

Temporary Protection Poland

This annex on temporary protection complements and should be read together with the [AIDA Country Report on Poland](#). It was written by Maja Łysienia, with the support of Helsinki Foundation for Human Rights, and was edited by ECRE.

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Temporary Protection Procedure

A. General

The Temporary Protection Directive (TPD) was implemented into the Polish legal system in 2003,¹ in the Act of 21 July 2003 on the Protection of Foreigners in Poland (hereinafter: Act on Protection).² While some incoherences between the EU and Polish legal framework on temporary protection were identified back then,³ it may be concluded that the respective national law mostly followed the EU law.

When the Council Implementing Decision (EU) 2022/382 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 introducing temporary protection (hereinafter: Council Implementing Decision) has been adopted, for a short period of time, the temporary protection regime arising from the Act on Protection was applied to persons mentioned in Article 2 of the Council Implementing Decision. 77 Ukrainian nationals received certificates for temporary protection beneficiaries on a basis of Article 110(5) of the Act on Protection. They were invalidated with the introduction of a new temporary protection regime in March 2022.⁴

In response to the war in Ukraine and the activation of the TPD, Polish authorities decided to adopt a new law: the Act of 12 March 2022 on the Assistance to Ukrainian Nationals in relation to the Armed Conflict in this State⁵ (hereinafter: the Special Law). This law has been applied retroactively since 24 February 2022. Together with the Act on Protection, the new law implements TPD in Poland. However, it applies only to some persons displaced from Ukraine.

As a result, since March 2022, there are two temporary protection mechanisms in Poland⁶: a general one, arising from the Act on Protection (as changed in March 2022 and in the following months), and a special one, based on the Special Law. Both apply to persons fleeing the war in Ukraine who are eligible for temporary protection under the Council Implementing Decision and TPD, albeit they are applicable to different groups of beneficiaries (see [Qualification for temporary protection](#)). They also offer different rights to their beneficiaries. The status of a temporary protection beneficiary under the Act on Protection and under the Special Law are not the same, despite being based on the same EU legal acts.

Since the very beginning of the war, thousands of displaced persons have been crossing the Polish-Ukrainian border. In total, in 2022, 9,436,203 third-country nationals entered Poland via this border (in comparison with 4,145,434 in 2021).⁷ Only some of them were registered as temporary protection beneficiaries in Poland. In 2022, there were over 1.5 million special temporary protection beneficiaries.⁸ 1,301 persons enjoyed general temporary protection in 2022 in total, with 1,224 beneficiaries as of 31 December 2022.⁹

This chapter explains temporary protection law and practice in Poland until March 2023. Statistical data concern the year 2022.

¹ Rada Ministrów, 'Projekt ustawy o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej. Druk nr 1304', 2003, available in Polish here: <https://bit.ly/3fGJ1Dq>.

² Ustawa z dnia 13 czerwca 2003 r. o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej, available in Polish here: <https://bit.ly/3FoB4Nn>.

³ Noll G. and Gunneflo M., 'Directive 2001/55 Temporary Protection. Synthesis Report', Academic Network for Legal Studies on Immigration and Asylum in Europe. Study for the European Commission, 2007.

⁴ Information from the Office for Foreigners, 17 January 2023. See Article 100b of the Special Law.

⁵ Ustawa z dnia 12 marca 2022 r. o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa, available in Polish here: <https://bit.ly/3FoB4Nn>.

⁶ See Article 2(6-8) of the Special Law, clarifying that the Ukrainian nationals and their spouses covered by this act are considered to be enjoying temporary protection within the meaning of Article 106 of the Act on Protection, but their rights and obligations are specified in the Special Law, hence the Act on Protection is not applicable.

⁷ Border Guard's official statistics for 2022, published here: <https://bit.ly/3fDaMwB>.

⁸ Information provided by the Ministry of Digital Affairs, 1 March 2023.

⁹ Information from the Office for Foreigners, 17 January 2023.

B. Qualification for temporary protection

Only persons specifically mentioned in Article 2 of the Council Implementing Decision have been eligible for temporary protection in Poland.

Special temporary protection

Special temporary protection, arising from the Special Law, is available only to Ukrainian nationals, who reached Poland on or after 24 February 2022 due to the war in Ukraine, and some of their non-Ukrainian family members, i.e. their spouses and the closest family of the Ukrainian national who has a 'Poles Card' (*Karta Polaka* - a document confirming that a person concerned belongs to the Polish nation).¹⁰

With regard to family members, the following rules apply:

- ❖ Spouses of Ukrainian nationals are not eligible for special temporary protection if they have Polish or some other EU Member State citizenship.
- ❖ 'Unmarried partners in a stable relationship' (Article 2(4)(a) of the Council Implementing Decision) are not eligible for special temporary protection.
- ❖ The 'closest family' of the Ukrainian national who has a 'Poles Card' has not been defined in law, so it is unclear which family members are being considered to constitute this family.
- ❖ Minor unmarried children of Ukrainian nationals (or his/her spouse) (Article 2(4)(b) of the Council Implementing Decision) are not eligible for special temporary protection unless they are the closest family of the Ukrainian national who has a 'Poles Card' or they are born in Poland of a mother who is a temporary protection beneficiary.
- ❖ Children born in Poland whose mother enjoys temporary protection here are entitled to legal stay as long as the mother has this right. In 2022, this rule applied to approx. 5.360 children born in Poland.¹¹
- ❖ 'Other close relatives who lived together as part of the family unit at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent on' a Ukrainian national (Article 2(4)(c) of the Council Implementing Decision) may be eligible for this special temporary protection only if they are to be considered the 'closest family' of the Ukrainian national who has a 'Poles Card'.

The exclusion of some children and other close relatives of Ukrainian nationals from the personal scope of special temporary protection is incoherent with Article 2(4)(b-c) of the Council Implementing Decision. Arguably, these family members could still be recognised as temporary protection beneficiaries under the Act on Protection.¹² However, the official information of the Office for Foreigners does not mention them as persons eligible for general temporary protection.¹³

Initially, the personal scope of special temporary protection has been even further narrowed down by the requirement of a direct entry from Ukraine to Poland. Thus, Ukrainian nationals and their family members who escaped from Ukraine through other than the Polish border and subsequently travelled to Poland were not eligible for special temporary protection at first. The rule was incoherent with the EU law and was quickly repealed.

¹⁰ Article 1 and 2 of the Special Law. See also HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 2-3.

¹¹ Information provided by the Ministry of Digital Affairs, 1 March 2023.

¹² SIP, *Letter of 30 November 2022 to the European Commission*, available in English at: <https://bit.ly/3TgHaEX>, 2; W. Klaus and M. Górczyńska, 'Administration and Law', in: M. Bukowski and M. Duszczak (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 90.

¹³ Office for Foreigners, 'Ochrona czasowa dla cudzoziemców niebędących obywatelami Ukrainy', 23 March 2023, available in Polish here: <http://bit.ly/3Tf5Yx8>.

However, another limitation remains in force, despite its incoherence with the EU law.¹⁴ Ukrainian national or his/her spouse must enter Poland in a regular manner to qualify for an 18-month legal stay in Poland (and intertwined set of rights).

Moreover, some Ukrainian nationals are excluded from enjoying special temporary protection in Poland, i.e.:¹⁵

- ❖ holders of a temporary residence permit, permanent residence permit, EU long-term residence permit;¹⁶
- ❖ international protection beneficiaries;
- ❖ holders of a tolerated stay and humanitarian stay;
- ❖ asylum seekers (albeit a Ukrainian national who seeks asylum in Poland can withdraw his/her asylum application and again be eligible for temporary protection);¹⁷
- ❖ and, since 28 January 2023, temporary protection beneficiaries in other EU member states.¹⁸

The latter amendment reflects the earlier practice of Polish authorities which denied access to temporary protection in Poland to persons enjoying temporary protection in another Member State, irrespective of their personal circumstances, even when a person concerned renounced temporary protection in this other state. The practice was based on internal guidance that had no legal force and was contrary to EU law.¹⁹

General temporary protection

General temporary protection mechanism applies to persons mentioned in Article 2 of the Council Implementing Decision, who are not eligible for special temporary protection,²⁰ i.e.:

- ❖ stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022; with their family members, and
- ❖ stateless persons, and nationals of third countries other than Ukraine, who can prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit issued under Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin.

Stateless persons who do not have any document confirming their statelessness may have difficulty accessing temporary protection in Poland.²¹

Persons not enjoying temporary protection

Poland did not extend the personal scope of temporary protection to displaced persons from Ukraine other than the ones mentioned in Article 2 of the Council Implementing Decision. In particular, persons who came to Poland before 24 February 2022 are not covered by any of the temporary protection mechanisms.²² However, some special rules as regards their stay in Poland have been introduced in the Special Law.²³

¹⁴ SIP, *Letter of 30 November 2022 to the European Commission*, available in English at: <https://bit.ly/3TgHaEX>, 2.

¹⁵ Article 2(3) of the Special Law.

¹⁶ Since 28 January 2023, the Special Law specifies that applying for this permits does not result in the loss of temporary protection (Article 2(5a)).

¹⁷ Article 2(5) of the Special Law.

¹⁸ Article 2(3)⁽³⁾ and Article 11(4) of the Special Law, both in force since 28 January 2023.

¹⁹ HNLAC, 'Refugees from Ukraine: access to temporary protection in Poland after moving from another MS', 12 December 2022, available at: <http://bit.ly/3mTxGTY>.

²⁰ Office for Foreigners, 'Ochrona czasowa dla cudzoziemców niebędących obywatelami Ukrainy', 23 March 2023, available in Polish here: <http://bit.ly/3Tf5Yx8>.

²¹ HNLAC, 'Refugees from Ukraine: stateless persons and persons at risk of being stateless. Most important challenges', 21 November 2022, available at: <http://bit.ly/3Jgl2pN>.

²² See, critically, W. Klaus and M. Górczyńska, 'Administration and Law', in: M. Bukowski and M. Duszczyk (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 90.

²³ Articles 42, 44 of the Special Law.

- ❖ Validity of national visas issued to Ukrainian nationals was prolonged by law first to 31 December 2022, and then to 24 August 2023, if they were to expire after 24 February 2022. Such a prolonged visa did not entitle to cross a border unless the person concerned was a professional driver in international transportation.
- ❖ Validity of temporary residence permits issued to Ukrainian nationals was prolonged by law first to 31 December 2022, and then to 24 August 2023, if they were to expire after 24 February 2022.
- ❖ The 30-day period for leaving Poland applicable to Ukrainian nationals was prolonged by law until 24 August 2023, if it was to pass after 24 February 2022. In this prolonged period of legal stay, a person concerned could apply for a temporary, permanent or EU long-term residence permit.
- ❖ The period for a voluntary return determined in a decision concerning a Ukrainian national was prolonged by law until 24 August 2023, if it was to pass after 24 February 2022. In this prolonged period, a person concerned could apply for a temporary, permanent or EU long-term residence permit.
- ❖ The validity of residence permits (*karty pobytu*), Polish identity documents and tolerated stay documents of Ukrainian nationals was prolonged by law until 24 August 2023 if they were to expire after 24 February 2022. Such a prolonged residence permit does not entitle to cross a border.
- ❖ If a Ukrainian national came to Poland before 24 February 2022 on a basis of a Schengen visa, visa-free movement or other documents that entitle to travel in the EU, and the last day of his/her legal stay in Poland on this basis were to pass after 24 February 2022, his/her legal stay in Poland was prolonged by law until 24 August 2023.
- ❖ A 15-day permit to enter Poland given by the Border Guard at the Polish border to a Ukrainian national was prolonged by law by 18 months (for more, see [Admission to territory](#)).

Since August 2022, some Ukrainian nationals, i.e. drivers in international transport and pilots, can also obtain a national visa for work purposes during their stay in Poland. The visa is issued by the Ministry of Foreign Affairs. Since 28 December 2022, a humanitarian visa may be also issued for a Ukrainian national who entered Poland with a visa having the annotation “Polish Business Harbour”.²⁴

While some Ukrainian nationals, not eligible for temporary protection, could benefit from the above-mentioned solutions, third-country nationals who lived in Ukraine before 24 February 2022 and who were not mentioned in Article 2 of the Council Implementing Decision (e.g. students, temporary workers) were not eligible for any form of special protection in Poland. Some third-country nationals were detained upon crossing the Polish border²⁵ (the scope of detention of non-Ukrainian third-country nationals fleeing Ukraine is unknown: most of the detention centres declared that they do not gather such data or that they did not detain such persons; however, the detention centre in Lesznowola confirmed detaining 26 third-country nationals upon their escape from Ukraine, on average for 95 days).²⁶ Others were admitted to Poland for a 15-day stay and were left without any state support during that time. In practice, accommodation and other assistance for this group of displaced persons was provided by NGOs. Prolonging their legal stay upon 15 days was very difficult, if not impossible. HFHR noticed, for example, a particularly difficult situation of non-Ukrainian unaccompanied minors who struggled with legalizing their stay in Poland.²⁷

In 2022, 994 Ukrainian nationals received return decisions (including 137 due to national security and similar reasons), and 207 of them appealed against those decisions. The Border Guard declared that the

²⁴ See Article 79a of the Act on Foreigners and §§3-4 of the Ordinance of Minister of Foreign Affairs of 18 August 2022 (Rozporządzenie Ministra Spraw Zagranicznych, z dnia 18 sierpnia 2022 r. w sprawie wydawania wiz krajowych cudzoziemcom przebywającym na terytorium Rzeczypospolitej Polskiej), available in Polish at: <https://bit.ly/42ljvqW>.

²⁵ See e.g. Human Rights Commissioner, ‘Przedstawiciele BRPO w placówkach SG w województwach podkarpackim i lubelskim’, 5 March 2022, available in Polish here: <https://bit.ly/3M6f3qj>; SIP, Lambda Warsaw, Birmingham City University and Global Detention Project, *Third-party submission in the 4th cycle of Universal Periodic Review of Poland*, available in English at: <https://bit.ly/3LPC4MG>, 13.

²⁶ Information from different branches of SG from March 2023.

²⁷ HFHR, ‘Dzieci z pieczy zastępczej oraz małoletni bez opieki z Ukrainy: ocena ex-post regulacji i praktyki stosowania specustawy ukraińskiej’, October 2022, available in Polish here: <https://bit.ly/3HSqeA6>, 79-80.

returns to Ukraine were suspended since 25 February 2022 to the end of the year.²⁸ Since 28 January 2023, the Special Law specifies that until 24 August 2023, return proceedings may not be initiated against Ukrainian nationals and the initiated proceedings can be discontinued if it is in the interest of a concerned person. This rule is not applicable to return decisions issued for national security and similar reasons (Article 42b). SIP indicated that these safeguards are insufficient: the concerned persons are in legal limbo – impossible to return, but without a legal stay and a right to work.²⁹

Despite the suspension of returns to Ukraine, some Ukrainian nationals were detained in 2022.

Detention of Ukrainian nationals in 2022		
Detention centre	Number of detained Ukrainian nationals in 2022	Period on detention
Przemyśl	4	32, 126, 186 days, one person still detained in March 2023 since 6 October 2022
Krosno Odrzańskie	9 (8 persons arrested before 24.02.22)	20-58 days
Kętrzyn	0	-
Białystok	3	On average 15 days
Lesznowola	5	127 on average in the case of 3 released persons, 2 still detained in March 2023
Biała Podlaska	0	-

Source: Information from different branches of SG from March 2023.

All persons displaced from Ukraine could seek asylum in Poland. In practice, 1.778 Ukrainian nationals applied for international protection: 962 were granted subsidiary protection, 3 – were granted refugee status, and 33 – were refused international protection.³⁰ The number of other third-country nationals who came to Poland from Ukraine due to the war and sought asylum here is unknown (see [Access to asylum](#)).

C. Access to temporary protection and registration

1. Admission to territory

At the very beginning of the war in Ukraine, Poland swiftly opened its borders to displaced persons. Polish authorities widely informed that every person from Ukraine will be allowed to enter Poland and that they do not need to worry about documents normally required to cross a Polish border or to stay in Poland.³¹ Ukrainian nationals and other persons fleeing from Ukraine were admitted to Poland sometimes even without any formal check of their identity or registration of their arrival.³² However, in the first days of the

²⁸ Information from the Border Guard's Headquarters, 25 January 2023.

²⁹ SIP, *Letter to the Ministry of Internal Affairs and Administration*, 28 October 2022, available in Polish at: <https://bit.ly/3VHuyrT>, 10-11.

³⁰ SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English at: <https://bit.ly/3B8qWFW>, 12.

³¹ See e.g. Ministry of Internal Affairs and Administration, 'Minister Kamiński: Wszystkim naszym ukraińskim braciom okażemy solidarność i wsparcie', 24 February 2022, available in Polish here: <https://bit.ly/3MiER2F>; Office for Foreigners, 'Informacja w sprawie pobytu w Polsce osób uciekających z Ukrainy', 27 February 2022, available in Polish here: <https://bit.ly/3ppPsQ0>. See also Jaroszewicz M., Krępa M., 'Stabilisation of Emergency Measures: Poland's Refugee Reception System One Month After the Russian Attack on Ukraine', in M. Ineli-Ciger, S. Carrera (eds), *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, EUI 2023, available at: <https://bit.ly/3U4ii3X>, 166.

