

ENTRY CONDITIONS, RIGHTS AND OBLIGATIONS OF UKRAINIAN CITIZENS IN ACCORDANCE WITH SLOVAK LAW*

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Abstract. The armed, unjustified Russian aggression against Ukraine prompted a response from all neighbouring countries, including Slovakia. It obviously took on a legal form. Changes of the law, adapting it to the real needs of Ukrainians seeking help, but also to the need to ensure security and public order in Slovakia, concerned primarily: the possibilities and methods of legally entering the territory of Slovakia, legalizing stay there, enabling and later also facilitating residence, health care and education at various levels. The possibility of obtaining temporary refuge status proved to be a particularly convenient solution for Ukrainian citizens seeking refuge in Slovakia. Most of the considerations in this cross-sectional study are devoted to this issue.

Keywords: temporary refuge; war in Ukraine; helping refugees.

INTRODUCTION

Slovak lawmakers reacted very quickly to the start of the Russian Federation's aggression against Ukraine in 2022. Already on February 25, the day after the Russian attack, new regulations and amendments to the previously applicable ones were prepared and in order to ensure the security of the state border and to enable the efficient organization of humanitarian aid for Ukrainian refugees [Walczuk 2023, 407-408, 417]. The first act containing amendments after the express legislative process¹ entered into force on the date of its promulgation, i.e. on 26 February 2022.² The processing of

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¹ See also Deset 2023, 71-74.

² Act of February 25, 2022 on certain measures in connection with the situation in Ukraine, no. 55/2022 Z. z.

other laws and regulations also proceeded smoothly – some of them came into force just one month after the legislative initiative.³

1. ENTRY INTO THE TERRITORY OF SLOVAK REPUBLIC

On 11 June 2017, visa-free travel between the Schengen countries and Ukraine was introduced. As a result, in most cases Ukrainian citizens fleeing the war in Ukraine have the opportunity to move to countries in this area. Slovakia is part of the Schengen area, so citizens of Ukraine possessing a biometric passport can enter Slovakia under the visa-free regime and stay in Slovakia without a visa for a maximum of 90 days in any 180-day period. Since the beginning of the war, all people fleeing the war conflict have been allowed to enter. Entry to the territory of the Slovak Republic is permitted after individual assessment even for persons who do not have a valid travel document – a biometric passport or a visa.⁴ In general, all persons fleeing from a military conflict who have been granted entry permits through the Slovak border (usually they have a Slovak entry stamp in their passport) are entitled to a short-term stay of up to 90 days.⁵ It should be emphasized here that border controls on the Slovak-Ukrainian border are still ongoing and there is no automatic procedure for allowing people to cross it. All the more so because after entering a country belonging to the Schengen area, in principle you can travel without border controls to other countries belonging to this area – i.e. to the EU member states and Iceland, Norway, Switzerland and Liechtenstein. This option is available for 90 days within 180-day period. However, rights related to international or temporary protection may differ in EU countries from those granted in other Schengen countries. But Denmark, for example, in an EU Member State in the Schengen Area but does not participate in the temporary protection system and does not apply EU asylum rules.⁶

³ See <https://www.minv.sk/?tlacove-spravy&sprava=v-suvislости-s-konfliktom-na-ukrajine-platia-zmeny-v-zakonoch-o-civilnej-ochrane-azyle-a-kybernetickej-bezpecnosti-zriadi-sa-fond-vzajomnej-pomoci> [accessed: 03.07.2024].

⁴ See <https://www.mzv.sk/en/services/information-for-foreigners/visas-for-foreigners-to-enter-sr> [accessed: 03.07.2024].

⁵ Cf. European Commission, 28.10.2022, C(2022) 7591 final. Annex to the Commission Recommendation establishing a common “Practical Handbook for Border Guards (Schengen Handbook)” to be used by Member States’ competent authorities when carrying out the border control of persons and replacing Recommendation (C (2019) 7131 final), 22-3. Brussels.

⁶ See https://eu-solidarity-ukraine.ec.europa.eu/information-people-fleeing-war-ukraine/fleeing-ukraine-travel-inside-eu_en [accessed: 17.07.2024].

2. STAYING IN SLOVAKIA

Depending primarily on citizenship, but also on other circumstances, there are several possibilities for formalising a longer stay in Slovakia: 1) applying for a temporary refuge;⁷ 2) applying for an international protection (asylum, subsidiary protection); 3) applying for a temporary residence; 4) applying for a permanent residence.⁸

Applying for a temporary refuge, seems to be the easiest and the best way of protection for citizens of Ukraine and their families (if family members resided in Ukraine before 24 February 2022), fleeing from war (currently in force until March 4, 2025).⁹ It should be emphasized that if one has a permanent or temporary residence in Slovakia, has a status of 'asylum seeker' or if already been granted asylum or subsidiary protection, the possibility of applying for temporary refuge is excluded. Taking all this into account, only the possibility of obtaining and using the status of temporary refuge will be discussed in more detail.

