred to in sec. 2 shall include the data of an alien, and of minor children accompanying him/her, in the scope necessary to issue or replacement of the identity certificate, as well as the indication of the alien's country of origin.
4. An alien shall enclose to the application the photographs of the persons referred to the application.

**Art. 36.**

1. An alien who has lost his/her identity certificate shall report this fact to the President of the Office within the time limit of 3 days from the date of the loss.
2. If the lost identity certificate has been found, an alien is obliged to report this fact to the President of the Office within the time limit of 3 days from its finding. If the alien has been issued a new identity certificate, he / she is obliged to return the found one immediately.

**Art. 37.**

An alien shall be obliged to return the identity certificate:

- 1) to the commanding officer of the Border Guard checkpoint - while crossing the border;
- 2) to the President of the Office - while obtaining:
  - a) the travel document provided for in the Geneva Convention,
  - b) the residence card issued in connection with granting the permit for tolerated stay.

**Art. 38.**

1. An alien who has been granted the refugee status may be withdrawn this status if any of the circumstances referred to in art. 1 sec. C of the Geneva Convention have arisen.
2. The decision on withdrawing the refugee status, shall specify the time limit, within which this status is withdrawn.
3. The term referred to in sec. 2 shall be specified with regard to the need to deal by the alien with his/her personal, family and financial matters, connected with leaving the territory of the Republic of Poland.

**Art. 39.**

1. The minister competent with respect to internal affairs shall specify, by means of an ordinance, the patterns of:
  - 1) the form of application for granting the refugee status, taking into account the data concerning an alien, his/her spouse and accompanying the alien minor children referred to in art. 8 in the scope necessary to conduct the proceedings for granting the refugee status, as well as the information referred to in art. 18 p. 3;
  - 2) the provisional identity certificate for an alien issued by the authority admitting the application and of the provisional identity certificate for an alien issued by the

President of the Office, taking into account the data which should be included therein, referred to in art. 33, sec. 1 and 2;

- 3) the form of application for issue or replacement of the provisional identity certificate for an alien, taking into account the data related to an alien and accompanying to the alien minor children, referred to in art. 8, in the scope necessary to issue or replacement the provisional identity certificate of an alien as well as number and requirements related to photographs enclosed to the application.
2. In case of the change of the patterns of provisional identity certificate for an alien, the ordinance referred in sec. 1 may specify the term of validity of existing identity certificates for an alien, issued on the blank of existing pattern as well as the time limit up to which the blanks of existing pattern may be used.

## **Chapter 2**

### **Detention of an alien and placement of him/her in the guarded centre, or in the arrest for the purpose of expulsion during the proceedings for granting the refugee status**

#### **Art. 40.**

An alien applying for granting the refugee status shall not be detained unless:

- 1) he / she submits an application for granting the refugee status:
  - a) during the border control, not having the right of entry on the territory of the Republic of Poland,
  - b) staying on the territory of the Republic of Poland illegally;
- 2) prior to submission of an application for granting the refugee status he / she:
  - a) crossed or attempted to cross the border contrary to the laws,
  - b) obtained the decision on obligation to leave the territory of the Republic of Poland or the decision on expulsion;
- 3) the circumstances referred to in art. 88 sec. 1 of Act of 13 June 2003 of Aliens apply and this fact has occurred after submission of an application for granting the refugee status.

#### **Art. 41.**

With reservation of art. 47 sec. 5 and art. 54 sec. 3, an alien referred to in art. 40 shall be placed in the guarded center or in the arrest for the purpose of expulsion. The arrest for the purpose of expulsion shall be applied if the circumstances determined by the Border Guard indicate that it is necessary for the reason of state security and defence as well as for the public security and policy.

#### **Art. 42.**

1. The ruling on placement an alien in the guarded centre or in the arrest for the purpose of expulsion shall be rendered by the court, for the period of 30 days.
2. In case when an application for granting the refugee status is submitted by an alien placed in the guarded centre or in the arrest for the purpose of expulsion in consequence of execution of the court's ruling, rendered on the basis of the Act of 13 June 2003 on Aliens, the court shall extend the period of alien's stay for 90 days. The day of

submission an application for granting the refugee status shall be regarded as the first day of the period of extended stay.

3. If the decision on refusal to grant the refugee status is delivered to the alien prior to the expiry of the period referred to in sec.1 and 2, the period of stay in the guarded centre or in the arrest for the purpose of expulsion may be extended for a specified period of time, necessary to execute the decision on expulsion. The period of stay in the guarded centre or in the arrest for the purpose of expulsion may not exceed one year.
4. The ruling extending the period of stay in the guarded centre or in the arrest for the purpose of expulsion shall be rendered, upon request of the President of the Office, the agency of the Border Guard or of the Police, by the district court, competent with respect to the seat of the requesting authority.

#### **Art. 43.**

1. An alien placed in the guarded centre or in the arrest for the purpose of expulsion shall be informed in a language understandable for him/her about the organizations, which statutorily deal with refugees' affairs, and shall be allowed a correspondence or telephone contact with these organizations.
2. An alien referred to in sec. 1 may, particularly for the purpose of being granted the legal assistance, to contact personally, at the area of the guarded centre or of the arrest for the purpose of expulsion, the representative of the United Nations High Commissioner for Refugees or the organizations, which statutorily deal with refugees' affairs.
3. The provisions of sec. 2 shall not apply if it is justified by the necessity of providing public security and policy or observation of organizational rules in the guarded center or in the arrest for the purpose of expulsion.
4. The settlement on applying the provisions of sec. 3 is final. The head of the guarded center or the officer responsible for functioning of the arrest for the purpose of expulsion shall notify this fact to the President of the Office and the representative of the United Nations High Commissioner for Refugees.

#### **Art. 44.**

1. An alien may be released from the guarded centre or from the arrest for the purpose of expulsion in cases referred to in art. 107 sec. 1 of the Act of 13 June 2003 on Aliens, or on the basis of the decision of the President of the Office rendered ex officio or upon request of an alien, if the evidence of the case indicates on the probability that an alien meets the conditions for being recognized as the refugee, specified in the Geneva Convention and the New York Protocol or the condition for obtaining the permit for tolerated stay on the basis of art. 97 sec. 1 p. 1.
  - 1.a The decision referred to in art. sec. 1 shall refer also to the minor children and a spouse, accompanying to an alien.
2. The President of the Office shall not render the decision referred to in sec. 1 if residence of the alien on the territory of the Republic of Poland constitutes a threat to the state security or defense or to the public security and policy or if the circumstances referred to in Art. 1 sec. F of the Geneva Convention have arisen.
3. An alien may appeal against the decision of the President of the Office on refusal to accept a request for release from the guarded centre or from the arrest for the purpose of expulsion within the time limit of 3 days from the date the decision has been delivered. The appeal shall be submitted to the district court competent with respect to the seat of

the President of the Office, through the head of the guarded centre or through an officer responsible for functioning of the arrest for the purpose of expulsion.

4. The head of the guarded centre or the officer responsible for functioning of the arrest for the purpose of expulsion shall - within the time limit of 2 days - send the appeal to the court, which shall examine it immediately.
5. The provisions of the Code of Criminal Procedure concerning procedure for complaint against the ruling on preventive measures, shall apply mutatis mutandis to the procedure for appeal against the decision referred to in sec. 3; the function of the public prosecutor shall be exercised by the President of the Office.

#### **Art. 45.**

An alien who:

- 1) has been released from the guarded centre or from the arrest for the purpose of expulsion on the basis of the decision referred to in art. 44 sec. 1;
- 2) has not been placed in the guarded centre or in the arrest for the purpose of expulsion for the reasons indicated in art. 103 of the Act of 13 June 2003 on Aliens and meets at least one condition referred to in art. 40

- may be ordered, by means of the decision rendered by the President of the Office, to stay in the specified place or in the location, which he / she may not leave without the permission of the President of the Office, up to the day of rendering the final decision in the proceedings for granting the refugee status. An alien may also be obliged to report to the authority indicated in the decision at the specified intervals of time.

#### **Art. 46.**

(deleted)

### **Chapter 3**

#### **Proceedings related to a minor staying on the territory of the Republic of Poland without a legal representative**

#### **Art. 47.**

1. The authority admitting an application for granting the refugee status submitted by a minor staying on the territory of the Republic of Poland without a legal representative, hereinafter referred to as „unaccompanied minor”, shall apply immediately to the court competent with respect to the minor’s place of residence, the motion for:
  - 1) appointment of a guardian to represent the minor in the procedure for granting the refugee status;
  - 2) placing the minor in the custodian–educational centre or in the centre for aliens applying for granting the refugee status, hereinafter referred to as the “centre”.
2. The President of the Office shall apply the motion referred to in sec. 1 if during the proceedings carried out by the President of the Office or by the Refugee Board information that an unaccompanied minor participates in the proceedings for granting the refugee status has arisen.
3. Until the date of rendering by the court the statement in case referred to in sec. 1 p. 2 an unaccompanied minor shall be placed in:

- 1) a custodian–educational centre – in case he/she is under 13 years old;
- 2) in the centre – in case he/she is over 13 years of age.
4. Any expenses connected with placing and stay of an unaccompanied minor in the custodian–educational centre shall be financed from the state budget, from the part of which the minister competent with respect to internal affairs the disposer, from the means being at disposal of the President of the Office .
5. An unaccompanied minor shall not be placed in a guarded centre or in the arrest for the purpose of expulsion.

