

## **1. PROTECTION UNDER THE POLISH ACT**

On March 12, 2022, the Special Act<sup>1</sup> aimed at helping Ukrainian citizens coming directly to Poland was promulgated. **The act retroactively take effect on the date of February 24, 2022.** As at the date of March 25, 2022, the Special Act has been amended twice. The first amendment<sup>2</sup> removes the requirement to enter Poland directly, while the second one<sup>3</sup> introduces certain changes to the temporary care for children and establishes a record of those children who came to Poland without a guardian.

### **1.1. Who can legally stay in Poland on the basis of the Special Act?**

Pursuant to the Special Act, the stay is considered legal if the entry took place on February 24, 2022 or later and it occurred in connection with the hostilities in Ukraine. Moreover, the Special Act introduces a restriction related to the stay which should be considered legal:

- **the requirement of having Ukrainian citizenship or being a spouse of an Ukrainian citizen** (the status of persons without Ukrainian citizenship, who are not spouses of Ukrainian citizens and are escaping from Ukraine to Poland has not been regulated, which means that they cannot legalize their stay on the basis of the Special Act),

**Currently, the Special Act does not require entering the territory of Poland directly from Ukraine.** It was changed by the first amendment. **However, it was explicitly stated that the act does not apply to Ukrainian citizens who:**

- 1) have been granted a permanent residence permit, a long-term resident's EU residence permit, a temporary residence permit, refugee status, subsidiary protection, permit for tolerated stay; and**
- 2) have filed an application for international protection in Poland or on behalf of whom such an application has been submitted, or have declared submitting of such an application.**

Therefore, currently the Special Act also covers an indirect entry - through the territory of another state, e.g. from Ukraine to Hungary, from Hungary to Poland. It applies to people who entered Poland after February 24, 2022, and the exclusions indicated in the two points above do not apply to them.

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<sup>1</sup> Act of March 12, 2022 on assistance to Ukrainian citizens in connection with an armed conflict in the territory of that state (Journal of Laws of 2022, item 583).

<sup>2</sup> Act of March 23, 2022 amending the Act on assistance to Ukrainian citizens in connection with an armed conflict in the territory of that state and the Act - Law on Higher Education and Science (Journal of Laws of 2022, item 682), hereinafter: "**first amendment**".

<sup>3</sup> Act of March 23, 2022 amending the Act on assistance to Ukrainian citizens in connection with an armed conflict in the territory of that country (Journal of Laws of 2022, item 683), hereinafter: "**second amendment**".

## 1.2. Basic rules resulting from the Special Act

<p>1. What kind of stay is considered legal?</p>	<p>Pursuant to the Special Act, the stay is considered legal if the entry takes place after <b>February 24, 2022</b> in connection with the military actions in Ukraine. The latest date of entry entitling to legal stay will be specified in the executive regulation to the special act. The stay of a child born in Poland during the period in which the mother's stay is legal will be also considered legal. The right to legally stay will expire in the event of leaving Poland for a period of more than 1 month. IT IS NOT NECESSARY TO SUBMIT AN APPLICATION FOR LEGALIZATION OF STAY OR FOR TEMPORARY PROTECTION. IT WILL BE PROVIDED BY LAW IF THE CONDITIONS ARE FULFILLED.</p>
<p>2. Which formalities should be fulfilled first?</p>	<p>It is necessary to register the entry:</p> <ul style="list-style-type: none"> <li>- by the commanding officer of the Border Guard during border control, or</li> <li>- by submitting an application to any commune office for PESEL number (if the entry is not registered at the border).</li> </ul> <p>The deadline for submitting an application is <b>60 days</b> from entering Poland. In the case of a person who does not have full legal capacity, the application is submitted by a statutory representative. In the case of a child, the application is submitted by the person who actually provide the custody of the child.</p>
<p>3. What should you know in order to fill in the application for a PESEL number and registration?</p>	<ul style="list-style-type: none"> <li>- a template of application for granting PESEL number will be published in the Public Information Bulletin of the Ministry of Digitization;</li> <li>- a photo should be attached to the application;</li> <li>- fingerprints will be taken from the person submitting the application (not applicable to children under the age of 12 and persons from whom it is physically impossible);</li> <li>- PESEL number will be issued after the identification of the person's identity on the basis of available (including invalidated) documents such as a passport, ID card, but also a Pole's card or driving license, and in the case of children, also a birth certificate.</li> </ul>
<p>4. How long is the stay legal?</p>	<p><b>18 months</b> from February 24, 2022, i.e. until August 24, 2023.</p>

