

## RIGHTS AND OBLIGATIONS OF UKRAINIAN CITIZENS IN POLISH LAW\*

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**Abstract.** This article is intended to specify what rights are given to and what obligations are imposed on Ukrainian citizens who came to Poland in fear of the armed conflict that erupted on February 24, 2022. Poland, in order to grant residency rights and make life easier for Ukrainians in its territory, enacted a law enabling them to live in Poland on a daily basis. The article characterizes the law regulating these rights and also points to the solutions provided by the latest proposal for its amendment.

**Keywords:** Ukraine; Poland; rights; obligations.

### INTRODUCTION

The date of February 24, 2022 is the day the war in Ukraine broke out. The criminal attack of the Russian Federation on this country has consequences not only on the bilateral line. It has made a certain division of power around the world [Grosse 2023, 47-50; Regina-Zacharski 2023, 117-26]. Western countries have realized that the aid directed to Ukraine also allows for the maintenance of a relative geopolitical order in Europe. The war has also imposed various types of burdens on the countries of the region, especially the countries directly neighbouring Ukraine, including Poland. In addition to the real security threat, these countries have had and continue to face humanitarian challenges. Since the beginning of the war, the number of people of Ukrainian origin in Poland has doubled, and the Ukrainian minority is now largely made up of women up to 29 years of age and families.<sup>1</sup> This brought with it the challenge of creating legal regulations that would guarantee migrants fundamental rights and impose obligations that would facilitate their everyday life in Poland.

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<sup>1</sup> See *Ukraińcy w Polsce | dynamika populacji w latach 2022-2023*, <https://selectivv.com/ukraincy-w-polsce-dynamika-populacji/> [accessed: 23.05.2024].

The Act on Assistance to Ukrainian Citizens in Connection with the Armed Conflict on the Territory of the State was published on March 12, 2022<sup>2</sup> [Drembkowski 2022]. The dynamic situation, as well as the desire to guarantee the widest possible spectrum of rights to Ukrainian citizens in Poland, meant that the regulations in question have been amended many times since then.

This article, with the help of the dogmatic-legal and theoretical-legal methods, is an attempt to analyze the current legal status, guaranteeing the rights and obligations of the Ukrainian minority in the territory of the Republic of Poland. The work will also be a commentary on the currently proposed changes.

### 1. THE PURPOSE OF ESTABLISHING THE ACT ON ASSISTANCE TO CITIZENS OF UKRAINE IN CONNECTION WITH THE ARMED CONFLICT ON THE TERRITORY OF THE ARMED CONFLICT ON THE TERRITORY OF THIS STATE

According to the explanatory memorandum to the draft of this law, it was passed in order to create such legal regulations that will provide “an ad hoc basis for the legal stay of those Ukrainians in Poland” who fled their homeland as a result of the war with Russia. As indicated, “This bill is an attempt by the legislator to respond to the problems that have arisen as a result of this situation in the area of ensuring the legality of stay of persons arriving from the territory of Ukraine.”<sup>3</sup>

Its purpose was also to supplement the provisions concerning this special situation, which were not included in the framework previously adopted under the Act of 13 June 2003 on granting protection to foreigners on the territory of the Republic of Poland,<sup>4</sup> as well as the Act of 14 October 2021 amending the Act on foreigners and certain other acts.<sup>5</sup> This Act assumes, thanks to the assignment of a PESEL number, the implementation of a number of public services within the framework of social rights for those who came to Poland in connection with the hostilities [Drembkowski 2022, 17-26]. In addition, this legal solution is intended to indicate how and on what terms they receive access to the Polish labor market or the opportunity to run a business.<sup>6</sup>

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<sup>2</sup> Act of 12 March 2022 on assistance to Ukrainian citizens in connection with the armed conflict on the territory of this state, Journal of Laws item 583. The provisions of the Act apply retroactively from 24 February 2022, pursuant to Article 116 of this Act.

<sup>3</sup> Explanatory memorandum to the bill – on assistance to citizens of Ukraine in connection with the armed conflict on the territory of this country, paper no. 2069 from 7 March 2022.

<sup>4</sup> Act of 13 June 2003 on granting protection to foreigners on the territory of the Republic of Poland, Journal of Laws of 2021, items 1108 and 1918.

<sup>5</sup> Act of 14 October 2021 amending the Act on foreigners and certain other acts, Journal of Laws of 2021, item 2354 as amended.

<sup>6</sup> Explanatory memorandum to the bill..., p. 4-8.

## 2. RIGHTS AND OBLIGATIONS OF UKRAINIAN CITIZENS GRANTED BY LAW

The current regulation, e.g. Act amending the Act on Assistance to Citizens of Ukraine in Connection with the Armed Conflict on the Territory of this State, came into force on February 22, 2024.

According to its provisions, certain rights and obligations can be distinguished that have been imposed on Ukrainians and their family members who came to Polish after the day the war broke out. Firstly, however, a person who has Ukrainian citizenship and comes to Polish in connection with hostilities is obliged to submit an application for temporary protection closest to the city or commune office, where this person is also assigned a PESEL number with the UKR marking. It gives you the opportunity to travel for a maximum of 30 days [Kozak-Balaniuk and Staszewski 2023, 181-98]. Exceeding this may mean the loss of UKR status.

