

# Temporary Protection Poland

2023 Update

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 the Association for Legal Intervention and Helsinki Foundation for Human Rights, and was edited by ECRE.

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## Temporary Protection Procedure

### A. General

Title (EN)	Original Title (XX)	Web Link
Law of 12 March 2022 on assistance to Ukrainian nationals with regard to the arm conflict on the territory of this country (Special Law)	Ustawa z 12 marca 2022 r. o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa	<a href="https://bit.ly/4afrzMZ">https://bit.ly/4afrzMZ</a>
Law of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland (Act on Protection)	Ustawa z dnia 13 czerwca 2003 r. o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej	<a href="https://bit.ly/4bvQiOa">https://bit.ly/4bvQiOa</a>
Law of 12 December 2013 on foreigners	Ustawa z dnia 12 grudnia 2013 r. o cudzoziemcach	<a href="https://bit.ly/4bwqMbl">https://bit.ly/4bwqMbl</a>

The Temporary Protection Directive (TPD) was implemented into the Polish legal system in 2003,<sup>1</sup> in the Act of 21 July 2003 on the Protection of Foreigners in Poland (hereinafter: Act on Protection). While some incoherencies between the EU and Polish legal framework on temporary protection were identified back then,<sup>2</sup> 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. As a result, 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.<sup>3</sup>

In response to the war in Ukraine and the activation of the TPD, Polish authorities decided to adopt a new law<sup>4</sup>: the Act of 12 March 2022 on the Assistance to Ukrainian Nationals in relation to the Armed Conflict in this State (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.

Accordingly, since March 2022, there are two temporary protection mechanisms in Poland<sup>5</sup>: a general one, arising from the Act on Protection (as changed in March 2022 and later), 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.

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

<sup>2</sup> 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.

<sup>3</sup> Information from the Office for Foreigners, 17 January 2023. See Article 100b of the Special Law.

<sup>4</sup> Which was unnecessary, see P. Sadowski, 'Czy zakres podmiotowy prawa polskiego jest zgodny z decyzją wykonawczą Rady (UE) 2022/382 w sprawie masowego napływu wysiedleńców z Ukrainy?', *Studia Iuridica* 2022, vol. 94, April 2023, available in Polish here: <https://bit.ly/3UVtLF4>.

<sup>5</sup> 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.

Since the very beginning of the war, millions of displaced persons crossed 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). In 2023, it was 8,903,401 third-country nationals.<sup>6</sup> Only some of them were registered as temporary protection beneficiaries in Poland. Until the end of December 2023, in total, over 1.7 million persons were granted special temporary protection in Poland.<sup>7</sup> As of 13 February 2024, there were 952,109 special temporary protection beneficiaries.<sup>8</sup> 1,301 persons enjoyed general temporary protection in 2022 in total, with 1,343 beneficiaries as of 31 December 2023.<sup>9</sup>

In February 2024, Poland prolonged the validity of the special temporary protection only until 30 June 2024 (with some exceptions allowing for a longer stay in Poland).<sup>10</sup> In May 2024, it was once again prolonged until 30 September 2025. General temporary protection is valid until 4 March 2025.<sup>11</sup>

This annex scrutinises temporary protection law and practice in Poland until May 2024. It includes the changes to the Special Law introduced by the amendment of 15 May 2024,<sup>12</sup> in force (mostly) from 1 July 2024. Statistical data concern the years 2022-2023, supplemented by data for 2024 where available.

## 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)<sup>13</sup>, and
- ❖ from 1 July 2024: children of Ukrainian nationals and of their spouses.<sup>14</sup>

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.
- ❖ Until 1 July 2024, minor unmarried children of Ukrainian nationals (or his/her spouse) (Article 2(4)(b) of the Council Implementing Decision) were not eligible for special temporary protection unless they were the closest family of the Ukrainian national who has a 'Poles Card' or they were born in Poland of a mother who is a temporary protection beneficiary. However, in May 2024, the

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<sup>6</sup> Border Guard's official statistics for 2022 and 2023, published here: <https://bit.ly/3fDaMwB>.

<sup>7</sup> Information provided by the Ministry of Digital Affairs, 9 April 2024.

<sup>8</sup> Otwarte Dane, 'Szczegółowe statystyki dot. osób zarejestrowanych w rejestrze obywateli Ukrainy i członków ich rodzin, którym nadano status cudzoziemca na podstawie specustawy. Stan na 13.02.2024 r.', available here: <https://bit.ly/3UUIP6L>.

<sup>9</sup> Information from the Office for Foreigners, 17 January 2023 and February 2024.

<sup>10</sup> Zmiany do Ustawy o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa', February 2024, available in Polish here: <https://bit.ly/4bdvBqI>.

