

THE LEGAL STATUS OF UKRAINIAN CITIZENS IN THE LAW OF THE FEDERAL REPUBLIC OF GERMANY*

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Abstract. There are currently around 1.1 million Ukrainian citizens in Germany who have entered its borders since February 24, 2022. The legal status of Ukrainian citizens in the Federal Republic of Germany is primarily regulated by Section 24(1) of the Act on Residence, Establishment and Integration of Foreigners in the Federal Republic of Germany. Only 21% of them are employed: 113,000 have found employment that allows them to pay social security contributions, while 36,000 perform the so-called mini-job, i.e. minimum employment. The basis of professional integration is taking an integration course. Integration courses are designed to teach the German language and the basics of functioning and the rule of law in Germany. It should be noted that approximately 55,000 Ukrainian citizens are currently continuing their school, vocational or higher education.

Keywords: migration of Ukrainian citizens; migration policy; Germany; right to education; social benefits.

INTRODUCTORY REMARKS

There are currently around 1.1 million of Ukrainian citizens living in Germany who have entered Germany since February 24, 2022 in connection with Russia's war of aggression against Ukraine. About 350,000 of them are children and adolescents under 18 years of age. About two-thirds of adult migrants are women.¹

According to the Federal Employment Agency, currently in Germany, of which 1.1 million people from Ukraine are of working age, i.e. between 15 and 65 years of age. In November 2023, 21 percent of them were employed: 113,000 found employment subject to social security contributions

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¹ See <https://www.bundesregierung.de/breg-de/themen/arbeit-und-soziales/ukraine-gefluechtete-arbeit-2166832> [accessed: 28.04.2024].

in Germany, and 36,000 found a so-called mini-job, i.e. minimum employment.² It should be emphasized that the degree of employment of Ukrainian citizens on the German labor market is one of the problems of the migration policy of the German government, which looks with envy at the Polish labor market and the Polish legislator in this matter. Despite the current difficult economic situation, the German government is confident that even more people who have fled Ukraine due to the war will take up work.

1. LEGISLATION

Ukrainian citizens who entered Germany after the start of the war in Ukraine had, like other foreigners from outside the EU, the right to stay in Germany for up to 90 days. Given their plight, it has been agreed that they can remain in Germany until 2 June 2024 and will then have to apply for a residence permit.

The legal position of persons seeking legal protection is generally governed by Section 24(1) of the Act on Residence, Establishment and Integration of Foreigners in the Federal Republic of Germany³ – this is the so-called residence law.

Pursuant to Section 24(1) of the same Act, a foreigner who has been granted temporary protection under a decision of the Council of the European Union issued pursuant to Directive 2001/55/EC and who has expressed his or her wish to be admitted to the territory of the Federal Republic of Germany is granted a residence permit for the duration of the temporary protection determined in accordance with Articles 4 and 6 of the Directive. The residence permits of refugees from Ukraine who have fled Russia's war of aggression and have been granted protection in Germany will be valid until 4 March 2025. On the basis of Section 24(1) of the Residence Act, the Federal Ministry of the Interior (BMI) adopted a legal decree called the Regulation on the Extension of Section 24(1) of the Residence Act on temporary legal protection for eligible persons from Ukraine.⁴ This means

² Mini-jobs are jobs with a monthly salary of no more than EUR 538 per month or a maximum of employment of up to 70 days in a calendar year. The number of hours that mini-jobbers can work per month depends on the hourly rate. Due to the lack of social security contributions, mini-jobs do not provide social security, <https://www.arbeitsagentur.de/lexikon/minijob> [accessed: 29.04.2024].

³ See *Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet 1* (*Aufenthaltsgesetz – AufenthG*), https://www.gesetze-im-internet.de/aufenthg_2004/_24.html [accessed: 29.04.2024].

⁴ See *Verordnung zur Regelung der Fortgeltung der gemäß § 24 Absatz 1 Aufenthaltsgesetz erteilten Aufenthaltserlaubnisse für vorübergehend Schutzberechtigte aus der Ukraine* (*Ukraine-Aufenthaltserlaubnis-Fortgeltungsverordnung – UkraineAufenthFGV*), 28.11.2023, <https://www.gesetze-im-internet.de/ukraineaufenthfgv/BJNR14E0A0023.html> [accessed: 29.04.2024].

that citizens from Ukraine do not have to apply for an extension of their residence status and no related formalities or a visit to the immigration office are necessary. The basis for further extension of the temporary protection is the decision of the EU member states at the end of September 2023.

