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Migration Crime Structure in Poland

- **ABSTRACT:** *Crime is a negative phenomenon present in every country that poses a threat to the existing legal order. It encompasses a variety of behaviours, goals, and motives of those involved in it and the consequences thereof. The basis for crime is the social layer of the state, where people commit crimes by violating the existing legal order. Crime can be considered from various perspectives, such as its extent, intensity, variability, structure, and dynamics, as well as the characteristics and background of those involved. Crime is a challenge for society, and effective prevention requires an understanding of the diversity of crimes and the different motivations of perpetrators. Research on foreigners' crimes is particularly important in the context of increasing migration from Poland's eastern border. Knowledge of this topic can aid in the development of appropriate migration management strategies and effective prevention and integration measures. It is important to continue research on crime to better understand its causes and effects and to develop effective methods to reduce and combat it.*
- **KEYWORDS:** crime, law and order, crime structure, foreigners, migration

1. Introduction

Crime is undoubtedly a grossly negative phenomenon emerging in the functioning of any state. It appears for a variety of reasons and takes a variety of forms and variants.¹ This evident negativity of crime manifests itself, for example, in the fact that crime *in statu esse* is always at the heart of threats to the existing legal

1 Gruszczyńska et al., 2021, p. 7.

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order. The people involved in the phenomenon of crime are characterised by a diversity of behaviours, objectives, and motives for action and suffer a diversity of consequences for their actions. Therefore, crime can be considered in terms of its extent, intensity, variability, structure, or dynamics or in terms of the characteristics and backgrounds of the persons involved.² In each of these cases, the basis for criminality is the social layer of the state.³ It is the people in a certain territory who, by committing crimes, violate the accepted legal order in that territory, creating crime.⁴

In this context, the conceptual scope of criminality can be presented in very general terms as, first, a set of acts defined by the state that are prohibited under penalty, under the applicable law within the territory of the state. In this context, these are acts that are prohibited as criminal offences and located most often in the state's basic act of criminal law, i.e. the Criminal Code. Second, in a more proactive sense, criminality is any act—as indicated earlier—prohibited in the state that has already been committed. Thus, it comprises a group of crimes already committed under specific conditions, for a specific purpose, according to a specific behaviour, by specific people. Expanding on this thought, the concept of criminality in the first variant therefore includes the behaviours statutorily designated as crimes (prohibited acts); we then should consider the preventive meaning of the term. It is preventive because the legislator immediately indicates which behaviours are unacceptable, under which the community of this state should not commit them in order to function in accordance with the established legal order. In this sense, the legislator includes a certain category of acts as a category of prohibited acts, i.e. offences, additionally providing a sanction in case they are committed. The aforementioned prevention is then classically understood in connection with prevention and deterrence. On the other hand, the second variant of 'criminality' also includes a set of acts, but ones already committed by persons, who are then often commonly referred to as criminals. It is assumed that crime is expressed in the increase in the number of people who have committed crimes relative to the total population, although there is also a dark number of crimes, i.e. those which have not been recorded.⁵ In the simplest terms, therefore, crime can be defined as a set of harmful events, whether committed in the past or future, which are referred to as crimes.⁶

Hence, there is no longer any doubt that crime is a phenomenon directly linked in the first instance to the social structure in any state. An important answer

2 Błachut, 2007 p. 11; Pływaczewski, 2021, p. 387.

3 Gaberle, 2003, p. 7.

4 Sztompka, 2002, pp. 29 et seq. As an aside, we might mention cybercrime, which manifests its own peculiarities (see Karski and Oreziak, 2021, pp. 55–69; Oreziak, 2020, pp. 187–196; Oreziak, 2019).

5 Mikołajczyk and Reszke, 2017, p. 114.

6 Lisowska-Kierepka, 2020, p. 268.

here is the action of that state encapsulated in the broadly defined state criminal policy, which can be defined as a segment of legislation and actions taken by the state or other entities aimed at combating, preventing, weakening, and reducing precisely the phenomenon of crime.⁷ In a broad sense, criminal policy includes activities related to criminal legislation, the adjudication and enforcement of sanctions, and the prevention and prosecution of crime.⁸ It is 'a system of diverse and interrelated state and social measures directed at preventing crime, removing the causes and conducive circumstances of crime and, under given conditions, reducing as far as possible the possibility of criminogenic factors of all kinds.'⁹

Criminal policy, therefore, concerns not only the citizens of a state, but all persons residing in the state. It concerns both citizens and foreigners arriving and operating in the country. Therefore, it is advantageous to determine the general structure of crime in Poland, and in particular the characteristics of the structure of foreigners' crime in Poland.

2. Terminological clarification: immigrant – emigrant – refugee – foreigner – foreign national

For the sake of clarity in analysis, it is worth first indicating the terminological basis covering the basic concepts related to the title of the study.¹⁰

First is the term 'immigration,' which means the arrival of persons from abroad for the purpose of settlement (permanent residence) or temporary residence. Therefore, in terms of meaning, immigrants are persons arriving from abroad in a country for the purpose of settlement (permanent residence) or temporary residence.¹¹

The dictionary meaning of the word 'emigrant,' on the other hand, is a person going abroad to settle (live permanently) or for a temporary stay. Hence, 'emigration' is going abroad to settle (live permanently) or for a temporary stay.¹²

The above-mentioned terms are common and have a semantic basis directly recorded in dictionaries. On the other hand, it is worth noting that in the legal field these two terms also have a well-defined meaning. Among other legal acts, on the basis of Regulation No. 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No. 311/76 on the compilation of statistics on foreign workers, the legal concepts of 'immigration' and 'emigration'