**Art. 48.**

1. During the proceedings for granting the refugee status a custodian for an unaccompanied minor shall be appointed immediately.
2. The custodian shall exercise custody over the person and property of the unaccompanied minor, and in particular:
  - 1) shall supervise the provision of such minor with appropriate accommodation conditions as well as access to education and medical care;
  - 2) shall cooperate on the arrangement of the minor’s free time, including cultural, sport and recreation events;
  - 3) shall grant assistance, in order to find the minor’s family members, in contacting national and international non-governmental organizations whose statutory aim is to act for the well-being of minors and refugees.
3. The custodian shall perform the tasks referred to in sec. 2, taking into account the best interests and opinions of the unaccompanied minor, as well as ethnic, religious and language reasons.
4. The custodian shall be appointed by the President of the Office from among officials of the Office, for the period up to the date of completion of the proceedings for granting the refugee status.
5. The custodian should have qualifications of a social worker, determined in the Act of 29 November 1990 on social assistance (J.L. of 1998 r. No 64, it. 414, as amended).<sup>2[2]</sup>

**Art. 49.**

1. In the procedures for granting the refugee status, the hearing of testimonies and explanations of an unaccompanied minor shall be effected:
  - 1) in a manner considering the age of the unaccompanied minor, his/her maturity and mental state as well as the fact that his/her knowledge of the real situation in the country of his/her origin may be limited;
  - 2) after providing him/her with the information on factual and legal circumstances which may influence the results of the proceedings for granting the refugee status;
  - 3) after informing him/her about the possibility to make a request for being heard in the presence of a person indicated by him / her;
  - 4) in a language understandable for him/her and, if needed, with the participation of an interpreter;

---

<sup>2[2]</sup> Amendments of the unified text of the Act were published in w J.L. 1998: No 106, it. 668, No 117, it. 756 and No 162, it. 1118 and 1126, 1999: No 20, it. 170, No 79, it. 885 and No 90, it. 1001, 2000: No 12, it. 136 and No 19, it. 238, 2001: No 72, it. 748, No 88, it. 961, No 89, it. 973, No 111, it. 1194, No 122, it. 1349 and No 154, it. 1792 and 2003: No 7, it. 79 and No 44, it. 389.

- 5) in the presence of:
- a) a guardian referred to in art. 47 sec. 1 pt 1,
  - b) a custodian,
  - c) another adult, indicated by an unaccompanied minor, if it does not make difficulties in the proceedings,
  - d) a psychologist or a pedagogue, who prepares an opinion on a psychophysical state of the unaccompanied minor.
2. A course of activities referred to in sec. 1 may be recorded by means of an audio - video recording device, if there are no technical obstacles.

#### **Art. 50.**

The activities undertaken during the procedure for granting the refugee status with participation of an unaccompanied minor shall be carried out by a person who meets at least one of the following conditions:

- 1) has completed the master degree education at the faculty of law and has worked for 2 years in institutions dealing with child care;
- 2) has completed a master degree education or higher vocational education and has worked for 2 years in public administration and who has passed a training in the scope of carrying out the proceedings for granting the refugee status with participation of minors;
- 3) has completed a master degree at the faculty of pedagogy, psychology or sociology and has worked for 2 years in public administration.

#### **Art. 51.**

Provisions of art. 56 sec. 4 and art. 64 – 66 shall not apply to providing assistance to an unaccompanied minor applying for granting the refugee status.

#### **Art. 52.**

An unaccompanied minor, who has been refused granting the refugee status, shall be remained in the centre or shall be placed in the location, indicated for his/her stay by the custodian court competent with respect to a minor's place of residence, until he / she is handed over to the authorities or the organizations of his/her country of origin whose statutory functions include issues of minors.

#### **Art. 53.**

The minister competent with respect to internal affairs, acting in consultation with the minister competent with respect to social security, shall specify by means of an ordinance, the conditions of accommodation of unaccompanied minors in the centre as well as standards of custody in such centres, taking into account the necessity to satisfy minor's needs in a manner relevant to his/her age and psychophysical condition and compensating a lack of contacts with his/her natural family. The ordinance should specify in particular the conditions applying to the location of the centre, equipment of rooms therein, manner of placing minors in the centre and of exercising care over them.

### **Chapter 4**

**Procedures with participation of aliens whose psychophysical state allows presuming that they have been victims of violence or of aliens with disabilities**

**Art. 54.**

1. Administrative activities in proceedings for granting the refugee status to an alien whose psychophysical state allows to presume that he/she has been a victim of violence, or of aliens with disabilities, shall be effected:
  - 1) in conditions assuring a freedom of speech, in a particularly tactful manner, adjusted to the alien's psychophysical state;
  - 2) in the place of his/her residence;
  - 3) on a date adjusted according to his/her mental and physical state, taking into consideration the dates of medical treatments undergone by such an alien;
  - 4) with participation of a psychologist and - if necessary - of an interpreter of the sex indicated by an alien or by a doctor.
2. If it is justified by the mental or physical state of an alien placed in the centre, he/she shall be provided with a transport in order to:
  - 1) give testimonies and statements in the proceedings for granting the refugee status;
  - 2) undergo the medical treatment.
3. An alien referred to in sec. 1 shall not be placed in the guarded centre or in the arrest for the purpose of expulsion.

**Art. 55.**

Activities undertaken during the procedure for granting the refugee status in relation to an alien referred to in art. 54 sec. 1 or activities connected with granting the assistance in the centre may be carried out by a person of the sex indicated by an alien and who has received a vocational training on the work with victims of crimes or violence and with persons with disabilities.

**Chapter 5**

**Assistance for aliens applying for granting the refugee status**

**Art. 56.**

1. An alien, in relation to whom the proceedings for granting the refugee status has been initiated, shall be provided, upon his / her request, with the assistance for the period of the proceedings and for the period of 14 days from the date of delivery of the final decision in this case, with reservation of sec. 2 and art. 60.
2. Upon the request of an alien, the assistance referred to in sec. 1 may be extended:
  - 1) for the period up to 3 months from the date of delivery of the decision on granting the refugee status or of the decision on refusing the refugee status and on granting the permit for tolerated stay.
  - 2) for the period up to 1 month from the date of delivery of the decision on discontinuation of the proceedings for granting the refugee status for the purpose that the application for granting the refugee status has been withdrawn.

Upon the request of an alien who has been delivered the decision on granting the refugee status, the assistance may be extended up to the period of 3 months from the date of delivery of this decision.

3. The assistance shall be granted to an alien who proves that he/she is not in possession of financial means sufficient to cover costs of his/her stay within the territory of the Republic of Poland and that he/she does not have any other possibilities to secure accommodation and maintenance for himself / herself.
4. The assistance shall not be granted to an alien, who:
  - 1) resides on the territory of the Republic of Poland on the basis of the residence permit for a fixed period, the permit to settle or the long-term resident's EC resident permit.
  - 2) has been placed in the guarded centre or in the arrest for the purpose of expulsion, has been preliminary arrested or has served the punishment of imprisonment;
5. The request referred to in sec. 1 may also refer to an alien's spouse and his/her minor children.
6. Decisions on granting the assistance shall be rendered by the President of the Office.

#### **Art. 57.**

1. The assistance indicated in art. 56 sec. 1 and 2, shall include:
  - 1) accommodation in the centre or
  - 2) granting to an alien the financial benefit to cover on his / her own the costs of stay on the territory of the Republic of Poland, hereinafter referred to as "financial benefit", and
  - 3) granting the medical care.
2. The assistance referred in to art. 56 sec. 1, may also include granting assistance in voluntary repatriation from the territory of the Republic of Poland.

#### **Art. 58.**

1. An alien referred to in art. 56 sec. 1, 2 and 5 may be placed in the centre only if he/she undergo medical examination and - if necessary – a sanitary treatment of his/her body and clothes.
2. The fact, that an alien has refused to undergo the activities referred to in sec. 1 shall be notified by the President of the Office to the state sanitary inspector competent with respect to the location of the center.
3. The provision of sec. 1 shall not apply to the alien who has undergone medical examination and sanitary treatment of his / her body and clothes pursuant to art. 26 sec. 1 pt 2.

#### **Art. 59.**

The minister competent with respect to health matters, acting in consultation with the minister competent with respect to internal affairs, shall specify by means of ordinance the scope, detailed conditions and manner of performance of medical examination and sanitary treatment of aliens referred to in art. 26 sec. 1 p. 2 and art. 58 sec. 1, particularly taking into account the need to prevent the spread of infectious diseases.

#### **Art. 60.**

In case when the proceedings for granting the refugee status to married couples staying in the centre together with minor children are carrying out separately, the stay of any spouses staying in the centre may not come to the end prior to the expiry of 14 days from the date of rendering the final decision in the proceedings completed later. The provisions of art. 65 sec. 1 pt. 2 and sec. 2 shall apply.

#### **Art. 61.**

1. An alien placed in the centre shall be provided with:
  - 1) food;
  - 2) tickets for transport:
    - a) in order to take part in the proceedings for granting the refugee status,
    - b) in order to attend medical examination or prophylactic vaccinations,
    - c) in other particularly justified cases;
  - 3) didactic equipment for children enjoying education and care of public institutions, primary schools, gymnasia or grammar schools as well as covering of the expenses arising out of charges for education in such institutions, schools or gymansia;
  - 4) permanent financial assistance for:
    - a) purchase of toilet articles,
    - b) covering out-of-pocket expenses.
2. An alien referred to in sec. 1 may be provided with:
  - 1) an equivalent in money in return for food, in case when:
    - a) due to his/her health state he / she should obtain dietary alimentation for a period specified in a medical report, and this alimentation may not be provided by the centre,
    - b) he/she stays in the centre together with children under 7 years of age;
    - c) a minor child of an alien enjoys education and care of public institutions, primary schools, gymnasia or grammar schools;
  - 2) one-time financial assistance for the purchase of clothing and footwear;
  - 3) free of charge course of Polish language and basic materials necessary for learning thereof.
3. In the case referred to in sec. 2 point 1 l. b and c , an equivalent in money for food shall be assigned for alien's children.

#### **Art. 62.**

1. An alien placed in the centre shall be obliged to observe the rules of stay in the centre.
2. The minister competent with respect to internal affairs shall specify by means of ordinance the rules of stay in the centre, determining in particular the conditions of admission an alien to the centre and of paying visits to persons placed therein, the rules of distribution of meals, the rules of cleaning maintenance as well as the internal regulation of the centre.

#### **Art. 63.**

1. The President of the Office shall provide for and organize the running of the centers.
2. The President of the Office may delegate its responsibility for running the centres to social organizations, foundations, associations, natural and legal persons.
3. The centres shall be financed from the state budget, from the part of which the minister competent with respect to internal affairs is the disposer, from the means at the disposal of the President of the Office.