Residence permits issued pursuant to Section 24(1) of the Residence Act that are valid on 1 February 2024 shall remain valid until 4 March 2025, including their requirements and additional provisions, without extension in individual cases. The renewal shall expire with the renewal of the residence permit in individual cases or if the residence permit has been reissued due to a change in a condition or additional provision.⁵

The provisions of the Residence Act concerning the cessation of the legality of stay, in particular on the basis of Article 51 of the Residence Act and concerning restrictions on the right of residence, remain unaffected. The obligation to submit according to Section 57a No. 2 of the Residence Ordinance does not apply.⁶

Possession of a residence permit in accordance with Section 24(1) of the Residence Act (AufenthG) does not require the renewal of this document. Residence permits in accordance with Section 24(1) of the Residence Act that are valid on 1 February 2024 will continue to be valid until 4 March 2025, without extension in individual cases. This means unlimited access to the labor market and training for Ukrainian citizens, which also means having a work permit. In this document issued by the Office for Registration of Foreigners, the entry “permission for gainful employment” should be noted. In principle, Ukrainian citizens can take up any job or training in Germany. Ukrainian citizens can therefore work as employed or by setting up their own professional activity, but without access to regulated professions, such as doctors, teachers, pedagogues.

2. ACCESS TO THE LABOUR MARKET

Taking up work in non-regulated professions is possible without the need for additional recognition of professional qualifications of a Ukrainian citizen.⁷ This represents a significant step forward in regulating the legal position of Ukrainian citizens, as the German labor market is very restrictive in this respect and in principle every professional qualification of a foreign citizen must be recognized by German authorities. Nevertheless, the recognition of professional qualifications or the assessment of certificates can help

⁵ Ibid., § 2(1).

⁶ Ibid., § 2(2).

⁷ Information from the Federal Ministry of Labor and Social Affairs, <https://www.bmas.de/DE/Europa-und-die-Welt/Europa/Ukraine/FAQ-DE/faq-art-de.html> [accessed: 29.04.2024].

you find a job that matches your skills and pay in line with your qualifications [Brückner, Ette, Grabka, et al. 2022].

Upon fulfilment of the relevant conditions, Ukrainian citizens can also apply for a (other) residence permit for the purpose of work or permission to undertake vocational training at the local immigration office. For example, a residence permit under Section 16a of the Residence Act may be issued in the case of undertaking vocational training or a residence permit in accordance with Section 18a of the Residence Act in the case of skilled workers with vocational training or Section 18b of the Residence Act in the case of qualified workers with academic training.

A residence permit in accordance with Section 24(1) of the Residence Act is issued by the Foreigners Registration Office,⁸ It must include the annotation “Work Permit”, which it allows together with a temporary document confirming the right of residence. The work permit then includes a permit to undertake vocational training. However, it should be emphasized that the vocational training must fit within the validity period of the residence permit.

3. ACCESS TO EDUCATION AND SOCIAL BENEFITS

3.1. General rules for allocating financial aid

EU Member States activated the Temporary Protection Directive as early as the beginning of March 2022. War refugees from Ukraine did not have to go through a complicated asylum procedure to be able to live and work in Germany. It should be emphasized here that Germany’s migration policy is very restrictive and de facto a migrant from the so-called safe countries has no chance of obtaining a residence permit in the Federal Republic of Germany. Granting a residence visa means that you must attend an integration course and only after completing it can you apply for a job.

3.2. Integration course

In January 2024, 124,000 Ukrainian citizens took part in integration course aimed at learning German and the basics of state functioning. Three-quarters of Ukrainian citizens will complete such courses by mid-2024, and the rest by January 2025. People who have completed integration course remain under the control of the Job Center, which will immediately try

⁸ See *Ausländerbehörde*, i.e. a department of the municipal office, subordinate to the Federal Ministry for Migration and Refugees, Bundesamt für Migrationen und Flüchtlinge https://www.bamf.de/DE/Startseite/startseite_node.html [accessed: 29.04.2024].

to direct them to the labor market. In addition, 55,000 Ukrainian citizens are currently pursuing school, vocational or higher education.⁹

3.3. Social benefits – Grundsicherung

In October 2023, 686,000 Ukrainian refugees were included in basic income support for jobseekers at a level that provides basic means of subsistence in case the jobseeker's own resources are not sufficient (*Grundsicherung*).¹⁰ Of this number of citizens mentioned above, 471,000 Ukrainian citizens are of working age, but 215,000 are unable to work for very different reasons. Persons who are beneficiaries of this benefit in the form of social benefits – *Grundsicherung* – are also children from Ukraine.

Ukrainian citizens who are in Germany can receive basic income support (*Grundsicherung*) from June 2022. The point of contact is labour offices. Here, help is available on the basis of participation in integration and language courses and the labor market, as well as assistance in organizing childcare [Butenop, Brake, Mauder, et al. 2022].

The amount of these benefits is determined by Book XII of the Social Rights – 12. (*Sozialgesetzbuch*).¹¹ Singles have standard receive support of 502 euros per month. Married couples receive 451 euros per month per person, or 902 euros per couple. A child aged 6-13 receives 348 euros. A child between the ages of 14 and 17 receives 420 euros. In addition to the standard needs, children and adolescents also receive pocket money of 20 euros per month.¹² In addition, there is a subsidy to the rent of the apartment depending on the size of the apartment.

