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Polish migration policy development: lessons for Eastern Partnership states

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Tbilisi, 21 December 2011

Three stages of developing Polish migration policy: from source to solution of problem

- Turning points: EU and Schengen accession (2004, 07)
- **1st period:** continued national visa, labour market policies, Europeanization of border, migration controls, absence of integration measures
- **2nd period:** growing awareness of need for migrants, increasing restrictions at entry, testing solutions
- **3rd period:** shifting controls to external border, elaborating strategy, adopting solutions: opening labour market, regularizing status, integrating migrants

Polish migration policy: tension between Europeanization and national interest

- Double impact of EU integration on policy development:
- *Incentive for reform*: strategic planning of security sector reforms: Integrated Border Management (1998), *raising priority* of border, migration controls (JHA) on the way to Schengen
- However, *uneven development of policy*, leaving questions of integration, access to labour market lower on the agenda, tackled only since 2004

Relevance of Polish experience for Eastern Partnership states

- Poland's path a model of successful meeting EU border and migration control requirements
 - Readmission agreement 1991, alignment with EU acquis 2003, Schengen entry 2007
 - Polish Border Guard securing 1500 km of external EU frontier
 - Intensified cooperation with partner services, growing voice on the EU forum
- At the same time, Poland is open to Eastern Partners and willing to share its experience
 - Visa-free movement until 2003, visas free of charge until Schengen, small border traffic
 - Growing openness of labour market, waiving work permit requirement
 - Support to visa-free movement with Eastern Partners

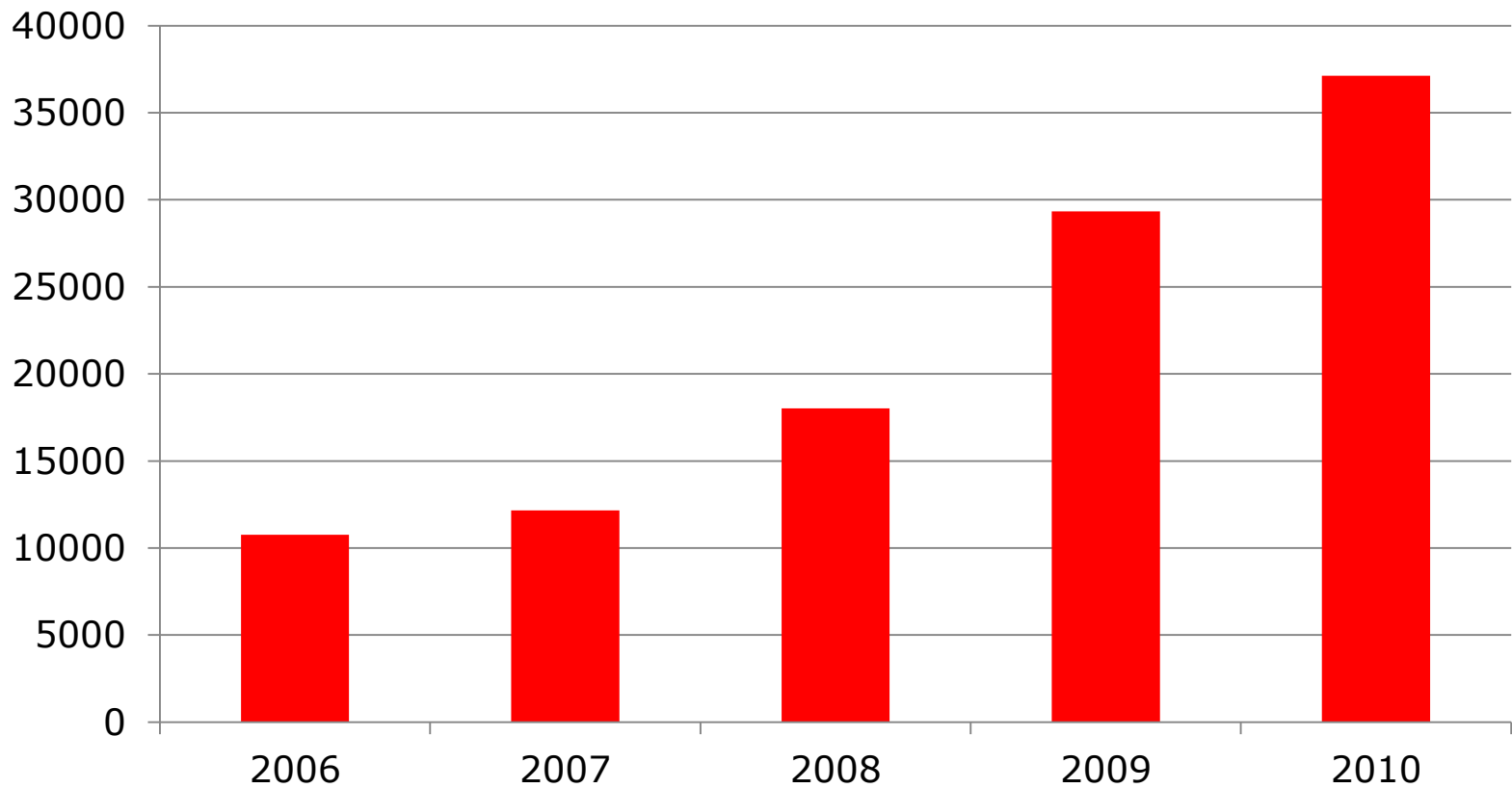
Poland's FM Sikorski: Poland supports Eastern Partners toward visa-free prospects