#### **Art. 64.**

1. An alien shall be granted a financial benefit land in case when his/her stay in the centre is inadvisable due to:
  - 1) his / her health state acknowledged by a medical report;
  - 2) need to assure an alien's safety.
2. An alien staying in the centre, to whom the decision on granting the refugee status was delivered, may be granted, upon his / her request, the financial benefit in return for existing assistance, based on placing an alien in the centre, for the period of 14 days from the date of delivery of the decision on granting the refugee status or for the period of which the assistance was prolonged on the basis of art. 56 sec. 2.

#### **Art. 65.**

1. The President of the Office, by means of a decision, shall withhold in the whole or in part the assistance based on placing an alien in the centre or granting the financial benefit, if an alien:
  - 1) is in possession of his / her own financial means sufficient to cover his / her needs;
  - 2) after being granted the assistance, has crossed or attempted to cross the border contrary to the law;
  - 3) is subjected to a preliminary arrest or imprisonment.
2. Withholding of the assistance based on placing an alien in the centre shall also take place if an alien:
  - 1) has grossly violated the rules of social coexistence in the centre;
  - 2) without giving a reason, has stayed outside of the centre for the period exceeded 3 days.
3. When assistance is withheld due to reasons referred to in sec. 1 point 2 or sec. 2 point 1 the President of the Office may, upon request of the alien, by means of a decision to restore once the assistance on the hitherto existing conditions.
4. When assistance is withheld due to reasons referred to in sec. 1 point 1 or sec. 2 point 2 the President of the Office, upon request of the alien, shall, by means of a decision, restore the assistance after the reasons justifying its withholding ceased to exist.
5. Decisions on withholding of the assistance shall be given order of immediate enforceability.
6. In case referred to in sec. 2 point 2, the decision on withholding of the assistance shall be **held** on the announce board in the centre, which has been left by an alien. The decision is regarded to be delivered on the date it was **held**.

#### **Art. 66.**

In case the assistance is withheld for the reasons indicated in art. 65, sec. 1, point 2 or sec. 2 point 1 for the second time, or in case an alien may not be placed in the centre as he/she has refused to undergo medical examinations or sanitary treatment of the body and clothes, the President of the Office may, upon an alien's request, by means of a decision, grant him/her a financial benefits in the amount of 1/3 of financial benefits provided pursuant to art. 64.

#### **Art. 67.**

1. An alien referred to in art. 56 sec. 1, 2 and 5 shall be supported with the medical care within the scope in which the persons covered by compulsory or voluntary insurance are entitled to services on the basis of the Act of 27 September 2004 on health care services financed from the public funds (J.L. No 210, item 2135).
2. Supporting an alien with the medical care shall be provided on the basis of the contract concluded between the President of the Office and provider of the service within the meaning of the Act referred to in sec. 1 .
3. The prices of medical benefits included in the contract, referred to in sec. 2 shall be relevant to the prices, the same medical benefits were purchased by the National Health Fund from the provider of the service concerned.
4. The costs of medical care referred to in sec. 1, excluding the costs specified in the provisions of the Act of 6 September 2001 on infectious diseases and infections, (J.L. No 126, it. 1384 and 2003 r. No 45, it. 391), are financed from the state budget from the part of which the minister competent with respect to internal affairs is the disposer, from the means being at disposal of the President of the Office.

#### **Art. 68.**

1. An alien referred to in art. 56 sec. 1, who has withdrawn an application for granting the refugee status, may, upon his / her application be granted the assistance in voluntary repatriation from the territory of the Republic of Poland.
2. An application referred to in sec. 1 may refer to an alien's spouse and his / her minor children.
3. The assistance in voluntary repatriation from the territory of the Republic of Poland may include:
  - 1) purchase of a ticket for the cheapest mean of public transport to a country chosen by the alien, to which he/she has the right of entry;
  - 2) covering administration charges connected with obtaining necessary visas and permits;
  - 3) partial covering of food costs during the travel.
4. The assistance in voluntary repatriation from the territory of the Republic of Poland may be granted once within the period of 2 years.

#### **Art. 69.**

The minister competent with respect to internal affairs shall specify, by means of an ordinance the amount of one-time assistance for purchase of clothes and footwear, permanent assistance for purchase of toilet articles and for covering out-of-pocket expenses of an alien and financial equivalent for food, provided to aliens staying in the centre as well as the amount of financial benefit for covering, on his / her own, the costs of stay on the territory of the Republic of Poland, the assistance for covering the costs of food of an alien during the travel

connected with voluntary repatriation from the territory of the Republic of Poland, as well as the time limit and the measures of its paying out and the amount of one-day rate of food in the centre, taking into account the living needs of an alien. The ordinance may specify in which cases and up to which amount the permanent financial assistance for covering an alien's out-of-pocket expenses may be raised, taking into account his / her involving in the activities for the centre and for persons staying therein.

## **Chapter 6**

### **Rights and obligations of an alien who has been granted the refugee status**

#### **Art. 70.**

An alien who has been granted the refugee status shall be provided with assistance for the purpose of supporting his/her integration process. The assistance shall be provided within a procedure and on terms defined in the Act of 29 November 1990 on social assistance.

#### **Art. 71.**

An alien who has been granted the refugee status shall have the same rights as an alien who has been granted the residence permit for a fixed period unless provisions of this Act or other acts state otherwise.

#### **Art. 72.**

An alien who has been granted the refugee status must not be rendered the decision on obligation to leave the territory of the Republic of Poland or the decision on expulsion without being withdrawn that status, unless the circumstances referred to in art. 32 and 33 of the Geneva Convention have arisen.

#### **Art. 73.**

1. In case when the circumstances referred to in art. 32 or art. 33 of the Geneva Convention have arisen, the decision on expulsion of an alien who has been granted the refugee status shall be rendered by the President of the Office ex officio or at the request of the Minister of National Defense, the Chief of the Internal Security Agency, the Chief of the Intelligence Agency, the Commandant in Chief of the Border Guard, the Commandant in Chief of the Police, the commanding officer of the Border Guard division, the commanding officer of the Border Guard checkpoint or the commanding officer of the voivodhsip headquarter Police.
2. The decision on expulsion of an alien who has been granted the refugee status must not be given order of immediate enforceability.

#### **Art. 74.**

1. An alien and his/her spouse who have been granted the refugee status shall be issued the travel document provided for in the Geneva Convention and the residence card.
2. A minor child of the alien or of his/her spouse, including the one born after granting them the refugee status, shall be issued the residence card and:
  - 1) personal data of the child shall be entered to the travel document provided for in the Geneva Convention issued to an alien or his/her spouse referred to in sec.1, or

- 2) the child shall be issued the travel document provided for in the Geneva Convention if it is necessary to exercise the child's rights.
3. The travel document provided for in the Geneva Convention and the residence card shall be valid for the period of 2 years.
4. Validity of the travel document provided for in the Geneva Convention may be extended for successive 2 – years periods.
5. In case of an extension of validity of the travel document provided for in the Geneva Convention an alien shall be issued a new residence card valid for the period of 2 years.
6. The period of validity of the residence card and the travel document provided for in the Geneva Convention issued to a minor alien shall expire at the same time as the period of validity of the residence card and the travel document provided for in the Geneva Convention issued to an alien or his/her spouse referred to in sec.1.

**Art. 75.**

An alien shall be obliged to replace his/her travel document provided for in the Geneva Convention in case of:

- 1) damage of the document which make its use difficult, or its loss;
- 2) exhaustion of the possibilities for its further extension.

**Art. 76.**

1. An alien who has lost the travel document provided for in the Geneva Convention shall be obliged to inform about this fact the President of the Office within the time limit of 3 days from the date of its loss.
2. If the lost document provided for in the Geneva Convention has been found an alien is obliged to inform about this fact the President of the Office for Repatriation and Aliens within the period of 3 days from its finding. If an alien has been issued a new document, he / she is obliged to return the found one.
3. Provisions of sec. 1 and 2 shall apply mutatis mutandis in case of the loss of the residence card.

**Art. 77.**

1. An alien shall be obliged to return the residence card and the travel document provided for in the Geneva convention to the President of the Office immediately after delivery of the decision on withdrawing of the refugee status or delivery of the document confirming the acquisition of Polish citizenship or citizenship of another state.
2. An alien who is subject to expulsion on the basis of the decision referred to in art. 73 shall be obliged to return the residence card to the commanding officer of the border guard checkpoint when crossing the border at the latest.

**Art. 78.**

1. The travel document provided for in Geneva Convention shall be replaced and its validity shall be extended at the request of an alien.
2. The application form referred to in sec. 1 shall include the data of the alien and minor children accompanying him/her, necessary to replace the travel document provided for in

Geneva Convention or to extend its validity as well as necessary to issue the residence card.

3. An alien shall enclose photographs of persons referred to in the application.

#### **Art. 79.**

1. The President of the Office shall issue and replace the travel document provided for in the Geneva Convention and extend its validity.
2. The President of the Office shall issue and replace the residence card issued to an alien who has been granted the refugee status.

#### **Art. 80.**

The minister competent with respect to internal affairs, shall specify, by means of an ordinance:

- 1) a pattern of the travel document provided for in the Geneva Convention taking into account provisions of the annex to the Convention;
- 2) a pattern of an application form for extension of validity of the travel document provided for in the Geneva Convention or its replacement taking into account the data referred to the alien and to the accompanying him/her minor children referred to in art. 8 in the scope necessary to the extension of validity of the travel document provided for in the Geneva Convention and its replacement as well as to issue of the residence card, and the number and requirements of photographs enclosed to the application.

### **Chapter 7**

#### **The Refugee Board**

#### **Art. 81.**

1. The Refugee Board, hereinafter referred to as „the Board”, shall be the public administration authority, examining appeals against the decisions and complaints against the rulings rendered by the Presidents of the Office in cases on granting or withdrawing the refugee status, excluding matters referred to in chapter 5.
2. The Board shall be vested in powers of the higher level authority within the meaning of the Code of Administrative Procedure.
3. The Board shall be also the authority competent with respect to reopening of proceedings, reversing, altering or declaring the invalidity of decisions or rulings rendered by the Board.
4. The other functions of the Board shall include:
  - 1) carrying out analyses of jurisdiction concerning cases on granting or withdrawing the refugee status;
  - 2) gathering information of aliens' countries of origin;
  - 3) cooperation with national and international agencies and institutions within the scope of migration and refugee issues;
  - 4) running the register of complaints and appeals submitted as well as of decisions and rulings rendered by the Board.
5. The Prime Minister, by means of an ordinance, shall bestow the Board with the organizational statute and the rules, defining, in particular, the manner of summoning and

running sessions of adjudicating benches and plenary sessions as well as the manner of establishment of internal commissions of the Board, taking into account the scope of functions of the Board.