<sup>11</sup> Office for Foreigners, 'Przedłużenie obowiązywania zaświadczeń o objęciu ochroną czasową do 4 marca 2025 r.', 18 January 2024, available in Polish here: <https://bit.ly/4aerXer>.

<sup>12</sup> The text of the amendment available [here](#).

<sup>13</sup> 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.

<sup>14</sup> Article 1(2) of the Special Law as amended on 15 May 2024.

law was changed and starting from 1 July 2024 minor children of Ukrainian nationals and their spouses are included into the special temporary protection regime.

- ❖ Children born in Poland to mothers under temporary protection are entitled to legal stay as long as their mother maintains this status. In 2022, this rule applied to approx. 5,360 children born in Poland, in 2023 there was 4,920 new-born children who were given special temporary protection.<sup>15</sup> In May 2024, this law was changed in order to exclude from special temporary protection those children born in Poland who hold Polish or EU citizenship.
- ❖ '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.<sup>16</sup> Arguably, these family members could still be recognised as temporary protection beneficiaries under the Act on Protection.<sup>17</sup> However, the official information of the Office for Foreigners does not mention them as persons eligible for general temporary protection.<sup>18</sup>

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.

However, another limitation remains in force, despite its incoherence with the EU law.<sup>19</sup> Ukrainian national or his/her spouse must enter Poland in a regular manner to qualify for special temporary protection (and intertwined set of rights). In practice, this rule has been understood broadly. For example, in 2023, HNLAC informed that some persons were denied special temporary protection on this basis because they had left Ukraine illegally, via Russia.<sup>20</sup>

Moreover, some Ukrainian nationals are excluded from enjoying special temporary protection in Poland, i.e.:<sup>21</sup>

- ❖ holders of a temporary residence permit, permanent residence permit, EU long-term residence permit;<sup>22</sup>
- ❖ 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);<sup>23</sup>
- ❖ and, since 28 January 2023, temporary protection beneficiaries in other EU member states.<sup>24</sup>

<sup>15</sup> Information provided by the Ministry of Digital Affairs, 1 March 2023 and 9 April 2024.

<sup>16</sup> M. Łysienia, 'Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland', CEEMR vol. 12 no. 1, 2023, available here: <https://bit.ly/3y8GJWO>.

<sup>17</sup> 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. Duszczyk (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 90.

<sup>18</sup> Office for Foreigners, 'Ochrona czasowa dla cudzoziemców niebędących obywatelami Ukrainy', 23 March 2023, available in Polish here: <http://bit.ly/3Tf5Yx8>.

<sup>19</sup> SIP, Letter of 30 November 2022 to the European Commission, available in English at: <https://bit.ly/3TgHaEX>, 2; M. Łysienia, 'Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland', CEEMR vol. 12 no. 1, 2023, available here: <https://bit.ly/3Wyx4mE>, 188.

<sup>20</sup> K. Przybysławska, 'Stateless persons from Ukraine seeking protection in Poland', HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGq6K>, 8.

<sup>21</sup> Article 2(3) of the Special Law.

<sup>22</sup> Since 28 January 2023, the Special Law specifies that applying for these permits does not result in the loss of temporary protection (Article 2(5a)).

<sup>23</sup> Article 2(5) of the Special Law.

<sup>24</sup> Article 2(3)<sub>(3)</sub> and Article 11(4) of the Special Law, both in force since 28 January 2023.

The latter amendment reflects the earlier practice of Polish authorities which denied access to temporary protection in Poland to persons enjoying this 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.<sup>25</sup> Since 28 January 2023, cases of persons displaced from Ukraine who were denied access to temporary protection in Poland due to being temporary protection beneficiaries in another state, have continued to be reported. In January 2024, the Ministry of Internal Affairs and Administration sent an instruction to respective authorities explaining that the fact of being a temporary protection beneficiary in another EU member state is actually not a sufficient reason to deny 'PESEL UKR' and a person concerned does not have to prove that they no longer enjoy temporary protection in another country to be granted this number. According to the Ministry, upon receiving it, all the entitlements connected with the temporary protection in another country are ceased.<sup>26</sup>

### 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,<sup>27</sup> 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.