Possibility of awarding 'temporary refuge' was processed very urgently, in order to use it as soon as possible after the sudden influx of refugees from Ukraine attacked by Russia.¹⁰

In the context of granting protection to family members of Ukrainian citizens, it should be noted that a family member is considered to be: 1) a spouse; 2) a minor child of the person or their spouse; 3) the parent of a minor child (only if the child is a citizen of Ukraine); 4) another close relative who has lived in the same household with a citizen of Ukraine or with a person granted protection and has been wholly or partially dependent on his/her relative.¹¹

⁷ Act of March 22, 2022 on certain additional measures in connection with the situation in Ukraine, no. 92/2022 Z. z., Article V.

⁸ Information and assistance in connection with the war in Ukraine, <https://www.mic.iom.sk/en/news/758-info-ukraine.html> [accessed: 17.07.2024].

⁹ Apart from the persons mentioned temporary refuge protection can be granted to: persons who have enjoyed international or equivalent national protection in Ukraine, foreigners who are not citizens of Ukraine, yet are permanent residents of Ukraine and cannot return under safe and stable conditions to their country or region of origin (International Organization for Migration).

¹⁰ See <https://rokovania.gov.sk/RVL/Material/26992/1> [accessed: 17.07.2024].

¹¹ Information and assistance in connection with the war in Ukraine. See also European Parliament and of the Council of the European Union, Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), OJ L 180, 29.6.2013, p. 31-59, Article 2(g); European Parliament and of the Council of the European Union, Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending

All applicants for temporary refuge must provide credible proof of identity and Ukrainian nationality or family relationship and (at least in some cases) indication of inability to return to Ukraine, as well as of the facts that justify request.

Citizens of Ukraine can prove their identity with a valid or even invalid document, such as: 1) travel document; 2) an identity card; 3) a driving licence; 4) any other document with a photograph together with a birth certificate.¹²

According to Slovak law, in the first instance/place parents represent a minor child in legal actions for which he is not competent.¹³ But generally for minors, the declaration shall be made by a legal guardian or a guardian appointed by the court (§ 31(2)-(4) of Act of 19 January 2005), and the minor must be present when the declaration is made.

The Slovak Ministry of Interior has made it possible to make a simple on-line temporary refuge registration,¹⁴ which speeds up the entire procedure, but does not replace it – ultimately, personal, physical presence is necessary.

If Ukrainian citizen has the documents indicated above that can confirm identity, it will be given temporary shelter immediately. If not, application will be processed within 30 days at the latest. If application for temporary refuge is approved, it will be issued with a tolerated stay document marked „DOČASNÉ ÚTOČISKO” – temporary shelter.¹⁵

3. RIGHTS AND OBLIGATIONS

After receiving this type of protection, you can work in Slovakia (based on an employment contract and other work contracts) without having to meet additional conditions. However, you cannot run a business, including (of course) being self-employed. Employers must inform the employment

Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Text with EEA relevance), OJ L 158, 30.4.2004, p. 77-123, Article 2(2); Council of the European Union, Council Directive 2003/86/EC, of 22 September 2003 on the right to family reunification, OJ L 251, 3.10.2003, p. 12-18, Recital 9 and Article 4; The Office of the High Commissioner for Human Rights, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Adopted by General Assembly resolution 45/158 of 18 December 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers> [accessed: 17.07.2024], Article 4.

¹² *Information and assistance in connection with the war in Ukraine.*

¹³ See § 9 of *Občiansky zákonník z 26. februára 1964, č. 40/1964 Zb.* and § 31(1) of *Zákon z 19. januára 2005 o rodine a o zmene a doplnení niektorých zákonov, č. 36/2005 Z. z.*

¹⁴ *Temporary refuge registration*, https://portal.minv.sk/wps/portal/domov/ecu/ecu_elektronicke_sluzby/ECU-UA [accessed: 18.07.2024].

