

INTERNATIONAL PROTECTION FOR UKRAINIAN CITIZENS IN THE TIME OF RUSSIAN MILITARY AGGRESSION*

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Abstract. The Russian full-scale military aggression against Ukraine not only constitutes a crime of aggression under the ICC Rome Statute, but also leads to Russian troops committing other international crimes on the Ukrainian territory. Due to the Russian military aggression millions of Ukrainian citizens escaped to neighbouring countries, where they are entitled to apply for temporary protection, introduced due to the massive influx of third-country nationals into the EU, or for international protection due to the ongoing international armed conflict on the Ukrainian territory. The purpose of the article is to analyse the legal situation of Ukrainian citizens who applied for international protection in Poland before and after 24 February 2022, and to examine the reasons for which they are currently granted subsidiary protection.

Keywords: international protection; refugee status; subsidiary protection; temporary protection; Russian military aggression.

INTRODUCTION

According to the UN General Assembly Resolution (1974)¹ and the Statute of the International Criminal Court, which provides a binding definition of the crime of aggression,² the full-scale Russian armed invasion launched on 24 February 2022 fulfills the characteristics of the crime of aggression, and its perpetrators should be prosecuted by the International Criminal Court. As a result of Russian military aggression there is currently an ongoing international military conflict on the territory Ukraine, in which the international humanitarian law of armed conflict, in particular the four Geneva Conventions of 1949 aimed at protecting victims of armed conflict, should apply.

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¹ United Nations General Assembly Resolution 3314 (XXIX), 1974, annex.

² Statute of the International Criminal Court, 2187 U.N.T.S. 90.

As a result of the start of full-scale military aggression on Ukraine, two types of migratory movements have arisen: 1) an influx of internally displaced people,³ fleeing from the eastern, southern and northern parts of Ukrainian territory to the western regions, 2) an unprecedented influx of people from Ukraine to EU member states. This mass influx of third-country nationals (not only Ukrainian citizens), which began on 24 February 2022, led to the activation of an EU legal mechanism to qualify this emergency situation as a mass influx of displaced persons from a third country. The mechanism is designed to establish minimum standards for granting temporary protection on the territory of EU member states.⁴ It should be noted that the mechanism provided for in Council Directive 2001/55/EC of July 20, 2001 was activated for the first time, so for the first time it was decided on the territory of individual Member States to grant temporary protection in a simplified procedure provided primarily for citizens of Ukraine and their family members, but also for other categories of persons. Nevertheless, there is no obligation to apply for temporary protection and a citizen of Ukraine may apply for international protection on the territory of Poland. Applying for temporary protection more closely resembles a simplified registration – the assignment of a PESEL number, which confirms holding this type of protection, while the submission of an application for international protection initiates proceedings that can last up to 6 months or longer in the first instance.

The purpose of this article is to examine the legal situation of Ukrainian citizens who applied for international protection in Poland before the start of full-scale Russian military aggression and after, as well as the reasons for which Ukrainian citizens are currently granted one of the two forms of international protection. A short legal comparison between international protection and temporary protection will enable greater understanding reasons, for which Ukrainian citizens decide to apply for either international or temporary protection.

1. GROUNDS FOR GRANTING INTERNATIONAL PROTECTION FOR THIRD COUNTRY NATIONALS IN POLAND

Refugee status and subsidiary protection are two forms of international protection,⁵ which can be granted to a citizen of a third country on his

³ Internally displaced persons means persons who left their place of residence, but they have never left the territory of their country.

⁴ Article 5 of 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, Official Journal of European Union L 212, 7.8.2001, p. 12.