- „Our goal is to **formulate** for Eastern Partnership countries and for Russia (...), **roadmaps toward visa-free movement.**” (Warsaw, *expose* 8 April 2010)
- „If a Partner State **meets clearly set technical criteria**, the visa requirement will be dropped so it is going to be a **question of rate of reform**, and not of politics” (Warsaw, conference 28 Sept 2011)

Poland maintains liberal visa policy following Schengen accession

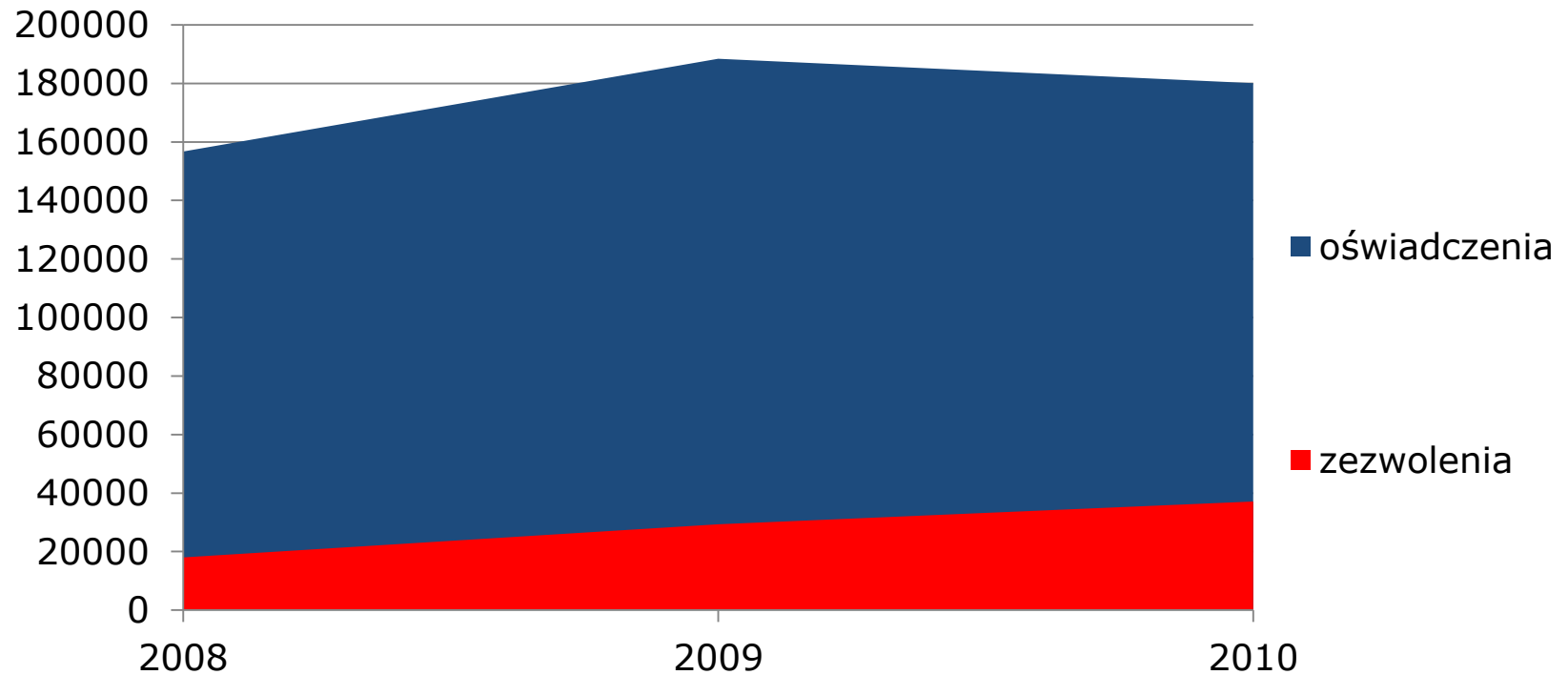
- In 2010, over 800,000 visas granted in BEL, RUS, UKR out of the total of 898,545 issued by Polish consuls
- Refusal rate lower than EU average (2.9 < 4% UA)
- Dense and growing consular network:
example of Ukraine
8 consulates (new in centre, east), 14 visa application centers to open till March 2012
- Growing cross-border movement

