Marrakech (Morocco) – 2018

FOURTH COMMISSION’S TOPIC FOR THE 61ST ANNUAL MEETING OF THE IAJ

“Rights and obligations of refugees: a risk of modern slavery?”

I. Rights and obligations

Immigrants or migrants are individuals who leave their country (by choice or by force) and seek residence or citizenship in another country. Refugees are a subset of immigrants who have been forced to leave their country in order to escape war, persecution, or natural disaster.

Specify what are:

[1] The obligations imposed on a migrant (with undocumented status):

   – when applying for access to the territory of your country, whether on entering the country (by air, boat, rail or road),

   or

   – being later found to have entered the country illegally.


   – during the period of the regularization procedure following his request to get refugee status;

   – after being accepted as a refugee;

   – after the rejection of his application as a refugee.

II. Risk of modern slavery?

In summary, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons defines human trafficking as the recruitment, transportation, transfer, harbouring or receipt by threat, force or other forms of coercion, fraud, deception, or abuse of power for purpose of exploitation.
The question we are focusing on is not the lucrative business of charging money to a migrant to cross a border, often called *alien smuggling*. It is about "trafficking human beings", which consists of the exploitation of a person for profit.

Trafficking essentially involves the exploitation of people in conditions contrary to human dignity. These people can be legally resident in the host country or be in an irregular situation, while having to provide for their daily subsistence (food, housing, medical aid, etc ...).

Exploitation of the precarious situation in which these migrants workers find themselves is a form of modern slavery.

It can be of a sexual nature (prostitution for example) but also of an economic nature (exploitation of a person as a worker).

This can be the case, for example, for people working in the construction sector, catering (hotel – restaurant – café), transport, seasonal work, industrial butcher shops, child care, cleaning companies and domestic cleaning.

This exploitation may also be of a financial nature with regard to the "sleep merchants (marchands de sommeil)" who abuse a person in a vulnerable position (because of his illegal or precarious administrative situation or his precarious social situation).

The intention of these “sleep merchants” is to make an abnormal profit at the expense of these people in a precarious situation by selling, renting or providing them a house, a dwelling, a caravan or a single room in conditions incompatible with human dignity, these people having no other real and acceptable choice than to submit to this abuse.

**What is the situation in your country?**
Situation in Poland

I. Regarding rights and obligations of refugees.

RULES PERTAINING TO GRANTING INTERNATIONAL PROTECTION TO FOREIGNERS

The proceedings on granting international protection are conducted on the basis of rules specified in the Act on granting protection to foreigners within the territory of the Republic of Poland (unified text Journal of Laws from 2012, item 680 as amended). A foreigner is granted refugee status, if due to justified fear of persecution in his/her country of origin, because of his/her race, religion, nationality or political convictions or due to belonging to a specified social group he/she cannot or does not want to seek protection of his/her country.

A foreigner is granted a subsidiary protection if his/her return to the country of origin may constitute a risk of harm being inflicted through receiving capital punishment or enforcing execution, or by being subjected to torture or inhuman or degrading treatment or punishment, serious and individual threat to his/her life or health arising from common use of abuse against civil persons in a situation of international or internal armed conflict and due to such risk he/she cannot or does not want to seek protection of his/her own country.

TIME LIMITS

Issuance of a decision on granting international protection to a foreigner should be completed within 6 months following the day when the application was lodged, and in special cases the aforementioned time limit may be prolonged to 15 months. In case of an application examined in expedited
procedure the time limit for handling international protection case amounts to 30 days.

**APPLICATION FOR GRANTING INTERNATIONAL PROTECTION**

In order to submit an application for international protection a foreigner must report in person to the nearest Border Guard Unit (Border Guard Post or Division). The Commander of the Border Guard Post or the Commander of the Border Guard Division competent in terms of the place of your stay will accept receiving of your application on granting international protection. The aforementioned request will be forwarded to the Head of the Office for Foreigners without delay.

If on a particular day it is impossible to accept receipt of your request on granting international protection the Border Guard authority you reported to will accept and register your declaration about your wish to submit the application and a date and place of accepting your application will be indicated.

A person who is unable to report in person in the premises of the Border Guard Unit due to:

- disability,
- old age,
- pregnancy,
- being an only custodial parent,
- being a person in substitute custody, hospital, arrest or correctional facility,

may file a written declaration on his/her wish to apply for international protection via post or through the means of e-mail (e-PUAP) to the competent
Commander of the Border Guard Post or Commander of Border Guard Division. In such case the application will be received at the latest within 3 day time period, following the date when the declaration of the wish to apply for international protection was received by the Commander of the Border Guard Post or by the Commander of the Border Guard Division. If you remain in a guarded center or arrest for foreigners due to provisions specified in the Act on foreigners dated December 12, 2013, receipt of an application for granting international protection will be accepted by the Commander of the Border Guard Post or the Commander of the Border Guard Division who administers the facility. In such case period of your stay in a guarded center or arrest for foreigners will be prolonged for another 90 days, following the date when your application was lodged.

Application on granting international protection may consider only you, but it also may extend to the persons who accompany you, who are dependent on you due to economic reasons, health condition or age such as:

– your marital spouse (remaining in marriage which is recognized by the Polish law), unmarried minor child.

If the application on granting international protection was lodged at border crossing point therefore upon your request or your consent the Border Guard authority will ensure your subsequent communication with representatives of international organizations or non-governmental organizations dealing with providing assistance to foreigners.

II. Regarding risk of “modern slavery”.
Generally, Polish citizens are victims of contemporary slavery.

Anyway, The Global Slavery Index 2016 which covered 167 countries, mentioned Poland on the 38th place.

It should be pointed out that according to the authors of the report, contemporary slavery includes human trafficking, forced labor, slavery for debt, forced marriages, sexual exploitation for profit.

The report shows that these criteria in Poland match over 180,000 people, or nearly half a percent of the total population. In Poland, the vast majority of victims of slavery work in the construction industry, agriculture and retail trade "in positions that cannot be seen outside. "Experts estimate that among the victims of forced labor are m.in. citizens of countries in the vicinity of Poland (Ukraine, Belarus, Bulgaria, Romania, Moldova), as well as Asian countries (Vietnam, Philippines, China, North Korea), which is caused by ongoing conflicts and unstable political situation, poverty and high level of unemployment in countries of origin.

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