7 Niewiadomska, 2007, p. 10.

8 Rzeplińska, 2016, p. 5.

9 Krukowski, 1982, p. 94; Jarocho, 2012, p. 49; Szymanowski, 2010, p. 215.

10 Lesińska-Staszczuk, 2019, p. 14.

11 Skorupka, Auderska and Łempicka, 1968, p. 232.

12 Skorupka, Auderska and Łempicka, 1968, p. 163.

were introduced. According to this Regulation, ‘immigration’ means the action by which a person establishes his or her residence in the territory of a Member State for a period that is, or is expected to be, of at least twelve months, having previously been resident in another Member State or a third country. In contrast, ‘emigration’ means the action by which a person, formerly resident in the territory of a Member State, ceases to have his or her habitual residence in that Member State for a period that is, or is expected to be, of at least twelve months.

A related term will also be the notion of a ‘refugee,’ which must be understood in the Polish legal system according to the definition in the Geneva Convention of 28 July 1951 and the 1967 Protocol Relating to the Status of Refugees. Generally, on the basis of these international legal acts, a refugee is a person who resides outside his country of origin or the country whose citizenship he holds or in which he has resided on a permanent basis; who has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion and who, owing to that fear, cannot or does not wish to avail himself of the protection of his country of origin; and who is not subject to exclusion clauses.¹³

However, it seems that from the point of view of the Polish legal order, all these concepts are united by the term ‘foreigner.’ This term combines two concepts that are important for this analysis, i.e. a migrant and a refugee, as both concepts fall under the term ‘foreigner.’ If a migrant or refugee is found on the territory of Poland, he/she will be counted as a foreigner or alien.

It is interesting to note that the term ‘foreigner’ has a corresponding legal content. The term ‘foreigner’ means a citizen of a foreign country—in other words, a foreigner, i.e. a person who does not have the citizenship of the country in which he or she resides. Foreigners permanently residing in Poland are counted as part of the Polish population, while others (irrespective of their period of residence) are treated as immigrants temporarily residing in Poland (they are not counted as part of the Polish population).¹⁴ Hence, while there is no law in the legal system in Poland regulating issues such as immigration, the basis for defining a foreigner in Poland is the Act of 12 December 2013 on foreigners.¹⁵ According to this Act, based on Article 3, a foreigner is any person who does not have Polish citizenship. The rule is closely related to the provisions of the Polish Constitution, as, according to Article 37(1) of the Polish Constitution, everyone ‘who is under the authority of the Republic of Poland enjoys the freedoms and rights provided for in the Constitution.’ In this context, a foreigner who is a citizen of two or more states is treated as a citizen of the state whose travel document formed the basis for entry into the territory of the Republic of Poland. There are, of course, exceptions to this

¹³ Wierzbicki, 1993, p. 9; Pluta, 2008, p. 35.

¹⁴ Czerniejewska and Main, 2008.

¹⁵ Law of December 12, 2013 on foreigners (Journal of Laws 2013 item 1650).

regarding, for example, the performance of certain functions in the state which one cannot perform while being a foreigner.

Very similar to the term 'foreigner' is the term 'foreign national.' In Poland, it is generally accepted that 'foreigner' and 'foreign national' are synonyms for a person who is not a citizen (resident) of a given country. For Poles, foreigners or foreign nationals are people of other nationalities and residents of other countries—both those who live (or only stay for a short period of time) in Poland and those who have never crossed the borders of our country. Therefore, the 'immigrant' in question is a foreigner who has settled in a given country.¹⁶

On the basis of the terminological presentation above, it can therefore be assumed that the term 'foreigner' is synonymous with the term 'foreign national' and is an umbrella term for a person who does not have the nationality of the state in which he or she resides, and thus also includes in its content an immigrant or refugee.

3. Application of the Criminal Code to a foreigner in Poland

Crime is a phenomenon related, inter alia, to criminal law regulations. Therefore, in order to analyse crime, it is first necessary to establish what the grounds for criminal liability in Poland are. In the system of criminal law in Poland, the basic act in this respect is mainly the Act of 6 June 1997, the Criminal Code,¹⁷ which provides for the basic rules of incurring criminal liability of individuals, including, inter alia, the description of the crime, circumstances excluding the unlawfulness of the act, principles of the penalty, and issues related to the statute of limitations of incurring criminal liability, as well as a catalogue of penalties and penal measures, etc.

The general rules for incurring criminal liability in Poland boil down to a few basic rules set out in the initial provisions of this code.

Thus, in accordance with the Criminal Code, first, only a person who commits an act prohibited by the law in force at the time of its commission is subject to criminal liability; second, a criminal act whose social harm is negligible does not constitute a criminal offence; third, a perpetrator of a criminal act does not commit a criminal offence if no guilt can be attributed to him/her at the time of the act; and fourth, a person who commits a criminal act after the age of 17 is liable under the terms of this Code. All criminal measures and penalties provided for in this Code shall be applied taking into account the principles of humanity, and in particular respect for human dignity.

16 Kłosińska, K. (2019) *Cudzoziemiec, obcokrajowiec, immigrant*, 5 December 2019. [Online]. Available at: <https://sjp.pwn.pl/poradnia/haslo/Cudzoziemiec-obcokrajowiec-immigrant;19832.html> (Accessed: 20 June 2023).