³² For this reason, the Special Law, in Article 3, provides for the possibility of the post-factum registration of entry to Poland. For more, see Registration under temporary protection. See also, as regards children travelling

war, displaced persons had to wait several dozens of hours (even up to 70 hours) to enter Poland due to long queues at the Ukrainian side of the border.³³

At the beginning of the war, cases of discrimination and racial profiling were reported at the border.³⁴ Some non-Ukrainian nationals, in particular foreign students, were not allowed by Ukrainian authorities to enter Poland; racist incidents were reported as well.³⁵ Moreover, non-Ukrainians were singled out by the Polish Border Guard from the groups of people crossing the border and subjected to a more detailed identity control lasting from a couple of hours to several days. Seeking asylum was possible, but some of those 'singled-out' third-country nationals were detained upon failed identity verification.³⁶ Already in the first month of the outbreak of the war, over 104,000 non-Ukrainians crossed the Polish-Ukrainian border.³⁷

Persons who had no entitlement to cross the Polish border (e.g. they were not entitled to the visa-free movement in the EU), were issued by the Border Guard with a special permit for up to 15-day-long stay in Poland.³⁸ Those permits, however, were only prolonged by law by 18 months with regard to Ukrainian nationals and some of their family members.³⁹ Other third-country nationals most often had to leave Poland before the expiration of the validity of this short-term permit. However, organizing travel in such a short time (e.g. obtaining a visa to another state, as the 15-day permit allowed only to enter and stay in Poland) proved difficult in practice.⁴⁰ In 2022, the Border Guard issued 1,321,240 special permits for up to 15-day-long stay in Poland at the Polish-Ukrainian border: 1,239,814 for Ukrainian nationals and 81,426 for other third-country nationals.⁴¹

While the admission of displaced persons to Poland at the very beginning of the war in Ukraine has not raised major concerns, soon the Polish Border Guard started to issue decisions on a refusal of entry at the Polish-Ukrainian border.⁴² In the period of March-December 2022, the Border Guard issued in total 14.063 decisions on a refusal of entry at this border. This number includes decisions issued as regards 11.745 Ukrainian nationals. In the same period, 12.894 Ukrainian nationals were denied entry to Poland

without parents to join their family members in Poland and beyond, who entered Poland without required documents and any registration, HFHR, 'Dzieci z pieczy zastępczej oraz małoletni bez opieki z Ukrainy: ocena ex-post regulacji i praktyki stosowania specustawy ukraińskiej', October 2022, available in Polish here: <https://bit.ly/3HSqeA6>, 12.

³³ HFHR, 'Sytuacja na granicy polsko-ukraińskiej. Raport z monitoringu. 26.02-2.03.2022', available in Polish here: <https://bit.ly/3LHuvci>, 2-3.

³⁴ Jaroszewicz M., Krępa M., 'Stabilisation of Emergency Measures: Poland's Refugee Reception System One Month After the Russian Attack on Ukraine', in M. Ineli-Ciger, S. Carrera (eds), *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, EUI 2023, available at: <https://bit.ly/3U4ii3X>, 167-168.

³⁵ Human Rights Commissioner, 'Granica UA-RP: odmienne traktowanie studentów z innych państw. RPO interweniuje w MSWIA. Resort wyjaśnia', 1 March 2022, available in Polish here: <https://bit.ly/3ACsJT8>. See also ECRE, 'Seeking Refuge in Poland: A Fact-Finding Report on Access to Asylum and Reception Conditions for Asylum Seekers', April 2023, available here: <https://bit.ly/41hGgdJ>, 20.

³⁶ Human Rights Commissioner, 'Przedstawiciele BRPO w placówkach SG w województwach podkarpackim i lubelskim', 5 March 2022, available in Polish here: <https://bit.ly/3Nu9Jy9>; HNLAC, 'Poland: Information for stateless people and those at risk of statelessness fleeing Ukraine', ENS, 6 April 2022, available at: <https://bit.ly/3M9z9zZ>, 1, 4.

³⁷ Klaus W. (ed), *Ustawa o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa. Komentarz*, Wolters Kluwer 2022, 26.

³⁸ Human Rights Commissioner, 'Kolejne wizyty przedstawicieli BRPO przy granicy polsko-ukraińskiej', 12 March 2022, available in Polish here: <https://bit.ly/3HqKsRk>. See Article 32 of the Act on Foreigners, based on Article 6(5)(c) of the Schengen Border Code. Article 44 of the Special Law.

³⁹ W. Klaus and M. Górczyńska, 'Administration and Law', in: M. Bukowski and M. Duszczuk (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 90. See also Jaroszewicz M., Krępa M., 'Stabilisation of Emergency Measures: Poland's Refugee Reception System One Month After the Russian Attack on Ukraine', in M. Ineli-Ciger, S. Carrera (eds), *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, EUI 2023, available at: <https://bit.ly/3U4ii3X>, 167.

⁴¹ Information from the Border Guard's Headquarters, 9 February 2023.

⁴² See also HIAS and R2P, 'The told me they couldn't help me... Protection Risks Facing Non-Ukrainian Asylum Seekers and Refugees Fleeing Ukraine to the EU', January 2023, available at: <https://bit.ly/3HOQYSc>, 5-6, referring to statements of a third-country national refused entry to Poland, and of a NGO by stating that 'since April 2022, the Ukraine-Poland border has operated the same as it did before February 2022: that is, there are no simplified procedures and there are strict border controls'.

if one considers all Polish external borders. According to the Border Guard, those decisions on a refusal of entry were, first of all, reasoned by exceeding the 90-day period for visa-free movement in the EU, and, secondly, the lack of documents entitling to entry, e.g. a visa or a residence permit. Several persons have been denied entry for national security reasons.⁴³

2022	Number of decisions on a refusal of entry issued at the Polish-Ukrainian border
March	54
April	331
May	1,052
June	1,734
July	2,805
August	1,494
September	1,905
October	1,742
November	1,651
December	1,295

Source: Information from the Border Guard's Headquarters, 9 February 2023.

In the period of March-December 2022, only 32 appeals against a decision on a refusal of entry were submitted by Ukrainian nationals; 29 third-country nationals appealed against this decision issued at the Polish-Ukrainian border.⁴⁴ An appeal against a decision on a refusal of entry is not an effective remedy – it lacks a suspensive effect – and is in general used rarely. Overall, as regards all decisions on a refusal of entry issued in 2022 in Poland (28.170), 80 appeals were submitted to the first-instance administrative appeal authority, and one onward appeal to a court. Only one appeal was considered justified by Polish authorities throughout the year.⁴⁵

According to the NGOs, persons seeking protection in Poland due to the war in Ukraine, including recognised temporary protection beneficiaries, were amongst those who had been denied entry at the Polish-Ukrainian border. Recognised temporary protection beneficiaries in Poland struggled with re-entry to Poland upon their temporary return to Ukraine. Those difficulties resulted from the unfavourable practice of the Border Guard and the incorrect implementation of the TPD in Poland⁴⁶ (see [Movement and mobility](#)).

In this context, it is worth noting that the Act on Protection provides for the possibility to issue – free-of-charge – a visa to a person enjoying temporary protection under the general mechanism.⁴⁷ No similar possibility has been guaranteed in the Special Law. However, the Act on Foreigners also mentions a visa issued in order to enjoy temporary protection.⁴⁸ In 2022, only one visa was requested and granted – to a Belarusian national – in connection with temporary protection.⁴⁹ Nevertheless, in 2022, overall, 352 Ukrainian nationals applied for a visa to Poland based on humanitarian reasons.⁵⁰ 346 of them received

⁴³ Information from the Border Guard's Headquarters, 9 February 2023. These data differ from the data provided by the same authority to SIP in 2022 and earlier in 2023 (see e.g. SIP, 'Disturbing refusals of entry at the Ukrainian border', 6 March 2023, available at: <https://bit.ly/3K0NoEI>; PRAB, 'Beaten, punished and pushed back', January 2023, available at: <https://bit.ly/432pqIm>, 12).

⁴⁴ Information from the Border Guard's Headquarters, 9 February 2023.

⁴⁵ SIP, Rule of Law Institute, 'Communication of the Association for Legal Intervention and the Rule of Law Institute on the execution of the M.K and Others v. Poland judgment', March 2023, available at: <https://bit.ly/3M8Ajvz>, 4-5.

⁴⁶ SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 3-4.

⁴⁷ Article 110(1-2) of the Act on Protection.

⁴⁸ Article 60(1)⁽²²⁾ of the Act on Foreigners.

⁴⁹ Information from the Ministry of Foreign Affairs, 31 January 2023.

⁵⁰ Based on Article 60(1)⁽²³⁾ of the Act on Foreigners.

this visa. 804 third-country nationals applied for a humanitarian visa in the Polish consulates located in Ukraine. 798 were granted this visa.⁵¹

2. Freedom of movement

No problems concerning moving within Poland by temporary protection beneficiaries were reported.

The journey towards other European countries was hindered by the lack of residence permits issued to Ukrainian nationals and their family members being special temporary protection beneficiaries (see [Residence permit](#)). Since July 2022, an electronic document 'Diia.pl' has been issued, but not to all children. Moreover, the 'Diia.pl' entitles to travel only with a valid passport (see [Movement and Mobility](#)).

3. Registration under temporary protection

Special temporary protection

Ukrainian nationals and some members of their family, who are eligible for temporary protection under the Special Law, can register with any of the local authorities (*organ wykonawczy gminy*) to obtain a special personal identification number 'PESEL UKR'.⁵² Obtaining this number is not mandatory, however, access to some rights is conditioned upon acquiring it. The first 'PESEL UKR' numbers were granted on 16 March 2022.⁵³ In 2022, approx. 1,502,620 persons were given 'PESEL UKR' in Poland. As of 31 December 2022, approx. 13,440 local officials were qualified to grant this number.⁵⁴

The application for the 'PESEL UKR' must be submitted in person and in writing. Exceptionally, due to the ill health or disability of an applicant, the application can be submitted in the place of his/her stay. For children, an application is submitted by their parents, caregivers, guardians, temporary guardians, or, if needed, *ex officio*. Applicants are fingerprinted, with some exceptions *inter alia* concerning children under 12 years old. Applications are also available in the Ukrainian language.

The application for the 'PESEL UKR' contains a declaration of the applicant that he/she entered Poland due to the war in Ukraine. Family members declare as well that they are a spouse of a Ukrainian national, or a member of the 'closest family' of a Ukrainian national having a 'Pole's Card', or a child born in Poland of a mother eligible for special temporary protection. Those declarations are made under the penalty of criminal responsibility.

An identity of Ukrainian nationals and their family members is established on a basis of a passport, Pole's Card, or another document with a photo that enables identification. In the case of children, birth certificates can be also accepted. Invalid documents may be also recognised if they enable identification. Due to the lack of identity documents, some beneficiaries, in particular from the Roma minority, struggled with accessing temporary protection.⁵⁵

Initially, the Special Law did not specify whether Ukrainian nationals or their family members who already had a PESEL number in Poland,⁵⁶ could obtain 'PESEL UKR'. Local authorities, not finding the answer in law, approached the matter diversely. In consequence, some Ukrainian nationals and their family members could not register as special temporary protection beneficiaries.⁵⁷ Article 4(1a) of the Special Law, added in April 2022, clarified that a person who has a PESEL number can receive a 'PESEL UKR'.

⁵¹ Information from the Ministry of Foreign Affairs, 31 January 2023.

⁵² Article 4 of the Special Law.

⁵³ Ministry of Internal Affairs and Administration, 'Ruszył proces nadawania numeru PESEL uchodźcom wojennym z Ukrainy', 16 March 2022, available in Polish here: <https://bit.ly/3M9dqrG>.

⁵⁴ Information provided by the Ministry of Digital Affairs, 1 March 2023.

⁵⁵ Human Rights Commissioner, 'Systemowo chronić grupy wrażliwe wśród uchodźców z Ukrainy. Odpowiedź pełnomocnika rządu ds. uchodźców z Ukrainy', 8 April and 13 July 2022, available in Polish here: <https://bit.ly/3NRnp6g>.

⁵⁶ A PESEL number is given to all Polish nationals and some foreigners who live or lived in Poland.

⁵⁷ SIP, 'We are working for equal access to rights and benefits for Ukrainian citizens', 14 June 2022, available at: <https://bit.ly/3B9thAm>.

In 2022, there was no specific time-limit to apply for a 'PESEL UKR'. However, if a person concerned would like to have his/her entry to Poland registered by the Border Guard,⁵⁸ an application for 'PESEL UKR' had to be submitted no later than 90 days upon arrival to Poland.⁵⁹ Since 28 January 2023, the 90-day time limit has been removed from the Special Law, but the 30-day time limit (from arrival to Poland) to apply for a 'PESEL UKR' has been introduced.⁶⁰ Moreover, a Ukrainian national who entered Poland between 24 February 2022 and 28 January 2023, and who did not apply for a 'PESEL UKR' before the latter date, could apply for it only within 30 days from 28 January 2023.⁶¹

Human Rights Commissioner reported in 2022 long waiting periods – of even a couple of months – for obtaining a PESEL number by Ukrainian nationals and members of their family. It hampered access to some rights, in particular social welfare.⁶²

Ukrainian nationals and their family members could acquire a written confirmation that they obtained a 'PESEL UKR' (albeit this right was also questioned by some authorities). However, they had no access to residence permits at least until July 2022 (see [Residence permit](#)).

The Special Law states that local authorities refuse to give 'PESEL UKR' in three situations: when a photo submitted with an application is incorrect; when fingerprints were not taken and no exceptions to fingerprinting apply; and when a person concerned did not disclose having an identity document despite having one. Appealing against this decision to the second instance administrative authority is excluded.⁶³ It is unclear whether a judicial remedy is available in those circumstances.⁶⁴

The Special Law does not provide a clear answer to the question of how local authorities should act if a person concerned is considered not eligible for temporary protection. The lack of clear legal rules again resulted in diverse practices throughout the country. In practice, as NGOs informed, Ukrainian nationals and their family members, who were refused to be issued with a 'PESEL UKR', were often informed about that only orally, no decision had been issued and no remedy was made available.⁶⁵

⁵⁸ It was particularly important for persons who entered Poland at the beginning of the war. Back then, not all arrivals were registered at the border. Thus, in Article 3, the Special Law offered a possibility to have the arrival to Poland registered post-factum. In 2022, 1,280,977 applications under Article 3(1) of the Special Law were registered by the Polish Border Guard, 753,853 were accepted and 527,124 were rejected (information from the Border Guard's Headquarters, 9 February 2023).

⁵⁹ Article 3(2) of the Special Law.

⁶⁰ Article 4(2) of the Special Law since 28 January 2023. The change has been criticized by NGOs as not justified and only making the beneficiaries' lives harder, see SIP, Letter to the Ministry of Internal Affairs and Administration, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 2-3.

⁶¹ Article 22 of the Act of 13 January 2023 amending the Special Law (Ustawa z dnia 13 stycznia 2023 r. o zmianie ustawy o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa oraz niektórych innych ustaw), available in Polish here: <https://bit.ly/42xC9vc>.

⁶² Human Rights Commissioner, 'Kolejki po PESEL przyczyną nierównego dostępu uchodźców do świadczeń. RPO pisze do minister Małag. Resort odpowiada', 6 and 29 April 2022, available in Polish here: <https://bit.ly/44ECTR3>. See also Jaroszewicz M., Krępa M., 'Stabilisation of Emergency Measures: Poland's Refugee Reception System One Month After the Russian Attack on Ukraine', in M. Ineli-Ciger, S. Carrera (eds), *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, EUI 2023, available at: <https://bit.ly/3U4ii3X>, 169.

⁶³ Article 4(16-17) of the Special Law.

⁶⁴ Klaus W. (ed), *Ustawa o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa. Komentarz*, Wolters Kluwer 2022, 53. Cf. HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 6.

⁶⁵ See e.g. HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 6; HFHR, *Input to the EUAA's Asylum Report*, February 2023, available in English here: <https://bit.ly/44EE82F>, 8; SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 3; HNLAC, 'Refugees from Ukraine: access to temporary protection in Poland after moving from another MS', 12 December 2022, available at: <https://bit.ly/44GKVJ8>.

The Ministry of Digital Affairs does not collect data as regards the number of applications for the 'PESEL UKR', only data concerning the given numbers are gathered.⁶⁶ Thus, it is unknown how many persons were refused to be issued with this number in practice.

General temporary protection

The Head of the Office for Foreigners issues a certificate confirming that a person concerned enjoys temporary protection in Poland upon that person's request.⁶⁷ There is no deadline to make such a request. There are no other rules provided for in the Act on Protection as regards the registration of persons enjoying temporary protection under a general mechanism. No procedure regarding registration and recognition has been established in the law. In particular, the Act on Protection does not specify what documents a person concerned must present to receive a certificate confirming that he/she enjoys temporary protection in Poland.