Growing number of issued work permits



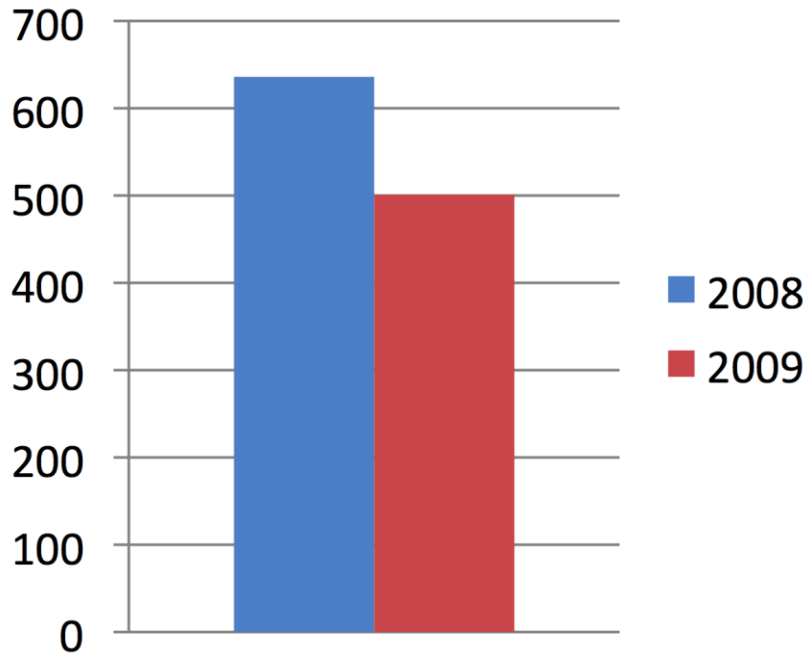
Source: Ministry of Labour and Social Policy

Citizens of Eastern Partnership states & Russia do not need a permit for seasonal work in Poland