⁵ Article 2a of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless

application within the framework of the administrative procedure for granting international protection on the territory of the Republic of Poland. It should be borne in mind that for EU member states, a third-country national is a citizen of a non-EU member state.⁶ Both forms of protection are defined in both domestic and international law, including EU law. Refugee status is granted to a third-country national who, as a result of a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the borders of the country of which he is a national, and is unable or, because of such fear, unwilling to avail himself of the protection of that country.⁷ EU and Polish law have basically implemented this definition into their laws, further clarifying what persecution can consist of.⁸ According to Article 13(1), persecution may consist, in particular, of: 1) the use of physical or mental violence, including sexual violence; 2) the use of legal, administrative, police or judicial measures in a discriminatory or discriminatory manner; 3) the initiation or conduct of criminal proceedings or punishment, in a manner that is disproportionate or discriminatory; 4) the absence of the right to appeal to a court against a penalty of a disproportionate or discriminatory nature; 5) the initiation or conduct of criminal proceedings or punishment for refusal to perform military service during the conflict, if performing military service would constitute a crime or actions referred to in Article 19(1)(3); 6) acts against persons on the basis of their sex or minority. According to the definition of refugee status, the applicant should demonstrate that he or she has a well-founded fear of persecution, which is a subjective feeling that can be proven with reliable statements by the applicant and relevant evidence, including information on the situation in the country of origin, and therefore objective information. The concept of “fear” – which is a state of mind and a subjective element – is accompanied by the term “well-founded,” which means that not only the state of feeling of the person concerned determines refugee status, but that it must be confirmed by an assessment of the objective situation. Thus, the term “well-founded fear” combines the subjective and objective elements – both must be taken into account in the procedure for determining whether there is a “well-founded

persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), Official Journal of European Union L 337/9-337/26; 20.12.2011.

⁶ Article 2(6) Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), Official Journal of the European Union L77/1, 23.03.2016.

⁷ Article 1(2) Convention relating to the status of refugees, U.N.T.S. vol. 189, p. 137.

⁸ Article 13-14 of act of 13 June 2003 on granting protection to aliens within the territory of the Republic of Poland, Journal of Laws No. 189, item 1472 [hereinafter: Act on granting international protection].

fear” of persecution.⁹ One of the most important aspects of the consideration of an application for international protection in the context of granting refugee status is a well-founded fear of persecution due to certain individual characteristics of the applicant, his beliefs or activities related to one of the enumerated reasons for persecution. The assessment of the subjective element is inseparable from the assessment of the applicant’s personality, as individuals’ psychological reactions differ. Some people have strong political or religious convictions, and their disregard for them can make their lives unbearable; others do not care. Some decide to flee spontaneously, others carefully plan their departure.

In contrast, under EU and Polish law, subsidiary protection, being the second form of international protection, is granted to a third-country national when return to the country of origin may expose him to a real risk of suffering serious harm by: 1) capital punishment or execution, 2) torture, inhuman or degrading treatment or punishment, 3) serious and individualized threat to life or health resulting from the widespread use of violence against the civilian population in a situation of international or internal armed conflict, and due to this risk he cannot or does not want to enjoy the protection of his country of origin.¹⁰ As the practice of EU member states shows, subsidiary protection effectively covers those third-country nationals who do not qualify for refugee status, but nevertheless still require protection due to legally defined circumstances [Di Marco 2015, 184]. From the perspective of proceedings for the granting of international protection, the Head of the Office for Foreigners in Poland, after the applicant submits an application, first examines the prerequisites for granting refugee status, and if the prerequisites are not met, the Head of the Office for Foreigners moves on to examine the prerequisites for granting subsidiary protection.

Unlike refugee status, subsidiary protection can be granted because of the general situation prevailing in the country of origin. The two most common grounds on which subsidiary protection is granted in Poland are the risk of suffering serious harm through torture, inhuman or degrading treatment or punishment, or a serious and individualized threat to life or health resulting from the widespread use of violence against civilians in a situation of international or internal armed conflict. Torture, inhuman or degrading treatment or punishment is a rather broad premise, because of which this type of protection can be granted to a person who has post-traumatic stress syndrome as a result of experiencing traumatic events (e.g., sexual violence, violence related to armed actions, domestic violence), and return to the

⁹ United Nations High Commissioner for Refugees, Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, Geneva 1992, HCR/IP/4/Eng/REV.2, p. 17-18.