In practice, in 2022, persons willing to be recognised as temporary protection beneficiaries under the Act on Protection could personally inform about that the Office for Foreigners – in Warsaw or in Biała Podlaska and sometimes other locations – or send an application by letter or online. According to the Office for Foreigners, to be recognised as temporary protection beneficiaries, they had to submit the following documents:

- ❖ Identity documents;
- ❖ Documents confirming that a person concerned was an international protection beneficiary in Ukraine or had a permanent residence permit there, as well as that they left Ukraine on or after 24 February 2022 (in particular, travel document);
- ❖ A statement that a person concerned is unable to return in safe and durable conditions to their country or region of origin;
- ❖ Other documents, if needed, e.g. school certificates, birth certificates, concerning living in Ukraine, especially documents confirming family relations.⁶⁸

As of 31 December 2022, 36 employees were responsible for issuing certificates to general temporary protection beneficiaries.⁶⁹

Stateless persons who do not have any document confirming their statelessness may have difficulties accessing temporary protection in Poland.⁷⁰

The Office for Foreigners does not gather information with regards to the length of the waiting period for the certificate to be issued.⁷¹ It is unknown how long beneficiaries had to wait for the certificate.

The Act on Protection does not provide for any appeal procedure in case of a denial of issuing a certificate (in case of not being recognised as a person enjoying temporary protection). The Office for Foreigners claims that in such a case a decision is issued that can be appealed to the Head of the Office for Foreigners (for a reconsideration) or directly to the administrative courts.⁷² However, the Office for Foreigners does not have data as regards the number of persons who applied for temporary protection under the Act on Protection, nor the information about the number of decisions on the refusal of issuing a certificate for temporary protection beneficiaries, or about the number of appeals that had been submitted and their results. Thus, it is unknown how many persons were denied protection, and whether and to what extent the abovementioned remedy has been used in practice.

⁶⁶ Information provided by the Ministry of Digital Affairs, 1 March 2023.

⁶⁷ Article 110(5) of the Act on Protection.

⁶⁸ Information from the Office for Foreigners, 17 January 2023, and published by the Office online: <https://bit.ly/3B9frOs> and <https://bit.ly/3B5eYge>.

⁶⁹ Information from the Office for Foreigners, 17 January 2023.

⁷⁰ HNLAC, 'Refugees from Ukraine: stateless persons and persons at risk of being stateless. Most important challenges', 21 November 2022, available at: <http://bit.ly/3Jgl2pN>.

⁷¹ Information from the Office for Foreigners, 17 January 2023.

⁷² Ibid. See also governmental information published here: <https://bit.ly/3B9frOs>.

4. Legal assistance

Under the Special Law, only temporary guardians and unaccompanied minors enjoying temporary protection in Poland (see [Guarantees for vulnerable groups](#)) have an explicit right to access legal assistance. They can benefit from the general legal aid system, in the same way as Polish citizens.⁷³ Apart from that, no state legal assistance has been guaranteed in the temporary protection law. State legal aid system for asylum seekers and persons deprived of international protection is not available to persons displaced from Ukraine (unless they apply for international protection).

In practice, in 2022, legal aid has been provided *pro bono* to Ukrainian nationals and other persons fleeing the war in Ukraine by NGOs, law associations and individual lawyers.⁷⁴ To name some initiatives of Polish civil society organizations, SIP created a special portal where questions about the law applicable to temporary protection beneficiaries and other persons fleeing the war in Ukraine, could have been asked. The answers were published online.⁷⁵ Another NGO, HNLAC, provided free legal aid for Ukrainian nationals in 13 different locations and operated a dedicated helpline.⁷⁶

The provision of legal assistance to temporary protection beneficiaries and other persons fleeing the war in Ukraine was hampered by the fact that the Polish law on temporary protection is of low quality, faulty, ambiguous, and overly complicated. Moreover, as of 31 March 2023, the Special Law has been changed 15 times.

5. Information provision and access to NGOs

Under the Special Law, there are no specific rules as regards the information provision for persons enjoying temporary protection.

Under Article 111 of the Act on Protection, a temporary protection beneficiary must be informed in the language that he/she understands about the procedure concerning temporary protection, as well as about his/her rights and obligations in this context. Since 15 April 2022, this information may be published online, on the website of the Office for Foreigners. In practice, some information about eligibility, residence permit, social and medical assistance, employment, and education has been published on this website. It is available in four languages: Ukrainian, Russian, English and Polish.⁷⁷

Moreover, under Article 118(2) of the Act on Protection, the Head of the Office for Foreigners is obliged to inform a temporary protection beneficiary in a language that he/she understands about all circumstances that may be of significance when a person concerned considers returning to his/her country of origin. However, this provision applies only after a temporary protection ends; thus, it has not been applied in practice yet.

In practice, in 2022, information for Ukrainian nationals and other persons fleeing the war in Ukraine has been mostly provided by NGOs and local authorities.⁷⁸ Access to information was particularly difficult in

⁷³ Article 25(3aa) of the Special Law.

⁷⁴ E.g. SIP informed that from 24 February 2022 until the end of the year, it assisted over 3.500 persons fleeing the war in Ukraine (SIP Facebook post of 12 February 2023); HNLAC, with supporting attorneys-at-law, provided assistance to over 300 persons until the end of June 2022: 'Dziękujemy prawnikom pro bono za pomoc prawną dla uchodźców z Ukrainy!', <https://bit.ly/3HrkfSJ>. See also legal assistance coordinated by the Krajowa Izba Radców Prawnych: <https://bit.ly/44HmV8Q>, and Naczelna Rada Adwokacka: <https://bit.ly/3LjABxX>. See also HFHR, *Input to the EUAA's Asylum Report*, February 2023, available in English here: <https://bit.ly/3VgXwOZ>, 4.

⁷⁵ See <https://bit.ly/3B91hgf>. Over 600 answers were published at this website in 3 languages; it is daily used by over 2.000 persons (SIP Facebook post of 12 February 2023).

⁷⁶ HNLAC, 'Refugees from Ukraine: stateless persons and persons at risk of being stateless. Most important challenges', 21 November 2022, available at: <http://bit.ly/3Jgl2pN>.

⁷⁷ See Office for Foreigners' website: <https://bit.ly/41dRZu0>.

⁷⁸ For example, see S. Jarosz and W. Klaus (eds), 'Polska szkoła pomagania', Konsorcjum Migracyjne, OBMF and CeBaM 2023, available in Polish here: <https://bit.ly/3pmsAB0>, 29-30.

the first days of the war.⁷⁹ To provide quick access to important information, SIP created a special portal – in Ukrainian, English and Polish – where questions about the law applicable to temporary protection beneficiaries and other persons fleeing the war in Ukraine, were asked and answered. IOM also activated a special website - in Polish and Ukrainian language – concerning legal employment in Poland.⁸⁰ NGOs also published leaflets and brochures with the information needed by persons fleeing the war in Ukraine, concerning e.g.:

1. unaccompanied minors from Ukraine;⁸¹
2. financial allowances for Ukrainian nationals who came to Poland on or after 24 February 2022;⁸² and
3. financial allowances for persons with disabilities, including those having 'PESEL UKR'.⁸³

Despite those efforts, there is still a lot of chaos and disinformation with regard to the legal situation of persons displaced from Ukraine staying in Poland.⁸⁴

D. Guarantees for vulnerable groups

Under the Special Law and the Act on Protection, there is no identification mechanism provided for to systematically identify temporary protection beneficiaries with special reception or procedural needs arising from their vulnerability.

In April 2022, the Polish Human Rights Commissioner called for providing adequate protection to vulnerable persons displaced from Ukraine, in particular women and girls at risk of human trafficking, elderly, disabled persons and Roma community. In July 2022, the Polish government answered that the protection of vulnerable persons from Ukraine is sufficient.⁸⁵

Special temporary protection

Unaccompanied minors

Until 13 January 2023, in total 633.660 minors were given a 'PESEL UKR'. Most of them were accompanied by a parent, however, according to the Ministry of Digital Affairs, at least 3.690 were unaccompanied.

Legal guardian	Number of children with a 'PESEL UKR' in 2022
Mother	Approx. 559,290
Father	Approx. 21,720
Temporary guardian	Approx. 3,340
Guardian	Approx. 350
Other factual guardians or lack of data	Approx. 48,960

Source: Data provided by the the Ministry of Digital Affairs, 1 March 2023.

⁷⁹ See e.g. HFHR, *Input to the EUAA's Asylum Report*, February 2023, available in English here: <https://bit.ly/3VgXwOZ>, 3-4.

⁸⁰ See <https://bit.ly/3B91hgf> and <https://bit.ly/3pcF12b>.

⁸¹ SIP, 'Udostępniamy broszurę Dziecko bez opieki w Polsce i Ukrainie', 28 April 2022, available in Polish and Ukrainian here: <https://bit.ly/3Vjxpaf>.

⁸² SIP, UNHCR, 'Świadczenia dla obywateli i obywaterek Ukrainy – broszura', January 2023, available in Polish and Ukrainian here: <https://bit.ly/3LLYf6C>.

⁸³ HNLAC, 'Świadczenia dla cudzoziemców z niepełnosprawnością, w tym dla osób Z PESEL UKR', available in Polish and Ukrainian: <https://bit.ly/41mgx41>.

⁸⁴ HFHR, *Input to the EUAA's Asylum Report*, February 2023, available in English here: <https://bit.ly/44EE82F>, 4.

⁸⁵ Human Rights Commissioner, 'Systemowo chronić grupy wrażliwe wśród uchodźców z Ukrainy. Odpowiedź pełnomocnika rządu ds. uchodźców z Ukrainy', 8 April and 13 July 2022, available in Polish here: <https://bit.ly/3NRnp6g>.

In response to an influx of unaccompanied minor Ukrainian nationals, a special registry was established.⁸⁶ In 2022, 485 unaccompanied Ukrainian children, and 2.750 minors who benefited from foster care in Ukraine, were registered in this registry. As of 31 December 2022, 436 unaccompanied Ukrainian children, and 2.367 minors who benefited from foster care in Ukraine, were registered.⁸⁷ According to the NGOs, not all unaccompanied minors are inscribed in this registry due to the gaps in law and in practice.⁸⁸

For Ukrainian unaccompanied minors, a special, new solution was introduced: a temporary guardian. Under Article 25 of the Special Law, a temporary guardian represents a Ukrainian unaccompanied minor and has custody over his/her person and property. Important decisions concerning an unaccompanied minor and his/her property require the court's consent. Temporary guardians should be supervised by local authorities, but they struggle with fulfilling this obligation in practice.

A temporary guardian should be a child's relative or, at least, a person guaranteeing the proper performance of duties. One person can be a temporary guardian for more than one unaccompanied minor. Siblings should have one temporary guardian. If a minor was in foster care in Ukraine and came to Poland with his/her caregiver, this person is appointed as a temporary guardian in Poland. Temporary guardians taking care of more than 15 minors are supported by Polish authorities (i.e. an additional person is hired by local authorities to help those temporary guardians).⁸⁹

Temporary guardians are appointed by courts. The child's best interest should be taken into account. Proceedings on temporary guardianship are initiated *ex officio* or on motion and should last up to 3 days. A court hears a candidate for a guardian, and a child concerned, if his/her mental development, state of health and degree of maturity allows for it. A court should take into account the minor's opinion where possible. In particularly justified cases, a court can limit the proceedings to the documents' analysis. In 2022, 555 temporary guardians were registered and 2.382 Ukrainian unaccompanied minors had a temporary guardian appointed. As of 31 December 2022, 507 temporary guardians were registered and 2.128 Ukrainian unaccompanied minors had a temporary guardian appointed.⁹⁰

Furthermore, a minor special temporary protection beneficiary can be taken care of by a foster family or be accommodated in a family children's home created or run by another special temporary protection beneficiary even though the latter does not fulfil all legal requirements in this regard (i.e. he/she is lacking a proper training). Moreover, in justified cases, a care and education facility can be opened – only for Ukrainian children – without fulfilling legal requirements in this regard. Special rules have been also established to enable Ukrainian nationals enjoying special temporary protection to work in the Polish foster care system.⁹¹

In March 2022, the Border Guard established a special procedure applied when an unaccompanied minor is crossing the Polish-Ukrainian border. Those internal guidelines were sent to the border check points on 21 March 2022.⁹²

In June 2022, Ukrainian and Polish Social Policy Ministries signed a political declaration concerning the situation of Ukrainian children in Poland. The Ministries agreed to support a voluntary return of those children to Ukraine, to exchange needed information, to register all Ukrainian unaccompanied children staying in Poland in the special registry, to not initiate, and suspend initiated, adoption procedures concerning Ukrainian children, and to provide free legal assistance and all relevant information to

⁸⁶ Article 25a-25b of the Special Law.

⁸⁷ Information from the Ministry of Family and Social Affairs, 16 January 2023.

⁸⁸ SIP, *Letter to the Ministry of Internal Affairs and Administration*, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 17.

⁸⁹ Article 25(3c) of the Special Law.

⁹⁰ Information from the Ministry of Family and Social Affairs, 16 January 2023.

⁹¹ Article 27 of the Special Law.

⁹² Human Rights Commissioner, 'Systemowo chronić grupy wrażliwe wśród uchodźców z Ukrainy. Odpowiedź pełnomocnika rządu ds. uchodźców z Ukrainy', 8 April and 13 July 2022, available in Polish here: <https://bit.ly/3NRnp6g>.

Ukrainian children staying in Poland. Moreover, Poland declared that it intends to provide 'high quality care for children from Ukrainian institutions'.⁹³

In October 2022, Helsinki Foundation for Human Rights published a report concerning unaccompanied minors from Ukraine staying in Poland.⁹⁴ HFHR noticed that many children crossed the Polish border – in particular in the first days of the war – alone or with some caregivers (e.g. neighbours, friends of the family, or strangers) to join their parents or family members in Poland and beyond. Documents, normally required in those circumstances (e.g. a notary-certified agreement of the parent for this travel), were not checked; children were often not registered. Moreover, children from Ukrainian institutions were moved to Poland without or with insufficient control of Polish authorities. The Special Law, with its possibility of appointing a temporary guardian, offered a prompt solution to provide unaccompanied minors with some care and protection. However, those new rules are far from being perfect. First, the courts struggle to decide on temporary guardianship in 3 days. Evidentiary proceedings are insufficient in some cases. Second, there are no rules concerning relieving of duties of a temporary guardian, even in case of violence towards children or children being joined by their parents. Third, temporary guardians are not adequately controlled. HFHR also highlighted a particularly difficult situation of non-Ukrainian unaccompanied minors. They are not entitled to special temporary protection and they often remain in Poland irregularly. Moreover, the Polish foster care standards do not apply to children from Ukrainian foster care institutions. Lastly, the new rules facilitating access to foster care by decreasing the requirements in this regard, raise major concerns, according to the NGO.

In practice, cases of violence used by temporary guardians towards their wards were reported. Moreover, the temporary guardianship system was attempted to be used for potentially criminal purposes. Men were reported pressing on social welfare services to insert their names to the list of candidates for temporary guardians, but only for young girls. Those men argued that they cannot be denied due to the lack of rules concerning the candidates provided for in law.⁹⁵

In December 2022, NGOs alarmed Polish authorities about the dangers and needs of unaccompanied minors displaced from Ukraine and staying in Poland.⁹⁶ The civil society called for *inter alia*:

- ❖ Adopting clear rules as regards the appointment, control, time limits and relieve of duties of temporary guardians,
- ❖ More transparent and comprehensive data collection as regards those minors and their temporary guardians,
- ❖ Providing needed assistance to minors from Ukrainian foster care who reached the age of majority,
- ❖ Abolition of double standards between Polish and Ukrainian minors in foster care,
- ❖ Monitoring of the foster care personnel from Ukraine,
- ❖ Unifying the rules concerning temporary protection to all its minor beneficiaries (there are different rules for children from Ukraine and for other minor beneficiaries).

Torture survivors and traumatised beneficiaries

By law, Ukrainian nationals and their family members enjoying special temporary protection can access the general healthcare system in Poland (see [Health care](#)). Furthermore, Ukrainian psychologists have been allowed to provide psychological assistance to their compatriots until 24 August 2023.⁹⁷ Moreover, a special temporary protection beneficiary *may* be provided with free-of-charge psychological assistance.

⁹³ Ministry of Family and Social Affairs, 'Polskie i ukraińskie ministerstwa podpisały deklarację w sprawie ochrony dzieci', 30 June 2022, available here in Polish, with the declaration in English: <https://bit.ly/3nQZvx7>.

⁹⁴ HFHR, 'Dzieci z pieczy zastępczej oraz małoletni bez opieki z Ukrainy: ocena ex-post regulacji i praktyki stosowania specustawy ukraińskiej', October 2022, available in Polish here: <https://bit.ly/3HSqeA6>.

⁹⁵ Klaus W. (ed), *Ustawa o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa. Komentarz*, Wolters Kluwer 2022, 193-194.

⁹⁶ SIP, 'Protection of unaccompanied children from Ukraine in Poland – what should be improved', 6 March 2023, available at: <https://bit.ly/3NSA1tX>.

⁹⁷ Article 64a of the Special Law. See also Human Rights Commissioner, 'Ukraincom chorującym psychicznie potrzebna jest pilna pomoc. RPO apeluje do premiera. MRiPS informuje: będzie zmiana specustawy', 25 March and 8 April 2022, available in Polish here: <https://bit.ly/3BaMCRQ>.