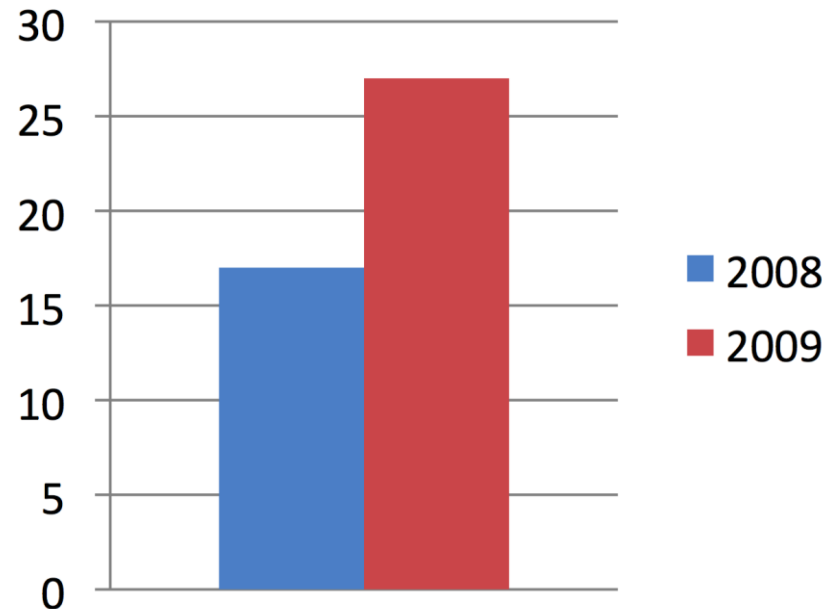


On the other hand, more denials of entry at Polish borders

While refusals of entry lower by 21% on all EU/EFTA borders (thousands)