## 1.3. What kind of entitlements does the special act provide with?

Type of entitlement	Description	Legal basis
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<b>1. Assistance from the voivode and other authorities</b>	<p>The voivode should provide Ukrainian citizens with assistance consisting in: accommodation; providing all-day collective meals; providing transport to the places of accommodation or places where medical care is provided; financing of public transport, providing cleaning and personal hygiene products and other products.</p> <p>Other Polish authorities shall also provide similar assistance on their own.</p>	art. 12
<b>2. Performance of work</b>	<p>An Ukrainian citizen residing legally in Poland is entitled to work if his/her employer notifies the poviast labor office within 14 days about from the date he/she commences the work, that this person has been entrusted with work.</p>	art. 22
<b>3. Conducting of business activity</b>	<p>Ukrainian citizens legally residing in Poland may undertake and conduct business activity in its territory on the same terms as Polish citizens, but on condition that they have obtained a PESEL number (the procedure described in the previous table in points 2 and 3).</p>	art. 23
<b>4. Social benefits</b>	<p>Ukrainian citizens legally residing in Poland have the right to obtain the following benefits: family benefits, child-support benefit, "good start" benefits, benefit from family care capital, co-financing of a reduction in the fee for a child's stay in a nursery; they may also be granted with benefits under the provisions of the Act on social assistance, as well as material assistance for students specified in the Act on the education system.</p>	art. 26, 29-30, 53
<b>5. Benefit in the amount of PLN 300</b>	<p>An Ukrainian citizen legally residing in Poland, who has obtained a PESEL number, is entitled to a one-time cash benefit in the amount of PLN 300 per person (separately e.g. for parents and for children). In order to obtain it, a written application must be submitted to the competent commune office.</p>	art. 31
<b>6. Psychological and food assistance</b>	<p>An Ukrainian citizen residing legally in Poland has the right to obtain free psychological assistance - in order to obtain it, one should report to the appropriate commune office.</p>	art. 32 and 33

7. Rehabilitation for people with disabilities and medical assistance	An Ukrainian citizen residing legally in Poland may obtain free medical assistance to the same extent as Polish citizens (with minor exceptions). He/she is also entitled to receive benefits for people with disabilities.	art. 34-37
8. Granting a temporary residence permit	The procedure was described in the table below.	art. 38
9. Social scholarship for students	An Ukrainian citizen residing legally in Poland, who is a student, may apply for a social scholarship intended for Polish students.	art. 41 sec. 10-12
10. Extension of stay on the basis of a visa	<p>If an Ukrainian citizen stays in Poland on the basis of a visa or a temporary residence permit, e.g. when he came to Poland before February 24, 2022, and the visa or permit validity period ends after that date, it is extended by virtue of law to December 31, 2022.</p> <p>The validity of the residence card, identity document and tolerated stay permit shall be also extended in the same way.</p> <p>The extension occurs by the virtue of law, there is no need to submit any applications or perform other activities.</p>	art. 42
11. Admission to the universities	Polish and Ukrainian citizens who are students of a specific field of study at an Ukrainian university may apply for admission for the same year and field of study at a Polish university.	art. 45
12. Consent to practice the profession of a doctor, nurse	A citizen of Ukraine who is licensed to practice as a doctor, dentist, nurse or midwife may obtain the right to practice this profession in Poland after meeting the conditions set out in the Polish acts on these professions.	art. 61-64

#### 1.4. After an 18-month period of legal stay - a temporary residence permit

It shall be repeated that for the first 18 months from February 24, 2022, the stay of Ukrainian citizens in Poland is legal after meeting the conditions described above and does not require submitting additional applications. **However, in order to legalize a longer stay (over 18 months), it will be**

necessary to submit an application for a temporary residence permit, which is also provided for in the Special Act.

<p><b>1. How to submit an application for a temporary residence permit?</b></p>	<p>The application shall be submitted to the voivode competent for the place of residence of the citizen of Ukraine (e.g. persons staying in Warsaw will submit the application to the Mazowieckie voivode, and persons staying in Krakow - to the Malopolska voivode).</p> <p>The application must be submitted within the period from the expiry of 9 months from the date of entry to Poland until August 24, 2023 (e.g. if a person came to Poland on February 24, 2022, he/she may submit an application within the period from November 25, 2022. until August 24, 2023; and if he/she arrives in Poland on April 7, 2022, the deadline for submitting the application will start on January 8, 2023, and will also end on August 24, 2023).</p> <p>A citizen of Ukraine who has been granted a temporary residence permit is entitled to work in the territory of Poland without the requirement of a work permit.</p>
<p><b>2. How long is the temporary residence permit valid and what is it allowed for?</b></p>	<p>The temporary residence permit is valid for <b>3 years</b> from the date of its issue. It allows to stay and work in the territory of Poland without the requirement of obtaining a work permit.</p>

**2. TEMPORARY PROTECTION UNDER EUROPEAN UNION LAW**

In view of the war in Ukraine, the Council of the European Union by the executive decision of March 4, 2022<sup>4</sup> provided a solution consisting in granting the temporary protection to people escaping from Ukraine according to the principles mentioned below. This mechanism provides a broader catalog of people who can apply for protection in Poland than the Polish Special Act.