17 Law of June 6, 1997 – Criminal Code (Journal of Laws 1997 No. 88 item 553).

Next, in the Polish criminal legal order, a crime is either a crime or a misdemeanour. A crime is a prohibited act punishable by imprisonment for a term not shorter than 3 years or by a more severe punishment. A misdemeanour, on the other hand, is a criminal offence punishable by a fine of more than 30 daily rates or more than PLN 5,000, a restriction of liberty exceeding one month, or a deprivation of liberty exceeding one month.

The above rules are the pillars of the attribution of criminal liability to a person. Although there is a principle of subjective nationality in Poland, according to which the Polish criminal law applies to a Polish citizen who has committed a crime abroad, there are also separate regulations in this Criminal Code for the case of a crime committed by a foreigner.

The main provision here is Article 110 et seq. of the Criminal Code. This is a group of regulations defining the principles of criminal liability of a foreigner in Poland.¹⁸ According to these regulations, the Polish Penal Law—i.e. the Criminal Code—is applied to a foreigner who has committed a prohibited act abroad directed against the interests of the Republic of Poland, a Polish citizen, a Polish legal person or a Polish organisational unit without legal personality, or a foreigner who has committed a terrorist offence abroad. The Polish Criminal Law shall be applied when a foreigner has committed a criminal offence abroad other than those listed above if the offence is punishable under the Polish Criminal Law by a penalty exceeding 2 years' imprisonment and the perpetrator is staying on the territory of the Republic of Poland and no decision has been made to extradite him.¹⁹

Irrespective of the provisions in force at the place where the offence is committed, the Polish Criminal Law shall be applied to a Polish citizen and to a foreigner in the event of the commission of: 1) an offence against the internal or external security of the Republic of Poland; 2) an offence against Polish public offices or public officials and an offence of extorting an attestation of untruth from a Polish public official or other person authorised under Polish law to issue a document; 3) an offence against important Polish economic interests; 4) an offence of false testimony, making a false statement, opinion, or translation, using a document stating the identity of another person, or certifying untruth or false against a Polish office; or 5) an offence from which financial gain, even indirectly, was obtained in the territory of the Republic of Poland.

In addition, irrespective of the provisions in force at the place where the offence was committed, the Polish Criminal Law shall apply to a Polish citizen and to a foreigner who has not been ordered to be surrendered, if he or she commits an offence abroad which the Republic of Poland is obliged to prosecute under

18 Szczygieł, 2009, p. 194.

19 Guzik-Makaruk, 2007, p. 161.

an international agreement, or an offence specified in the Rome Statute of the International Criminal Court, drawn up in Rome on 17 July 1998.²⁰

4. Application of the Code of Criminal Procedure to a foreigner

A foreigner who commits a crime in Poland will be subject to the conditions of criminal liability outlined above. He/she will also be a participant in criminal proceedings.²¹

In Poland, the primary source of criminal proceedings is the Act of 6 June 1997, the Code of Criminal Procedure.²² This legal act regulates the principles of proceedings of public authorities in criminal cases, the principles of their initiation and conduct, and the procedure and forms of carrying out particular procedural actions, providing also for a catalogue of powers and duties of procedural authorities, defining a catalogue of procedural parties together with their rights and duties, and a catalogue of procedural authorities and other participants of criminal proceedings, and, moreover, providing for the principles of collecting, recording, and introducing into criminal proceedings the evidence collected in the case.

A foreigner who has committed a crime will appear in criminal proceedings as the perpetrator of the act. He/she will then first be a suspect and later—depending on the findings of the criminal proceedings—may finally become an accused. In principle, the procedural position of the suspect and the accused is very similar in Polish criminal proceedings, though with certain exceptions. At different stages of criminal proceedings, the potential perpetrator of a crime will either be a ‘suspect’ (pre-trial proceedings) or an ‘accused’ (court proceedings). Nevertheless, the model of a fair criminal trial must take into account the guarantees that are provided for these very specific procedural roles.

Thus, according to Article 74 of the Code of Criminal Procedure, a foreigner, like any suspect or accused person, is not obliged to prove his innocence or provide evidence against him. Nevertheless, as long as he is an accused, he is obliged to undergo, *inter alia*, first, external examination of the body and other examinations that do not affect the integrity of the body; in particular, the accused may also be imprinted, photographed and shown to other persons for identification purposes; second, psychological and psychiatric examinations and examinations that involve physical examinations, other than surgical examinations, provided that they are carried out by a competent medical practitioner in accordance with medical requirements and do not jeopardise the health of the accused if it is

20 Rome Statute of the International Criminal Court, drawn up in Rome on 17 July 1998 (Journal of Laws 2003, item 708 and 2018, item 1753).

21 Wąsek, 2000, p. 31.

22 Law of June 6, 1997 – Code of Criminal Procedure (Official Gazette of 1997, No. 89, item 555.).

necessary to carry out such examinations; in particular, the accused is obliged to submit to the taking of blood, hair, or bodily secretions under these conditions; and third, the taking of a cheek swab by a police officer if this is indispensable and there is no fear that this would endanger the health of the accused or other persons. In the event of refusal to submit to these obligations, the accused may be detained and forcibly led away, and physical force or technical means of incapacitation may be used against them to the extent necessary to carry out the activity in question.

In addition, a foreigner as a suspect/accused is obliged to notify the authority conducting the proceedings of any change in his/her place of residence or stay lasting longer than 7 days, including due to deprivation of liberty in another case, as well as of any change in contact details. As a suspect/accused person, a foreigner is furthermore obliged to attend every summons in the course of criminal proceedings. The accused should be warned of these obligations at the first interrogation.