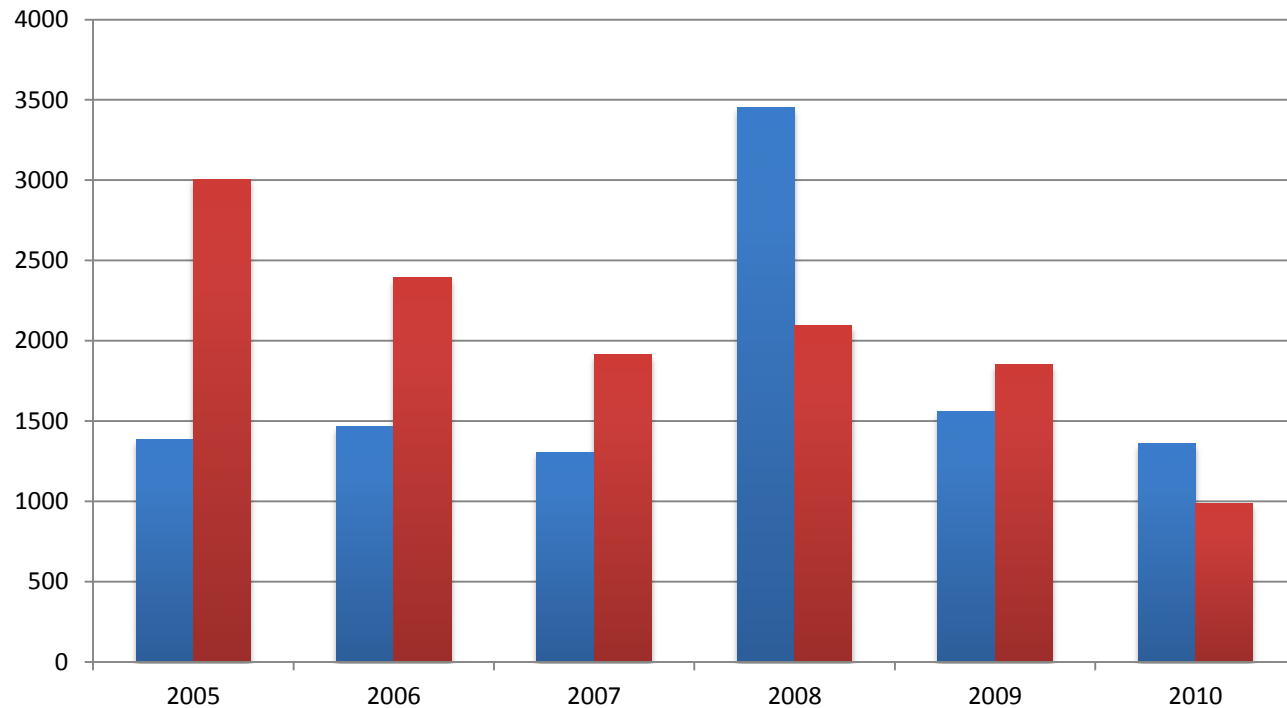


Increase in refusals by 60% on Polish borders (thousands)



Shifting migration control eastward

Number of persons apprehended by the Border Guard on the external (blue) and internal (red) section of the border

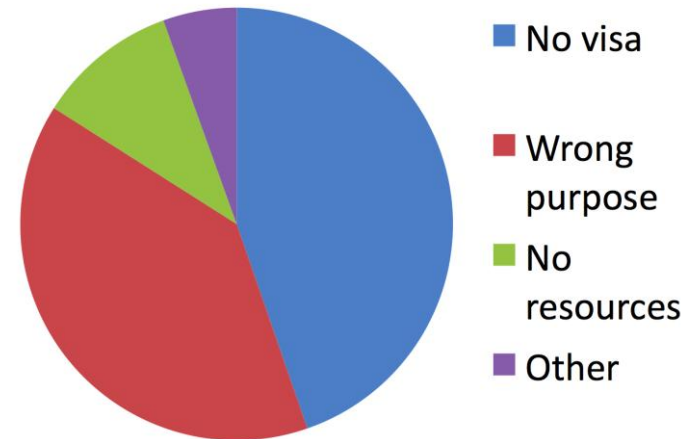


Denials of entry affect mainly Eastern Partners

48 % of refusals issued to Ukrainians, followed by nationals of Georgia, Belarus, Russia

Main grounds: no visa (45%), wrong purpose (39%) and no resources (over 10%)

	2008	2009	% 2009
Ukraine	9.445	12.800	47,6 %
Georgia	40	5.685	21,1 %
Belarus	3.350	4.205	15,6 %
Russia	3.235	3.350	12,5 %
Others	780	850	3,2 %
TOTAL	16.850	26.890	100 %



EU integration helped tackled key challenges in migration control

- Adopting strategic approach
 - Integrated Border Management Strategy (1998) allocated responsibilities, resources
 - Revision of laws and institutional reforms part of the EU and Schengen accession agenda
 - Periodic reviews, clear indicators of success, allocation of budgetary and EU funds
- Making laws instruments of migration control
 - All basic norms on conditions of entry, stay and removal of foreigners found in a single legal act
 - Legal standards and sanctions enumerated in statutes, which must be made specific in publicly available executive acts
- Clear delineation of competencies of central agencies
 - Statutory acts also establish core competencies, grounds and procedures for cooperation among agencies and sharing of information, kept in central-level databases (POBYT)

Successive revisions of aliens act (since 1997) introducing migration control instruments

Requirements toward foreigners

at visa application and border crossing -- having sufficient financial resources for the stay and secured accommodation (verified by the consul and/or the border guard)

at registration and application for residence permit -- documenting grounds for legal stay and work

Denials of visa and entry

- List of criteria for refusal, including incompatibility between declared and actual purpose of stay, justified suspicion of involvement in trafficking of human beings

Grounds and procedures for expulsion of foreigners

- Extension of grounds, including unauthorized employment or insufficient resources
- Procedure of obligation to leave as the primary form of removal

Grounds for refusing a residence permit

- ✓ Failure to meet grounds for issuing the temporary residence permit (enumerated in the aliens act)
- ✓ Failure to meet tax or other financial obligations to the Treasury
- ✓ Inclusion in the database of undesirable persons (WYKAZ)
- ✓ Inclusion in the database of persons who must not enter the EU territory (SIS)
- ✓ False information/documents, failure to disclose necessary information
- ✓ Protection of national interest (verified through consultation procedure)