**2.1. What is a temporary protection?**

Temporary protection allows for considering the stay of people escaping from Ukraine legal **in any Member State of the European Union, regardless of how the person left Ukraine and through how many countries the person has traveled.**

Examples:

- A person who came to Poland through other countries, such as Hungary, may apply for temporary protection in Poland, if it decides to stay here.

<sup>4</sup>Council Implementing Decision (EU) 2022/382 of March 4, 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of temporary protection.

- A person who crossed the Ukrainian-Polish border, but decided to drive on, e.g. to Germany, may submit an application for temporary protection in Germany.

Temporary protection procedure shall not be confused with the procedure for granting of a refugee status, which is regulated by other provisions and is more complicated and time-consuming<sup>5</sup>!

## 2.2. How long does the temporary protection last?

The basic period of protection is **1 year**.

## 2.3. Who is entitled to the temporary protection?

**The implementing decision of the Council of the European Union introduces a broader list of persons who can obtain protection than the Special Act. It also includes the persons who do not have an Ukrainian citizenship and at the same time who are not spouses of a Ukrainian citizen, while these persons are not covered by the Special Act.** Persons who are entitled to protection are as follows:



## 2.4 Procedure for obtaining temporary protection in accordance with Polish law

<b>1. Eligible persons</b>	Persons indicated in the implementing decision of the Council of the EU of March 4, 2022 (point 2.3 above)	Art. 107 sec. 1 of the Act on
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<sup>5</sup>The so-called Dublin III Regulation, (Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 on 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);

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 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;

Directive 2013/32/EU of the European Parliament and of the Council of June 26, 2013 on common procedures for granting and withdrawing international protection;

Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland (consolidated text, Journal of Laws of 2021, item 1108).

		granting the protection to foreigners
2. What formalities should be completed?	<p>The entitled persons have the temporary protection granted under the law, it does not depend on the submission of an application, etc.</p> <p>However, <b>such person may, but does not have to, submit an application to the Head of the Office for Foreigners for a certificate confirming the use of temporary protection.</b></p> <p>Obtaining a PESEL number is possible, but not obligatory, and the lack of a PESEL number may make it impossible to take advantage of certain benefits or undertake certain activities (point 4 below).</p>	Art. 110 sec. 5 of the Act on granting the protection to foreigners
3. Obtaining a PESEL number	<p>People who have been registered in Poland for more than 30 days receive a PESEL number ex officio.</p> <p>Persons who have not been issued a PESEL ex officio may submit a written application to any commune office in Poland - in person or by proxy (in the Special Act - only in person). It is a free service. The application for a PESEL number on general terms is also available on government websites (<a href="https://www.gov.pl/web/gov/ubezpieczaj-numer-pesel-dla-cudzniemcow">https://www.gov.pl/web/gov/ubezpieczaj-numer-pesel-dla-cudzniemcow</a>).</p>	Art. 16 sec. 2 and 18 of the Population Register Act <sup>6</sup>
4. What is the PESEL number required for?	<p>A foreigner residing in Poland is not required to have a PESEL number, but under certain circumstances it is needed. First of all, it helps in verifying the identity of the person.</p> <p>In addition, an employee must have the PESEL number, because without it, the employer will not be able to make a tax settlement.</p> <p>If a person wants to run a business, he/she must submit an application for entry in the relevant register. While submitting it in electronic form, it is necessary to provide the PESEL number, while such an application may also be submitted in paper form to the commune office and under such circumstance the PESEL number is not needed (the</p>	<p>Art. 8 sec. 3 in fine of the CEIDG Act<sup>7</sup>;</p> <p>Art. 3 sec. 1 of the Act on the principles of identifying taxpayers<sup>8</sup></p>

<sup>6</sup>Act of September 24, 2010 on Population Register (Journal of Laws of 2021, item 510, as amended).

<sup>7</sup>Act of March 6, 2018 on the Central Register and Information on Economic Activity and the Information Point for Entrepreneurs (consolidated text, Journal of Laws of 2022, item 541 as amended).

<sup>8</sup>Act of October 13, 1995 on the principles of registration and identification of taxpayers and remitters (consolidated text, Journal of Laws of 2022, item 166).

	applicant's identity is checked on the basis of e.g. a passport).	
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## 2.5. What does the temporary protection provide with?