¹⁰ Article 15 of the Act on granting international protection.

country of origin would involve inhuman treatment being a feeling in the psychological sphere.¹¹ Not to mention cases in which it will be proven that there is a risk of serious harm again through torture, inhuman or degrading treatment. In contrast, the criteria of an individualized threat to life or health arising from the widespread use of violence against civilians in a situation of international or internal armed conflict is already dependent on the individual situation of the applicant. According to the practice of the Office for Foreigners in Poland, but also of migration authorities in other EU member states, in the case of recognition that there is an individualized threat to life or health on the territory of the country of origin resulting from the widespread use of violence against the civilian population in a situation of international or internal armed conflict, citizens of that country should be granted at least subsidiary protection and, if certain individual conditions are met, even refugee status. In recent years, such a practice has been applied by the relevant authorities of the Member States, including the Polish Head of the Office for Foreigners, to Syrian citizens, as there was an armed conflict throughout the territory of this country, and therefore there was a risk of suffering serious harm as a result of widespread violence against the civilian population. Even the nature of the conflict itself, therefore whether it was an internal or international conflict, was basically irrelevant for granting Syrian citizens one of the two forms of international protection.

It is worth clarifying the concept of international or internal armed conflict. This issue was addressed by the Appeal Chamber in the *Tadic* case, recognizing that an armed conflict arises when the parties resort to the use of armed forces or similar actions.¹² According to the First Additional Protocol to the Geneva Conventions, a non-international conflict is fought in the territory of one of the Contracting Parties between its armed forces and a breakaway armed force or other organized armed groups under responsible command and exercising such control over part of its territory that they can conduct continuous and consistent military operations. Thus, an internal armed conflict occurs when at least one of the parties is non-governmental in nature [Vite 2009, 75]. In order to distinguish internal armed conflict from internal unrest, criteria such as the intensity of fighting and the degree of organization of the parties should be considered.¹³ Armed conflict, on the other hand, is international in nature when it arises between two or more

¹¹ For instance, Chief of the Office for Foreigners decided to grant subsidiary protection to a Chechen woman with 4 children, who escaped from domestic violence and sexual abuse, claiming that the return to country of origin would mean risk of serious harm (including psychological) for her and her children. See: Decision of the Chief of the Office for Foreigners of 16 March 2018 (case no.: DPU-420-4174/SU/2016).

¹² Prosecutor v. Tadić, ICTY, Case No. IT-94-I-T, 1997, para. 70.

¹³ Ibid., para. 561-568; Prosecutor v. Mucic et al., ICTY, Case No. IT-96-21-T, 1998, para. 184.

states. At the same time, in an armed conflict of an international nature, an attack by one state against another state motivated by the intent to cause harm is essential. In addition to the aforementioned types of armed conflict, there is also the concept of internationalized armed conflict in international law. This is a situation of ongoing conflict between two factions or internal groupings that are supported by other states, or a situation where there is an armed intervention of a third state in an internal armed conflict [Schindler 1982, 255]. Intervention can be distinguished between the situation of intervention by a third state to support one of the parties and intervention by multinational forces to conduct a peacekeeping operation [Gasser 1983, 145-46]. An example of internationalized conflict is the 1999 NATO intervention in the armed conflict between the Federal Republic of Yugoslavia and the Kosovo Liberation Army [Egorov 2000, 183]. With regard to the 1992-1995 conflict on the territory of the former Yugoslavia, it should be emphasized that it had the character of an international armed conflict, which is evident, among other things, from the wording of the Security Council Resolution of July 13, 1992, in which it was confirmed that the parties are bound to comply with international humanitarian law, and in particular with the provisions of the Geneva Conventions.¹⁴ According to Article 2 common to the Geneva Conventions, they are applied in the event of a declaration of war or the emergence of another armed conflict between two or more states, thus in the event of an international armed conflict.

In view of the above, and in view of the fact that, as a result of unprovoked full-scale Russian armed aggression, there is currently an international armed conflict on the territory of Ukraine, and actual rocket fire threatens the entire territory of Ukraine, as can be seen almost every day, subsidiary protection is granted to Ukrainian citizens applying for international protection in Poland.

2. MAIN DIFFERENCES BETWEEN INTERNATIONAL PROTECTION AND TEMPORARY PROTECTION

The main difference between international protection and temporary protection lies within the legal basis – international protection derives from international agreements, while temporary protection derives from national regulations, with an exception of EU regulations concerning the temporary protection mechanism binding for all of the member states. The right to apply for international protection has to be available to third country nationals always, without any exception or discrimination, while right to apply for temporary protection is limited – it is introduced based on national

¹⁴ United Nations Security Council Res. 764, U.N. Doc. S/RES/764, 1992.

regulation for a particular time and determined group of third country nationals, usually as a result of a massive influx of foreigners to that state.