**Art. 82.**

1. The Board shall consist of 12 members, appointed by the Prime Minister for the term of office of 5 years, from among the persons with outstanding knowledge or practical experience within the scope of the refugee problems. At least half of the Board members should have a higher education law degree.
2. Only the person who is the Polish citizen and enjoy full public rights may become the member of the Board.
3. The Prime Minister shall appoint to the Board four candidates presented by the minister competent with respect to internal affairs and four candidates presented by the Minister of Justice. Each of the ministers shall present eight candidates.
4. In the events justified by the increased inflow of cases of granting or withdrawing the refugee status, the Prime Minister may, at the motion of the president of the Board, lodged on the basis of the Board's resolution, appoint additional members of the Board for the period up to the end of a concerned term of office. The provision of sec. 3 shall not apply.

**Art. 83.**

1. The employer employing the member of the Board shall grant him/her, at his/ her request, an unpaid leave for the period of performing his / her duties in the Board.
2. Officials of state offices and civil servants shall have the right to return to the positions previously occupied, after having finished the work in the Board or, should the above be impossible, to an equal position.
3. Within the scope of performing activities implicating from the functions of the Board, referred to in art. 81, the members of the Board shall avail themselves of the protection foreseen for public officers.

**Art. 84.**

1. The Prime Minister shall recall the member of the Board in the event of:
  - 1) his / her resignation from performing the function;
  - 2) an illness which permanently prevents him / her from performing his / her functions;
  - 3) convicting him / her by the final sentence for the intentional crime, on public prosecution;
  - 4) the occurrence of other circumstances which make the performance of functions or duties by this member of the Board impossible.
2. If a member of the Board has been recalled or in case of his/her death, the Prime Minister shall appoint a new member of the Board for the period up to the end of a given term. The provision of art. 82 sec. 3 shall not apply.

**Art. 85.**

1. The Board shall appoint its President and the Vice-President from among its members in secret voting, by the majority of votes in the presence of at least two thirds of its bench.

In the same procedure the Board may recall the President and the Vice-President of the Board.

2. After the expiry of the term of the Board, the President shall perform his / her responsibilities up to recalling the new President.
3. The first plenary session of the new term shall be recalled by the recent President within the time limit of 30 days from the date of recalling of the members of the Board of the of the new term of office.

#### **Art. 86.**

1. The President of the Board shall manage works of the Board and in particular:
  - 1) shall determine the work agenda of the Board,
  - 2) shall summon plenary sessions of the Board,
  - 3) shall appoint adjudicating benches;
  - 4) shall assign cases to be examined to adjudicating benches and supervise the promptness of their settlement;
  - 5) shall represent the Board in contacts with other authorities and institutions;
  - 6) shall represent the Board in proceedings before the administrative court or appoint another member of the Board for that purpose;
  - 7) shall appoint experts to participate in proceedings pending before the Board;
  - 8) shall assign to members of the Board the tasks related to the operations of the Board,
  - 9) shall appoint thematic teams or working groups to prepare issues and make analyses of problems resulting from the operations of the Board,
  - 10) shall perform other tasks following from legal provisions.

#### **Art. 87.**

1. The Board shall adjudicate in benches of three persons, with reservation of cases referred to in sec. 4 and 5.
2. The decisions shall be rendered by the majority of votes. A member of the adjudicating bench may not refrain from voting.
3. A member of adjudicating bench, who has not agreed with the majority of voting, may, while signing the decision, indicate the separate opinion, stating in which part and in which scope he / she questioned the decision.
4. The President of the Board may order the examination of a case by a one-person bench.
5. The appeal against the decision on refusal of granting the refugee status for the reason of manifestly unfounded application, shall be examined in one-person bench.

6. Upon rendering the decisions, the members of the Board shall be bound exclusively by the provisions of the law.
7. The Board, prior to rendering the decision on granting the refugee status or prior to granting to an alien the permit for tolerated stay while refusing him / her granting the refugee status, shall apply to the Chief of the Internal Security Agency for providing with information, whether, in relation to this alien, the circumstances referred to in art. 1 sec. F of the Geneva Convention have arisen or whether the residence of this alien on the territory of the Republic of Poland may constitute a threat to the defence or security of the state, if the files of the case indicate that the President of the Office has not applied for making this information available. The provisions of art. 28 sec. 3 - 5 shall apply to obtaining this information by the Board.
8. Within the time limit not exceeding 6 months from the day of completion of the proceedings the President of the Board shall send to the President of the Office the files of the case in administrative proceedings for the purpose of archives.

#### **Art. 88.**

1. The President, the Vice-President and members of the Board shall be remunerated and receive allowances per diem, reimbursement of travel costs and accommodation expenses on terms specified in referred to amount and condition of reimbursement of the official travel within the area of the state, vested to an official employed in the governmental or self-governmental unit of the state budget, as provided in art. 77<sup>5</sup> sec. 2 of the Labor Code.
2. The Prime Minister shall specify, by means of an ordinance, the amount of remuneration of the President, the Vice-President and other members of the Board, taking into account the month lump for the participation in the Board sessions, the remuneration for participation in the adjudicating benches as well as for the participation in the proceedings before the administrative court. The amount of the remuneration shall depend on the function performed by the members of the Board.

#### **Art. 89.**

1. The administration and office service of the Board shall be provided by the Chancellery of the Prime Minister.
2. The Board operation shall be financed from the state budget, from the chapter relating to the Refugee Board, from the part referring to the Chancellery of the Prime Minister.
3. The Prime Minister shall specify, by means of an ordinance, the organizational and financial conditions of performing of service of the Board, taking into account the nature of the Board functions, specified in art. 81.

### **Division III**

## **Other form of protection granted to alien within the territory of the Republic of Poland**

### **Chapter 1**

#### **Asylum**

#### **Art. 90.**

1. Upon his / her request, an alien may be granted asylum in the Republic of Poland if it is necessary for providing him / her with protection and if it is in a good interest of the Republic of Poland.
2. An alien who has been granted asylum shall be granted the permit to settle.

**Art. 91.**

1. An alien shall be withdrawn asylum, if:
  - 1) the reasons for granting asylum have ceased to exist;
  - 2) he / she carries out activity directed against state security or defense or public security and policy.
2. In the decision withdrawing asylum an alien staying on the territory of the Republic of Poland shall also be ordered to leave this territory within the time limit specified in the decision.
3. The provisions of the Act of 13 June 2003 on Aliens concerning proceedings on expulsion shall apply to the part of proceedings on withdrawing asylum, related to the order to leave the territory of the Republic of Poland.

**Art. 92.**

1. An alien who submits an application for granting asylum staying:
  - 1) on the territory of the Republic of Poland - shall be obliged to subject himself / herself to procedure of taking of fingerprints and photograph;
  - 2) beyond the border - shall be obliged to enclose the photograph to the application and - after entry on the territory of the Republic of Poland on the basis of the residence visa for the purpose of participation in asylum procedure - to subject himself / herself to procedure of taking of fingerprints.
2. Taking of fingerprints and photograph of an alien shall be provided by the commanding officer of the Border Guard division, which territorial scope of activity includes the city of Warsaw.
3. If an alien fails to observe the obligation referred to in sec. 1, the application for asylum shall be remained unacknowledged.

**Art. 93.**

1. The provisions of art. 17, art. 18, art. 27 sec. 1 points 1 – 3, art. 28, art. 29 sec. 1 and of division II chapter 4 shall apply mutatis mutandis to the proceedings on granting asylum.
2. The provisions of division II chapters 3 and 5 shall apply mutatis mutandis to the proceedings on granting asylum, with participation of an unaccompanied minor.

**Art. 94.**

1. Decisions on granting and withdrawing asylum shall be rendered by the President of the Office.
2. The decision on granting or withdrawing of asylum may be rendered after obtaining the consent of the minister competent with respect to foreign affairs.
3. The permit to settle and the residence card for an alien who has been granted asylum shall be issued by the President of the Office.

#### **Art. 95.**

An alien who has been granted asylum must not be obliged to leave the territory of the Republic of Poland.

#### **Art. 96.**

An alien who has been granted asylum may be rendered the decision on expulsion only after prior withdrawing asylum.

### **Chapter 2**

#### **Tolerated stay**

#### **Art. 97.**

1. An alien shall be granted the permit for tolerated stay on the territory of the Republic of Poland if his / her expulsion:

- 1) may be effected only to a country where his/her right to life, to freedom and personal safety could be under threat, where he/she could be subjected to tortures or inhumane or degrading treatment or punishment, or could be forced to work or deprived the right to fair trial, or could be punished without any legal grounds – within the meaning of the Convention on Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 (J.L. of 1993 No. 61, it. 284 and 285, of 1995 No. 36, it. 175, 176 and 177 and of 1998 No. 147, it. 962 and of 2002 No. 127, it. 1084);
- 2) is unenforceable due to reasons beyond the authority executing the decision on expulsion or beyond this alien;
- 3) (deleted)
- 4) (deleted)

2. An alien may be granted the permit for tolerated stay on the territory of the Republic of Poland if his / her expulsion might be effected only to a country to which the extradition is inadmissible on the basis of the court's judgment on the inadmissibility of an alien's extradition or on the basis of the decision of the Minister of Justice on refusing to extradite that alien. This decision shall be taking with due regard to the reasons for refusing an alien's extradition as well as the to the interest of the Republic of Poland.

#### **Art. 98.**

An alien who has been granted the permit for tolerated stay shall be vested in the same rights as an alien who has been granted the residence permit for a fixed period, unless the provisions of this act or of other acts state otherwise.