However, providing this assistance is at the discretion of local authorities.⁹⁸ Psychological assistance is only guaranteed by law with regard to temporary guardians and unaccompanied minors under their care who benefited from the Ukrainian foster care system.⁹⁹ The general discretion of authorities as regards the provision of psychological assistance and the gross limitation of the personal scope of this assistance, is considered to be against Article 13(4) of the TPD.¹⁰⁰

Accommodation

The vulnerability of some temporary protection beneficiaries has been noticed in the rules concerning their accommodation in Poland. First, the Special Law provides for a financial allowance for persons who offered accommodation and food to special temporary protection beneficiaries (see [Housing](#)). This assistance is limited to 120 days, but it may be prolonged if it concerns:

- a. Persons with disabilities,
- b. Elderly;
- c. Pregnant women and mothers of children of up to 1 year old,
- d. Single parents taking care of three or more children,
- e. Unaccompanied minors.¹⁰¹

Second, since 1 March 2023, the cost-free accommodation for special temporary protection beneficiaries is limited to 120 days, afterwards, they must co-participate in the costs of accommodation (for more, see [Housing](#)). However, this rule does not apply to:

- a. Persons with disabilities,
- b. Elderly;
- c. Pregnant women and mothers of children of up to 1 year old,
- d. Single parents taking care of three or more children,
- e. Minors,
- f. Persons in a difficult individual situation that prevents them from contributing to the costs.¹⁰²

On the other hand, Roma from Ukraine have been particularly exposed to discrimination when accessing accommodation and other assistance in Poland. In September 2022, Amnesty International informed that it received several reports of Roma from Ukraine being not able to access reception centres financed or managed by Polish authorities. Those who managed to be accommodated in those centres informed about the discrimination they experienced there. Persons working in the centres denied them information and assistance, granted less material support (e.g. clothes) or food, and accused them of stealing while having no proof. Meanwhile, finding a private accommodation proved to be more challenging for this group of third-country nationals, also due to the persisting prejudice towards Roma in the Polish society.¹⁰³ Some Roma were forced to depend on accommodation provided by civil society organizations. Salam Lab was running a hostel in Cracow for the Roma community from Ukraine from 1 April to 13 May 2022; it accommodated in total approx. 250 persons during this short period.¹⁰⁴

⁹⁸ Article 32 of the Special Law.

⁹⁹ Article 25(3b) of the Special Law.

¹⁰⁰ SIP, *Letter to the Ministry of Internal Affairs and Administration*, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 18-19.

¹⁰¹ Article 13 of the Special Law and §4 of the Ordinance of 4 May 2022 (Rozporządzenie Rady Ministrów z dnia 4 maja 2022 r. w sprawie maksymalnej wysokości świadczenia pieniężnego przysługującego z tytułu zapewnienia zakwaterowania i wyżywienia obywatelom Ukrainy oraz warunków przyznawania tego świadczenia i przedłużania jego wypłaty, available in Polish here: <https://bit.ly/3HUFRai>.

¹⁰² Article 12(17c) of the Special Law.

¹⁰³ AI, 'Polska: „Przyjechaliśmy tu, nie chcieli nas wpuścić”. Romowie z Ukrainy traktowani jak niechciani uchodźcy', 27 September 2022, available in Polish here: <https://bit.ly/3ppA1HT>. See also Human Rights Commissioner, 'Systemowo chronić grupy wrażliwe wśród uchodźców z Ukrainy. Odpowiedź pełnomocnika rządu ds. uchodźców z Ukrainy', 8 April and 13 July 2022, available in Polish here: <https://bit.ly/3NRnp6g>.

¹⁰⁴ Salam Lab, 'Wiosna w Salam Lab. Oto, co udało nam się zdziałać w kwietniu', 30 April 2022, available in Polish here: <https://bit.ly/41lj0Mb>; B. Dybała, J. Tęcza-Ćwierz, 'Ukraińscy Romowie: Uciekliśmy przed tą samą wojną', *Gazeta Krakowska*, 3 June 2022, available in Polish here: <https://bit.ly/3BaI3Xs>.

Persons with disabilities

Under Article 4(2) of the Special Law, persons with disabilities can apply for a 'PESEL UKR' in their place of stay, e.g. an apartment or reception centre. They can be accommodated by Polish authorities without any time limits and the obligation of co-payment. If they live privately, their landlord can receive a financial allowance for more than 120 days (see above). The Special Law also enables financing support for persons with disabilities from some public funds.¹⁰⁵ Governmental programs offering special assistants to persons with disabilities were changed to include Ukrainian nationals with disabilities. Moreover, special reception centres for persons with disabilities were created in two voivodeships: podkarpackie and lubelskie.¹⁰⁶

In May 2022, the Human Rights Commissioner noticed that assistance for persons with disabilities displaced from Ukraine is mostly provided by NGOs. He considered the state's support for those persons insufficient and not adapted to their special needs.¹⁰⁷ In particular, Ukrainian certificates of disability are not recognised in Poland. To access some forms of assistance for persons with disabilities, a decision in this regard, issued by the competent Polish authorities, is required. No special rules have been established to facilitate Ukrainian nationals' recognition of disability in Poland. Meanwhile, they struggle with obtaining the medical documentation required in these proceedings. The Polish government disagreed with the Commissioner's analysis of the situation. It stated that no evidentiary problems were reported and, as of September 2022, 5,830 Ukrainian nationals applied for being recognised as a person with disability, 3,776 received positive decision, 109 appealed from a first-instance decision.¹⁰⁸

General temporary protection

Procedural guarantees for vulnerable groups provided for in Article 106-118a of the Act on Protection are scarce and they only concern children. In 2022, 224 minors benefited from general temporary protection in Poland.¹⁰⁹

For an unaccompanied temporary protection beneficiary, a guardian is appointed by a court on the motion of the Head of the Office for Foreigners.¹¹⁰ A relative of a minor can be his/her guardian. Only in justified cases, an unrelated person may be indicated as a guardian in the Head of the Office for Foreigner's motion. A court has 3 days to issue a decision. It should hear a candidate for a guardian and a child concerned, if his/her mental development, state of health and degree of maturity allows for it. A court should take into account the minor's opinion where possible. In particularly justified cases, a court can limit the proceedings to the documents' analysis.

Children staying in the reception centres should have access to food adapted to their age.¹¹¹

General temporary protection beneficiaries have access to the same medical assistance as asylum seekers. For years, it has been criticized. In particular, the specialised treatment for victims of torture or traumatised third-country nationals is not available in practice (see [Reception - Health care](#)).

¹⁰⁵ Articles 26a, 34-36 of the Special Law.

¹⁰⁶ Human Rights Commissioner, 'Jak wspierać uchodźców z Ukrainy z niepełnosprawnościami. Odpowiedź min. Pawła Szefernakera', 5 May and 27 December 2022, available in Polish here: <https://bit.ly/44Ac5Bs>.

¹⁰⁷ Ibid.

¹⁰⁸ Human Rights Commissioner, 'Problemy uchodźców z Ukrainy z uzyskaniem orzeczeń o niepełnosprawności. Rzecznik interweniuje w MRiPS. Odpowiedź resortu', 29 June and 5 October 2022, available in Polish here: <https://bit.ly/3LPC8fD>. See also HFHR, *Input to the EUAA's Asylum Report*, February 2023, available in English here: <https://bit.ly/44EE82F>, 16.

¹⁰⁹ Information from the Office for Foreigners, 17 January 2023.

¹¹⁰ Article 113 of the Act on Protection.

¹¹¹ Article 112(7) of the Act on Protection.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of temporary protection?
Special TP: 18 months
General TP: Duration of TP
2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive as of 31 December 2022?
Special TP: 288,850, General TP: 1,244

Special temporary protection

Ukrainian nationals and some of their family members who entered Poland legally on or after 24 February 2022 due to the war in Ukraine, provided that they declare the intention to stay in Poland, are entitled to a legal stay in Poland for 18 months starting with 24 February 2022. A child born in Poland by a mother enjoying special temporary protection in Poland, is legally staying in Poland too. Those rules respectively apply to closest family of a Ukrainian national who has a 'Pole's Card'.¹¹²

Until July 2022, Ukrainian nationals and some of their family members who were recognised as temporary protection beneficiaries in Poland were not given any residence permit, in violation of Article 8 of the TPD.¹¹³

In July 2022, the electronic document 'Diia.pl' was introduced and notified to the European Commission as a residence permit required under the TPD.¹¹⁴ However, in 2022, children, in particular those under 13 years old, struggled with accessing the 'Diia.pl'. Persons excluded digitally struggled with this solution too.¹¹⁵ Only in March 2023, the Special Law was changed so as to enable children some access to 'Diia.pl' (through their parents' mobile application), but as of 20 April 2023 the amendment was not in force yet.¹¹⁶

'Diia.pl' is accessible only after the temporary protection beneficiary obtains the 'PESEL UKR' (see [Registration under temporary protection](#)). For this purpose, he/she can access the mobile application 'mObywatel'.¹¹⁷

As of 31 March 2023, 'Diia.pl' is valid for the period for which special temporary protection was granted, so 18 months counted from 24 February 2022. However, if a person concerned loses the 'PESEL UKR', 'Diia.pl' is invalidated as well.¹¹⁸ In particular, a temporary protection beneficiary loses his/her status upon

¹¹² Article 2(1-2) of the Special Law.

¹¹³ Commissioner for Human Rights, 'Trudności uchodźców przy ponownym wjeździe do Polski po powrocie do Ukrainy. Odpowiedź MSWiA', 22 August 2022, available at: <https://bit.ly/3Mf065N>; SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 3; HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 3-4.

¹¹⁴ Ministry of Internal Affairs and Administration, 'Diia.pl – elektroniczny dokument dla uchodźców wojennych z Ukrainy', 22 July 2022, available in Polish here: <https://bit.ly/41eqEld>. See also European Commission. Update of the list of residence permits referred to in Article 2(16) of Regulation (EU) 2016/399 of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code). 2022/C 304/05.

¹¹⁵ SIP, Letter to the Polish Parliament, 9 December 2022, available in Polish here: <https://bit.ly/3HUXhnc>, 16; Human Rights Commissioner, 'Aplikacja potwierdzająca status uchodźcy z Ukrainy nie dla osób poniżej 13. roku życia. Marcin Wiącek pisze do MSWiA', 24 March 2023, available in Polish here: <https://bit.ly/436wA84>.

¹¹⁶ Article 10(1a-1d) of the Special Law.

¹¹⁷ Article 10 of the Special Law.

¹¹⁸ However, the respective rules in this regard were only introduced by the amendment of the Special Law of 13 January 2023.

being absent from Poland for 30 days.¹¹⁹ Since 28 January 2023, the status is also lost if a person concerned enjoys temporary protection in another EU Member State¹²⁰ (see [Movement and Mobility](#)).

In 2022, approx. 1,502,620 persons were given 'PESEL UKR' in Poland. In addition, children born in Poland whose mother enjoys temporary protection here are entitled to legal stay as long as the mother has this right. In 2022, this rule applied to approx. 5,360 children born in Poland. However, as of 31 December 2022, only approx. 288,850 temporary protection beneficiaries had access to 'Diia.pl', and another 215,432 persons did not instal 'Diia.pl' despite having this possibility.¹²¹ Thus, approx. only one-third of persons enjoying special temporary protection had a residence permit at the end of the year. Moreover, in 2022, 2,380 beneficiaries lost 'Diia.pl' due to their 'PESEL UKR' being withdrawn.¹²²

Only since 28 January 2023, the Special Law clearly states that 'Diia.pl', with a travel document, entitles its holder to travel without a visa.¹²³ It is the only right directly associated with this residence permit. Some of the rights of the temporary protection beneficiaries are conditioned upon obtaining the 'PESEL UKR', e.g. rights to run a business (Article 23(2) of the Special Law, see [Access to labour market](#)), to continue with accommodation organised by Polish authorities beyond 120 days (Article 12(17a), since 1 March 2023, see [Housing](#)), and to some financial allowances and social aid (Articles 26(2), 29(1), 31(1) of the Special Law, see [Social Welfare](#)). Access to medical assistance is facilitated by obtaining 'PESEL UKR' (Article 37(1a) of the Special Law, see [Health care](#)).

In addition to the legal stay for 18 months (and the electronic document 'Diia.pl'), Articles 38 and 39 of the Special Law, as adopted in March 2022, offered temporary protection beneficiaries an easy access to a temporary residence permit. Upon a 9-month stay in Poland, they could apply for a 3-year residence permit, including a right to work. However, just before the first applications for this permit were about to be submitted, in November 2022, the Polish government announced that this possibility is to be withdrawn. Articles 38 and 39 have been repealed by the amendment of the Special Law of 13 January 2023 (in force since 28 January 2023). All the applications for a three-year residence permit submitted before that date were left without consideration.¹²⁴ Instead, the facilitated possibility to apply for a one-year temporary residence permit was introduced on 28 January 2023. It should be issued until 24 August 2023 (Article 42a of the Special Law). Moreover, since 1 April 2023, special temporary protection beneficiaries can apply in a facilitated manner for a temporary residence permit related to their work or business run in Poland. In both cases though, obtaining a temporary residence permit means losing temporary protection in Poland (Article 2(3)^{(1)(c)} of the Special Law).

General temporary protection

Under Article 110(5-9) of the Act on Protection, temporary protection beneficiaries¹²⁵ may receive, upon request, a certificate confirming that they enjoy temporary protection in Poland. It is free of charge and it is valid for a duration of temporary protection (it is prolonged by law if temporary protection is extended in the EU). Thus, in February 2023, the Office for Foreigners informed that temporary protection beneficiaries should not apply for new certificates despite their validity being determined as until 4 March 2023. Their validity was automatically prolonged at least until 4 September 2023.¹²⁶

¹¹⁹ Article 11(2) of the Special Law.

¹²⁰ Article 110(9)(4) and Article 110(10-11) of the Act on Protection, in force since 28 January 2023.

¹²¹ Information provided by the Ministry of Digital Affairs, 1 March 2023.

¹²² Ibid.

¹²³ Article 10(7) of the Special Law.

¹²⁴ Article 25 of the Act of 13 January 2023 amending the Special Law (Ustawa z dnia 13 stycznia 2023 r. o zmianie ustawy o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa oraz niektórych innych ustaw), available in Polish here: <https://bit.ly/42xC9vc>. See also critical comments concerning this amendment, SIP, *Letter to the Ministry of Internal Affairs and Administration*, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 7-10.

¹²⁵ Since 28 January 2023, the Act in Protection, in Article 110(7a), provides for a right to this certificate for a child of a temporary protection beneficiary born in Poland.

¹²⁶ Office for Foreigners, 'Przedłużenie obowiązywania ochrony czasowej', 15 February 2023, available in Polish here: <https://bit.ly/3Ba3WpY>.

By law, the certificate is invalidated if its holder receives a decision refusing him/her temporary protection due to national security considerations; or moves to another EU Member State under the right to family reunification. However, no certificate was invalidated in 2022.¹²⁷ Since 28 January 2023, the certificate is also invalidated if its holder receives a residence permit for temporary protection beneficiaries in another EU Member State.¹²⁸

This certificate is the only proof of being recognised as a general temporary protection beneficiary in Poland. It also confirms the beneficiaries' right to stay in Poland. In July 2022, it was notified to the European Commission as a residence permit required under Article 8 of the TPD.¹²⁹ However, it has been contested whether it can be a residence permit within this meaning.¹³⁰ Moreover, only since 28 January 2023, the Act on Protection clearly states that this certificate, with a travel document, entitles its holder to travel without a visa. Moreover, access to medical assistance, as well as accommodation and food (or financial allowance), is conditioned upon obtaining this certificate.¹³¹

Until 25 January 2023, submitting an application for a certificate to be issued, was not necessary. A person concerned could orally inform the Office for Foreigners that he/she is a temporary protection beneficiary (see [Registration for temporary protection](#)).¹³² Since 25 January 2023, the application for the issuance of the certificate must be submitted in writing: in person in the Office for Foreigners, sent by letter or submitted online.¹³³ Copies of the required documents should be submitted with the application; the originals are expected to be presented in the Office for Foreigners before the certificate's collection.¹³⁴

In 2022, in total, 1.301 third-country nationals have been registered as temporary protection beneficiaries under the Act on Protection, thus received a certificate that confirms their status (including 77 Ukrainian nationals whose certificates have been invalidated upon the entry into force of the Special Law¹³⁵). 224 of registered beneficiaries were minors. As of 31 December 2022, 1.224 third-country nationals were having a valid certificate confirming that they were enjoying temporary protection (mostly from Russia – 445, and Belarus – 200).¹³⁶

2. Access to asylum

Special temporary protection

In 2022, in total, 1,778 Ukrainian nationals applied for international protection. 962 Ukrainian nationals were granted subsidiary protection, 3 Ukrainian nationals were granted refugee status, and 33 – were refused international protection.¹³⁷ The positive decisions seem to be mostly justified by the fact that there is a serious and individual threat to a civilian's life or person by reason of indiscriminate violence due to the armed conflict ongoing in Ukraine.¹³⁸

¹²⁷ Information from the Office for Foreigners, 17 January 2023.

¹²⁸ Article 110(9)(4) and Article 110(10-11) of the Act on Protection, in force since 28 January 2023.