### **2.1. Legalization of stay in Poland**

One of the first obligations faced by Ukrainians in Poland is to obtain a residence permit. The so-called residence card allows you to stay in Poland without a visa or other documents. The application should be submitted to the voivode according to the place of residence. It should be accompanied by documents that confirm the intention to stay in Poland for more than 3 months. Once the card is obtained, the holder can travel within the Schengen area for 90 days within 180 days. Most often, people who are employed in Poland apply for such permits. It is then issued for a maximum of 3 years [Maksymiuk and Szmulik 2023, 327-34]. People of Ukrainian origin can also apply for the so-called permanent residence card, which is a permanent residence permit. Most often, people who have Polish origin (have a Pole's Card) apply for them.

On the basis of the above-mentioned amendment, Ukrainians and their family members can benefit from temporary protection until June 30, 2024. The following are also extended: 1) temporary residence permits; 2) period of departure from the territory of Poland; 3) residence cards, identity documents and "tolerated stay" documents; 4) stay of a Ukrainian citizen in Poland on the basis of a Schengen visa.

The obligation imposed on car owners who decided to come to Polish with them and use them during their stay has also been regulated. This vehicle does not have to be registered in Poland. However, it must be properly registered in Ukraine, as well as have a valid technical inspection and insurance for a trip abroad. However, if the owner of the car plans to stay in Poland for more than 180 days, then the car must be registered with foreign

license plates. Such an application can be submitted to the district office that is consistent with the place of residence of the Ukrainian citizen.

## **2.2. Rights granted to Ukrainian citizens whose residence has been recognized as legal**

Ukrainian citizens who have a recognized legal residence in Poland and also have a PESEL number (with the status of UKR) have been granted the following groups of rights:

- 1) Access to free health care and use of assistance addressed to people with disabilities on the same terms as people who have been covered by compulsory or voluntary social insurance. Ukrainian citizens have also been granted the right to free access to doctors, as well as reimbursement of prescription drugs (Article 64a).
- 2) Access to free education. The act gives the right to education for Ukrainian citizens, as well as Polish citizens who studied within the local education system. It uses a number of solutions to facilitate the continuation of education at every level of education. The Act also provides for assistance in receiving scholarships, as well as the issue of payment of tuition fees at universities [Maksymiuk and Szmulik 2023, 336].
- 3) Access to the labour market – Ukrainians who reside in Poland legally have free access to the labour market. It is possible to take up work without the need to obtain an additional permit. The condition is verification of the legality of the stay by the employer, as well as notification of the District Labour Office<sup>7</sup> about the concept of work within 14 days of starting work. Any Ukrainian citizen can also register with the labour office as an unemployed person in order to look for a job. This gives you the opportunity to take advantage of job placement, career mediation or training. However, you are not entitled to unemployment benefit [ibid., 334]. The Act also provides for special regulations that are addressed to representatives of medical professions. Their qualifications were recognized (within a certain period of time) on the basis of the presented qualifications to practice professions, obtained outside the European Union.
- 4) To conduct business activity, on the same terms as Polish citizens. The legislator does not allow for differentiation into Polish and foreign citizens, preserving their right to equality, despite the fact that they do not have the status of a citizen.
- 5) to benefits and social assistance:

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<sup>7</sup> Employment office in accordance with the location of the employer's headquarters.

- a) using family benefits – these include, among others, support under the “Family 800+” or “Good Start” programs. From January 2024, the “Family 500+” [Prokopowicz 2017, 57-75] benefit has been increased to PLN 800. They can be obtained by families with children under 18 years of age.<sup>8</sup> As part of emergency assistance, able-bodied, adult Ukrainians can count on a one-time allowance of PLN 300 after crossing the border with Poland and obtaining a PESEL number;
- b) free accommodation within 120 days from the date of arrival – the 40+ programme has been established for this purpose. Under this program, Poles who provide free accommodation and meals to Ukrainian citizens can apply for assistance at a daily rate of PLN 40. It is granted for a period of 120 days, excluding pregnant women, mothers with children under a year old, pensioners, pensioners or people with disabilities;
- c) to free housing – this is an offer addressed to large families, pregnant women or mothers with children, as well as for the disabled, pensioners and pensioners.

### 2.3. Planned legal changes

On 15 May 2024, the Sejm voted on a bill amending the Act on Assistance to Citizens of Ukraine in Connection with the Armed Conflict on the Territory of Ukraine and Certain Other Acts (papers no. 342, 374 and 374-A), which entails certain changes. The current solutions, as mentioned above, are valid until June 30, 2024. The aforementioned amendment provides for the extension of aid and support for Ukrainian citizens who are fleeing the war. This was dictated by the Council Implementing Decision (EU) 2022/382 of 4 March 2022, which provides for a protection period until 30 September 2025. If the directive provides for the extension of protection until March 2026, the act is to contain regulations that will allow for automatic extension of this protection. The Act also provides for the introduction of new rules that will apply for the confirmation of the identity of a person who applies for a PESEL UKR number.