#### **Art. 99.**

1. An alien who has been granted the permit for tolerated stay shall be issued the residence card.
2. The residence card issued to an alien, who has been granted the permit for tolerated stay, shall be valid for one year.
3. An alien is obliged to replaced the residence card in cases indicated in art. 77 of the Act of 13 June 2003 on aliens, as well as after the expiry of its validity period.

#### **Art. 100.**

An alien shall be obliged to return the residence card immediately after delivery of the document confirming the acquisition of the Polish citizenship, of the withdrawing the permit for tolerated stay, of the decision on granting the refugee status, of the decision on granting the permit to settle or on the day he / she informs the President of the Office on resignation of the right to enjoy the permit for tolerated stay.

#### **Art. 101.**

An alien who has been granted the permit tolerated stay must not be rendered the decision on obligation to leave the territory of the Republic of Poland or the decision on expulsion.

#### **Art. 102.**

1. The permit for tolerated stay shall be withdrawn, if:
  - 1) the reason for granting the permit for tolerated stay has ceased to exist;
  - 2) an alien has voluntarily applied for protection to the authorities of the country of origin;
  - 3) an alien has left permanently the territory of the Republic of Poland;
  - 4) it may constitute a threat to the state security and defence as well as to the public security and policy.
2. In the decision on withdrawing the permit for tolerated stay, an alien staying on the territory of the Republic of Poland, shall be ordered to leave this territory within the time limit not exceeding 14 days from the date the decision has become final, unless prior to rendering the decision on withdrawing the permit for tolerated stay an alien was rendered the decision on expulsion which has not been executed yet.
3. The provisions of Act of 13 June 2003 on Aliens relating to the proceedings on expulsion shall apply mutatis mutandis to the part of the proceedings on withdrawing the permit for tolerated stay concerning order to leave the territory of the Republic of Poland.
4. Decision on withdrawing of the permit for tolerated stay, granted on the basis of art. 97 sec. 1 point 2 shall be given order of immediate enforceability .

#### **Art. 103.**

The permit for tolerated stay shall expiry by the virtue of law on the day of:

- 1) granting to alien the refugee status;
- 2) acquisition the Polish citizenship by the alien;
- 3) informing the President of the Office by the alien on resignation of the right to enjoy the permit for tolerated stay;
- 4) granting to alien the residence permit for a fixed period or the permit to settle.

#### **Art. 104.**

1. The permit for tolerated stay shall be granted by:
  - 1) the voivod:
    - a) ex officio, in the decision on refusing the expulsion, if pending the proceedings on expulsion it occurs that any of the circumstances referred to in art. 97 sec. 1

point 1 have arisen or in a separate decision, if these circumstances occurred after the decision on expulsion had been rendered,

- b) upon the request of the authority obliged to execute the decision on expulsion, if the decision on expulsion is unenforceable due to reasons beyond the authority obliged to execute the decision on expulsion or beyond an alien;

2) the President of the Office:

- a) ex officio, in the decision on refusing to grant the refugee status, on withdrawing the refugee status or on withdrawing asylum, if any of the circumstances referred to art. 97 sec. 1 point 1 have arisen, or in a separate decision if these circumstances occurred after the decision on refusing to grant the refugee status, including order to leave the territory of the Republic of Poland, or after the decision on withdrawing the refugee status or on withdrawing asylum had been rendered;
- b) upon the request of an alien staying on the territory of the Republic of Poland, in relation to whom the court rendered the judgment on the inadmissibility extradition or the Minister of Justice made a decision on refusing to extradite that alien.
- c) upon the request of the authority obliged to execute the decision on refusing to grant the refugee status including order to leave the territory of the Republic of Poland, the decision on withdrawing the refugee status or withdrawing asylum, if the decision on expulsion is unenforceable due to reasons beyond the authority obliged to execute the decision on expulsion or beyond an alien.

3) the Board, when examining the appeal against the decision on granting the refugee status it states that any of the circumstances referred to in art. 97 sec. 1 point 1 have arisen.

- 1a. If the circumstances referred to in art. 97 sec. 1 point 1 have arisen after the decision on expulsion had been rendered or if expulsion of an alien is unenforceable due to reasons beyond the authority obliged to execute the decision on expulsion or beyond an alien, the decision on granting the permit for tolerated stay shall be issued by the voivod who had rendered the decision on expulsion.
2. With regard to voivod, in cases referred to in sec. 1 pt. 1 the President of the Office shall be the higher level authority, in understanding provided by the Code of Administrative Procedure.
3. The decision on withdrawing of the permit for tolerated stay shall be rendered by the authority, which granted this permit. If the decision on granting the permit for tolerated stay has been rendered by the Board, the permit shall be withdrawn by the President of the Office.
4. The decision on withdrawing the permit for tolerated stay on the basis of art. 102 sec. 1 pt. 4 shall be issued ex officio or upon the request of the Minister of National Defence, the Chief of Internal Security Agency, The Chief of Intelligence Agency, The Commandant in Chief of the Border Guard, the Commandant in Chief of the Police, the commanding officer of the Border Guard division, the commanding officer of the Border Guard checkpoint or the commanding officer of the Voivodship Police Headquarters.
5. The residence card for an alien who has been granted the permit for tolerated stay shall be issued and replaced by the authority which granted this permit. If the permit for tolerated stay has been granted by the Board, those activities shall be carried out by the President of the Office.

**Art. 105.**

1. An alien who has been granted the permit for tolerated stay as a result of:
  - 1) the expulsion proceedings;
  - 2) compliance by the President of the Office with the request referred to in art. 104 sec. 1 pt. 2 l. b.- shall be obliged to subject himself / herself to taking of fingerprints.
2. The following authorities shall provide taking of fingerprints in cases referred to in sec. 1:
  - 1) pt. 1 - the commanding officer of the Voivodship Police Headquarters;
  - 2) pt. 2 - the Commandant in Chief of the Police.
3. The fingerprints shall be taken by means of dactyloscopic cards or of the device for taking fingerprints electronically.

**Chapter 3**  
**Temporary protection**

**Art. 106.**

1. Aliens arriving to the Republic of Poland in great numbers, who have left their country of origin or specific geographical area for the reason of foreign invasion, war, civil war, ethnic conflicts or serious violation of human rights, may be provided with temporary protection on the territory of the Republic of Poland, regardless their arrival was spontaneous or aided by Republic of Poland or by international community.
2. Temporary protection shall be provided up to the day on which aliens are able to return to their previous place of residence, however not exceeding one year.
3. If the obstacles for safe return of aliens to previous place of residence do not cease to exist after one year, the period of protection shall be extended up to the further 6 months. Such extension may take place no more than twice.

**Art. 107.**

1. Temporary protection shall be provided on the basis and within the limits specified in the decision of the Council of the European Union, for the period specified every time in the decision.
2. The Council of Ministers may, by means of an ordinance, provide temporary protection to aliens, who have not been included in the decision of the Council of the European Union, but were enforced to leave the country or geographical area referred to in that decision, for the reasons of events referred to in art. 106 sec. 1.
3. The following shall be specified in the ordinance referred to in sec. 2:
  - 1) detailed rules for financing temporary protection, limit of aliens to whom this protection may be provided, the period of duration or conditions of its ending, manner of granting assistance referred to in art. 112 sec. 1, as well as the manner of carrying out the tasks undertaken within this protection, taking into account, in particular the kind of threat, to which aliens were exposed prior to arrival on the territory of the Republic of Poland, possibility of financing this protection and obligations arising from the provisions of international agreements binding the Republic of Poland;

- 2) the scope, detailed conditions and manner of carrying out medical examinations and sanitary treatment of an alien's body and cloth, referred to in art. 114 sec. 2, taking into account in particular the need to prevent the spread of infectious diseases.

**Art. 108.**

1. Temporary protection, if the events referred to in art. 106 sec. 1 have arisen, shall be provided on the basis and within the limits specified every time by the Council of Ministers in the ordinance.
2. The following shall be specified in the ordinance referred to in sec. 1:
  - 1) detailed rules for financing temporary protection, limit of aliens to whom this protection may be provided, the period of its duration, conditions of its ending, manner of granting assistance referred to in art. 112 sec. 1, as well as the manner of carrying out the tasks undertaken within the framework of this protection, taking into account, in particular the kind of threat, to which aliens were exposed prior to arrival on the territory of the Republic of Poland, possibility of financing this protection and obligations arising from the provisions of international agreements binding the Republic of Poland;
  - 2) the scope, detailed conditions and manner of carrying out medical examinations and sanitary treatment of an alien's body and cloth, referred to in art. 114 sec. 2, taking into account in particular the need to prevent the spread of infectious diseases.
3. The Council of Ministers may, by means of an ordinance, extend the period of providing temporary protection, according to art. 106 sec. 3, taking into account the existence of obstacles in safe return of aliens to the place of previous residence.
4. The Council of Ministers may, by means of an ordinance, entrust non-government organizations with the performance of tasks undertaken within temporary protection, specifying the scope of the tasks entrusted, period of their performance, manners of controlling their performance as well as manner of financing of these tasks, taking into account the necessity to provide aliens with appropriate protection.

**Art. 109.**

The President of the Office may refuse to provide an alien with temporary protection, if:

- 1) there are well founded reasons to suspect that an alien:
  - a) has committed a crime against peace, a war crime, or a crime against humanity, as defined in the provisions of international law, relating to such crimes,
  - b) has committed a serious non-political crime outside the Republic of Poland prior to his / her arrival on that territory,
  - c) has been guilty of acts contrary to the purposes and principles of the United Nations;
- 2) his / her entry or stay may constitute a threat to the state security;
- 3) he / she has been sentenced by a final sentence for the crime, the nature of which indicates that presence of that alien on the territory of the Republic of Poland may constitute a threat to Polish citizens.

**Art. 110.**

1. An alien enjoying temporary protection shall be issued a visa if it is required for his / her entry on the territory of the Republic of Poland.

2. The President of the Office shall grant the residence permit for a fixed period for a period of a one year and shall issue the residence card to an alien enjoying temporary protection, after his/ her arrival on the territory of the Republic of Poland.
3. If the period of temporary protection has been extended, the President of the Office shall grant, ex officio, the successive residence permit for a fixed period for the period of extension and shall issue the residence card.
4. The issue of a visa, the residence card and granting of the residence permit for a fixed period shall be free of charge.