¹²⁹ European Commission. *Update of the list of residence permits referred to in Article 2(16) of Regulation (EU) 2016/399 of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)*. 2022/C 304/05.

¹³⁰ HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 4.

¹³¹ Article 112(1) and (9) of the Act of Protection.

¹³² Office for Foreigners, 'Dodatkowe miejsca wydawania zaświadczeń o ochronie czasowej', 13 May 2022, available in Polish here: <https://bit.ly/3B5eYge>.

¹³³ Office for Foreigners, 'Zmiana zasad wydawania zaświadczeń o ochronie czasowej', 18 January 2023, available in Polish here: <https://bit.ly/42kstEz>.

¹³⁴ Information from the Office for Foreigners, 17 January 2023, and published by the Office online: <https://bit.ly/3B9frOs>.

¹³⁵ See Article 100b of the Special Law.

¹³⁶ Information from the Office for Foreigners, 17 January 2023.

¹³⁷ SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English here: <https://bit.ly/3B8qWFW>, 20.

¹³⁸ SIP, 'Subsidiary protection for Ukrainian citizens', 24 August 2022, available at: <https://bit.ly/3LOc5oV>.

Ukrainian nationals and their family members who applied for international protection in Poland, as well as Ukrainian nationals recognised in Poland as refugees and subsidiary protection beneficiaries, cannot enjoy temporary protection at the same time.¹³⁹ However, a Ukrainian national or his/her family member can withdraw his/her asylum application and again be eligible for temporary protection.¹⁴⁰ Thus, special temporary protection and international protection are exclusive.

In 2022, the Polish Border Guard informed about 36 cases of applying for asylum by special temporary protection beneficiaries.¹⁴¹ Upon such information, the 'PESEL UKR' is withdrawn.¹⁴²

When temporary protection ends, its beneficiaries will have the possibility to apply for international protection in Poland.

General temporary protection

The Act on Protection does not preclude seeking international protection by temporary protection beneficiaries under a general mechanism. Article 112(1b) of the Act, indirectly confirms that the conjuncture of asylum proceedings and temporary protection is possible. Under this provision, medical assistance as well as accommodation and food (or financial allowance) for temporary protection beneficiaries is not provided if a person concerned benefits from material reception conditions for asylum seekers. There is no information on the number of general temporary protection beneficiaries who also applied for asylum.

If a general temporary protection beneficiary applies for international protection, general rules concerning asylum proceedings are applicable.

It is unknown how many non-Ukrainian third-country nationals who came to Poland from Ukraine due to the war sought asylum here but did not qualify for temporary protection.

B. Family reunification

Special temporary protection

Contrary to Article 15 of the Temporary Protection Directive, there is no right to family reunification under the Special Law.¹⁴³ Ukrainian nationals cannot apply for family reunification with their family members neither staying in another EU Member State nor in Ukraine. The calls of NGOs for the right to family reunification to be guaranteed in the Polish law for Ukrainian nationals fleeing the war in their country have been ignored.¹⁴⁴

General temporary protection

The Act on Protection provides for a right to family reunification for temporary protection beneficiaries. Under Article 117(1), if a spouse or a child of this beneficiary stays outside Poland, the Head of the Office for Foreigners takes actions to reunite the family. The Head of the Office for Foreigners may take those actions in regard to other close relatives who directly before coming to Poland lived together as part of the family unit, and who were wholly or mainly dependent on the temporary protection beneficiary (Article

¹³⁹ Article 2(3) of the Special Law.

¹⁴⁰ Article 2(5) of the Special Law.

¹⁴¹ Information from the Border Guard's Headquarters, 9 February 2023.

¹⁴² Article 4(17a)⁽³⁾ of the Special Law.

¹⁴³ SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 6; HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 7.

¹⁴⁴ See e.g. SIP, *Letter to the Polish Parliament*, 9 December 2022, available in Polish here: <https://bit.ly/3HUXhnc>, 20.

117(2) of the Act on Protection). However, the actions that the Head of the Office is supposed to be taking are not specified in law.

The Head of the Office for Foreigners may also apply to another EU Member State asking for the temporary protection beneficiaries' transfer to that state in order to reunite a family therein. Such a transfer is realised only upon consent of the beneficiary (Articles 117a-117b of the Act on Protection).

The rules as regards family reunification provided for in the Act on Protection are insufficient. In particular, there are no rules concerning: the initiation of the family reunification proceedings, the documents that have to be submitted (e.g. concerning family ties), the form and time limits for the decision that is made by the Head of the Office for Foreigners, and appeal proceedings. The lack of procedural rules in this regard may make the right to family reunification illusory.¹⁴⁵ This conclusion is indirectly confirmed by the information provided by the Office for Foreigners. In 2022, no applications for family reunification were submitted to the Office for Foreigners and no temporary protection beneficiary was reunited with his/her family.¹⁴⁶

C. Movement and mobility

Movement within Poland

Temporary protection beneficiaries – both under the Special Law and the Act on Protection – have freedom of movement within Poland. The same minor limitations that apply to asylum seekers (see [Reception, Freedom of movement](#)) also apply to the beneficiaries of temporary protection who are accommodated in the reception centres (only 6 persons in 2022, see [Housing](#)).

Movement to other EU Member States

Special temporary protection

In the first months upon the beginning of the war in Ukraine, travel to other EU Member States was hampered by the fact that Ukrainian nationals and their family members enjoying special temporary protection in Poland had no access to a residence permit (see [Residence permit](#)).¹⁴⁷ Only in July 2022, the electronic document 'Diia.pl' was introduced and notified to the European Commission. However, in 2022, children, in particular those under 13 years old, struggled with accessing the 'Diia.pl'¹⁴⁸ (see [Residence permit](#)). Moreover, only since 28 January 2023, the Special Law clearly states that 'Diia.pl', with a travel document, entitles its holder to multiple travels without a visa.¹⁴⁹

Since 28 January 2023, a temporary protection beneficiary loses his/her status in Poland, if he/she enjoys temporary protection in another EU Member State. In those circumstances, his/her 'PESEL UKR' is withdrawn.¹⁵⁰ The Special Law amendment dated 13 January 2023 stated also that Ukrainian nationals who were registered as temporary protection beneficiaries in Poland, but were granted temporary protection in another EU Member State as of 28 January 2023, lost their temporary protection in Poland on the same date.¹⁵¹

¹⁴⁵ SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English here: <https://bit.ly/3B8qWFW>, 15.

¹⁴⁶ Information provided by the Office for Foreigners, 17 January 2023.

¹⁴⁷ HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 4.

¹⁴⁸ SIP, *Letter to the Polish Parliament*, 9 December 2022, available in Polish here: <https://bit.ly/3HUXhnc>, 16; Human Rights Commissioner, 'Aplikacja potwierdzająca status uchodźcy z Ukrainy nie dla osób poniżej 13. roku życia. Marcin Wiącek pisze do MSWiA', 24 March 2023, available in Polish here: <https://bit.ly/436wA84>. Article 10(7) of the Special Law.

¹⁴⁹ Article 11(4) in conjunction with Article 4(17a)(4) of the Special Law.

¹⁵¹ Article 23 of the Act of 13 January 2023 amending the Special Law (Ustawa z dnia 13 stycznia 2023 r. o zmianie ustawy o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa oraz niektórych innych ustaw), available in Polish here: <https://bit.ly/42xC9vc>.

Moreover, a temporary protection beneficiary loses his/her status ('PESEL UKR') upon the 30-day absence in Poland.¹⁵² This rule applies to all absences in Poland, so also to travels to other EU Member States. It has been considered against the EU law (as an unjustified limitation to a right to free movement within the EU).¹⁵³ If a temporary protection beneficiary departs from Poland for a longer period than 30 days via an internal border of the EU, he/she may inform the respective authorities about this departure, including where and when he/she is going. Upon such notification, the 'PESEL UKR' is withdrawn.¹⁵⁴ Such a withdrawal was reported in 2022 in approx. 4.000 cases.¹⁵⁵

If a person concerned confirms that his/her absence in Poland was no longer than 30 days, the 'PESEL UKR' may be restored.¹⁵⁶ If a person concerned loses temporary protection due to the fact that he/she enjoys this protection in another EU Member State or due to the over 30-day absence in Poland, the 'PESEL UKR' may be re-granted, if a person again comes to Poland due to the war in Ukraine (see below, [movement to and from Ukraine](#)).

Temporary protection beneficiaries in other Member States who subsequently wanted to benefit from temporary protection in Poland struggled with accessing this protection upon arrival to Poland (see [Qualification for temporary protection](#)).

General temporary protection

Only in July 2022, the certificate for temporary protection beneficiaries issued under the Act on Protection was notified to the European Commission (see [Residence permit](#)). Beforehand, general temporary protection beneficiaries could have faced issues while travelling to another country.

Since 28 January 2023, a temporary protection beneficiary loses his/her status in Poland, if he/she enjoys temporary protection in another EU Member State. In those circumstances, his/her certificate is invalidated.¹⁵⁷ Re-granting temporary protection after invalidating the certificate for temporary protection beneficiaries has not been regulated in the Act on Protection. As yet, no information concerning practice in this regard is available.

Movement to and from Ukraine

Special temporary protection

The movement to and from Ukraine was hampered throughout the year. In particular, in the period of March-December 2022, the Border Guard issued 14.063 decisions on a refusal of entry at the Polish-Ukrainian border. This number includes decisions issued as regards 11.745 Ukrainian nationals (see [Admission to territory](#)), both first-time entrants and recognised temporary protection beneficiaries. With regard to the latter, those difficulties resulted from the unfavourable practice of the Border Guard and the incorrect implementation of the TPD in Poland.¹⁵⁸

- ❖ Until July 2022, Ukrainian nationals and their family members who were recognised as special temporary protection beneficiaries were not given any residence permit, in violation of Article 8 of the TPD (see [Residence permit](#)). In consequence, if they returned temporarily to Ukraine and then again tried to enter Poland, they might have been requested at the Polish border for a visa or a residence permit and/or their right to visa-free movement in the EU was checked. Thus, some

¹⁵² Article 11(2) in conjunction with Article 4(17a)(1) of the Special Law. Before 28 January 2023, it was 'one month'.

¹⁵³ HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 5.

¹⁵⁴ Article 4(17c-17d) of the Special Law.

¹⁵⁵ Information provided by the Ministry of Digital Affairs, 1 March 2023.

¹⁵⁶ Article 4(17b) of the Special Law.

¹⁵⁷ Article 11(4) in conjunction with Article 4(17a)(4) of the Special Law. Article 110(10-11) of the Act on Protection.

¹⁵⁸ SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 3-4.

temporary protection beneficiaries who had exhausted their right to a visa-free stay in the EU and had not a valid visa were denied entry to Poland despite their temporary protection status therein. They had no residence permit to show at the border checkpoint that would confirm their status and entitle them to re-enter Poland.¹⁵⁹

- ❖ In July 2022, the electronic document 'Diia.pl' was introduced and notified as a residence permit to the European Commission (see [Residence permit](#)). With a valid passport, the 'Diia.pl' entitles to crossing a Polish border.¹⁶⁰ However, in 2022, children, in particular those under 13 years old, struggled with accessing the 'Diia.pl'. The Border Guard claimed though that a child having temporary protection in Poland wanting to re-enter Poland with his/her parent who presents a valid 'Diia.pl', will be allowed to enter by issuing him/her a special 15-day permit under Article 32 of the Act on Foreigners (see [Admission to territory](#)).

22,834 border crossings to Ukraine and 69,631 border crossings back to Poland on a basis of a document 'Diia.pl' were registered in 2022.¹⁶¹

- ❖ Temporary protection beneficiaries have been denied entry to Poland if they stayed in Ukraine for a period longer than one month/30 days.¹⁶² Under Polish law, the temporary protection status ('PESEL UKR') is withdrawn then,¹⁶³ so the 'Diia.pl' also becomes invalid.¹⁶⁴

If a person concerned confirms that his/her absence in Poland was no longer than 30 days, the 'PESEL UKR' may be restored.¹⁶⁵ However, in practice, Ukrainian nationals face difficulties with proving that they did not leave Poland for over a month.¹⁶⁶

Moreover, if a person concerned loses temporary protection due to the over 30-day absence in Poland, the 'PESEL UKR' may be re-granted, if a person again comes to Poland due to the war in Ukraine. However, the fact of departure from Ukraine must be registered in the special registry run by the Border Guard, which is problematic (see below). Granting again 'PESEL UKR' should be automatic, if a person concerned entered Poland from Ukraine (via EU external border). The 'PESEL UKR' may be also re-granted on motion.¹⁶⁷ In 2022, approx. 18,980 persons were automatically re-granted 'PESEL UKR', while approx. 19,950 persons were given this number back on motion.¹⁶⁸

- ❖ Furthermore, some temporary protection beneficiaries claimed in 2022 that they were denied entry to Poland despite being away for periods shorter than one month. It resulted from an unfavourable practice of the Border Guard that registered all departures from Poland of those beneficiaries, but only some of their returns to Poland.¹⁶⁹ Border Guard required at the border checkpoint a direct and clear declaration that a person concerned was entering Poland due to the war in Ukraine, even if he/she was a temporary protection beneficiary in Poland. Ukrainian nationals were often unaware that such a declaration was expected. If it was lacking, their return to Poland was not inscribed into the special registry. It could result in the loss of temporary protection status because the one-month period abroad is only interrupted by inscribing the return to Poland to this special registry. Persons concerned were sometimes unaware that their return had not been properly registered and they were surprised by the fact that they are no longer temporary protection beneficiaries in Poland, *inter alia*, upon another attempt to re-enter Poland

¹⁵⁹ SIP, 'People who fled from Ukraine should be allowed to re-enter Poland – SIP's opinion', 19 July 2022, available at: <https://bit.ly/3MqBzZB>; Commissioner for Human Rights, 'Trudności uchodźców przy ponownym wjeździe do Polski po powrocie do Ukrainy. Odpowiedź MSWiA', 22 August 2022, available at: <https://bit.ly/3Mf065N>.

¹⁶⁰ This has been clarified in Article 10(7) of the Special Law, added only in January 2023.

¹⁶¹ Information from the Border Guard's Headquarters, 9 February 2023.

¹⁶² Commissioner for Human Rights, 'Trudności uchodźców przy ponownym wjeździe do Polski po powrocie do Ukrainy. Odpowiedź MSWiA', 22 August 2022, available at: <https://bit.ly/3Mf065N>.

¹⁶³ Article 11(2) in conjunction with Article 4(17a)₍₁₎ of the Special Law. As of 28 January 2023, the law states that it is '30 days' instead of 'one month'.

¹⁶⁴ However, it has been clarified only in the amendment of the Special Law of 13 January 2023, in Article 10(8) of the Special Law (as of 26 March 2023, not yet in force).

¹⁶⁵ Article 4(17b) of the Special Law.

¹⁶⁶ Human Rights Commissioner, 'Uchodźcy z Ukrainy są błędnie pozbawiani statusu uprawniającego do opieki medycznej i pomocy. Interwencja RPO', 16 March 2023, available in Polish here: <https://bit.ly/3Kg37jl>.

¹⁶⁷ Article 4(17f-17h) of the Special Law.

¹⁶⁸ Information provided by the Ministry of Digital Affairs, 1 March 2023.

¹⁶⁹ Human Rights Commissioner, 'Uchodźcy z Ukrainy są błędnie pozbawiani statusu uprawniającego do opieki medycznej i pomocy. Interwencja RPO', 16 March 2023, available in Polish here: <https://bit.ly/3Kg37jl>.

after another short-term travel to Ukraine, or when their social welfare was ceased.¹⁷⁰ Moreover, in practice, Border Guard inserts the information about over-month stays abroad (real and presumed) to a special registry with a delay (even of couple of months). Ukrainian nationals and their family members, unaware that they lost their temporary protection status, may in this period still be paid social welfare, which can be requested to be returned afterwards.¹⁷¹

- ❖ Poland did not implement Article 21 of the TPD. Under Article 21(2) of the Temporary Protection Directive, the Member States are obliged to give favourable consideration to requests for a return to the Member State upon a voluntary return. However, this provision has not been implemented into the Special Law and, as shown above, the ‘favourable consideration’ seems to be in general lacking at the Polish borders.¹⁷²

General temporary protection

Only in July 2022, the certificate for temporary protection beneficiaries issued under the Act on Protection was notified to the European Commission (see [Residence permit](#)). Beforehand, travels over Europe of those beneficiaries could have been hampered.

In 2022, the Border Guard registered 197 border crossings back to Ukraine by general temporary protection beneficiaries (on a basis of a certificate issued under Article 110(5) of the Act on Protection). 229 border crossings of those beneficiaries were registered in the opposite direction.¹⁷³

Under the Act on Protection, there are no rules concerning the withdrawal of temporary protection upon any absence in Poland. As a rule, general temporary protection beneficiaries can travel to Ukraine without (temporal or other) limitations.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?	Not available
2. Number of beneficiaries staying in reception centres as of 31/12/22	Not available
3. Number of beneficiaries staying in private accommodation as of 31/12/22	Not available

Providing housing to all persons displaced from Ukraine posed the biggest challenge in 2022. In the early days of the war, the first reception centres were created, mostly near the Polish-Ukrainian border and in big cities, to provide a short-term accommodation to Ukrainian nationals and other persons fleeing the war. They were mostly run by local authorities, NGOs and volunteers from all over Poland.¹⁷⁴ Throughout the year, long-term accommodation facilities were also established.