¹⁵ *Information and assistance in connection with the war in Ukraine.*

office about the commencement of employment by a person with ‘temporary refugee’ status within 7 working days, using the general form for the registration of workers from third countries.¹⁶

The Ministry of Labour, Social Affairs and Family of the Slovak Republic is actively involved in helping refugees from Ukraine [Veselková and Hábel 2024]. One example of such activity is a project ‘Prevention of crisis situations in relation to citizens of Ukraine on the territory of the Slovak Republic’ (*Predchádzanie krízovým situáciám vo vzťahu k občanom Ukrajiny na území SR*), whose main assumption is the active integration of ‘emigrants’ from Ukraine into Slovak society with the aim of promoting equal opportunities and active participation and improving their employment on the labor market.¹⁷ Provides also a range of detailed information in Ukrainian.¹⁸ Additionally, a national refugee assistance project was in operation until the end of 2023 (*Národný projekt Pomáhame odídencom*) within the framework of which the financing of a contribution to an educational course was ensured for emigrants who have been granted temporary refuge in the territory of the Slovak Republic (issued a document of tolerated stay in the territory of the Slovak Republic with the designation “Odídenec” or the designation “Dočasné útočisko”), and who expressed an interest in financial support for their education or training.¹⁹

Persons who are granted temporary refuge and do not have public health insurance in Slovakia or another EU member state, have the right to receive urgent medical care and needed medical care as defined by the Ministry of Health on ‘Determining the scope of the necessary health care. Reimbursement of urgent and necessary health care for persons granted temporary shelter’ (*Určenie rozsahu potrebnej zdravotnej starostlivosti. Úhrada neodkladnej a potrebnej zdravotnej starostlivosti pre osoby s poskytnutým dočasným útočiskom*). The amount of reimbursement for medicines, medical aids and dietetic foods is governed by the currently valid ‘List of categorized medicines, medical aids and dietetic foods’ (*Zoznam kategorizovaných liekov, zdravotníckych pomôcok a dietetických potravín*). In the event that there is

¹⁶ See https://www.upsvr.gov.sk/buxus/docs/SSZ/OISS/CUDZINCI/2022/Informacna_karta_o_vzniku_pracovnopravneho_vztahu_a_o_zaciatku_vyslania_na_vykon_prace_statneho_prislusnika_tretej_krajiny-Priloha9a.docx [accessed: 18.07.2024].

¹⁷ See <https://www.employment.gov.sk/sk/uvodna-stranka/koronavirus-pracovna-socialna-oblast/predchadzanie-krizovym-situaciám-vo-vztahu-k-občanom-ukrajiny-uzemi-sr/> [accessed: 18.07.2024].

¹⁸ See <https://www.employment.gov.sk/sk/uvodna-stranka/informacie-odidencov-z-ukrajiny/informacie-odidencov-z-ukrajiny.html> [accessed: 18.07.2024].

¹⁹ See https://www.upsvr.gov.sk/sluzby-zamestnanosti/nastroje-aktivnych-opatreni-na-trhu-prace/vzdelavanie-odidencov-narodny-projekt-pomahame-odidencom.html?page_id=1178160 [accessed: 18.07.2024].

a surcharge for medicine, medical aid and dietetic food, this is paid by the person for whom the medicine, medical aid or dietetic food is indicated.²⁰

In order to receive urgent medical care, it is sufficient to prove that particular person is an applicant for temporary refuge or that he has been granted temporary refuge. To receive needed medical care, is needed to prove temporary refuge status. Particular persons residing in Ukraine are entitled to reimbursement of urgent care even before applying for temporary refuge as well as asylum, subsidiary protection, but for no longer than 30 days from the date of entry into the territory of the Slovak Republic.²¹

As of 1 January 2023, the Ministry of Health have adjusted the scope of health care for children and adolescents from birth to 18 years + 364 days, who have been granted temporary protection in Slovakia in connection with the ongoing Russia's aggression against Ukraine. The scope of health care from 1 January 2023 covers the same scope of health care as public health insurance and includes preventive examinations, urgent medical care and medical procedures and spa care (§ 2, § 3 and § 7 of the Act of October 21, 2004 on the scope of health care paid on the basis of public health insurance and on payments for services related to providing health care, no. 577/2004 Z.z.).²²

As of 1 September 2023, the Ministry of Health have adjusted the scope of health care for adults, who have been granted temporary protection in the Slovak Republic in connection with the ongoing armed conflict in Ukraine. The scope of health care from 1 September 2023 covers almost the same scope of health care as public health insurance and includes preventive examinations, urgent medical care and medical procedures (§ 2 and § 3 of the Act of 21 October 2004)²³.

Slovakia supports free accommodation for Ukrainian refugees in accordance with the Asylum Act, which has been amended several times in response to the conflict situation in Ukraine (Act of June 20, 2002 on asylum and amendments to certain acts, No. 480/2002 Z. z.). As of March 1, 2024, the allowance for accommodation in an apartment has been adjusted to 5 euros per night, regardless of the age of the accommodated person. However, from April 1, 2024, the allowance for accommodation in non-residential premises was adjusted to 6 euros per night, regardless of the age of the person staying. Due to the natural changeability of circumstances, combined with the prolongation of the conflict, from July 1, 2024, were

²⁰ See <https://www.health.gov.sk/?urcenie-rozsahu-potrebnjej-zdravotnej-starostlivosti> [accessed: 18.07.2024].