A foreign national, in addition to a number of obligations, also has a number of rights throughout the criminal proceedings. Like any suspect or accused person, he/she has the right to give an explanation; however, he/she may refuse to answer specific questions or refuse to give an explanation without giving reasons. He must be advised of this right. It is his absolute right to remain silent and he cannot be compelled to answer any question. The foreign defendant who is present at the taking of evidence has the right to give explanations on any evidence. Another right of the foreigner is the right of access to the case file, including making copies and photocopies thereof. He or she also has the right to apply for any admissible evidence in the course of criminal proceedings.

It is a cardinal right of a foreigner as a defendant to be guaranteed freedom of communication. Hence, he or she should be provided with free access to an interpreter. This is a very important right for a foreigner appearing in criminal proceedings. In Poland, the violation or partial or total deprivation of a foreign suspect of the assistance of an interpreter is a gross violation of the right to defence, which if committed would even make it necessary to conduct the entire criminal proceedings again from the very beginning.

5. Structure of crime in Poland: general analysis

Against this background of the basic assumptions of the concept of crime and the principles of criminal law and criminal procedure, which also apply to a foreigner, it is worth presenting and analysing the general structure of crime in Poland. This analysis will form an overview vis-à-vis the general view of foreigners' crime in Poland.

In Poland, the basic data helpful in analysing the phenomenon of crime are mainly data collected by the General Police Headquarters. It is data from this source that will be the basis for the following analysis of the structure of crime, both in general and in relation to foreigners.

Looking at the data below (Table 1), one can see an initial drop in crime in Poland—starting in 2013—and then observe from 2017 a slight increase in crime. Attention is certainly merited for the year 2020, where crime fell, but it should be mentioned here that this was the year of the COVID-19 pandemic.²³ This time of global isolation was not conducive to committing crimes due to, for example, the restrictions prevailing at that time, hence their number must have been significantly lower. On the other hand, during the most recent period, in particular according to the 2022 data, the number of offences recorded was 5% higher than in the previous year, 2021.

Table 1. Statutory crimes in Poland, 2013–2022²⁴

Year	in absolute figures
2013	992,978
2014	867,855
2015	799,779
2016	748,459
2017	753,963
2018	768,049
2019	796,557
2020	765,408
2021	820,846
2022	862,992

Overall, therefore, according to the Polish Police, there were approximately 862,992 crimes in 2022.

It was noted in the previous section that the basis of criminal liability in Poland is the provisions of the Criminal Code. It is there that the majority of acts that are criminal offences are regulated. It is worth adding, however, that apart from the Criminal Code, there is also the so-called extra-codex criminal law, which is constituted by acts separate from the Criminal Code and containing relevant criminal provisions. Extracode criminal law in Poland includes, among others, the Act of 21 August 1997 on the protection of animals,²⁵ the Act of 27 April

²³ Ostaszewski, Klimczak and Włodarczyk-Madejska, 2021, p. 27.

²⁴ Source: data from Police Headquarters.

²⁵ Law of August 21, 1997 on the protection of animals. (Journal of Laws of 1997 No. 111 item 724).

2001—Environmental Protection Law,²⁶ and the Act of 29 August 1997—Banking Law.²⁷ All of these exemplary legal acts classified as extra-code criminal law contain, in the first instance, regulations dedicated to the title areas, but in addition, they also contain relevant *strictly criminal* provisions establishing particular types of offences independently of the provisions of the Criminal Code. The offences established in these acts are, of course, linked to the title of the respective act. For example, the above-mentioned Banking Act provides for criminal liability for conducting banking activities contrary to the provisions of the Banking Act.²⁸ However, we note that the data presented show that the vast majority—as many as 89% of all offences committed in Poland—are acts regulated as offences in the Criminal Code.

The data presented next show (Table 2) that the first group of offences most frequently committed in Poland in the last year (2022) were offences against property, i.e. offences located in Chapter XXXV of the Criminal Code. This is a group of offences covering such acts as, inter alia, theft, burglary, robbery, aggravated robbery, extortion, misappropriation, fraud, computer fraud, destruction or damage to property, taking someone else's motor vehicle for short use, forestry theft, and fencing. This is a total of 425,753 property crimes committed, which represents, against the background of other acts, more than 55% of all crimes. This group of offences has invariably remained at the highest level for years, making up roughly half of all crime in Poland.

The second group of crimes most frequently committed in Poland are acts against the credibility of documents. This group of offences is specified in Chapter XXXIV of the Criminal Code and includes: counterfeiting or alteration of a document, as well as using such a document, certification of untruth in a document, extortion of certification of untruth in a document and use of such a document, sale of an identity document, use, theft, or appropriation of another person's document, and destruction or concealment of a document.²⁹ This is a total of 84,285 offences, which is 10.99% of the total.

The third group of offences most frequently committed are offences against traffic safety. This group, in turn, comprises offences located in Chapter XXI of the Criminal Code and includes such acts as causing a catastrophe, bringing about the

26 Law of April 27, 2001, Environmental Protection Law (Journal of Laws of 2001, No. 62, item 627).

27 Announcement by the Speaker of the Sejm of the Republic of Poland of December 21, 2021 on the announcement of the uniform text of the Banking Law Act (Journal of Laws of 2021, item 2439).

28 Among others, Art. 171(1) of the Banking Law: Whoever, without a licence, carries out the activity of accumulating funds of other natural persons, legal persons or non-corporate organisational units for the purpose of granting credits, money loans or otherwise encumbering the risk of such funds, shall be subject to a fine of up to PLN 20,000,000 and imprisonment for up to 5 years.

29 Perkowska, 2018, p. 128.

danger of a catastrophe, traffic accident, driving while intoxicated or under the influence of an intoxicant, dispatcher's responsibility, and undertaking professional activities while intoxicated. Here it will be 74,975 offences, representing 9.77% of all criminal acts.