Numerous Polish citizens and residents promptly offered their houses and apartments – also free of charge – to displaced persons from Ukraine.¹⁷⁵ However, rents raised significantly during the year, making

¹⁷⁰ Ibid., SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English here: <https://bit.ly/3B8qWFW>, 6.

¹⁷¹ Human Rights Commissioner, ‘Uchodźcy z Ukrainy są błędnie pozbawiani statusu uprawniającego do opieki medycznej i pomocy. Interwencja RPO’, 16 March 2023, available in Polish here: <https://bit.ly/3Kg37Jl>.

¹⁷² SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 4.

¹⁷³ Information from the Border Guard’s Headquarters, 9 February 2023.

¹⁷⁴ See also Jaroszewicz M., Krępa M., ‘Stabilisation of Emergency Measures: Poland’s Refugee Reception System One Month After the Russian Attack on Ukraine’, in M. Ineli-Ciger, S. Carrera (eds), *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, EUI 2023, available at: <https://bit.ly/3U4ii3X>, 168-169.

¹⁷⁵ According to the one study, 7% of respondents offered this kind of assistance, see Baszczak, Ł., Kielczewska, A., Kukołowicz, P., Winciewicz, A., Zyzik, R., ‘Pomoc polskiego społeczeństwa dla uchodźców z Ukrainy’, Polski Instytut Ekonomiczny, July 2022, available in Polish here: <https://bit.ly/3B7tNig>, 23. According to the another study, 3% of cities’ residents offered their apartments to Ukrainian nationals, see T. Sobierajski, A. Sobestjańska, A. Sopińska and M. Kuszewska, ‘Sąsiedzka pomoc’, Unia Metropolii Polskich, August 2022,

it more difficult for displaced persons to find affordable accommodation.¹⁷⁶ A reception in private housing was not organised by Polish authorities, however, some of them created special websites and services facilitating contact between landlords and tenants.¹⁷⁷ While many displaced persons were hosted by Polish society, after a couple of months, the diminishing involvement of those hosts was noticeable.¹⁷⁸

Most of the persons displaced from Ukraine were living privately in Poland. In July 2022, only 357.000 out of 1.2 million special temporary protection beneficiaries lived in the collective places of accommodation.¹⁷⁹ In November 2022, the Polish government informed that, in total, 1.4 million persons received accommodation from Polish families, while 416.000 were living in the reception centres. As of November 2022, 80.000 persons from Ukraine were still staying in those centres.¹⁸⁰

In practice, forms and conditions of accommodation provided to beneficiaries of temporary protection by the Polish authorities differed to a great extent within a country.¹⁸¹ In the first months, places of collective accommodation, i.e. conference halls, sports centres, railway stations, and offices, that were hosting hundreds and thousands of persons at the same time, were criticized by civil society organisations and human rights institutions for low sanitary and security standards, lack of privacy, overcrowding, distant locations and management by different entities.¹⁸²

Special temporary protection

Special temporary protection beneficiaries are not accommodated in the reception centres for asylum seekers. Under Article 12(1) and (4) of the Special Law, regional and other authorities *may* provide special temporary protection beneficiaries with accommodation. Until 1 March 2023, regional authorities (voivodes) were obliged to provide accommodation for at least 2 months starting with entry to Poland of a person concerned.¹⁸³ However, in January 2023, Article 12(17) of the Special Law was amended, and currently, there is no obligation of any Polish authorities to provide accommodation for persons enjoying special temporary protection in Poland. It is a discretionary power of Polish authorities.

available in Polish here: <https://bit.ly/3HQ3JMK>, 12. See also O. Dziekoński, R. Matczak and R. Trzeciakowski, 'Housing and Accommodation', in: M. Bukowski and M. Duszczak (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 46-47, indicating that in April 2022, 47% displaced persons lived free-of-charge with family, friends or strangers, and relatively few rented apartments on their own. See also S. Jarosz and W. Klaus (eds), 'Polska szkoła pomagania', Konsorcjum Migracyjne, OBMF and CeBaM 2023, available in Polish here: <https://bit.ly/3pmsAB0>, 48-49.

¹⁷⁶ Human Rights Commissioner, 'Sytuacja mieszkaniowa uchodźców z Ukrainy - posiedzenie komisji Ekspertów ds. Przeciwdziałania Bezdomności', 25 July 2022, available in Polish here: <https://bit.ly/42Ew6VS>.

¹⁷⁷ See e.g. <https://bit.ly/3NOT3Bz>, Warsaw City Hall, 'Warsaw in the refugee crisis. Report for the first three months', June 2022, available at: <https://bit.ly/3NYEw6t>, 5; A. Dąbrowska, 'Lublin Social Committee to Aid Ukraine. 90 days of assistance. Report', available in English here: <https://bit.ly/3HRtMmc>, 40.

¹⁷⁸ J. Mędrzecka-Stefańska, A. Petroff-Skiba and A. Wieczorek, 'Konsekwencje społeczne i psychologiczne rozwiązań mieszkaniowych dla osób uchodźczych z Ukrainy', Unia Metropolii Polskich, September 2022, available in Polish here: <https://bit.ly/3psl2eP>, 7, 20, S. Jarosz and W. Klaus (eds), 'Polska szkoła pomagania', Konsorcjum Migracyjne, OBMF and CeBaM 2023, available in Polish here: <https://bit.ly/3pmsAB0>, 41.

¹⁷⁹ Baszczak, Ł., Kielczewska, A., Kukołowicz, P., Wincewicz, A., Zyzik, R., 'Pomoc polskiego społeczeństwa dla uchodźców z Ukrainy', Polski Instytut Ekonomiczny, July 2022, available in Polish here: <https://bit.ly/3B7tNig>, 23.

¹⁸⁰ Ministry of Internal Affairs and Administration, 'W Brukseli wiceminister Paweł Szefermaker zaprezentował raport podsumowujący działania Polski na rzecz pomocy uchodźcom wojennym z Ukrainy', 10 November 2022, available in Polish here: <https://bit.ly/3B7sTT5>.

¹⁸¹ As regards Warsaw, see Warsaw City Hall, 'Warsaw in the refugee crisis. Report for the first three months', June 2022, available at: <https://bit.ly/3NYEw6t>; Human Rights Commissioner, 'Zastępcy RPO odwiedzili centra recepcyjne w Warszawie', 14 April 2022, available in Polish here: <https://bit.ly/44lhCpG>, and 'Wizyta przedstawicieli BRPO w centrum recepcyjnym w hali Global EXPO przy ul. Modlińskiej w Warszawie', 6 May 2022, available in Polish here: <https://bit.ly/44LdpkY>. As regards Lublin, see A. Dąbrowska, 'Lublin Social Committee to Aid Ukraine. 90 days of assistance. Report', available in English here: <https://bit.ly/3HRtMmc>. As regards Przemysł, see Human Rights Commissioner, 'Problemy uchodźców wojennych w Przemysłu. RPO ponownie pisze do wojewody. Jest odpowiedź', 23 December 2022, 25 January 2023, available in Polish here: <https://bit.ly/3VJSY43>.

¹⁸² S. Jarosz and W. Klaus (eds), 'Polska szkoła pomagania', Konsorcjum Migracyjne, OBMF and CeBaM 2023, available in Polish here: <https://bit.ly/3pmsAB0>, 26-27.

¹⁸³ The temporal limitation with regard to accommodation was in contradiction with Article 13 of the TPD, see SIP, Letter of 30 November 2022 to the European Commission, available in English here: <https://bit.ly/3TgHaEX>, 5.

Moreover, since 1 March 2023, the cost-free accommodation is limited to 120 days. It is considered to be against Article 13 of the TPD.¹⁸⁴ After this period, a temporary protection beneficiary must cover 50% of the costs of his/her accommodation, no more than PLN 40 per day per person. Since May 2023, if a person concerned lives in the accommodation organised by voivodes or other Polish authorities, he/she must cover 75% of the costs (no more than PLN 60 per day per person). The abovementioned rules do not apply to the most vulnerable temporary protection beneficiaries (see [Guarantees for vulnerable groups](#)).¹⁸⁵ In 2022, benefiting from the accommodation organised by Polish authorities was not dependent on obtaining the PESEL number, but since 1 March 2023, it is required to continue accommodation beyond 120 days.

Many Ukrainian nationals and their family members enjoying special temporary protection in Poland were accommodated privately. Some of them, especially at the beginning of the war, were offered free accommodation by Polish nationals and domestic companies. The Special Law provides for a financial allowance for persons who offered a free-of-charge accommodation *and* food to special temporary protection beneficiaries. This assistance is limited to 120 days; only in particularly justified circumstances, it may be prolonged (see [Guarantees to vulnerable persons](#)). It is paid to a landlord, upon his/her motion.¹⁸⁶ Since 30 April 2022, having a PESEL number by a tenant is required.¹⁸⁷ In 2022, 1.211.110 applications for this financial allowance were registered. The Ministry of Digital Affairs does not have data concerning decisions on those applications,¹⁸⁸ however, some difficulties in obtaining this allowance were reported.¹⁸⁹ According to the UMP's study, only one-third of respondents who hosted persons displaced from Ukraine applied for this assistance.¹⁹⁰

General temporary protection

Under the Act on Protection, temporary protection beneficiaries have access to accommodation and food in the reception centres for asylum seekers (for more about those centres, see [Reception](#)), upon their motion and provided that they receive a certificate for temporary protection beneficiaries first.¹⁹¹ However, if the Head of the Office for Foreigners has no possibility to offer this kind of accommodation, a financial allowance is paid instead. Then, a beneficiary must find accommodation on his/her own. A reception in private housing is not organised by Polish authorities.

In 2022, 1.054 applications for providing accommodation and food or a financial allowance were submitted to the Office for Foreigners. In total, 685 beneficiaries received this assistance (as of 31 December 2022, 239 were still benefiting from this assistance). Most of those persons received a financial allowance (561); only 6 persons benefited from accommodation in the reception centres for asylum seekers (one family of four for almost one month in the centre in Dębak, next in Linin; one person for 3 months in Dębak, and one person for 10 days in Biała Podlaska).¹⁹²

¹⁸⁴ SIP, *Letter to the Ministry of Internal Affairs and Administration*, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 3-4. S. Jarosz and W. Klaus (eds), 'Polska szkoła pomagania', Konsorcjum Migracyjne, OBMF and CeBaM 2023, available in Polish here: <https://bit.ly/3pmsAB0>, 27.

¹⁸⁵ Article 12(17a-f) of the Special Law. This catalogue was considered too narrow, see SIP, *Letter to the Ministry of Internal Affairs and Administration*, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 4.

¹⁸⁶ Article 13 of the Special Law.

¹⁸⁷ Human Rights Commissioner stated that this change had deprived some landlords of a possibility to request an allowance for periods before 30 April 2022. Subsequently, the law was changed to enable seeking allowance for those periods. Human Rights Commissioner, 'Udzielali schronienia uchodźcom z Ukrainy - mogą nie dostać świadczenia od państwa. Interwencja Rzecznika', 16 May 2022, available in Polish here: <https://bit.ly/3MamWuN>.

¹⁸⁸ Information provided by the Ministry of Digital Affairs, 1 March 2023.

¹⁸⁹ See e.g. SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English here: <https://bit.ly/3B8qWFW>, 16; Human Rights Commissioner, 'Luki w przepisach specustawy o pomocy Ukraińcom dot. pieniędzy na zakwaterowanie i wyżywienie uchodźców. RPO pisze do MSWiA', 6 April 2022, available in Polish here: <https://bit.ly/3VKr73G>.

¹⁹⁰ T. Sobierajski, A. Sobestjańska, A. Sopińska and M. Kuszewska, 'Sąsiedzka pomoc', Unia Metropolii Polskich, August 2022, available in Polish here: <https://bit.ly/3HQ3JmK>, 16.

¹⁹¹ Article 112 of the Act on Protection.

¹⁹² Information provided by the Office for Foreigners, 17 January 2023.

A financial allowance for temporary protection beneficiaries is the same as the one provided for asylum seekers. It amounts to PLN 25 (or less) per day, so at maximum PLN 750-775 per month per person. In practice, this allowance is not sufficient to finance all basic needs of a beneficiary, in particular to rent an apartment (for more see [Reception - Forms and levels of material reception conditions](#)). Thus, general temporary protection beneficiaries are not receiving sufficient 'means to obtain housing', against Article 13 of the TPD.¹⁹³ However, unlike asylum seekers, temporary protection beneficiaries can work or run a business in Poland (see [Access to the labour market](#)); thus, they may have supplementary sources of income.

The assistance is provided for a period of minimum 2 months, but no longer than for the period of the validity of the certificate for temporary protection beneficiaries.¹⁹⁴ This period is determined individually, in the Head of the Office for Foreigner's decision. According to the Office for Foreigners, if this period ends, a person concerned may apply for assistance to be granted again.¹⁹⁵ The assistance is dependent on the financial situation of the beneficiary, however, accommodation is granted irrespective of the income of the person concerned (see [Social welfare](#)).¹⁹⁶ Moreover, the assistance is not granted if a person concerned seeks asylum (then, he/she benefits from material reception conditions for asylum seekers).¹⁹⁷ A temporary protection beneficiary accommodated in a reception centre for asylum seekers is entitled to some additional benefits (i.e. a financial allowance for cleaning and personal hygiene products, Polish language lessons, covering transport expenses).¹⁹⁸

E. Employment and education

1. Access to the labour market

Special temporary protection

Since 24 February 2022, in addition to the previous rules concerning third-country nationals' labour in Poland,¹⁹⁹ Ukrainian nationals are entitled to work in Poland, if:

- a. they enjoy special temporary protection in Poland, or
- b. they are staying legally in Poland,

and if an employer informs – online, within 14 days from the start of the work – a labour office about hiring a Ukrainian national. Work must be provided in accordance with the notice: it must be performed in no less time than indicated in the notice and paid no less than the remuneration indicated therein. The working time and remuneration can be proportionally increased.²⁰⁰ Having a PESEL number is not required to work in Poland under those new rules. In 2022, 786,164 notifications have been registered concerning 558,719 third-country nationals.²⁰¹ In February 2023, it was announced that over 970,000 Ukrainian nationals benefited from this new law aimed at facilitating access of Ukrainian nationals to the Polish labour market.²⁰²

Despite this facilitation, in practice, some employers did not notify that they employed Ukrainian nationals. For this reason, for two weeks in July 2022, employers, who had not informed labour offices about hiring

¹⁹³ SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 5-6.

¹⁹⁴ Article 112(1a) of the Act on Protection. This temporal limitation with regard to accommodation is in contradiction with Article 13 of the TPD, see SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 5.

¹⁹⁵ Information provided by the Office for Foreigners, 17 January 2023.

¹⁹⁶ Article 12(4-4f) of the Act on Protection.

¹⁹⁷ Article 12(1b) of the Act on Protection.

¹⁹⁸ Article 112(6-8) of the Act on Protection.

¹⁹⁹ Before 24 February 2022, Ukrainian nationals already had facilitated access to labour market in Poland.

²⁰⁰ Article 22(1) of the Special Law.

²⁰¹ Information from the Ministry of Family and Social Affairs, 16 January 2023.

²⁰² Ministry of Family and Social Policy, 'Polityka społeczna w cieniu wojny w Ukrainie', 24 February 2023, available here in Polish: <https://bit.ly/3MannoV>.

Ukrainian nationals, or made some mistakes in this regard, were given another chance to fulfil this obligation.²⁰³

If an employer does not fulfil the informative obligation, a Ukrainian national is not fined (the exception from a general rule),²⁰⁴ however, his/her work may be considered illegal in those circumstances, which may lead to issuing a return decision.²⁰⁵ Indeed, in 2022, some Ukrainian nationals were found to have been working illegally in Poland, but it is not publicly known whether they were special temporary protection beneficiaries.²⁰⁶

Further facilitations were provided for in the Special Law with regard to Ukrainian:

- a. doctors and dentists (Articles 61-63),
- b. nurses and midwives (Article 64),
- c. psychologists (Article 64a),
- d. academic teachers and researchers (Article 46-49),
- e. school teachers' assistants if they know the Polish language (Article 57),
- f. miners (Article 23b),
- g. persons working in public offices (Article 23a),
- h. persons working in the foster care system (upon the consent of specified authorities, Article 27(9-16) of the Special Law).

Some of those facilitations apply to all Ukrainian nationals having particular qualifications, others apply only to special temporary protection beneficiaries or Ukrainian nationals legally staying in Poland.

Since 1 April 2023, special temporary protection beneficiaries can apply in a facilitated manner for a temporary residence permit related to their work. However, obtaining a temporary residence permit means losing temporary protection in Poland (Article 2(3)(1)(c) of the Special Law).