²¹ *Information and assistance in connection with the war in Ukraine.*

²² See <https://www.health.gov.sk/?urcenie-rozsahu-potrebnjej-zdravotnej-starostlivosti> [accessed: 18.07.2024]; *Information and assistance in connection with the war in Ukraine.*

²³ See <https://www.health.gov.sk/?urcenie-rozsahu-potrebnjej-zdravotnej-starostlivosti> [accessed: 18.07.2024]; *Information and assistance in connection with the war in Ukraine.*

introduced new rules apply to the payment of the allowance (Act of June 13, 2024, which amends Act no. 480/2002 Z.z. on asylum and on the amendment of certain laws as amended later regulations and which amend some laws. no. 144/2024 Z.z.).

From July 1, 2024, the allowance will be provided only for the accommodation of the emigrant within 120 days from the first provision of temporary refuge on the territory of the Slovak Republic. After this time, only for the accommodation of 'vulnerable persons', which are: 1) a member of the household that is a recipient of aid in material need; 2) a person with a serious disability who is provided with a subsidy to support humanitarian aid according to a special regulation; 3) a person who has reached the age of 65; 4) one of the parents who takes care of a child under the age of 5 or a natural person who personally takes care of a child under the age of 5 based on a court decision, 5) a child under 5 years of age of the person according to the previous point.

The following is entitled to an allowance for accommodation: 1) a person who owns real estate used for housing in its territorial district, which provides free accommodation to a migrant; an allowance for accommodation is provided to them in the amount of 5 euros per one night of accommodation of the expatriate (one room – max. EUR 390 per calendar month, two rooms – maximum EUR 540 per calendar month, three rooms – max. EUR 720 per calendar month, four or more rooms – max. EUR 900 per calendar month); 2) a juristic person that provides free accommodation to a migrant in a non-residential building used for short-term accommodation, which it owns or manages (the condition is that it does not operate in the area of accommodation services); 3) a municipality or a higher territorial unit, if it provides free accommodation to the emigrant directly or through a budget organization or contribution organization within its scope of establishment, while the contribution is not provided to the state budget organization and state contribution organization.

As of April 1, 2024, the allowance for accommodation is provided to them in the amount of 6 euros for one night of accommodation for a foreigner. What's important, from July 1, 2024, juristic persons operating in the field of accommodation services are no longer entitled to the allowance for the accommodation of emigrants (conditions for receiving the accommodation allowance effective until June 30, 2024.²⁴

After applying for temporary protection, Ukrainian child can start school in Slovakia. As advised by the International Organization for Migration Information Center in Slovakia 'Visit the kindergarten, primary or secondary school where you would like to place your child. The school will check his/her level of education and knowledge of the Slovak language and place him/her in

²⁴ See <https://www.minv.sk/?prispevok-za-ubytovanie> [accessed: 18.07.2024].

the appropriate grade. Your child will also be provided with Slovak language tuition.²⁵ This advice is confirmed by materials prepared by the Ministry of Education, Research, Development and Youth of the Slovak Republic.²⁶

Ukrainian youth, especially those with temporary refugee status, can pursue free higher education in Slovakia if they are conducted in Slovak. Studies organised in other language than Slovak may be (and most often are) paid on general terms.²⁷

CONCLUSION

As in any other frontline country (even leaving aside the nuances of a political and geopolitical nature) Slovakia had to and still has to weigh and balance the need to open up to those in need, to refugees (regulated, among others, in humanitarian law *sensu largo*) with the need to ensure the broadly understood security of the state [Walczuk 2013, 293-306]. It turned out to be necessary to closely combine international and national (Slovak) regulations, resulting from the need to adapt (primarily) domestic law to the specific situation resulting from the need to immediately respond to the sudden influx of refugees (primarily women and children) from a country affected by armed operations.

The variability of the internal situation in Slovakia, the variability of the refugee structure, but also the prolongation of the actual war in Ukraine result in changes in Slovak law concerning the title issue. Awareness of this and knowledge of the content and direction of changes can help shape the law in other areas as well, both domestically and internationally.

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²⁵ Information and assistance in connection with the war in Ukraine.

²⁶ See <https://ukrajina.minedu.sk/data/att/c1b/24492.e4ea10.pdf> [accessed: 18.07.2024]. See also Píšová, Csiba, and Ďuranová 2022.

²⁷ See <https://www.studyinslovakia.saia.sk/en/main/study-in-slovakia/aid-for-ukrainian-refugees> [accessed: 18.07.2024].

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