Number of people in the household	Appartment size in m ²	Amount of rent subsidy per month in euros
1 person	50	426,00 €
2 persons	65	515,45 €
3 persons	80	634,40 €
4 persons	90	713,70 €

⁹ See Federal Government Information, <https://www.bundesregierung.de/breg-de/themen/arbeit-und-soziales/ukraine-gefluechtete-arbeit-2166832> [accessed: 29.04.2024]; Brückner, Ette, Grabka, et al. 2023.

¹⁰ It is a cash benefit for jobseekers granted by the Jobcentre until they find employment, <https://www.arbeitsagentur.de/lexikon/grundsicherung> [accessed: 12.05.2024].

¹¹ See *Das Zwölfte Buch Sozialgesetzbuch – Sozialhilfe – (Artikel 1 des Gesetzes vom 27. December 2003, BGBl. I S. 3022, 3023)*. Last modified on 8 May 2024 (BGBl. 2024 I No. 152), https://www.gesetze-im-internet.de/sgb_12/BjNR302300003.html [accessed: 12.05.2024].

¹² Federal Government website: <https://www.germany4ukraine.de/hilfeportal-de/arbeit-und-soziales/ukrainer-sozialleistungen> [accessed: 29.04.2024].

3.4. Student loans

The condition for receiving benefits is that the interested person submits an application for a residence permit in order to obtain temporary protection, registers in the Central Register of Foreigners and meets the other conditions for receiving basic social benefits. Anyone who completes an integration course should be able to receive benefits under the Federal Social Grant Act, or BAföG for short, under the same conditions. It is a scholarship in the form of an interest-free loan, aimed at financial support during studies at a university.

CONCLUSIONS

The legal position of Ukrainian citizens in the Federal Republic of Germany is primarily regulated by Section 24(1) of the Act on Residence, Establishment and Integration of Foreigners in the Federal Republic of Germany (*Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet – Aufenthaltsgesetz – AufenthG*). This is the so-called residence law. In relation to Ukrainian citizens, Directive 2001/55/EC is of fundamental importance. Pursuant to Articles 4 and 6 of the Directive and Section 24(1) of the Residence Act, Ukrainian citizens have the right to reside in Germany until 4 March 2025.

On the basis of Section 24(1) of the Residence Act, a legal decree of the Federal Ministry of the Interior (BMI) called the Regulation on the Regulation for the Extension of the Term of Residence of Section 24(1) of the Residence Act on temporary legal protection for eligible persons from Ukraine was adopted.¹³ Citizens from Ukraine do not need to apply for an extension of their residence status and no further formalities are necessary.

There are currently around 1.1 million Ukrainian citizens in Germany who have entered Germany since February 24, 2022, of which 1.1 million people 725,000 from Ukraine are of working age, i.e. between 15 and 65 years of age. About 350,000 of them are children and adolescents under 18 years of age. About two-thirds of adult migrants are women.¹⁴

Of this number, only 21% are employed: 113,000 have found employment that allows them to pay social security contributions, while 36,000 perform the so-called mini-job, i.e. minimum employment.

¹³ Ordinance on the Regulation of the Continued Validity of Residence Permits for Persons Entitled to Temporary Protection from the Ukraine issued pursuant to Section 24(1) of the Residence Act (Ukraine Residence Permit Continuation Validity Ordinance – UkraineAufenthFGV), 28.11.2023, <https://www.gesetze-im-internet.de/ukraineaufenthfgv/BJNR14E0A0023.html> [accessed: 29.04.2024].

¹⁴ See <https://www.bundesregierung.de/breg-de/themen/arbeit-und-soziales/ukraine-gefluechtete-arbeit-2166832> [accessed: 28.04.2024].

The basis of professional integration is taking an integration course. Integration courses are designed to teach the German language and the basics of functioning and the rule of law in Germany. In January 2024, 124,000 able-to-work Ukrainian citizens took part in such integration courses. About 3/4 of Ukrainian citizens will complete such courses by mid-2024, and the rest by January 2025. People who have completed integration courses have the opportunity to immediately start working in non-regulated professions.

It should be noted that approximately 55,000 Ukrainian citizens are currently continuing their school, vocational or higher education.¹⁵

Jobseekers in Germany are entitled to the so-called *Grundsicherung*, i.e. basic financial support provided to jobseekers in an amount that provides basic means of subsistence, if the jobseeker's own resources are not sufficient). In October 2023, 686,000 Ukrainian citizens received such support. Persons who are beneficiaries of this benefit in the form of *Grundsicherung* are also children from Ukraine. Participation in an integration course, treated by the German legislator as the first step to looking for a job, is the basis for the payment of such a benefit. Applications are submitted to the Jobcenter, which is the equivalent of employment offices.

An exception to the legal position of migrants from Ukraine is the granting of interest-free loans in the case of taking up studies – *Bafög*.

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¹⁵ Information from the Federal Government, <https://www.bundesregierung.de/breg-de/themen/arbeit-und-soziales/ukraine-gefluechtete-arbeit-2166832> [accessed: 29.04.2024].

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