It is also worth noting that since 2017, an increasing number of acts in the group of offences against the family and care can be noted. There were approximately 47,972 such acts, which represents, as can be seen, 6.25% of the total offences. It seems that this can be linked to the new wording of Article 209 of the Criminal Code providing for the so-called offence of non-alimony. The difference lies in the fact that in the previous wording of this provision, one of the prerequisites for the attribution of criminal responsibility was the determination of persistence in the non-payment of alimony; now, however, this prerequisite has been eliminated, which has significantly facilitated the prosecution of this crime and naturally increased the scale of the commission of this offence.

Also noteworthy is the percentage of crimes against life and health, which has remained for years at a similar level of about 1-2% of crime in Poland. Nevertheless, the number of these acts is slightly decreasing, as, for comparison, in 2019 there were 16,581 versus 13,303 in 2022, so there has been a significant decrease of 20%.

Table 2. Offences stated in 2022 (from the Act of 6 June 1997 – Criminal Code)³⁰

Category of offences	Number	%
Property crime (Arts. 278–295.)	425,753	55.50
Falsification of documents (Arts. 270–277.)	84,285	10.99
Against road safety (Arts. 173–180.)	74,975	9.77
Against the family and guardianship (Arts. 206–211.)	47,972	6.25
Against freedom (Arts. 189–193.)	26,539	3.46
Against the administration of justice (Arts. 232–247.)	26,000	3.39
Against the activities of state institutions and local self-government (Arts. 222–231.)	24,763	3.23
Against life and health (Arts. 148–162.)	13,303	1.73
Against the protection of information (Arts. 265–269b.)	8,447	1.10
Against sexual freedom and morality (Arts. 197–205.)	7,794	1.02
Against public order (Arts. 252–264a.)	6,796	0.89
Economic offences (Arts. 296–309.)	6,125	0.80
Against the rights of persons engaged in gainful employment (Arts. 218–221.)	5,035	0.66
Financial offences (Arts. 310–316.)	4,042	0.53

³⁰ Source: data from Police Headquarters.

Category of offences	Number	%
Against honour and physical integrity (Arts. 212–217.)	3,811	0.50
Against public safety (Arts. 163–172.)	803	0.10
Against the environment (Arts. 181–188.)	327	0.04
Other	329	0.04
TOTAL	767,099	100

Interesting conclusions can be drawn from the data on suspects in 2022 (Table 3), with the following dataset including all suspects in that year, thus including foreigners. The concept of ‘suspect’ in Poland is taken directly from the Code of Criminal Procedure: a suspect is a person with regard to whom a decision on the presentation of charges has been issued, or who, without such a decision having been issued, has been charged in connection with proceeding to questioning as a suspect. Such a person is considered to be an accused person as soon as a charge has been brought or a motion for conditional discontinuance of proceedings has been submitted to court by the public prosecutor.

In 2022, the Polish Police recorded 317,194 suspects. And again, the vast majority, 274,569, or 87% of the total suspects, were linked to acts under the Criminal Code.

Table 3. Number of suspects in 2022 by groups of crimes from the Criminal Code ³¹

Category of offences	Number
Property crime (Arts. 278–295.)	93,336
Against road safety (Arts. 173–180.)	67,145
Against the family and guardianship (Arts. 206–211.)	43,086
Against the administration of justice (Arts. 232–247.)	17,643
Against freedom (Arts. 189–193.)	13,161
Against life and health (Arts. 148–162.)	13,035
Against the activities of state institutions and local self-government (Arts. 222–231.)	9,608
Falsification of documents (Arts. 270–277.)	5,929
Against public order (Arts. 252–264a.)	3,391
Against sexual freedom and morality (Arts. 197–205.)	2,778
Economic offences (Arts. 296–309.)	2,398
Against honour and physical integrity (Arts. 212–217.)	1,069
Against the rights of persons engaged in gainful employment (Arts. 218–221.)	686
Against the protection of information (Arts. 265–269b.)	493
Against public safety (Arts. 163–172.)	331

³¹ Source: data from Police Headquarters.

Category of offences	Number
Against the environment (Arts. 181–188.)	230
Financial offences (Arts. 310–316.)	93
Other	157
TOTAL	274,569

6. Foreigners in Poland

At the outset, it is worth recalling that the legal status of foreigners in Poland is regulated by the aforementioned Act of 13 June 2003 on foreigners. Thus, a foreigner is a person who does not have Polish citizenship. A foreigner who is a citizen of two or more countries is treated as a citizen of the country whose travel document constituted the basis for entry into the territory of the Republic of Poland.

In order to analyse the crime structure of foreigners in Poland, it is first necessary to present the general structure of foreigners in Poland.

There is no doubt that the structure of foreigners in Poland is very diverse, yet quite predictable and stable. According to the Polish Office for Foreigners, almost 460,000 foreigners currently hold valid residence permits in Poland. Of the 457,000 foreigners who had valid residence permits on 1 January 2021, the largest groups were citizens of Ukraine – 244,200, Belarus – 28,800, Germany – 20,500, Russia – 12,700, Vietnam – 10,900, India – 9,900, Italy – 8,500, Georgia – 7,900, China – 7,100, and the United Kingdom – 6,600.

However, in 2020, the largest increase among foreigners settling in Poland concerned citizens of Ukraine – by 29,400 people, Belarus – by 3,200, Georgia – by 2,400, Moldova – by 1,200, and South Korea – by 500 people.