**Art. 111.**

An alien enjoying temporary protection, after his / her arrival on the territory of the Republic of Poland, shall be informed, in a language understandable to him/her about the procedure and principles of the proceedings on temporary protection as well as about rights vested to him/her and obligations imposed on him/her.

**Art. 112.**

1. The President of the Office shall provide an alien enjoying temporary protection with medical care as well as shall grant assistance through providing accommodation and food, with reservation of sec. 4.
2. Supporting an alien with medical care shall be provided on the basis of the contract concluded between the President of the Office and provider of the service within the meaning of the Act of 27 September 2004 on health care services financed from the public funds.
3. The costs of medical care referred to in sec. 1, excluding the costs specified in the provisions of the Act of 6 September 2001 on infectious diseases and infections, are financed from the state budgeted from the part of which the minister competent with respect to internal affairs is the disposer, from the means being at disposal of the President of the Office.
4. The President of the Office shall provide an alien enjoying temporary protection, who carries out work or economic activity, with medical care and assistance referred to in sec. 1, taking into account the amount of income, gained by that alien.

**Art. 113.**

1. Upon the request of the President of the Office, the court competent with respect to the place of stay of the unaccompanied minor enjoying temporary protection shall appoint the custody.
2. The provisions of the Family and Custodian Code shall apply mutatis mutandis to the custody referred to in sec. 1, with reservation of sec. 3 and 4.
3. The custody shall be appointed, if a minor referred to sec 1, during his / her stay on the territory of the Republic of Poland is not accompanied by the legal representative.
4. The custody shall expire by the virtue of law, if a minor referred to in sec. 1 leaves the territory of the Republic of Poland due to expiry of the period, he / she has been granted temporary protection, or if his / her legal representative is able to execute the parental care.
5. A minor shall be placed in the custodial-educational centre up to the appointment of the custody by the court.

**Art. 114.**

1. An alien enjoying temporary protection shall be obliged to subject himself / herself to taking of fingerprints and photographs.
2. In justified cases an alien referred to in sec. 1 shall be obliged to undergo himself / herself to medical examinations and to the necessary sanitary treatment of his / her body and clothes.
3. Taking of fingerprints and photograph of an alien as well as carrying out of medical examinations and sanitary treatment of an alien's body and clothes shall be provided by the commanding officer of the Border Guard division, which territorial scope of activity includes the city of Warsaw.

**Art. 115.**

An alien enjoying temporary protection, who does not possess the travel document may be issued the Polish travel document for an alien by the President of the Office.

**Art. 116.**

1. An alien enjoying temporary protection may carry out work without the work permit or carry out economic activity under the rules specified in the Act of 2 July 2004 on the freedom of economic activity (J. L. No 173, item 1807).
2. A minor child of an alien enjoying temporary protection shall be granted the right to education under the rules specified for Polish citizens.

**Art. 117.**

1. If a spouse or a minor child of an alien enjoying temporary protection stays outside the territory of the Republic of Poland, the President of the Office shall undertake activities aimed to reunite the family.
2. The President of the Office may undertake activities aimed to reunite an alien enjoying temporary protection with other than specified in sec. 1 closed relatives, who directly prior to an alien's arrival on the territory of the Republic of Poland were remained with him / her in common housekeeping and were fully or partially dependant on him / her.
3. Persons referred to in sec. 1 and 2 shall be issued visas and granted the resident permits for a fixed period under the rules specified in art. 110.
4. The provisions of art. 117a and 117 b shall apply to reunite an alien enjoying temporary protection on the territory of the Republic of Poland with a member of his / her family, enjoying temporary protection on the territory of the other European Union Member State.

**Art. 117a**

1. The President of the Office may submit a motion to the relevant authority of the other European Union Member State for **transfer** an alien enjoying temporary protection on the territory of the Republic of Poland to the territory of the other European Union Member State.

2. The President of the Office shall inform the European Commission as well as the United Nations High Commissioner for Refugees on submission of the motion referred to in sec. 1.
3. The motion referred to in sec. 1 shall include the following information:
  - 1) name and family name of an alien;
  - 2) citizenship;
  - 3) date and place of birth;
  - 4) civilian status;
  - 5) data related to an alien's relations.
4. The motion referred to in sec. 1 shall be accompanied by:
  - 1) the document certifying identity of an alien or the travel document;
  - 2) the documents certifying family relations, in particular marriage certificates, birth certificates, documents certifying the adoption.
  - 3) other information necessary to determine identity of an alien or his / her family relations;
  - 4) information on the decisions issued on granting the residence permit, visas or on the decisions on refusal to issue a visa, as well as on documents on the basis of which these decisions have been issued;
  - 5) information on applications submitted for granting the residence permit or for issuance of a visa as well as information on the stage of the procedure in these matters.

#### **Art. 117b**

1. An alien enjoying temporary protection on the territory of the Republic of Poland may be transferred to the other European Union Member State upon his / her consent.
2. An alien subjected to transfer to the other European Union Member State shall be issued the laissez-passez by the President of the Office.
3. The minister competent with respect to internal affairs shall specify, by means of an ordinance, the pattern of the laissez-passez referred to in sec. 2, taking into account the provisions of the 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 (OJ L 212 of. 7.08.2001).
4. The visa issued to an alien enjoying temporary protection on the territory of the Republic of Poland as well the residence permit for a fixed period granted to this alien shall expire on the date he / she leaves this territory.

#### **Art. 118.**

1. After the termination of the period of temporary protection, the President of the Office shall undertake activities aimed to make return of aliens to the country of origin or to the area, they have come from, possible.
2. After the termination of temporary protection the President of the Office shall inform an alien in a language understandable to him / her about all circumstances, which may be

important while an alien makes a decision on return to the country of origin or to the area, he / she has come from.

3. If after the termination of temporary protection an alien's return to the country of origin or to the area he / she has come from, is not possible due to his / her state of health, in particular if it may cause the necessity of interrupting the hospital care, the President of the Office shall grant to an alien the residence permit for a fixed period up to the circumstances, which make his / her return to the country of origin or to the area he / she has come from impossible, cease to exist.

#### **Division IV Registers**

##### **Art. 119.**

1. The following registers on proceedings in cases of aliens who are granted protection shall be run in the form of the informatics system:
  - 1) the register of procedures on granting the refugee status and on granting assistance to aliens applying for granting the refugee status;
  - 2) the register of proceedings on expulsion of persons who have been granted the refugee status;
  - 3) the register of proceedings on granting asylum;
  - 4) the register of proceedings on granting the permit for tolerated stay;
  - 5) the register of proceedings on granting temporary protection;
  - 6) the registers of fingerprints taken from an alien who:
    - a) has submitted an application for granting the refugee status,
    - b) has submitted an application for granting asylum,
    - c) has been granted the permit for tolerated stay,
    - d) enjoys temporary protection.
2. The register referred to in se. 1 p. 1 in the scope applying for granting the refugee status who have been granted benefits may be also run in the form of card-index system.

##### **Art. 120.**

The registers referred in art. 119:

- 1) in pt. 1 – shall be run - in the scope of functions – by the commanding officer of the Border Guard division, which territorial scope of activity includes the city of Warsaw, the commanding officer of the Border Guard checkpoint, the President of the Office as well as the Board;
- 2) in pt. 2,3 and 5 – shall be run by the President of the Office;
- 3) in pt. 4 – shall be run – in the scope of functions - by the President of the Office, the voivod and the Board;
- 4) in pt. 6 – shall be run the Commandant in Chief of the Police.

##### **Art. 121.**

The following data shall be stored in the register:

- 1) referred to in art. 119 p.1- information on applications, rulings rendered, administrative decisions and court judgments, identity certificates, travel documents provided for in the Geneva Convention and data referred to in art. 8 related to aliens – parties to the proceedings referred to in;
- 2) referred to in art. 119 point 2 – information on administrative decisions and court judgments and data referred to in art. 8, related to aliens referred to in point 2;
- 3) referred to in art. 119 point 3 – information on applications, rulings rendered, administrative decisions and court judgments, residence cards and the data referred to in art. 8, related to aliens parties of the proceedings referred to in pt. 3;
- 4) referred to in art. 119 point. 4 –information on administrative decisions and court judgments, residence cards and data referred to in art. 8, related to aliens- parties of the proceedings referred to in pt. 4;
- 5) referred to in art. 119 point 5 – information on administrative decisions and residence cards as well as the data referred to in art. 8, related to aliens who have been granted the temporary protection;
- 6) referred to in art. 119 point 6 – information on legal basis and date of taking of fingerprint information on dactyloscopic cards or, information on taking alien's fingerprints with the device used for taking of fingerprints electronically and personal data of an alien related to:
  - a) name (names) and family name,
  - b) date and place of birth,
  - c) citizenship.

#### **Art. 121a**

Entering the data on aliens applying for granting the refugee status, who have been granted assistance, to the register referred to in sec. 1 p. 1 shall be equal to meet the registration obligation.

#### **Art. 122.**

The authorities which take fingerprints from aliens referred to in art.119 p.6 shall be obliged to transfer data referred to in art. 121 p.6 as well as fingerprints taken with dactyloscopic cards or with the device used for taking of fingerprints electronically to the Commandant in Chief of the Police.

#### **Art. 123.**

1. Data and fingerprints of aliens referred to in Art. 119 point 6 shall be stored separately from files and registers of fingerprints gathered for other purposes.
2. In register referred to in art. 119 p.6 aliens' data and fingerprints transmitted by authorities of other states may be stored.
3. The Commandant in Chief of the Police shall make available data processed in registers referred to in art.119 p.6 to:
  - 1) the agencies of the Border Guard;
  - 2) the agencies of the Police;
  - 3) the prosecutor;
  - 4) the Chief of Internal Security Agency;

- 5) the President of the Office.
4. The data processed in the registers referred to in Art. 119, pt. 6 may be made available without a need to submit a written request, via devices for data teletransmission for authorities referred to in sec. 3 if it is justified by the specificity or scope of their functions and if those authorities are in possession of devices used for recording in the system information concerning what data, for what purpose when and by what user have been obtained as well as of safeguards of technical and organisational nature which protect the data from the use contrary to the purpose of its obtaining.