Application for international protection initiates the procedure on granting international protection, which usually lasts a couple of months and includes a detailed interview with the applicant on reasons for submitting the application for international protection. Decision denying to grant international protection may be appealed and the case last for another 5-6 months. Applying for temporary protection does not require such detailed and long lasting procedure, since it is introduced upon the massive influx of foreigners and in fact the procedure on granting temporary protection should be rather called a registration. As a result, registration for temporary protection is a one day administrative action that ends with issuing a document proving that one was granted this type of protection. There is no interview with the applicant or evaluation on individual situation. Legal criteria required for granting temporary protection usually are easy to identify – for example date of entrance to the state where one applies for temporary protection and citizenship of the applicant.

International protection, therefore refugee status or subsidiary protection, are granted for a not limited period of time, meaning that this type of protection does not expire under any circumstances. It may be cancelled by the authority who granted international protection in such cases as contacting the authorities of the country of origin or returning to the country of origin.

Nevertheless, it does not expire automatically. Temporary protection does expire under the term and conditions provided by law. The term “expires” in terms of temporary protection should be understood as: 1) the end of the legal stay in Poland of the third country national, who was granted temporary protection; 2) the end of the possibility to apply for temporary protection for those third country nationals, who have recently arrived.

Therefore the national law, that introduces temporary protection for particular category of third country nationals, has to provide for the time period, during which third country nationals can apply for this type of protection and for the possibility to prolong that term in case if there is still a need (e.g. Russian military aggression only intensifies and civilians in Ukraine are under permanent threat of being a target for any rocket shelling or drone activity). What has to be underlined is that temporary protection cannot be prolonged for longer than needed. Finally, if a third country national, who was granted temporary protection, does not apply for a residence permit then after the term provided in the national law his temporary protection expires and his stay from then on is considered to be illegal.

Another difference between international protection and temporary protection lies within the rights and obligations of the third country national. Applicant for international protection receives all the rights upon the

issuance of the decision on granting one of the two forms of international protection what means that during the procedure he does not have a right to work. However, a third country national, who registered for temporary protection, obtains all the rights on the day of registration, for example right to work, right health insurance, right to social benefits.

In terms of the differences between temporary protection and international protection it should be stated that it is possible for a foreigner, who was registered for temporary protection, to submit an application for international protection. Though the temporary protection is cancelled on the day of applying for international protection.¹⁵ As a result, the applicant for international protection is deprived of all the rights and benefits that derives from temporary protection. What is more, legality of his stay in Poland will depend on the final decision issued in the proceedings for international protection, therefore if he is to be denied international protection and the applicant is not willing to return to his country of origin, and for instance submits the second application for international protection, then the procedure on deportation can be started 30 days after he had received final administrative decision in his first procedure on international protection.

3. CONDITIONS FOR GRANTING INTERNATIONAL PROTECTION TO UKRAINIANS BEFORE 24 FEBRUARY 2022

The period before 24 February 2024, therefore before Russia has initiated a full-scale military aggression on Ukraine, has to be divided into two phases, since there was a significant difference in practice of Polish Chief of the Office for Foreigners and Council for Refugees. Therefore, until the beginning of the Euromaidan and cruel response from the Yanukovich regime to the civil demonstrations the practice of granting international protection to Ukrainian citizens had been comparable to citizens of other countries, without any exceptions due to specific situation on the territory of Ukraine, for instance military conflict on the territory of Ukraine.

Situation has drastically changed after the Euromaidan, illegal annexation of Crimean Peninsula by Russia and the beginning of military conflict in Eastern Regions of Ukraine initiated by the “separatists” (Russian proxies) in Lugansk and Donetsk Regions, that are fully controlled and supported with weapons and logistics by Russian regime. The correct legal question would be therefore if these separatists can be considered as party to the military conflict in Eastern regions of Ukraine. The so-called separatist groups, claiming discrimination by the new government in Kyiv due to their use of the

¹⁵ Article 4.17 of the 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.