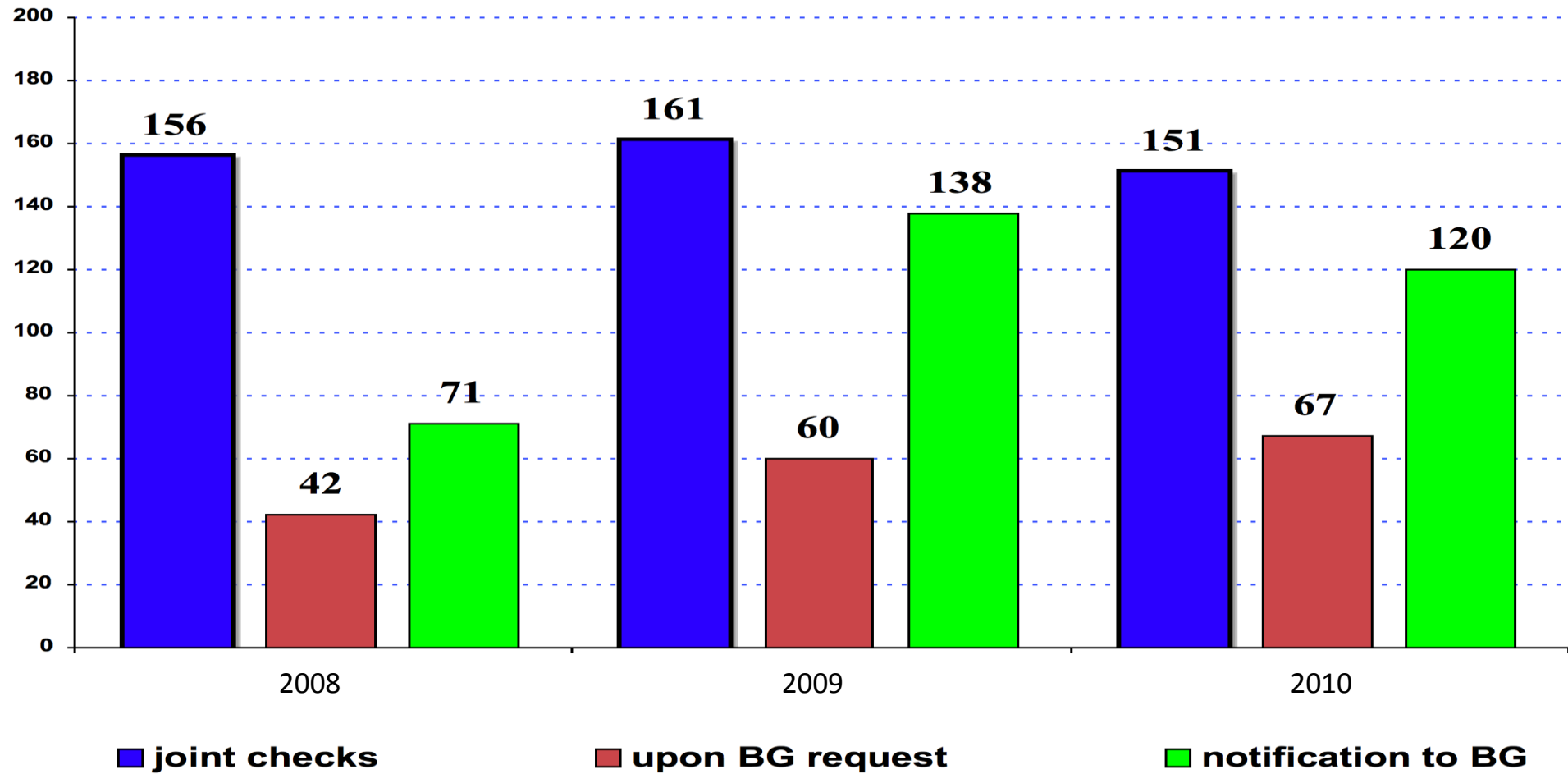
Punitive measures against illegal migrants