Residence rights are extended. According to them, Ukrainian citizens who have a PESEL UKR number will have their stay in Polish legally extended until September 30, 2025. From next year, it will also be possible to change the status of stay. This applies to the change from temporary protection to temporary residence, in accordance with the Act on Foreigners, after meeting the following conditions:

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<sup>8</sup> See *Świadczenie wychowawcze 800+*, <https://www.zus.pl/-/%C5%9Awiadczenie-wychowawcze-800-> [accessed: 23.05.2024].

- 1) Supplementing or updating the necessary data in the PESEL UKS database in the commune authorities.
- 2) Submitting an electronic application to the voivode.
- 3) If the applicant had an active UKR status as of 4 March 2024, and on the date of submitting the application, the security services do not object to the change of the residence status.

The government estimates that up to 95% of Ukrainians can benefit from such a procedure. Due to various life situations, the possibility of temporary protection was also retained. As a result, they have the opportunity to choose a more advantageous solution until 30 September 2025.

As far as employee rights are concerned, the adopted amendments concern the extension of the deadline for submitting applications for the conditional right to practice the profession of doctor, dentist, midwife and nurse by 4 months.

This amendment also provides for the termination of the support, which dates from July 1, 2024, and applies to the financing of photography, as well as a one-off cash benefit of PLN 300 for the so-called “development”. The changes (this time from July 31) will also concern the issue of financial support for the form of accommodation or food for Ukrainians who are in a difficult life situation. From now on, this will only be possible with the help of an agreement signed with the voivode or an authority acting on his behalf. It is also planned to extinguish the cash benefit granted under Article 13 of the Aid Act, the so-called “PLN 40 benefit”, which was compensation for the costs of stay and food for Ukrainian citizens by owners of private premises.

From that moment on, the aid is to be concentrated in cohabitation centres, which have their financing basis in Article 12 of the Act. This change is intended to tighten the system of providing assistance to Ukrainian citizens in collective accommodation. Article 13 also specifies that the voivode may provide assistance which consists of: 1) providing collective accommodation, which consists of a facility hosting at least 10 people, or in facilities that operate under the management of units from the public finance sector; 2) all-day collective catering; 3) operating reception points; 4) provision of transportation related to accommodation or medical care; 5) others, after obtaining the consent of the competent minister.

However, these changes maintain guarantees of maintaining support for people who would otherwise experience social exclusion. This applies in particular to people with disabilities, elderly people – women over 60 years of age, or men over 65 years of age, pregnant women or raising children up to 1 year of age, or take care of three or more children, if at least 1 of them is under 14 years of age, or are people in foster care or minors, who do not

receive child care benefits, or persons who have received permission from the voivode to be exempt from participation in the costs of assistance, taking into account their difficult life situation.

With regard to social rights, this amendment also introduces some changes. Well, the above-mentioned “800+” and “good start” benefits were related to compulsory education. The new wording of Article 26(1) of the Act indicates that a child of a Ukrainian citizen for whom he or she applies for the above-mentioned benefits must attend full-time compulsory education in a school that belongs to the Polish education system. This regulation does not apply only to children who, due to their age, have not been covered by the obligation to attend preschool education or education, or for whom this obligation has been deferred. A provision has also been issued which includes an obligation imposed on the Social Insurance Institution to suspend the benefits granted when the fact of receiving education is not confirmed. These regulations will apply from the new benefit period, which falls on 1 June 2025, as well as from the school year 2025/2026 [Horbaczewski and Koślicki 2024]. The amendment also indicates a maximum period of 3 years during which students have the opportunity to take advantage of free Polish language classes. This rule is to apply to students who started education in the school years 2022/2023 and 2023/2024.

## CONCLUSION

The arrival of such a large number of citizens from Ukraine, due to the war, carries many burdens that the host country has to bear. Poland also faced such a difficult task. In this context, it is important to be aware that it is not enough to have regulations that guarantee the possibility of rescue from a war-torn country, but will be a long-term solution and will allow to secure basic rights and impose obligations on newcomers, taking into account their living situation. Many Ukrainian citizens have fled from the areas engulfed in military operations and it is possible that they will settle in ours permanently. The targeted assistance must be of a systemic nature that will guarantee a dignified and as independent life as possible in a foreign country.

The presented legal solutions are aimed at facilitating a difficult start in our country. Under the Act on Assistance to Ukrainian Citizens in Connection with the Armed Conflict on the Territory of the State, It indicates the possibility of obtaining the right of legal residence, shows the possibilities of taking up education, work, running one’s own business, but also the path of using social rights, which have been granted on the same terms as citizens in Poland. However, it is worth emphasizing that in the current international and social situation in Poland, it is necessary to constantly



amend legal solutions. This is primarily to direct help to people who need it most, while sealing the system with mechanisms to guarantee their protection against pathologies and attempts to use them in accordance with the principles included in the Act.

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