Russian language can be considered as “organized armed groups” within the meaning of II Additional Protocol to the Geneva Conventions. According to Article 1, these groups must remain under responsible command and exercise such control over part of the territory as to enable them to conduct continuous and consistent military operations. It should be emphasized that the command and the ability of these separatists to exercise effective control is intended to avoid a situation in which individuals, not subject to any command, are considered parties to the conflict [Sandoz, Swinarski, and Zimmermann 1987, 1351]. With regard to the criterion of being under responsible command, it is necessary to consider the question of the degree of organization of the groupings, which boils down to the ability to plan and carry out continuous military operations and activities, and to enforce discipline against this *de facto* authority. Taking into consideration the ability of conducting organized military operations against Ukrainian Armed Forces, exercising effective control over occupied territories and being supported in all possible manners by Russia makes it possible to qualify Russian proxies as party to the military conflict in Ukraine that has started in 2014.

In terms of international protection, according to the definition of subsidiary protection provided in EU Directive and Polish national law, it does not matter what type of military conflict is taking place in country of origin – domestic or international – both types can serve as a reason for granting subsidiary protection to Ukrainian citizens that submitted application for international protection in Poland in the period from April 2014 till 24 February 2022. However, for Ukrainian citizens regardless whether from annexed Crimean Peninsula or Eastern regions, that were affected by military activities and afterwards, on 30 September 2022, annexed and since then illegally occupied by Russia, it was still not a rule to be granted for instance subsidiary protection due to military conflict on its territory. The reason for such a practice is provided in Article 18 of the act on granting protection to aliens within the territory of the Republic of Poland, according to which if in a part of the territory of the country of origin there are no circumstances justifying the foreigner’s fear of persecution or suffering serious harm, and there is a reasonable expectation that the foreigner will be able to safely and legally move to and reside in that part of the territory, it is considered that there is no well-founded fear of persecution or actual risk of suffering serious harm in the country of origin. In other words, if, as it happened in Ukraine, the military conflict, whether domestic or international, directly affects only a particular part of country’s territory (Donetsk, Lugansk regions and Crimea) while the remaining part of country’s territory is not under the threat of military activities therefore the Article 18 of the Polish act on granting protection to aliens in Poland has to be applied. Consequently, the applicant is denied both types of international protection.

What is interesting from legal perspective is the fact that Article 18 can be applied only in a situation when the applicant is able safely and legally move and reside in the other part of the country of origin. Therefore, relocation within the territory of the country of origin does not cause any risk of persecution or suffering a serious harm and the applicant can relocate to another part of the country of origin without violating any law. If any of these two conditions can not be fulfilled then Article 18 can not be applied.

As the practice has shown that Ukrainian citizens, who submitted the application for international protection between 2014 – 24 February 2022 due to military activities (residents of the Eastern regions) or occupation of Crimea (residents of the Peninsula, including Crimean Tatars) were in vast majority denied international protection based on Article 18 of the Polish act on granting international protection, since according to the Polish Chief of the Office for Foreigners there was a possibility to relocate safely and legally from Eastern regions of Ukraine or Crimea to other parts of Ukrainian territory. Nevertheless, some Ukrainian citizens who applied for international protection in Poland in the mentioned period were granted subsidiary protection. In fact the reason why it had happened lies within the analysis of individual case under the Article 18 of the Polish act on granting international protection. Thus, in cases when the Chief of the Office for Foreigners could not determine that there is an opportunity of safe and legally possible relocation within the territory of Ukraine then the applicant was granted usually subsidiary protection. For instance, Chief of the Office for Foreigners granted a subsidiary protection to a family of 8 members from Lugansk region, who submitted the application for international protection on 13 January 2015. According to the Chief of the Office for Foreigners there was no possibility of safe relocation within the territory of Ukraine for the whole family (mother, father and 6 minor children).¹⁶ Some of the Ukrainian citizens, who applied for international protection did not receive any type of protection within the procedure on international protection, however due to similar motives received a permit for humanitarian reasons in a separate procedure on deportation.¹⁷

Consequently, the sole fact of military conflict between Ukrainian Armed Forces and *de facto* Russian proxies in the Eastern regions of Ukraine and the illegal annexation of Crimea had not change the practice of Polish authorities,

¹⁶ Decision of the Council for Refugees of 6 February 2017 (case no.: RdU-770-1/S/16).