Most foreigners hold temporary residence permits, which can be issued for up to three years. This type of document is currently held by 272,400 persons. The group of foreigners entitled to permanent residence, on the other hand, amounts to 102,100 persons. Registered residence is also held by 81,500 citizens of European Union Member States. Thus, there is a strong concentration of foreigners in the provinces (Polish: *województwo*)³² with the largest urban centres. The most popular regions are the following provinces: Mazowieckie – 119,000, Małopolskie – 52,000, Wielkopolskie – 41,000, and Dolnośląskie – 37,000. Young people are those most likely to settle in Poland: approximately 60% of foreigners with valid residence permits are between 18 and 40 years of age, and approximately 4% are over 60 years of age.³³

³² Also translated as ‘Voivodeship.’

³³ Siwak, 2021. The above figures do not take into account those temporarily residing in Poland under visa-free travel or visas.

There is no doubt that Russia's hostilities in Ukraine, located across Poland's immediate eastern border, must have resulted in migratory movements of foreigners of Ukrainian origin to Poland.

It is therefore not surprising that the largest group of foreigners in Poland at the moment are persons of Ukrainian origin. It is therefore clear that since the beginning of hostilities, i.e. 24 February 2022, persons of Ukrainian origin have been by far the largest group of foreigners in Poland, currently accounting for just over 80% of the total number of foreigners who have settled in the country. Currently, almost 1 million Ukrainian citizens, mainly women and children, reside in Poland. Based on data from the Polish Office for Foreigners, a total of 1.4 million people of Ukrainian origin have valid residence permits in the country. It is also interesting to note that the Polish legal order has an Act on Assistance to Ukrainian Citizens in Connection with the Armed Conflict on the Territory of that State,³⁴ which sets out specific rules for the legalisation of the stay of Ukrainian citizens who arrived on the territory of the Republic of Poland from the territory of Ukraine in connection with the warfare conducted on the territory of that state, and of Ukrainian citizens holding the Pole's Card who, together with their immediate family, arrived on the territory of the Republic of Poland because of that warfare. On the basis of this law, several facilitations have been introduced concerning the stay of persons from Ukraine in Poland. Therefore, thanks to this law, most Ukrainians stay in Poland using temporary protection, which is confirmed by receiving a PESEL number. Currently, there are almost 1 million people registered on this basis. Women and children account for approximately 87% of this group, and children and adolescents account for approximately 43% of Ukrainian citizens with PESEL numbers; among adults, on the other hand, women account for 77%.

In addition, 360,000 Ukrainian citizens hold valid temporary residence permits. The vast majority of these were issued in connection with taking up employment. On the other hand, slightly more than 65,000 have permanent residence permits or long-term EU resident permits. The territorial distribution of Ukrainians settling in Poland is characterised by concentration in provinces with large urban agglomerations. The most popular regions are the following: Mazowieckie Province – 21% of persons, Dolnośląskie Province – 11%, Wielkopolskie Province – 11%, Małopolskie Province – 10%, and Śląskie Province – 9%.³⁵

The second most numerous group of foreigners in Poland are citizens of Belarus. Based on data from the Office for Foreigners in Poland, the total number of Belarusians with valid residence permits exceeds 50,000. It is also worth mentioning here that considerable facilitation has also been prepared for people

34 Law of March 12, 2022 on assistance to citizens of Ukraine in connection with the armed conflict on the territory of the country (Journal of Laws of 2022, item 583).

35 Siwak, 2021.

from Belarus with regard to the issuing of visas and access to the labour market.³⁶ Therefore, since the beginning of 2021, the number of Belarusian citizens with valid residence permits has increased by approximately 90%. It is also important to note that most Belarusians have permanent residence permits issued in connection with their Polish ancestry and the Pole's Card.³⁷ According to data from the Office for Foreigners, men and women emigrate from Belarus to Poland in similar proportions. Of the slightly more than 50,000 Belarusian citizens with valid residence cards, approximately 55% are between the ages of 20 and 39. Children and adolescents under 20 years of age account for 17% and those over 40 about 28%. The territorial distribution of Belarusians settling in Poland is quite uneven. The majority reside in Mazowieckie Province – 19,000 people, and Podlaskie Province – 9,000 people. The other popular regions are Malopolskie (4,200), Pomorskie (4,000), and Lubelskie (3,200).

The group of foreigners in Poland showing the third-highest growth are persons of Georgian origin. Based on data from the Office for Foreigners, the number of Georgian citizens with valid residence permits exceeds 10,000. It may be noted that this number is twice as high as it was just two years ago. Georgian immigration to Poland is economic in nature and is mainly related to professional issues, as Georgians can benefit from easier access to the labour market on the basis of the so-called work assignment statements. It is also worth pointing out that the increase in the number of Georgians settling in Poland has been noticeable since the introduction of visa-free travel in 2017. Almost all Georgians—96% of them—have temporary residence permits. These can be issued for up to 3 years. The most common purpose of stay in Poland is to take up employment—96% of cases. This is followed by family issues (2%) and education (1%). Of the 10,000 Georgian citizens with valid residence cards, about 58% are between the ages of 18 and 40. Children and adolescents under the age of 18 account for only 2%, and those over the age of 40 for about 40%. Men predominate – 8,500 people (82%), compared

36 Available at: <https://www.gov.pl/web/poland-businessharbour> (Accessed: 20 June 2023). Such facilitation includes, for example, the Poland Business Harbour program. This is a Comprehensive package facilitating a hassle-free relocation to the Republic of Poland for IT professionals and start-ups and other firms. Thanks to the package of services, it is possible to find out, among other things, how to quickly and efficiently start a business in Poland, obtain support for the relocation of employees and their families, or receive legal and visa assistance in a 'business concierge' formula. In addition, individuals and firms can count on the facilitation of contacts with local governments or Special Economic Zones, which have taken an active role in preparing an offer for relocated employees and their families by creating temporary office and housing space. In addition, children continuing their education in Polish schools will be entitled to additional hours of Polish language instruction.