Ukrainian nationals who enjoy special temporary protection in Poland, or stay legally in Poland, can also register as unemployed person in Poland.²⁰⁷ In 2022, 78,558 Ukrainian nationals were registered as unemployed persons. As of 31 December 2022, 14,709 were registered as unemployed.²⁰⁸

The governmental and local portals have been created to facilitate contact between Ukrainian nationals seeking employment (having a PESEL number) and employers in Poland.²⁰⁹ As of 4 January 2023, 3,535 persons benefited from the governmental database.²¹⁰ IOM Poland also activated a special website - in Polish and Ukrainian language – concerning legal employment in Poland.²¹¹ On many job-seeking websites, ads were published by Polish employers offering job to persons displaced from Ukraine.²¹²

Special temporary protection beneficiaries can run a business in Poland under the same rules as Polish citizens. Having a PESEL number is required.²¹³ In the period from 24 February 2022 to 23 August 2023, Ukrainian nationals running a registered business in Poland can obtain a temporary residence permit

²⁰³ Ministry of Family and Social Policy, 'Umożliwienie pracodawcom złożenia zaległych, lub błędnych powiadomień', available in Polish here: <https://bit.ly/3HWryCm>.

²⁰⁴ Article 22(5c) of the Special Law.

²⁰⁵ SIP, *Letter to the Polish Parliament*, 9 December 2022, available in Polish here: <https://bit.ly/3HUXhnc>, 5-6.

²⁰⁶ See numerous posts published at the Border Guard's website about the controls of the legality of employment in Polish companies and finding out that Ukrainian nationals were employed illegally, e.g. 'Pracowali nielegalnie w Polsce', 9 November 2022, available in Polish here: <https://bit.ly/42iHXJb> (73 Ukrainian nationals found to be working illegally); 'Nielegalnie zatrudnieni w firmie budowlanej', 15 November 2022, available in Polish here: <https://bit.ly/41nU4DH>, 'Skontrolowano legalność zatrudnienia 760 cudzoziemców', 21 November 2022, available in Polish here: <https://bit.ly/3pnkmJ5> (34 Ukrainian nationals).

²⁰⁷ Article 22(6-7) of the Special Law.

²⁰⁸ Information from the Ministry of Family and Social Affairs, 16 January 2023.

²⁰⁹ Article 22a-22h of the Special Law. See <https://bit.ly/41IMLw4> and e.g. A. Dąbrowska, 'Lublin Social Committee to Aid Ukraine. 90 days of assistance. Report', available in English here: <https://bit.ly/3HRtMmc>, 7-8.

²¹⁰ Information provided by the Ministry of Digital Affairs, 1 March 2023.

²¹¹ See: <https://bit.ly/3pcF12b>.

²¹² A. Chłoń-Domińczak i R. Pater, 'Labour market and the economy', in: M. Bukowski and M. Duszczak (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 36.

²¹³ Article 23 of the Special Law.

without proving that they have a sufficient income, or without fulfilling other criteria normally required in these proceedings.²¹⁴ However, obtaining a temporary residence permit means losing temporary protection in Poland (Article 2(3)(1)(c) of the Special Law).

In the period of March-December 2022, 17.511 Ukrainian nationals (irrespective of their legal status) applied for registering their businesses in Poland.²¹⁵ Data regarding the business activity of special temporary protection beneficiaries is not available.

According to the report published in September 2022 by EWL and Warsaw University, over 430.000 Ukrainian nationals who fled from Ukraine after 24 February 2022, found jobs in Poland. 85% of the respondents sought temporary protection in Poland. 53% of respondents did not know the Polish language, but 68% of Ukrainian nationals working in Poland could communicate in the Ukrainian language at work.²¹⁶ According to the more recent report of EWL and Warsaw University, as of February 2023, approx. 900.000 Ukrainian nationals who fled from Ukraine after 24 February 2022, found job in Poland (82% of adults). 27% of the respondents who work in Poland found a job in the first three months upon arrival.²¹⁷

According to another study, Ukrainian women who came to Poland after 24 February 2022 indicated that the biggest challenges in accessing the labour market, in particular running a business here, were mostly the lack of knowledge of the Polish language and the necessity to provide care for their children during the working hours. However, overall, they felt more supported by Polish authorities rather than facing difficulties.²¹⁸ Another study conducted in 2022 identified several barriers to running a business in Poland that were recognised by Ukrainian nationals, including the lack of knowledge of Polish law and practices, overly complicated rules regarding staying and working in Poland, financial difficulties, and challenges in finding employees and suitable premises in Poland.²¹⁹

General temporary protection

Third-country nationals enjoying temporary protection under the Act on Protection can work in Poland without any work permit. There are no limitations or additional obligations in this regard. They can also run a business in accordance with the rules on business activity applicable to non-Polish nationals.²²⁰

2. Access to education

All children staying in Poland have a constitutional right to education. Education is provided to minor third-country nationals in regular schools and it is not limited by law. In general, temporary protection beneficiaries can benefit from education in public schools under the same conditions as Polish citizens until the age of 18 or the completion of higher school.²²¹ They can also benefit from additional free Polish language classes and compensatory classes, as well as be supported by a person who knows the language of their country of origin, who can be employed as a teacher's assistant by the director of the

²¹⁴ Article 42(12) and (12a) of the Special Law.

²¹⁵ Information from the Ministry of Economic Development and Technology, 11 January 2023. See also Dębkowska, K., Kłosiewicz-Górecka, U., Szymańska, A., Wejt-Knyżewska, A., Zybortowicz, K., 'Ukraińskie firmy w Polsce po wybuchu wojny w 2022 r.', Polski Instytut Ekonomiczny, January 2023, available in Polish here: <https://bit.ly/42laNJc>, 10-14.

²¹⁶ EWL and Warsaw University, 'Uchodźcy z Ukrainy - aktywizacja zawodowa w Polsce i Niemczech', September 2022, available in Polish here: <https://bit.ly/42FWezK>.

²¹⁷ EWL and Warsaw University, 'Uchodźcy wojenni z Ukrainy. Rok w Polsce', February 2023, available in Polish here: <https://bit.ly/42j18CY>.

²¹⁸ SWPS, 'Hello Entrepreneurship 2022. Czynniki hamujące oraz wspierające przedsiębiorczość migrantek z Ukrainy, które przyjechały do Polski po eskalacji wojny 24 lutego 2022 r.', available in Polish here: <https://bit.ly/3VPavaV>, 6-7, 19.

²¹⁹ See also Dębkowska, K., Kłosiewicz-Górecka, U., Szymańska, A., Wejt-Knyżewska, A., Zybortowicz, K., 'Ukraińskie firmy w Polsce po wybuchu wojny w 2022 r.', Polski Instytut Ekonomiczny, January 2023, available in Polish here: <https://bit.ly/42laNJc>, 25-31.

²²⁰ Article 14 of the Act on Protection, Ustawa z dnia 6 marca 2018 r. o zasadach uczestnictwa przedsiębiorców zagranicznych i innych osób zagranicznych w obrocie gospodarczym na terytorium Rzeczypospolitej Polskiej, available in Polish here: <https://bit.ly/3prfy5q>.

²²¹ Article 165 (1) and (2) of Law of 14 December 2016 on education.

school.²²² Preparatory classes can be organised too. For more details about education of third-country nationals in Poland and the intertwined challenges, see [Reception, Access to education](#). The following section describes the specific laws and practices that apply solely to temporary protection beneficiaries.

Special temporary protection

Children

While education is mandatory in Poland to the age of 18, many Ukrainian pupils staying in Poland are not attending Polish schools (e.g. 52% of Ukrainian children staying in Warsaw²²³). Some of them chose to participate in online lessons organised by Ukrainian authorities. If that is the case, a parent or another guardian must inform Polish local authorities that a child is continuing education online within the Ukrainian education system.²²⁴ However, some children who were supposed to be attending Ukrainian school online were not going to any school in practice. Moreover, power cuts in Ukraine hamper access to the Ukrainian education system.²²⁵ Other children tried to attend both Polish in-person and Ukrainian online schools.²²⁶

In 2022, almost 200.000 new Ukrainian pupils were attending Polish schools, while approx. 500.000 were learning online within the Ukrainian education system.²²⁷ Some special rules were adopted to facilitate coping with this unprecedented challenge, under the Special Law and other acts of national and local authorities (in total 3.421 acts until November 2022).²²⁸

- ❖ The possibility to organise interschool preparatory classes, interschool additional Polish language lessons and lessons outside of schools was introduced in the Special Law for minor special temporary protection beneficiaries (Articles 51, 55 and 55b).
- ❖ Ukrainian children attending preparatory classes may not be subject to yearly or mid-term assessments.²²⁹
- ❖ Polish language lessons for Ukrainian children are conducted individually or in groups of up to 15 children. The allowed maximum number of hours per week was abolished for Ukrainian pupils. They should participate in those lessons for no less than 6 hours/week.²³⁰
- ❖ The limit for the maximum number of children in a class was increased if Ukrainian children are attending the class.²³¹

²²² Article 165 (8) of the Law of 14 December 2016 on education.

²²³ SIP, 'Protection of unaccompanied children from Ukraine in Poland – what should be improved', 6 March 2023, available at: <https://bit.ly/3NSA1tX>.

²²⁴ §15 of the Minister of Education and Science on organisation of education and care of children and youth from Ukraine (Rozporządzenie Ministra Edukacji i Nauki z dnia 21 marca 2022 r. w sprawie organizacji kształcenia, wychowania i opieki dzieci i młodzieży będących obywatelami Ukrainy), available in Polish here: <https://bit.ly/42nRi2K>.

²²⁵ SIP, 'Protection of unaccompanied children from Ukraine in Poland – what should be improved', 6 March 2023, available at: <https://bit.ly/3NSA1tX>; Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish here: <https://bit.ly/3NUAiwG>, 2, 4.

²²⁶ A. Krajewska, 'Dzieci-uchodźcy z Ukrainy w polskim systemie edukacji', in: M. Fuszara (ed), *Masowa pomoc w masowej ucieczce Społeczeństwo polskie wobec migracji wojennej z Ukrainy*, Warsaw University 2022, available in Polish here: <https://bit.ly/42ljmO3>, 87-88.

²²⁷ Human Rights Commissioner, 'Okraǳy stół o oświacie – konsultacje w sprawie edukacji dzieci i młodzieży z Ukrainy w Biurze RPO', 3 June 2022, available in Polish here: <https://bit.ly/3nKKGw9>; Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish here: <https://bit.ly/3NUAiwG>, 4.

²²⁸ A. Krajewska, 'Dzieci-uchodźcy z Ukrainy w polskim systemie edukacji', in: M. Fuszara (ed), *Masowa pomoc w masowej ucieczce Społeczeństwo polskie wobec migracji wojennej z Ukrainy*, Warsaw University 2022, available in Polish here: <https://bit.ly/42ljmO3>, 78.

²²⁹ §6b of the Minister of Education and Science on organisation of education and care of children and youth from Ukraine (Rozporządzenie Ministra Edukacji i Nauki z dnia 21 marca 2022 r. w sprawie organizacji kształcenia, wychowania i opieki dzieci i młodzieży będących obywatelami Ukrainy), available in Polish here: <https://bit.ly/42nRi2K>.

²³⁰ §11a *ibid.*

²³¹ §7-11 *ibid.*

- ❖ Some special rules concerning the participation of Ukrainian pupils in final exams and as regards ending school were established.²³²
- ❖ In schools, where an additional class was established in order to provide education to Ukrainian pupils, teachers were given the possibility to work overtime (Article 56). The same applies to Polish language teachers in all schools (Article 56a).
- ❖ Non-Polish teachers' assistants have been allowed to perform their tasks in Polish schools if they know Polish language (Article 57).
- ❖ Additional state funding for schools has been provided for in the Special Law, in Article 50. Since January 2023, local authorities can also receive additional funding for learning materials for Ukrainian children.²³³
- ❖ Special temporary protection beneficiaries are entitled to the 'Good start' allowance, i.e. PLN 300 for every child at the beginning of the school year, as well as to the lower fee for a nursery or a day care.²³⁴ A minor special temporary protection beneficiary may also receive social welfare for pupils (Article 53).
- ❖ A free-of-charge transport of minor special temporary protection beneficiaries to schools or other places where education or childcare is provided, may be organised by local authorities (Article 52).
- ❖ Some new rules have been established to facilitate creation of nurseries by local authorities (Article 28).

Despite those changes, the Polish educational system struggled with admitting such a great number of new foreign pupils. In 2022, the main problems included: the schools' overcrowding; not a sufficient number of schools and teachers; the lack of sufficient support for teachers in teaching the Polish language as a second language; the lack of adequate handbooks; difficulties in hiring Ukrainian teachers; the lack of means to support Ukrainian pupils in their online learning.²³⁵ Hate speech and violence towards Ukrainian pupils were also reported.²³⁶ Moreover, Ukrainian children often unexpectedly disappeared from the Polish education system, when they moved back to Ukraine or travelled to another state. Furthermore, teachers and schools were not sufficiently supported by the state.²³⁷

In June 2022, Polish Teachers' Union (PTU) called on the Polish Prime Minister to take actions needed for the proper functioning of the Polish education system which has been overburdened after the admission of new Ukrainian pupils. It alarmed that the system is already inefficient. Over 80% of Ukrainian children joined regular classes, not the preparatory ones. In some classes, 50% of pupils were Ukrainian, 50% Polish; thus, the education was in practice bilingual, provided with the assistance of online translation tools. It was impossible to implement the curriculum in those circumstances, both for Polish and Ukrainian children. The PTU noticed also that teachers must work over their usual hours to be able to teach children not knowing the Polish language.²³⁸

²³² §2-§6 and §6c-§6d *ibid.* For problems in this regard, see Human Rights Commissioner, 'Co z egzaminami ósmoklasisty dla dzieci z Ukrainy – pytał RPO. MEIN: będą ułatwienia i dostosowania', 13 April and 18 May 2022, available in Polish here: <https://bit.ly/3B9WNG7>.

²³³ Article 50b of the Special Law.

²³⁴ Article 26(1)^{(3) and (5)} of the Special Law.

²³⁵ Human Rights Commissioner, 'Okragły stół o oświacie – konsultacje w sprawie edukacji dzieci i młodzieży z Ukrainy w Biurze RPO', 3 June 2022, available in Polish here: <https://bit.ly/3nKKGw9>; Ministry of Education and Science, Systemowe wsparcie obywateli Ukrainy – konferencja prasowa w KPRM z udziałem ministra Przemysława Czarnka, 24 May 2022, available in Polish here: <https://bit.ly/42lddYg>.

²³⁶ A. Gmiterek-Zabłocka, "Coraz częściej słyszę o wyzwiskach i mowie nienawiści w szkołach". Pomóc mają specjaliści asystenci, Tok.fm, 7 June 2022, available here in Polish: <https://bit.ly/3pt5B7C>; HNLAC, 'Przemoc fizyczna i psychiczna wobec uczniów z Ukrainy: Poradnik dla uczniów, rodziców i nauczycieli', available in Polish here: <https://bit.ly/42Cujfd>; Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish here: <https://bit.ly/3NUAiwG>, 14-15.

²³⁷ A. Krajewska, 'Dzieci-uchodźcy z Ukrainy w polskim systemie edukacji', in: M. Fuszara (ed), *Masowa pomoc w masowej ucieczce Społeczeństwo polskie wobec migracji wojennej z Ukrainy*, Warsaw University 2022, available in Polish here: <https://bit.ly/42ljmO3>, 81, 91; Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish here: <https://bit.ly/3NUAiwG>, 2.

²³⁸ Polish Teachers' Union, 'Interwencja ZNP: Wniosek do premiera o wprowadzenie specjalnych rozwiązań dot. kształcenia uchodźców', 2 June 2022, available in Polish here: <https://bit.ly/44HtcBs>. See also: A. Krajewska, 'Dzieci-uchodźcy z Ukrainy w polskim systemie edukacji', in: M. Fuszara (ed), *Masowa pomoc w masowej*

Despite the PTU's recommendation to create more preparatory classes, their number decreased in the school year 2022/2023 in comparison with the preceding year. In the year 2021/2022, there were 2.414 such classes organised in Poland that were benefited by 38.000 children. In the year 2022/2023, only 956 preparatory classes were organised for 15.000 Ukrainian nationals.²³⁹ On the other hand, more teacher's assistants seem to be hired. For example, over 200 Ukrainian and Belarusian assistants were reported to work in Warsaw schools as of June 2022, which constitutes a major increase in comparison to 2021.²⁴⁰ In Lublin, 64 Ukrainian teachers started to work as teacher assistants in 41 schools.²⁴¹ However, the number of those assistants is still insufficient taking into account the great number of new Ukrainian pupils.²⁴²

PTU also noticed the difficult situation of pupils with special needs. In August 2022, the Human Rights Commissioner appreciated the Ministry of Education and Science's information for parents of children with special educational needs about their rights in Poland. However, it noticed that interpreters of the Ukrainian language are urgently needed to support the work of Polish psychologists, psychotherapists, speech therapists and other specialists working in schools.²⁴³ Moreover, schools for deaf pupils were reported to be unable to cope with the challenge of accepting new children from Ukraine.²⁴⁴

Adults

Ukrainian doctors, dentists, nurses and midwives can have their Polish language lessons co-financed from a state budget (Article 22i of the Special Law).