¹⁷ See: Decision of the Chief of the Office for Foreigners (Department of Legalization of Stay) of 16 July 2018 (case no.: DL.WIPO.412.945.2017) on granting permit for humanitarian reasons to a family of 4, who could not return to their home city – Donetsk – and due to formal challenges their return to Ukraine meant a number of difficulties that finally lead to permit on humanitarian reasons. Permit on humanitarian reasons is not a form of international protection.

so that every Ukrainian citizen had been granted for instance subsidiary protection almost “automatically”. However, both acts of Russian aggression on Ukraine in 2014 had contributed to the fact that the real determinant for granting international protection was the issue of having a possibility to move to another part of Ukrainian territory in a safe and legal manner.

4. CONDITIONS FOR GRANTING INTERNATIONAL PROTECTION TO UKRAINIANS AFTER 24 FEBRUARY 2022

Situation of Ukrainian citizens, who submitted the application for international protection in Poland, has significantly changed after the 24 February 2022. First of all, on 24 February 2022 Russia started a full-scale military invasion on Ukraine with almost all types of military operations, including military aviation. The main difference between military conflict that has been launched in 2014 and the full-scale military invasion is that the latest means a threat of military attack in the whole territory of Ukraine. As a result, according to the Polish Chief of the Office for Foreigners territory of Ukraine is where the international military conflict is taking place as a consequence of Russian military aggression or there exists a risk of imminent military activities.¹⁸ Additionally, Chief of the Office for Foreigners in Poland provides the argument that as a consequence of international military conflict on the territory of Ukraine civilian population may become a victim of widespread violence or direct military activities. Both of the abovementioned statements, that are currently the basis for granting Ukrainian citizens with subsidiary protection, confirm that there is no need in analyzing the application of Article 18 of the Polish act on granting international protection, therefore the possibility of moving safely and legally to another part of Ukraine’s territory.

As the practice of the Polish Chief of the Office for Foreigners has shown, even though the full-scale military invasion that has threatened the whole territory of Ukraine has started on 24 February 2022, subsidiary protection is granted to all of Ukrainian citizens regardless of the date when they arrived to Poland or when they submitted the application for international protection on the territory of Poland. From procedural point of view it is essential to underline that applications for international protection submitted by Ukrainian citizens after 24 February 2022 are considered by the Chief of the Office for Foreigners without conducting a detailed interview with the applicant on the reasons of applying for international protection. An interview is the most important procedural action and the interview’s protocol is a fundamental evidence. If it is not conducted in someone’s case

¹⁸ The following justification was provided in decisions on granting subsidiary protection in the following cases: DPU.420.3130.2022, DPU.420.813.2021, DPU.420.211.2022, DPU.420.1868.2022.

it is due to the fact, that the decision will be issued based on the situation in the country of origin (especially in case of military conflict) and not on individual's situation, and therefore the Chief of the Office for Foreigners does not consider its necessary to conduct that interview.

FINAL REMARKS

Subsidiary protection, if comparing with temporary protection, is the form of protection provided to third country national by Polish authorities due to similar reasons as temporary protection, particularly if subsidiary protection is granted as a result of the risk of serious harm caused by the widespread violence withing the international military conflict in the country of origin of the applicant. Unfortunately, Russian military aggression on Ukraine in 2014 and full-scale military invasion in 2022 provoked the unprecedented international military conflict in Europe and massive migration of Ukrainian citizens to the neighborhood countries. Ukrainian citizens are currently the only third country nationals (with some exceptions provided in the Council decision), who can apply in EU member states for both – international protection and temporary protection while staying on the territory of EU, especially Poland. Subsidiary protection has been always an option for a third country nationals, no matter of their citizenship or situation in country of origin. However, if a third country national arrives from the country, where there exists a risk of serious harm due to widespread violence to civilians as a result of military conflict, then subsidiary protection may be granted even without consideration of applicant's individual situation based on conducting a detail interview. Temporary protection introduced in the EU in 2022 as a consequence of the massive influx of third country nationals to EU due to Russian military aggression on Ukraine, what currently makes those two forms of protection (international protection in the form of subsidiary protection and temporary protection) being granted for the same reasons, however with different legal effect, rights and obligations for third country national, who were granted one of these forms of protection and the state, who granted them with this protection.

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