- **Unauthorized border crossing a crime**, resulting in placement in a guarded facility and expulsion (followed by re-entry ban for at least 3 years covering all Schengen area)
- **Detention** of unidentified foreigners for up to maximum **12 months** (followed by removal or granting of tolerated status)
- **Unauthorized employment** of a foreigner resulting in obligation to leave (followed by year-long re-entry ban restricted to Poland) and fine for employer (at least 1000 USD)

Coordination of migration policy at operational level

- **Broader competence to Border Guard**
 - Single agency operating on the border with controlling, investigative powers
 - Extension of competence to the entire territory
 - Management of detention facilities, responsibility for deportation
- **Establishing cooperation mechanisms**
 - Expansion of operational competence to multiple agencies in the area of control of legality of foreigners' stay and employment – Border Guard, Police, Labour Inspection, Transport Inspection, etc.
 - Carrying out joint controls on the basis of statutory law (Act on Aliens), executive regulations, inter-agency agreements (Police-Border Guard Agreement enabling default assistance)
 - Statutory regulation of obligatory access to databases in the field of competence of a given agency and established procedure for application for additional information
 - Parallel investigative activities with possibility to share operational information

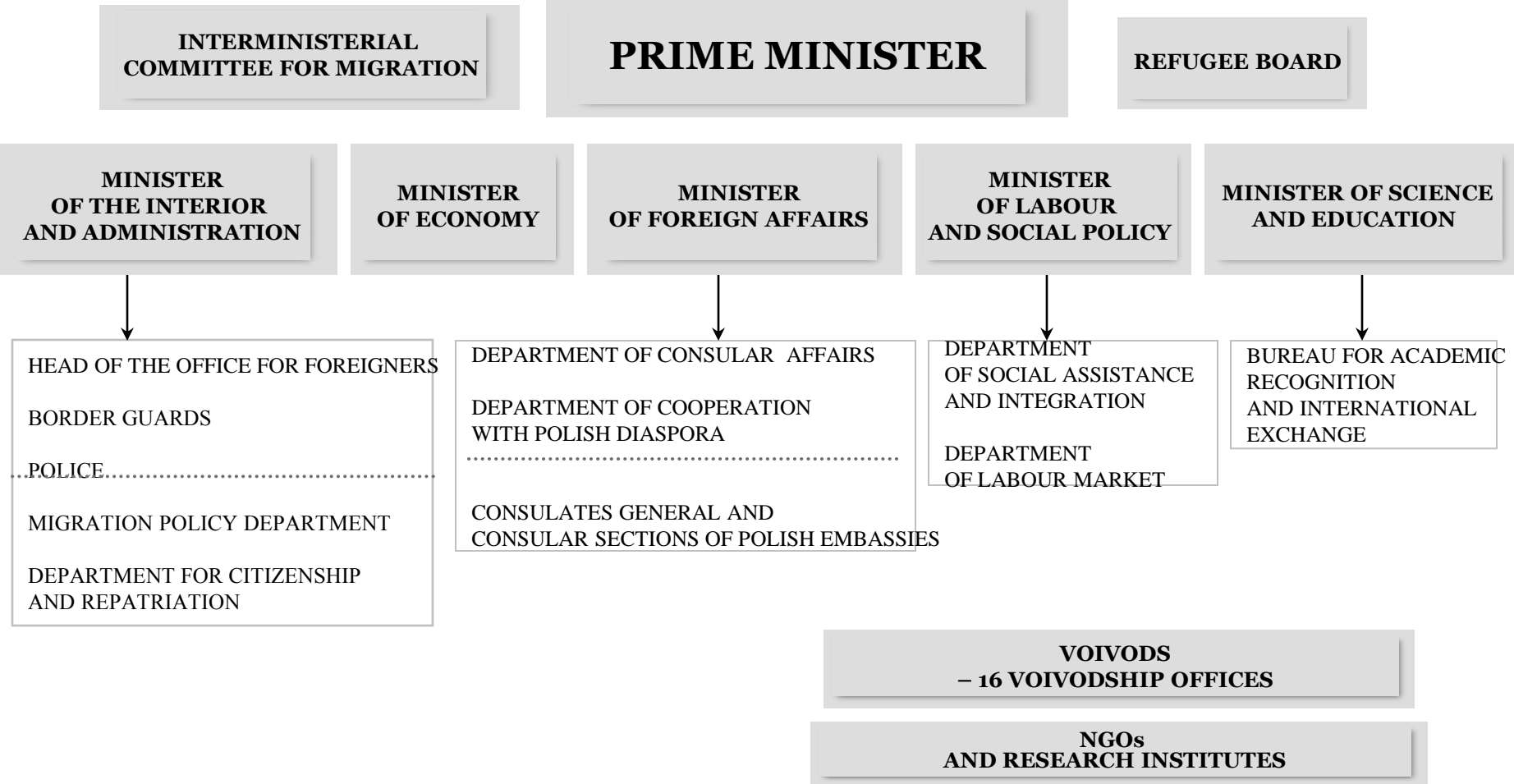
Operational cooperation: Border Guard and Labour Inspection