#### **Art. 124.**

The minister competent with respect to internal affairs shall specify by means of an ordinance a pattern of dactyloscopic card used for taking fingerprints of aliens referred to in art.119 p.6, taking into account the reason of taking fingerprints.

### **Division V Penal provisions**

#### **Art. 125.**

Whoever takes for the purpose of appropriation or appropriates belonging to an alien the identity certificate or the travel document provided for in the Geneva Convention or uses such a document shall be liable to a fine, restriction of liberty or imprisonment for the period of up to 2 years.

#### **Art. 126.**

1. Whoever:
- 1) leaves without authorization the place of residence indicated for his/her residence according to the provisions of art. 45;
  - 2) does not report, within the time limit referred to in art. 36 sec. 1, the loss of the identity certificate or does not report within the time limit referred to in art. 76 sec.1 the loss of the travel document provided for in the Geneva Convention;
  - 3) does not return, the found identity certificate or travel document provided for in the Geneva Convention if he / she was issued a new one;
  - 4) evades the obligation to replace the identity certificate or the travel document provided for in the Geneva Convention;
  - 5) does not fulfil the obligation to subject himself / herself to taking of fingerprints, referred to in art. 105 sec. 1
- shall be liable to a fine.
2. Ruling in cases of acts referred to in sec. 1 shall be carried out pursuant to the provisions of the Code of Procedure in Cases of Petty Offences.
3. A penal order rendered in the course of proceedings by writ of payment shall be made immediately enforceable.

### **Division VI Amendments to effective regulations, transitional and final provisions**

## **Chapter 1**

### **Amendments to effective regulations**

#### **Art. 127.**

The Act of 10 April 1974 on registration of population and identity cards (J. L. of 2001 No. 87, it. 960 and of 2002 No. 74, it. 676 and No. 78, it. 716) shall be amended as follows:

1) art. 26 shall be given the following reading:

“Art. 26: When applying for permanent registration an alien shall provide data required for registration and the residence card or the permit to settle rendered according to the provision of Act on aliens, as well as the certificate on registration for a fixed period.”;

2) in art. 44a:

a) sec. 2 pt. 19 shall be given the following reading:

„19) series and number of the residence card, issued in connection with granting the permit to settle, the date of its issuance, the date of its validity and indication of the issuing authority,”,

b) in sec. 4 pt. 2 shall be given the following reading:

„2) series and number of the residence card, issued in connection with granting the residence permit for a fixed period, the permit for tolerated stay or granting the refugee status in the territory of the Republic of Poland, the date of its validity and indication of the issuing authority,”,

c) in sec. 7:

- pt 19 shall be given the following reading:

„19) series and number of the residence card issued in connection with granting the permit to settle, the date of its issuance, as well as indication of the issuing authority, previous series and numbers of residence cards, issued in connection with granting the permit to settle as well as indication of the authority which issued residence cards,”,

- pt 20 shall be given the following reading:

„20) series and number of the residence card issued in connection with granting the residence permit for a fixed period, the permit for tolerated stay or granting the refugee status in the territory of the Republic of Poland, the date of its issuance and validity as well as indication of the issuing authority,”.

#### **Art. 128.**

In the Act of 12 September 1990 on higher education system (J. L. No 65 it. 385 as amended)<sup>3(4)</sup> in art. 33 a in sec. 2:

a) pt 1 shall be given the following reading:

„1) aliens who have been granted the permit to settle,”;

---

<sup>3(4)</sup> Amendments of the mentioned Act were published in J.L. 1991 No 104, it. 450, 1992 No 54, it. 254 and No 63, it. 314, 1994 No 1, it. 3, No 43, it. 163, No 105, it. 509 and No 121, it. 591, 1996 No 5, it. 34 and No 24, it. 110, 1997 No 28, it. 153, No 96, it. 590, No 104, it. 661, No 121, it. 770 and No 141, it. 943, 1998 No 50, it. 310, No 106, it. 668 and No 162, it. 1115 and 1118, 2000 No 120, it. 1268 and No 122, it. 1314, 2001 No 85, it. 924, No 103, it. 1129, No 111, it. 1193 and 1194 and No 126, it. 1383, 2002 No 4, it. 33 and 34, No 150, it. 1239, No 153, it. 1271 and No 200, it. 1683 and 2003 No 65, it. 595.

b) after p.1 p.1 a and 1 b shall be added in the following reading:

„1a) aliens who have been granted the refugee status in the Republic of Poland,

1b) aliens enjoying temporary protection on the territory of the Republic of Poland.”.

#### **Art. 129.**

In the Act of 29 November 1990 on social assistance (J. L. 1998 No. 64, it. 414, as amended)<sup>4(5)</sup> art. 2b shall be given in the following reading:

„Art. 2b. Persons possessing Polish citizenship residing and staying on the territory of the Republic of Poland as well as aliens residing and staying on the territory of the Republic of Poland who have been granted the permit to settle, the permit for tolerated stay or the refugee status shall be entitled to claim social assistance, unless international agreements state otherwise.”.

#### **Art. 130.**

In the Act of 7 September 1991 on education system (J. L. 1996 No 67, it. 329, as amended)<sup>5(6)</sup> in art. 94a in sec. 2 after point 5 the full stop shall be replaced with coma and p. 6 as well as p. 7 shall be added in the following reading:

„6) persons who have been granted the permit for tolerated stay,

7) persons enjoying temporary protection on the territory of the Republic of Poland.”.

#### **Art. 131.**

The Act of 1 December 1994 on family, nursing and upbringing benefits (J. L. 1998 No 102, it. 651, as amended)<sup>6(7)</sup> the following changes shall be introduced:

1) in art. 1 sec. 2 shall be given the following reading:

„2. As person entitled, referred to in sec. 1 shall be regarded the Polish citizen residing on the territory of the Republic of Poland and an alien who has been granted the permit to settle, the permit for tolerated stay or the refugee status in the Republic of Poland or an alien enjoying temporary protection on this territory unless international agreements state otherwise.”;

2) in Art. 14 sec. 2 shall be given the following reading:

„2. As person entitled, referred to in sec. 1 shall be regarded the Polish citizen residing on the territory of the Republic of Poland and an alien who has been granted the permit to settle, the permit for tolerated stay or the refugee status in the Republic of Poland or an alien enjoying temporary protection on this territory.”.

---

<sup>4(5)</sup> Amendments of unified text of the Act were published: J.L. 1998 No 106, it. 668, No 117, it. 756 and No 162, it. 1118 and 1126, 1999 No 20, it. 170, No 79, it. 885 and No 90, it. 1001, 2000 No 12, it. 136 and No 19, it. 238 and 2001 No 72, it. 748, No 88, it. 961, No 89, it. 973, Nr 111, it. 1194, No 122, it. 1349 and No 154, it. 1792.

<sup>5(6)</sup> Amendments of unified text of the Act were published: J.L. 1996 No 106, it. 496, 1997 No 28, it. 153 and No 141, it. 943, 1998 No 117, it. 759 and No 162, it. 1126, 2000 r. No 12, it. 136, No 19, it. 239, No 48, it. 550, No 104, it. 1104, No 120, it. 1268 and No 122, it. 1320, 2001 No 111, it. 1194 and No 144, it. 1615, 2002 No 41, it. 362, No 113, it. 984, No 141, it. 1185 and No 200, it. 1683 and 2003 No 6, it. 65.

<sup>6(7)</sup> Amendments of the unified text were published: J.L. 1998 No 106, it. 668 and No 162, it. 1118, 1999 No 60, it. 636 and No 110, it. 1256, 2000 No 104, it. 1104, 2001 No 122, it. 1349, No 128, it. 1405 and No 154, it. 1791, 2002 No 74, it. 676 and No 181, it. 1515 and 2003 No 83, it. 758.

### **Art. 132.**

In the Act of 14 December 1994 on employment and combating unemployment ( J. L. 2003 No 58 it. 514 and No 90 it. 844) the following changes shall be introduced:

- 1) in art. 2 in sec. 1 point 9 l. c and l.d shall be given the following reading:
  - „c) entrusting an alien who has not been granted the permit to settle, the permit for tolerated stay or the refugee status or temporary protection in the Republic of Poland or does not enjoy temporary protection on this territory and does not possess work permit issued by an appropriate authority with work or entrusting him/her with work on other position or on other conditions than determined in the work permit,
  - d) carrying out work without a work permit issued by an appropriate authority by an alien who has not been granted the permit to settle, the permit for tolerated stay or the refugee status in the Republic of Poland or does not enjoy the temporary protection.”;
- 2) in art. 5 in sec. 1 point 7 shall be given the following reading:
  - „7) evaluation of criteria for issue of promises to issue a work permit and work permits to aliens who have not been granted the permit to settle, the permit for tolerated stay or the refugee status in the Republic of Poland and who do not enjoy temporary protection on this territory.”;
- 3) in art. 6c in sec. 1 point 3 shall be given the following meaning:
  - „3) determining, after obtaining opinion of the Voivodship Marshall, criteria for issue of promises to issue the work permit and work permits to aliens who have not been granted the permit to settle, the permit for tolerated stay or the refugee status in the Republic of Poland and who do not enjoy temporary protection on this territory; those criteria may not include requirements discriminating candidates due to their sex, age, disability, race, nationality, opinion, especially political or religious, and membership in trade unions.”;
- 4) in art. 50 sec. 1 shall be given the following reading:
  - „1. An alien may carry out work on the territory of the Republic of Poland, if he/she has obtained the work permit issued by a voivod competent with respect to the seat of an employer. Aliens who have been granted the permit to settle the permit for tolerated stay or the refugee status on the territory of the Republic of Poland as well as aliens enjoying temporary protection on this territory shall be released from this obligation.”;
- 5) in art. 64 sec. 2 shall be given the following reading:
  - „2. An alien who has not been granted the permit to settle, the permit for tolerated stay or the refugee status in the Republic of Poland or who does not enjoy temporary protection on this territory shall be liable to a fine not less than 1000 PLN for carrying out work without the work permit referred to in art. 50 sec.1.”.