The scope of protection under the Special Act is presented below in comparison to the protection granted under Directive 2001/55/EC, the implementing decision of the Council of the European Union and the Polish Act on granting protection to foreigners.

	<b>According to the current wording of the Special Act, the Ukrainian citizens who came to Poland after February 24<sup>th</sup> in connection with hostilities (and their spouses) shall be covered by the Special Act, unless they have one of the statuses indicated on p. 1 in two points (e.g. permanent or temporary residence permit, refugee status).</b>	<b>Citizens of other countries who have escaped from Ukraine - temporary protection under the EU Council Directive and the Act on granting protection to foreigners</b>
<b>Legal stay</b>	Up to 18 months, after this period an application for temporary residence must be submitted.	For a period of one year (it is possible to extend it twice for 6 consecutive months).
<b>Obtaining a PESEL number</b>	Simplified procedure - based on the application completed on the form issued by the government, there is no need to demonstrate a legal interest.	Standard procedure for foreigners - based on an application where a legal interest must be demonstrated.
<b>Work and business activities</b>	The person can work without a work permit if the employer notifies the poviát labor office about it within 14 days.  It is also possible to undertake and conduct the business activity on its territory on the same terms as Polish citizens, however, on the condition of obtaining a PESEL number.	The person can perform the work without a work permit, as well as perform economic activity on the same terms as Polish citizens.
<b>One-time benefit</b>	A one-time benefit in the amount of PLN 300 granted to persons who have obtained a PESEL number, upon their	The Head of the Office for Foreigners grants a cash benefit if the accommodation, meals or medical care cannot be provided.




	application submitted to the commune office.	
<b>500+</b>	Ukrainian citizens are entitled, inter alia, to family benefits and 500+ child benefit.	Not entitled to.
<b>Accommodation and meals</b>	The voivode should provide, inter alia, accommodation and meals.	The Head of the Office for Foreigners provides, at the request of the protected person, medical care as well as accommodation and meals.
<b>Health insurance</b>	Health insurance is available just like for the insured Poles.	Medical assistance is provided by the Head of the Office for Foreigners by financing it by an appropriate medical facility.
<b>Psychological and food aid</b>	Entitled to.	Not entitled to.
<b>Rehabilitation of people with disabilities</b>	As for Polish citizens (with minor exceptions).	Not entitled to.
<b>Admission to the university</b>	A person who is a student in Ukraine may apply for admission to the relevant studies in Poland. It can also apply for a social scholarship for Polish students.	Not entitled to.

### **3. DECISION OF THE COUNCIL OF THE EUROPEAN UNION AND POLISH REGULATIONS**

Pursuant to the European Union law, each Member State of the European Union shall introduce its own regulations and procedures, on the basis of which it will be possible to cover the above-mentioned people with temporary protection. Currently the Polish Special Act does not limit the circle of eligible people to Ukrainian citizens who entered Poland directly from Ukraine, however, it includes the necessity of having the Ukrainian citizenship (or being the spouse of an Ukrainian citizen). The other categories of people (e.g. citizens of Ukraine who entered Poland from Ukraine) were not covered by the provisions of Special Act. The provisions of the implementing decision of the Council of the European Union and the provisions of the Act on granting protection to foreigners apply to them.

It means that Polish law has created **a dual system of entitlements depending on the status of a displaced person from Ukraine** – the first system (Special Act) covers the Ukrainian citizens who came to Poland - regardless of whether they entered Poland directly or indirectly - and their spouses



(with the exceptions indicated on p. 1 in points 1 and 2), while the second system (temporary protection) covers other displaced persons from Ukraine<sup>9</sup>.

**Examples:**

- Ukrainian citizens who obtained a permanent or temporary residence permit in Poland before February 24, then returned to Ukraine and re-entered Poland after February 24, will not be covered by the Special Act, but he/she shall be covered by the temporary protection under EU law.
- Person residing in Ukraine and not having Ukrainian citizenship, who arrived in Poland in connection with the war after February 24, will not be covered by the Special Act, but he/she shall be covered by the temporary protection under EU law.
- Person who does not have Ukrainian citizenship, and who is a husband or wife of a citizen of Ukraine, who came to Poland after February 24 in connection with the war, shall be covered by the Special Act.
- If a woman covered by the Special Act, after arriving in Poland, gives birth to a child, the stay of the child shall be also considered legal on the basis of the Special Act.

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<sup>9</sup> <https://www.gov.pl/web/udsc/weszla-w-zycie-ustawa-o-pomocy-obywatelom-ukrainy-w-zwiazku-z-konfliktem-zbrojnym-na-terytorium-tego-panstwa>