Coordination of migration policy at central level

- Ministry of Interior a central body overseeing policy development and coordinating work of operational agencies
 - Political responsibility for entire internal security sector
 - Department of Migration Policy established at Ministry of Interior
 - Leading agency for preparation, launch and supervision of central integrated information database on foreigners (POBYT) and other databases containing data on foreigners (SIS, VIS, CEPiK)
 - Operational control and monitoring functions carried out by specialized institutions, within the structure of the Ministry of Interior: Border Guard, Office for Foreigners
 - Territorial administration (provincial governors' offices) responsible for legalization of residence of foreigners on Polish territory

Institutions in charge of migration policy



Adopting a strategic approach

- **Developing strategic documents**
 - Integrated Border Management Strategy 1998
 - Schengen Action Plan
 - National Migration Strategy

- **Setting up interagency team – Committee for Migration**
 - Developing principles for legislative and institutional changes in migration policy and submitting proposals to the Cabinet;
 - Preparation of proposals modifying competencies in migration issues;
 - Coordination of interministerial cooperation in migration area;
 - Exchange of information and monitoring of the EU migration trends and activities;
 - Cooperation with other units of governmental administration, local and regional self-government and NGOs in migration field

Committee for Migration (est. 2007) represents key stakeholders

(Under) secretaries of State

Chancellery of the Prime Minister

Ministry of Interior and Administration

Ministry of Labour and Social Affairs

Ministry of Foreign Affairs

Ministry of Economy

Ministry of Finance

Ministry of Health

Ministry of National Education

Ministry of Science and Higher Education

President of the Central Statistical Office

Head of the Office for Foreigners

Commander in Chief of the Border Guard

Commander in Chief of the Police

Chief of the Internal Security Agency

Representatives of other governmental or non-governmental agencies invited by the Chair of the Committee, if it is necessary due to the subject of the meeting

Working Groups at Committee for Migration

- Labour immigration
- Labour emigration from Poland
- Combatting irregular immigration
- Collection and exchange of statistical data
- Integration of migrants
- Return of Poles
- Elaboration of Migration Strategy of Poland
- Resettlements

Draft National Migration Strategy

- Provides an overview of all the subfields of migration policy: legal and illegal migration, citizenship and repatriation, protection and integration
- Diagnoses needs and indicates priorities for action of government agencies
- Identifies priorities in admission of categories of foreigners (focus on Eastern Partnership states)
- Recommends simplification of residence and work permit procedures
- Proposes a broader migration amnesty

Inclusion of NGOs in elaboration and monitoring of state migration policy

- Consultation of strategic documents (e.g. Integration chapter of National Migration Strategy)
- Comments to legal drafts in „social consultation” format
- Raising new points on policy agenda—Team for Monitoring Progress in Integration Policy
- Monitoring the distance between Poland and the EU—MIPEX index
- Monitoring impact of Polish visa policy