Ukrainian students enjoying special temporary protection in Poland can apply for a social scholarship and student loan (Article 41(10-12) of the Special Law). Moreover, they can be admitted to study in Poland without proper documentation confirming their education progress in Ukraine, upon verification of their achieved learning outcomes (Article 45).

National Science Centre opened special scholarship programs for Ukrainian students and researchers. In total, 151 students and researchers benefited from this assistance.²⁴⁵

General temporary protection

Under the Act on Protection, temporary protection beneficiaries can benefit from Polish language lessons and materials, as well as didactic materials for children attending schools.²⁴⁶ This is the only special rule as regards education provided in the law concerning general temporary protection beneficiaries.

ucieczce Społeczeństwo polskie wobec migracji wojennej z Ukrainy, Warsaw University 2022, available in Polish here: <https://bit.ly/42ljmO3>, 85-87.

²³⁹ Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish here: <https://bit.ly/3NUAiwG>, 8.

²⁴⁰ A. Gmiterek-Zabłocka, 'Coraz częściej słyszę o wyziskach i mowie nienawiści w szkołach'. Pomóc mają specjaliści asystenci, Tok.fm, 7 June 2022, available here in Polish: <https://bit.ly/3pt5B7C>; A.Mikulska, 'Lekcje polskiego to nie wszystko. Jak zadbać o integrację dzieci z Ukrainy?', OKO.PRESS, 21 March 2022, available in Polish here: <https://bit.ly/3HUKVeY>.

²⁴¹ A. Dąbrowska, 'Lublin Social Committee to Aid Ukraine. 90 days of assistance. Report', available in English here: <https://bit.ly/3HRtMmc>, 8.

²⁴² A. Krajewska, 'Dzieci-uchodźcy z Ukrainy w polskim systemie edukacji', in: M. Fuszara (ed), *Masowa pomoc w masowej ucieczce Społeczeństwo polskie wobec migracji wojennej z Ukrainy*, Warsaw University 2022, available in Polish here: <https://bit.ly/42ljmO3>, 92; Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish here: <https://bit.ly/3NUAiwG>, 9-11.

²⁴³ Human Rights Commissioner, 'Ukraińscy uczniowie z niepełnosprawnościami wymagają wsparcia. RPO pisze do MEiN', 20 August 2022, available in Polish here: <https://bit.ly/3BbcNI4>.

²⁴⁴ Human Rights Commissioner, 'Telewizja bez barier i pomoc głuchym uchodźcom z Ukrainy - posiedzenie Komisji Ekspertów ds. Osób Głuchych', 21 April 2022, available in Polish here: <https://bit.ly/3VLZOWw>.

²⁴⁵ Ministry of Education and Science, 'Dodatkowe stypendia NCN dla początkujących naukowców z Ukrainy', 23 February 2023, available in Polish here: <https://bit.ly/3LLq8M1>.

²⁴⁶ Article 112(6)⁽²⁻³⁾ of the Act on Protection.

In 2022, 51 general temporary protection beneficiaries received assistance only in the form of Polish language lessons and materials (as of 31 December 2022, 17 persons).²⁴⁷

F. Social welfare

Special temporary protection

A special temporary protection beneficiary having a PESEL number is entitled to a one-time financial allowance – PLN 300.²⁴⁸

Moreover, special temporary protection beneficiaries, having a PESEL number and staying in Poland with children, are, *inter alia*, entitled to:²⁴⁹

1. Family benefits, specified in the 2003 Law on family benefits,²⁵⁰
2. 500+ financial allowance – for every Ukrainian child under 18 years old having a PESEL number: PLN 500 per month. It may be applied for only online and is not available to Ukrainian parents of non-Ukrainian children.²⁵¹
3. ‘Good start’ allowance: PLN 300 at the beginning of the school year (for more on financial support for pupils, see [Access to education](#)).

The general rules regarding those benefits apply to special temporary protection beneficiaries (the same as for Polish citizens), with some minor exceptions. For example, with regard to the benefits that are dependent on the financial situation of the beneficiary (some of the above-mentioned allowances), the income of his/her family member who is not staying in Poland (e.g. because he/she stayed in Ukraine) is not taken into account.²⁵² Some of those benefits are also granted to temporary guardians.²⁵³ Since 28 January 2023, the Special Law specifies that those benefits are suspended if a person concerned leaves Poland, but may be paid upon return to Poland.²⁵⁴

Furthermore, special temporary protection beneficiaries, having a PESEL number, can access the general social welfare system and; thus, be granted financial and non-financial benefits in accordance with the 2004 Law on social assistance.²⁵⁵ Accessing the general social welfare system is dependent on the financial situation of the person/family concerned. The general rules regarding those benefits apply to special temporary protection beneficiaries (the same as for Polish citizens), with some minor exceptions.

Special temporary protection beneficiaries can also benefit from food aid within the Fund for European Aid to the Most Deprived.²⁵⁶ Moreover, UNHCR, in cooperation with the Polish government, offered special financial support to persons fleeing Ukraine.²⁵⁷

Ukrainian nationals and their family members have reported experiencing some difficulties in practice with regard to the aforementioned allowances. According to the Human Rights Commissioner, obtaining a PESEL number by Ukrainian nationals and members of their family in 2022 was sometimes possible only

²⁴⁷ Information provided by the Office for Foreigners, 17 January 2023.

²⁴⁸ Article 31 of the Special Law. For more information, see SIP, UNHCR, ‘Świadczenia dla obywateli i obywaterek Ukrainy przybyłych do Polski po 24 lutego 2022 r.’ (2023), available in Polish and Ukrainian here: <https://bit.ly/3LLYf6C>.

²⁴⁹ Article 26 of the Special Law.

²⁵⁰ Ustawa z dnia 28 listopada 2003 r. o świadczeniach rodzinnych, available in Polish here: <https://bit.ly/41kHwgm>.

²⁵¹ SIP, UNHCR, ‘Świadczenia dla obywateli i obywaterek Ukrainy przybyłych do Polski po 24 lutego 2022 r.’ (2023), available in Polish and Ukrainian here: <https://bit.ly/3LLYf6C>.

²⁵² Article 26(2) of the Special Law.

²⁵³ Article 26(4-4f) of the Special Law.

²⁵⁴ Article 26(3g-3h) of the Special Law.

²⁵⁵ Article 29 of the Special Law, Ustawa z dnia 12 marca 2004 r. o pomocy społecznej, available in Polish here: <https://bit.ly/3M8MjNB>.

²⁵⁶ Article 33 of the Special Law.

²⁵⁷ UNHCR Polska, ‘UNHCR i Rząd RP łączą siły, żeby wesprzeć finansowo uchodźców z Ukrainy’, 11 March 2022, available in Polish here: <https://bit.ly/3LJ9aOi>. See also: <https://bit.ly/42EbPQ3>.

after a long waiting period. It hampered their possibility to access to social welfare.²⁵⁸ Moreover, some Ukrainian nationals lost this access upon withdrawal of 'PESEL UKR' (for more, see [Movement and mobility](#)).²⁵⁹

General temporary protection

Persons enjoying temporary protection under the Act on Protection do not have access to the general social welfare system. Beneficiaries who are unable to access accommodation and food organised by the Office for Foreigners may request a financial allowance, which may be provided at their motion.²⁶⁰

A financial allowance may be paid only upon obtaining a certificate for a person enjoying general temporary protection (see [Residence permit](#)). In 2022, 67 persons were denied medical assistance and financial allowance due to the lack of a certificate for a person enjoying temporary protection.²⁶¹

The financial allowance is provided for a period of minimum 2 months,²⁶² but no longer than for the period of the validity of the certificate for temporary protection beneficiaries. This period is determined individually, in the Head of the Office for Foreigner's decision. According to the Office for Foreigners, if this period ends, a person concerned may apply for the assistance to be granted again.²⁶³

Granting assistance in the form of accommodation and food, or a financial allowance, is dependent on the financial situation of the beneficiary.²⁶⁴ If a person concerned works or runs a business in Poland, his/her income is taken into account by the Office for Foreigners. If it is higher than the amount set in law for accessing the general social welfare system, the assistance may be granted only in the form of accommodation, Polish language lessons and materials, and didactic materials for children. In 2022, 35 decisions refusing access to full assistance on this account were issued.²⁶⁵ Moreover, the assistance is not granted if a person concerned seeks asylum (then, he/she benefits from material reception conditions for asylum seekers).²⁶⁶

A financial allowance for general temporary protection beneficiaries is the same as the one provided for asylum seekers. It amounts to PLN 25 (or less) per day, so at maximum PLN 750-775 per month per person. In practice, a financial allowance is not sufficient to finance all basic needs of a beneficiary, in particular to rent an apartment (for more see [Reception - Forms and levels of material reception conditions](#)). Thus, general temporary protection beneficiaries are not receiving sufficient 'means to obtain housing', against Article 13 of the TPD.²⁶⁷ However, contrary to asylum seekers, general temporary protection beneficiaries can work or run a business in Poland (see [Access to the labour market](#)); thus, they can have supplementary sources of income.

In 2022, 536 general temporary protection beneficiaries received a financial allowance and medical assistance (199 of them were benefiting from this assistance as of 31 December 2022); 25 persons were granted only a financial allowance under the Act on Protection (2 as of 31 December 2022). In 47 cases, the Office for Foreigners provided access to medical assistance but denied a financial allowance.²⁶⁸ Thus, 43% of the general temporary protection beneficiaries benefited from this allowance in 2022.

Moreover, in 2022, 51 general temporary protection beneficiaries received assistance only in the form of Polish language lessons and materials (as of 31 December 2022, 17 persons).²⁶⁹

²⁵⁸ Human Rights Commissioner, 'Kolejki po PESEL przyczyną nierównego dostępu uchodźców do świadczeń. RPO pisze do minister Małag. Resort odpowiada', 6 and 29 April 2022, available in Polish here: <https://bit.ly/44ECTR3>. SIP, *Submission to ECRI*, 15 June 2022, available in English here: <https://bit.ly/44Wfdle>, 7.

²⁵⁹ Human Rights Commissioner, 'Uchodźcy z Ukrainy są błędnie pozbawiani statusu uprawniającego do opieki medycznej i pomocy. Interwencja RPO', 16 March 2023, available in Polish here: <https://bit.ly/3Kg37Jl>.
Article 112 of the Act on Protection.

²⁶⁰ Information provided by the Office for Foreigners, 17 January 2023.

²⁶¹ The temporal limitation is in contradiction with Article 13 of the TPD, see SIP, Letter of 30 November 2022 to the European Commission, available in English here: <https://bit.ly/3TgHaEX>, 5.

²⁶² Information provided by the Office for Foreigners, 17 January 2023.

²⁶³ Article 112(4-4f) of the Act on Protection.

²⁶⁴ Information provided by the Office for Foreigners, 17 January 2023.

²⁶⁵ Article 112(1b) of the Act on Protection.

²⁶⁶ SIP, Letter of 30 November 2022 to the European Commission, available in English here: <https://bit.ly/3TgHaEX>, 5-6.

²⁶⁷ Information provided by the Office for Foreigners, 17 January 2023.

²⁶⁸ Ibid.

G. Health care

Special temporary protection

Ukrainian nationals and some of their family members enjoying temporary protection can access the general healthcare system in Poland (with some minor exceptions).²⁷⁰ Obtaining PESEL beforehand is not necessary, however, it may be useful: a person having 'PESEL UKR' is presumed to be entitled to medical assistance. In practice, temporary protection beneficiaries not having this number faced difficulties in accessing medical assistance.²⁷¹

Additionally, special temporary protection beneficiaries *may* be provided with free-of-charge psychological assistance. Providing this assistance is at the discretion of local authorities.²⁷² Psychological assistance is only guaranteed by law with regard to temporary guardians and unaccompanied minors under their care, who benefited from the Ukrainian foster care system.²⁷³ The general discretion of authorities as regards the provision of psychological assistance and the gross limitation of the personal scope of this assistance, is considered to be against Article 13(4) of the TPD.²⁷⁴

Polish authorities *may* assist special temporary protection beneficiaries with transport to medical establishments.²⁷⁵ Until 1 March 2023, regional authorities (voivodes) were obliged to provide this assistance for at least 2 months starting with the entry to Poland by a person concerned. However, in January 2023, Article 12(17) of the Special Law was amended, and currently, there is no obligation of any Polish authorities to provide persons enjoying special temporary protection in Poland with means of transport to benefit from medical assistance. They only have the discretion to provide such assistance.

Access to a labour market for Ukrainian doctors, dentists, nurses and midwives has been facilitated. Ukrainian psychologists can also provide psychological assistance to their compatriots until 24 August 2023 (see [Access to labour market](#)). Ukrainian doctors, dentists, nurses and midwives can have their Polish language lessons co-financed from a state budget.²⁷⁶

Ukrainian nationals who fled from Ukraine after 24 February 2022 can also obtain funding for medicines' purchases. It is financed by state²⁷⁷ and private donors.²⁷⁸

Practical difficulties included a language barrier. However, it was not possible to finance translation costs from the National Health Fund. To counteract this difficulty, the special application LikarPL for doctors and patients was created, available in Polish, Ukrainian, Russian and English. Moreover, Ukrainian speakers were hired to provide medical assistance remotely.²⁷⁹

Ukrainian women also struggled with accessing their reproductive rights, in particular an abortion after being raped in Ukraine.²⁸⁰ The Federation for Women and Family Planning called on the international

²⁷⁰ Article 37 of the Special Law.

²⁷¹ Human Rights Commissioner, 'Problemy opieki zdrowotnej uchodźców z Ukrainy. Resort zdrowia informuje RPO o swych działaniach', 13 April 2022, 13 May 2022, available in Polish here: <https://bit.ly/41krFyu>.

²⁷² Article 32 of the Special Law.

²⁷³ Article 25(3b) of the Special Law.

²⁷⁴ SIP, Letter to the Ministry of Internal Affairs and Administration, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 18-19.

²⁷⁵ Article 12(1)₍₃₎ of the Special Law.

²⁷⁶ Articles 61-64a and Article 22i of the Special Law.

²⁷⁷ E.g. PFRON, Zaopatrzenie w wyroby medyczne - wsparcie dla uchodźców z Ukrainy, 1 April 2022, available in Polish here: <https://bit.ly/3LPbJyj>.

²⁷⁸ See e.g.: <https://bit.ly/44Mz7Fc>.

²⁷⁹ Human Rights Commissioner, 'Problemy opieki zdrowotnej uchodźców z Ukrainy. Resort zdrowia informuje RPO o swych działaniach', 13 April 2022, 13 May 2022, available in Polish here: <https://bit.ly/41krFyu>.

²⁸⁰ Instytut Praw Migrantów, 'Jak radzą sobie uchodźczynie z Ukrainy, które przyjeżdżają do Polski w niechcianej ciąży? Gdzie szukają dostępu do aborcji?', 25 March 2023, available in Polish here: <https://bit.ly/41oFvjf>.

community to intervene in Poland to adequately address the sexual and reproductive health needs of women and girls affected by the war in Ukraine.²⁸¹

General temporary protection

Under the Act on Protection, temporary protection beneficiaries have access to medical assistance, upon their motion and if they receive a certificate for temporary protection beneficiaries first.²⁸² In 2022, 67 persons were denied medical assistance and financial allowance due to the lack of a certificate for a person enjoying temporary protection.²⁸³

The medical assistance is provided for a period of minimum 2 months, but no longer than for the period of the validity of the certificate for temporary protection beneficiaries. This period is determined individually, in the Head of the Office for Foreigner's decision. According to the Office for Foreigners, if this period ends, a person concerned may apply for assistance to be granted again.²⁸⁴

If a temporary protection beneficiary is entitled to access a general healthcare system due to their work or running a business in Poland, they are not covered by medical assistance organised by the Office for Foreigners.²⁸⁵ Moreover, medical assistance for temporary protection beneficiaries is not granted if a person concerned seeks asylum (then, he/she benefits from material reception conditions for asylum seekers).²⁸⁶

Health care for temporary protection beneficiaries is the same as for asylum seekers. Hence, all problems of asylum seekers in this respect apply now also to persons enjoying temporary protection under the Act on Protection (see [Reception: Health care](#)).

In 2022, 536 temporary protection beneficiaries received a financial allowance and medical assistance (199 of them were benefiting from this assistance as of 31 December 2022); 67 persons were granted only medical assistance under the Act on Protection (21 as of 31 December 2022). Additionally, six persons benefited from health care in reception centres for asylum seekers.²⁸⁷ Thus, 47% of the general temporary protection beneficiaries benefited from medical assistance organised by the Office for Foreigners in 2022.

²⁸¹ See FEDERA, 'Stanowisko FEDERY dotyczące zwiększania się zagrożeń dla praw reprodukcyjnych i seksualnych w związku z kryzysem humanitarnym odczytane na sesji Rady Praw Człowieka ONZ', 22 March 2022, available in English here: <https://bit.ly/42G5B2k>.

²⁸² Article 112 of the Act on Protection.

²⁸³ Information provided by the Office for Foreigners, 17 January 2023.

²⁸⁴ Information provided by the Office for Foreigners, 17 January 2023.

²⁸⁵ Article 112(4d) of the Act on Protection.

²⁸⁶ Article 112(1b) of the Act on Protection.

²⁸⁷ Information provided by the Office for Foreigners, 17 January 2023.