37 The Pole's Card is a document confirming membership in the Polish Nation. The Pole's Card does not imply Polish citizenship, nor is it a document entitling a person to cross the border or settle on the territory of the Republic of Poland. The Pole's Card cannot be granted to a person who has Polish citizenship or a permanent residence permit in the territory of the Republic of Poland or who has the status of a stateless person.

to 1,900 women. The territorial distribution of Georgians settling in Poland is fairly even. The most popular regions are Wielkopolskie Province – 17%, Mazowieckie Province – 16%, Łódzkie Province – 15%, and Małopolskie Province – 14%.³⁸

7. Structure of foreigners' crime in Poland

The following data strictly concerning the criminality of foreigners (Table 4) indicate that the number of suspected foreigners in Poland has had a very dynamic and variable trend of pluses and minuses,³⁹ starting from 1990, which saw the lowest numbers, until 2022, where the number of foreign suspects increased significantly.⁴⁰ There is no doubt that this jump was justified by the continuous development of migration and the opening of Poland's borders after joining the European Union. A significant number of suspect foreigners can also be seen in 2021. These two years, i.e. 2021 and 2022, which saw the highest numbers of suspect foreigners. On the basis of this upward trend, it can be predicted that the next year, i.e. 2023, will be similar and that the forecast of a significant or slight decrease in foreigner crime is unlikely. The reason for the projected increase or stagnation is the general structure of foreigners in Poland, which is steadily increasing, especially those from across Poland's eastern border.

Table 4. Number of suspected foreigners (in absolute numbers)⁴¹

	Absolute numbers	% of all suspects
1990	719	0.3
1991	2,402	0.8
1992	3,575	1.2
1993	3,010	1
1994	3,983	1
1995	6,349	1.5
1996	6,956	1.8
1997	8,306	2
1998	6,390	1.6
1999	6,017	1.7
2000	5,106	1.3
2001	7,061	1.3

38 Siwak, 2021.

39 Urban and Piotrowicz, 2012, p. 200; Klaus, Laskowska and Rzeplińska, 2017, p. 19.

40 Statistics for 2023 have not yet been compiled.

41 Data from the Police of Poland.

	Absolute numbers	% of all suspects
2002	6,815	1.2
2003	5,591	1
2004	3,870	0.7
2005	3,146	0.5
2006	2,478	0.4
2007	2,293	0.4
2008	2,141	0.4
2009	2,034	0.4
2010	2,319	0.4
2011	2,242	0.4
2012	2,152	0.4
2013	3,636	0.8
2014	3,541	1
2015	3,518	1.2
2016	4,613	1.5
2017	6,286	2.1
2018	7,935	2.4
2019	9,755	2.9
2020	9,336	3.0
2021	11,698	3.6
2022	10,808	3.4

From the data on foreign suspects by nationality (Table 5) for 2022, it can be seen that the main group consists of people from Ukraine, Georgia, and Belarus.

More specifically, first, persons of Ukrainian origin number 5,291, making up 48.95% of the total suspects for 2022; second, persons of Georgian origin number 2,063, making up 19.09% of the total suspects for 2022; and third, persons of Belarusian origin number 719, making up 6.65% of the total suspects for 2022.

It is worth noting that the top three countries are Ukraine, Georgia, and Belarus, which correlates with the general migration trends discussed earlier regarding the structure of foreigners in Poland, where the largest groups of foreigners are persons from these three countries.

Table 5. Foreign suspects by nationality, full catalogue of offences for 2022⁴²

State	Number	% of foreign nationals suspected
UKRAINE	5,291	48.95
GEORGIA	2,063	19.09
BELARUS	719	6.65
MOLDOVIA	416	3.85
ROMANIA	209	1.93
GERMANY	172	1.59
BULGARIA	156	1.44
RUSSIA	156	1.44
CZECH REPUBLIC	126	1.17
IRAQ	115	1.06
LITHUANIA	114	1.05
SLOVAKIA	97	0.90
ARMENIA	81	0.75
TURKEY	72	0.67
UZBEKISTAN	61	0.56
ITALY	61	0.56
UK	57	0.53
LATVIA	54	0.50
AZERBAIJAN	47	0.43
INDIA	41	0.38
SPAIN	34	0.31
TAJIKISTAN	34	0.31
VIETNAM	31	0.29
SYRIA	30	0.28
NIGERIA	29	0.27
NETHERLANDS	28	0.26
TURKMENISTAN (TURKMENIA)	27	0.25
CHINA	22	0.20
FRANCE	22	0.20
USA (UNITED STATES OF AMERICA)	19	0.18
SOUTH KOREA	18	0.17
HUNGARY	18	0.17
BELGIUM	16	0.15
ESTONIA	16	0.15

⁴² Data from the Police of Poland.