### **Art. 133.**

In the Act of 19 November 1999 – the Law on Economic Activity (J. L. No 101 it.1178 as amended)<sup>7(8)</sup> in art. 6 sec. 1 shall be given the following reading:

---

<sup>7(8)</sup> Amendments of mentioned Act were published: J.L. 2000 No 86, it. 958 and No 114, it. 1193, 2001 No 49, it. 509, No 67, it. 679, No 102, it. 1115 and No 147, it. 1643 and 2002 No 1, it. 2, No 115, it. 995 and No 130, it. 1112.

„1. Aliens who have been granted the permit to settle, the refugee status, the permit for tolerated stay or the refugee status in the territory of the Republic of Poland as well as aliens who enjoy temporary protection on this territory shall enjoy the same rights as the Polish citizens in the scope of initiating and carrying out economic activities on the territory of the Republic of Poland.”.

**Art. 134.**

In the Act of 9 September 2000 on the treasury fee (J. L. No 86 it. 960 as amended)<sup>8[9]</sup> in the annex to this act the following changes shall be introduced:

1) in part III under the item “Exemptions” point 2 shall be given the following reading:

„2) concise copies:

a) issued in cases of documents acknowledging identity,

b) issued immediately after writing out of act of civil state – in 3 copies;

this exemption shall be also vested to aliens who have been granted the permit to settle or the refugee status on the territory of the Republic of Poland and citizens of foreign states with which the Republic of Poland has concluded appropriate agreements.”;

2) in part IV:

a) sec. 5 shall be given the following reading:

1	2	3	4
	<p>„5. For visa:</p> <p>1) issued by the Commanding Officer of the Border Guard Checkpoint</p> <p>2) residence visa issued by a voivod in case referred to in art. 33 of sec. 1 of the Act on 13 June 2003 of Aliens (J.L. No 128, it. 1175):</p> <p>a) in pt 1</p> <p>b) in pt 2</p> <p>c) in pt 3</p> <p>d) in pt 4</p> <p>3) residence visa issued by a voivod to a minor alien born on the territory of the Republic of Poland:</p> <p>a) short-term</p> <p>b) long-term</p>	<p>300 PLN</p> <p>50 PLN</p> <p>200 PLN</p> <p>200 PLN</p> <p>50 PLN</p> <p>100 PLN</p> <p>200 PLN”</p>	

b) after point 5, point 6a shall be added in the following reading:

1	2	3	4
	<p>„5a. For prolongation of the residence visa:</p> <p>1) short-term</p> <p>2) long-term</p>	<p>200 PLN</p> <p>400 PLN”</p>	

<sup>8[9]</sup> Amendments of mentioned Act were published: J.L. 2001 No 5, it. 43, No 60, it. 610, No 76, it. 811, No 87, it. 954, No 100, it. 1085 and No 129, it. 1441, 2002 No 71, it. 655, No 135, it. 1143 and No 141, it. 1178 and 1180, No 216, it. 1824 and 2003 No 7, it. 78.

### **Art. 135.**

In the Act of 26 April 2002 on the amendment of the Act on employment and combating unemployment (J. L. No 74, it. 6750 in art. 1 the following changes shall be introduced:

1) pt 1 shall be given the following reading:

„1) in art.1 sec. 2 p. 2 shall be given the following reading:

„2) aliens staying on the territory of the Republic of Poland seeking employment and carrying out employment or other gainful activity, who:

a) have been granted the permit to settle, the permit for tolerated stay or the refugee status in the Republic of Poland,

b) are nationals of the Member State of the European Union.”;

2) pt 10 shall be given the following reading:

„10) in art. 50 sec. 1 shall be given the following reading:

„1. An alien may carry out work on the territory of the Republic of Poland , if he/she is in possession of the work permit issued by the voivod competent with respect to the place of employer’s residence. The following shall be released from this obligation:

1) aliens who have been granted the permit to settle,

2) aliens who have been granted the refugee status in the Republic of Poland,

3) aliens who have been granted the permit for tolerated stay,

4) aliens enjoying temporary protection on the territory of the Republic of Poland,

5) aliens who are nationals of the Member State of the European Union,

6) aliens – members of family of an alien who is a national of the Member State of the European Union other than the Republic of Poland and who carries out work or economic activity on the territory of the Republic of Poland,

7) aliens – members of family of an alien who is a national of the Member State of the European Union other than the Republic of Poland, who stays on the territory of the Republic of Poland on the basis of provisions in force in the Member States of the European Union concerning the long-term residence permit,

8) aliens – members of family of an alien who is a national of the Member State of the European Union other than the Republic of Poland, who stays on the territory of the Republic of Poland on the basis of provisions in force in the Member States of the European Union on the right of workers and self-employed persons to remain in the territory of a Member State after having been employed there,

9) aliens – members of family of an alien who is a national of the Member State of the European Union other than the Republic of Poland, who stays on the territory of the Republic of Poland on the basis of provisions in force in the Member States of the European Union on the right of residence of students,

10) aliens released on the basis of separate provisions from obligation to obtain the work permit.”.

### **Art. 136.**

In the Act of 23 January 2003 on public insurance in National Health Fund (J. L. No 45 it. 391 No 73 it. 66 and No 96 it.874) the following changes shall be introduced:

1) in art. 6 sec. 1 shall be given the following reading:

„1. The persons insured in the Fund shall be persons possessing Polish citizenship and residing on the territory of the Republic of Poland and aliens residing on this territory on the basis of: the residence visa for the purpose of carrying out work, the residence permit for a fixed period, the permit to settle or the permit for tolerated stay as well as aliens who have been granted the refugee status in the Republic of Poland or enjoy temporary protection on this territory, if:

- 1) they are subjected to the obligation of sickness insurance;
- 2) they insure themselves voluntarily.”;

2) in art. 197 in sec. 1 p. 4 the point shall be replaced by semicolon and p. 5 shall be added in the following reading:

„5) art. 117 sec.1 p.4 of the Act of 13 June 2003 on Aliens (J. L. No 128, it. 1175).”.

## **Chapter 2**

### **Transitional and final regulations**

#### **Art. 137.**

Administrative proceedings on granting the refugee status and asylum initiated before the date of this Act entry into force shall be carried, according to recent provisions.

#### **Art. 138.**

1. Prior to rendering of the decision on expulsion in the proceedings initiated before the day of entry of this Act into force, which has not been completed with a final decision by that day, the voivod shall examine whether the circumstances referred to in art. 97 which justify granting to an alien the permit for tolerated stay have arisen and if so – shall refuse to render the decision on expulsion and shall grant this permit.
2. In proceedings on permits to reside for a fixed period initiated before the day of entry of this Act into force and not completed with final decision by this day and pertain to aliens in relation to whom the circumstances referred to in art. 17 sec. 2 point 7 and 8 of Act of 25 June 1997 on Aliens (J.L 2001 No. 127, it. 1400 and 2002 No. 41, it. 365, No. 74, it. 676 and No. 81, it. 731) had arisen, the voivod shall examine whether circumstances which justify granting to an alien the permit for tolerated stay referred to in Art. 96 of this Act have arisen and if so – shall render the decision on granting such a permit.

#### **Art. 139.**

1. Decisions rendered on the basis of art. 35 sec. 3 of Act of 25 June 1997 on aliens, which have not become final on the date of the entry of this Act into force, shall become by the virtue of law the decisions rendered on the basis of art. 14 of this Act.
2. Decisions in the cases of assistance for aliens applying for the refugee status, issued on the basis art. 85f sec. 1 of Act of 25 June 1997 on Aliens shall remain valid, but the realization of benefits, aliens are entitled to, shall be carried out according to principles stated in this Act.

#### **Art. 140.**

Decisions on granting the refugee status and asylum rendered on the basis of recent provisions shall remain valid.

#### **Art. 141.**

1. At the date of entry this Act into force, the residence permits for a fixed period granted to aliens who have been granted the refugee status on the basis of art. 43 of the Act of 25 June 1997 on aliens shall expire.
2. At the date of entry this Act into force, the decision on granting the residence permit for a fixed period rendered to aliens in relation to whom the circumstances referred to in art. 17 sec. 2 point 7 and 8 of Act of 25 June 1997 on Aliens have arisen shall become decisions on granting the permit for tolerated stay within the meaning of this Act.

#### **Art. 142.**

1. Documents issued on the basis of Act of 27 June 1997 on Aliens to aliens to whom provisions of present Act apply, shall remain valid until their replacement, however no longer than until the expiry of their periods of validity.
2. Residence cards issued to aliens referred to in art. 140 prior to the date entry of this Act into force shall be replaced free of charge within the period of 6 months from this date.
3. Aliens referred to in art. 141:
  - 1) sec. 1 – shall be issued the residence card referred to in art. 74 sec. 1;
  - 2) sec. 2, shall be issued the residence card referred to in art. 99 sec. 1.
4. After the expiry of the period referred to in sec. 2, the residence cards shall be replaced after paying a fee collected for issue of the residence card on the basis of present Act.

#### **Art. 143.**

The members of the Board appointed by the Prime Minister on the basis of the Act of 25 June 1997 on Aliens shall act until the end of the term of office for which they have been appointed, on conditions defined in present Act and provisions issued on its basis.

#### **Art. 144.**

The entries into the registers run on the basis of the provisions in force shall be regarded, at the date of entry of present Act into force, as the entries to the registers run on the basis of present Act.

#### **Art. 145.**

Up to the date the executory provisions provided for in the Act are issued, however not longer than throughout the period of 12 months, the existing executory provisions shall remain in force.

#### **Art. 146.**

1. The provision of art. 107 shall apply from the date of accession of the Republic of Poland to the European Union.
2. The provisions of art. 129 shall apply from 1 of January 2004 within the scope related to aliens who have been granted the permit for tolerated stay.

3. Provisions of art. 108 sec. 1 - 3 shall be repealed at the date of accession of the Republic of Poland to the European Union.

**Art. 147.**

This Act shall enter into force on the day of 1<sup>st</sup> of September 2003.