In September 2023, the Human Rights Commissioner indicated that stateless persons from Ukraine face several problems with accessing temporary protection in Poland. Due to the lack of documents, they may not be able to prove that they legally resided in Ukraine. Moreover, the recognition of statelessness procedure had been established in Ukraine not long before the outbreak of the war and many stateless persons did not manage to benefit from this new solution. Lastly, there is no uniform understanding of the term 'stateless person', according to the Commissioner.<sup>28</sup>

In October 2023, HNLAC published a report "Stateless persons from Ukraine seeking protection in Poland".<sup>29</sup> The NGO listed groups of persons who cannot access or face difficulties in accessing temporary protection in Poland, i.e. Roma people, former citizens of the USSR, persons displaced after the 2014 Russian invasion and persons from the occupied territories, Russian nationals living permanently in Ukraine, children (especially separated), refugees, asylum seekers, migrants and undocumented persons. The report identified many protection gaps in Poland within this context. Specifically, it pointed out that the Border Guard applies a too narrow understanding of "statelessness" (i.e. focusing only on persons holding a travel document issued on the basis of the 1954 Convention Relating to the Status of Stateless Persons). Moreover, HNLAC echoed the concerns raised by the Human Rights Commissioner regarding difficulties in accessing temporary protection, as mentioned in the aforementioned letter. It

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<sup>25</sup> HNLAC, 'Refugees from Ukraine: access to temporary protection in Poland after moving from another MS', 12 December 2022, available at: <http://bit.ly/3mTxGTY>.

<sup>26</sup> Mapuj Pomoc, Odpowiedź MSWiA na apel ws. statusu UKR, 2 February 2024, available in Polish here: <https://bit.ly/3wF1hqv>.

<sup>27</sup> Office for Foreigners, 'Ochrona czasowa dla cudzoziemców niebędących obywatelami Ukrainy', 23 March 2023, available in Polish here: <http://bit.ly/3Tf5Yx8>.

<sup>28</sup> Human Rights Commissioner, 'Problemy bezpaństwowców - uchodźców z Ukrainy. Odpowiedź Szefa Urzędu ds. Cudzoziemców', 7 and 27 September 2023, available in Polish here: <https://bit.ly/4dCAGDK>. See also 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>; K. Przybyławska, 'Stateless persons from Ukraine seeking protection in Poland', HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>, 13-14.

<sup>29</sup> K. Przybyławska, 'Stateless persons from Ukraine seeking protection in Poland', HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>.

added that there is no statelessness determination procedure in Poland, so unrecognised stateless persons coming from Ukraine may be unable to prove their statelessness and, consequently, benefit from temporary protection in Poland. As of 30 June 2023, only 29 stateless persons and 23 persons with undetermined nationality enjoyed general temporary protection in Poland, according to the Office for Foreigners.<sup>30</sup>

## Persons not enjoying temporary protection

### *Special solutions for Ukrainian nationals*

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.<sup>31</sup> However, some special rules as regards their stay in Poland have been introduced in the Special Law.<sup>32</sup>

- ❖ Validity of national visas issued to Ukrainian nationals was prolonged by law to 30 September 2025, 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 to 30 September 2025, 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 30 September 2025, 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 30 September 2025, 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 30 September 2025 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 30 September 2025.
- ❖ 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](#)).

Most of these prolonged visas and residence permits do not entitle to crossing the border. It limits the Ukrainian nationals' mobility and may lead to some practical difficulties. For example, in January 2023, the Human Rights Commissioner informed about a case of a Ukrainian worker, for years legally staying in Poland, whose entry was refused at the Polish border when she returned from holidays. The Commissioner argued that she was not fully aware of the law in force. She was denied access to legal assistance, and only after the Commissioner's intervention she was allowed to enter and seek asylum in Poland.<sup>33</sup>

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

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<sup>30</sup> Ibid., 17.

<sup>31</sup> 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.

<sup>32</sup> Articles 42, 44 of the Special Law.

<sup>33</sup> Human Rights Commissioner, 'Obywatelka Ukrainy niewpuszczona do Polski. Skuteczna interwencja RPO', 18 January 2023, available in Polish here: <https://bit.ly/4bxUvks>.

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”.<sup>34</sup> In 2023, 4.848 Ukrainian nationals applied for visas to the Ministry of Foreign Affairs. 4.703 received a visa.<sup>35</sup>

#### *Other third-country nationals fleeing Ukraine*

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, undocumented migrants, asylum seekers) were not eligible for any form of special support in Poland.

Some third-country nationals were detained upon crossing the Polish border.<sup>36</sup> The exact number of non-Ukrainian third-country nationals fleeing Ukraine who were detained remains unknown, as most of the detention centres declared that they do not gather such data or that they did not detain such persons. However, partial data has been made available, including information from the detention centre in Lesznowola, which confirmed the detention of 26 third-country nationals who fled Ukraine in 2022. The average duration of detention for these individuals was 95 days. In 2023, HNLAC reported that 49 persons with undetermined nationality were detained upon entry to Poland in the period of February 2022-June 2023.<sup>37</sup>

Those third-country nationals who were not detained, were admitted to Poland for a 15-day stay and were left without any state support during that time.<sup>38</sup> 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. Some third-country nationals, who overstayed in Poland, were subsequently detained.<sup>39</sup>

There are also non-Ukrainian third-country nationals who fled from Ukraine and sought asylum in Poland, but their number is unknown.