State	Number	% of foreign nationals suspected
KAZAKHSTAN	16	0.15
SWEDEN	16	0.15
TUNISIA	16	0.15
PAKISTAN	15	0.14
PORTUGAL	14	0.13
IRELAND	13	0.12
NORWAY	13	0.12
SERBIA	13	0.12
ZIMBABWE (RHODESIA)	13	0.12
ISRAEL	10	0.09
RWANDA	10	0.09
IRAN	9	0.08
KYRGYZSTAN (KYRGYZSTAN)	9	0.08
ALBANIA	8	0.07
CROATIA	8	0.07
DENMARK	8	0.07
AUSTRIA	7	0.06
FINLAND	7	0.06
JORDAN	7	0.06
MOROCCO	7	0.06
SWITZERLAND	7	0.06
ALGERIA	6	0.06
BANGLADESH	6	0.06
BOSNIA AND HERZEGOVINA	6	0.06
EGYPT	6	0.06
COLUMBIA	6	0.06
LIBAN	5	0.05
SUDAN	5	0.05
AFGHANISTAN	4	0.04
ARGENTINA	4	0.04
BRAZIL	4	0.04
ETHIOPIA	4	0.04
MONGOLIA	4	0.04
PALESTINE	4	0.04
SLOVENIA	4	0.04
SAUDI ARABIA	3	0.03
CHILE	3	0.03

State	Number	% of foreign nationals suspected
PHILIPPINES	3	0.03
GREECE	3	0.03
CANADA	3	0.03
KONGO	3	0.03
MEXICO	3	0.03
SRI LANKA (CEYLON)	3	0.03
TANZANIA	3	0.03
ANGOLA	2	0.02
AUSTRALIA	2	0.02
INDONESIA	2	0.02
JAMAICA	2	0.02
YEMEN	2	0.02
CAMEROON	2	0.02
NEPAL	2	0.02
NIGER	2	0.02
PERU	2	0.02
UGANDA	2	0.02
BOLIVIA	1	0.01
CYPRUS	1	0.01
GHANA	1	0.01
GUATEMALA	1	0.01
ICELAND	1	0.01
YUGOSLAVIA (SERBIA AND MONTENEGRO)	1	0.01
KENIA	1	0.01
KOSOVO	1	0.01
LIBIA	1	0.01
NAMIBIA	1	0.01
NEW ZEALAND	1	0.01
SINGAPORE	1	0.01
VENEZUELA	1	0.01
FAROE ISLANDS	1	0.01
UNITED ARAB EMIRATES	1	0.01
TOTAL	10,808	100%

From the following data (Table 6) on the categories of offences for which foreigners were suspected in 2022, it is worth noting that among the offences for which foreigners were suspected in 2022, 81% were acts located directly in the

Criminal Code. The first group of offences was offences against safety in communication, including 3,510 offences; second was crimes against property (3,236 offences); third was offences against public order (408 offences); and fourth was crimes against life and health (342 offences).⁴³

An interesting note is that in 2022, the number of suspects in the group of offences against public order increased significantly. In 2021 it was 136 persons, but already in 2022 it had risen to 408 persons. This mainly reflects the crime of illegal border crossing, which is located in Article 264(2) and (3) of the Criminal Code.⁴⁴ This provision defines the offence of illegal crossing of the state border and reads as follows:

whoever crosses the border of the Republic of Poland in violation of the law, using violence, threats, deception, or in cooperation with other persons, shall be subject to the penalty of deprivation of liberty for up to 3 years. In turn, whoever organises the crossing of the border of the Republic of Poland by other persons in violation of the law, shall be subject to the penalty of deprivation of liberty for a term of between 6 months and 8 years.

In 2021, there were 24 foreigners suspected of such acts, while in 2022 as many as 305.

Table 6. Categories of offences that foreigners were suspected of in 2022 (Act of 6 June 1997 – Criminal Code)

Category of offences	Number
Against road safety (Arts. 173–180.)	3,510
Property crime (Arts. 278–295.)	3,236
Against public order (Arts. 252–264a.)	408
Against life and health (Arts. 148–162.)	342
Against the administration of justice (Arts. 232–247.)	313
Falsification of documents (Arts. 270–277.)	243
Against freedom (Arts. 189–193.)	210
Against the activities of state institutions and local self-government (Arts. 222–231.)	210
Against the family and guardianship (Arts. 206–211.)	163
Against sexual freedom and morality (Arts. 197–205.)	62
Economic offences (Arts. 296–309.)	53

⁴³ Woźniakowska-Fajst, 2016, p. 44.

⁴⁴ Laskowska and Perkowska, 2020, p. 9.

Category of offences	Number
Against public safety (Arts. 163–172.)	19
Against honour and physical integrity (Arts. 212–217.)	11
Against the protection of information (Arts. 265–269b.)	8
Financial offences (Arts. 310–316.)	7
Against the rights of persons engaged in gainful employment (Arts. 218–221.)	6
Against the environment	4
Total	8,805

Table 7. Convicted foreign nationals, 2016–2020⁴⁵

	Total foreign nationals convicted	% of convicts
2016	9,337	3.2
2017	8,379	3.5
2018	10,368	3.8
2019	11,987	4.2
2020	11,659	4.6

8. Summary

Comparing the structure of offences of total suspects and foreign suspects, some similarities can be seen—the two most frequent groups of offences of both groups of suspects are offences against property and against safety in communication. At the same time, these are the groups of acts most frequently committed in Poland. Foreigners, on the other hand, were more frequently suspected of offences against public order than the total number of suspects in Poland in 2022. It is also notable that the three countries on the eastern side of Poland’s border are at the top of these statistics.⁴⁶ This coincides with the general migration trend in Poland, where people from Ukraine, Belarus, and Georgia rank at the top of these statistics. It also appears that the increase in migration from Poland’s eastern border will continue.

⁴⁵ Data from the National Criminal Register.

⁴⁶ Włodarczyk-Madejska, Kopec and Goździk, 2021, p. 267.

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