#### *Return and detention of Ukrainian nationals*

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. In 2023, 460 Ukrainian nationals received return decisions (incl. 387 due to national security reasons); 79 of them appealed. As of 18 March 2024, an additional 66 Ukrainian nationals have received this decision. In 2023, 138 Ukrainian nationals voluntarily returned to Ukraine, while 311 were expelled.<sup>40</sup> Moreover, in 2023, 355 Ukrainian nationals were readmitted to Ukraine.<sup>41</sup>

The Border Guard declared that the returns to Ukraine were suspended from 25 February 2022 to 27 January 2023.<sup>42</sup> Since 28 January 2023, however, the Special Law specifies that until 30 September 2025,

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<sup>34</sup> 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/42ljqvW>.

<sup>35</sup> Information from the the Ministry of Foreign Affairs, 4 March 2024.

<sup>36</sup> 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 4<sup>th</sup> cycle of Universal Periodic Review of Poland, available in English at: <https://bit.ly/3LPC4MG>, 13.

<sup>37</sup> K. Przybysławska, ‘Stateless persons from Ukraine seeking protection in Poland’, HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>, 14.

<sup>38</sup> A. Minkiewicz, P. Mirabelli, A. Nosowska and L. Pelham, ‘Equality versus equity: a case study from Poland’, FMR no. 72, September 2023, available here: <https://bit.ly/3WAnoYY>, 21.

<sup>39</sup> SIP, ‘SIP w działaniu. Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 r.’, September 2023, available in Polish here: <https://bit.ly/3yfSw5V>, 14.

<sup>40</sup> Information from the Border Guard Headquarters, 9 February 2023, 18 March 2024 and 27 March 2024.

<sup>41</sup> Information from the Border Guard Headquarters, 27 March 2024.

<sup>42</sup> Information from the Border Guard’s Headquarters, 25 January 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). Thus, while the Border Guard can refrain from deporting Ukrainian nationals, the abovementioned statistical data show that the returns to Ukraine are not fully suspended: return decisions concerning Ukrainian nationals were in practice issued and executed in 2023. Moreover, SIP indicated that the safeguards provided for in Article 42b are insufficient also for other reasons: persons whose return proceedings were discontinued or not initiated find themselves in a legal limbo – unable to return yet lacking legal stay and the right to work.<sup>43</sup>

At the end of 2022, the Supreme Administrative Court stated that war in Ukraine has no impact on the return proceedings initiated before its outbreak. However, the Court highlighted that considering these new circumstances, the Border Guard can initiate separate proceedings concerning a humanitarian stay in Poland.<sup>44</sup> However, in 2023, only 9 Ukrainian nationals were granted a humanitarian stay in Poland.<sup>45</sup>

Some Ukrainian nationals were detained in 2022 (21 Ukrainian nationals in total) and in 2023 (in total 39 Ukrainian nationals, including two with unconfirmed nationality, but declaring Ukrainian citizenship, as below).

Detention of Ukrainian nationals in 2023		
Detention centre	Number of detained Ukrainian nationals in 2023	Period on detention
Przemysł	8	4-233 days, one person still detained as of 5 March 2024 (from 12 December 2023)
Krosno Odrzańskie	3 (one with unconfirmed nationality)	107 and 186 days, one person still detained as of 23 February 2024 (from 14 December 2023)
Kętrzyn	10	Unknown
Białystok	10	On average 40 days
Lesznowola	6	34 days on average
Biała Podlaska	1 and 1 with unconfirmed nationality	The Ukrainian national was detained for 14 days. The third-country national declaring Ukrainian nationality, which was not confirmed, was still detained as of 13 February 2024.

Source: Information from different branches of BG from February and March 2024.

<sup>43</sup> SIP, Letter to the Ministry of Internal Affairs and Administration, 28 October 2022, available in Polish at: <https://bit.ly/3VHuyrT>, 10-11.

<sup>44</sup> Naczelny Sąd Administracyjny (Supreme Administrative Court), judgment of 15 December 2022, no. II OSK 993/22.

<sup>45</sup> Information from the Office for Foreigners, 16 February 2024.

## C. Access to temporary protection and registration

### 1. Admission to territory

#### *Allowing entry*

At the 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.<sup>46</sup> 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.<sup>47</sup> However, in the first days of the 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.<sup>48</sup>

At the beginning of the war, cases of discrimination and racial profiling were reported at the border.<sup>49</sup> Some non-Ukrainian nationals, in particular foreign students, were not allowed by Ukrainian authorities to enter Poland; racist incidents were reported as well.<sup>50</sup> 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.<sup>51</sup> Already in the first month of the outbreak of the war, over 104,000 non-Ukrainians crossed the Polish-Ukrainian border.<sup>52</sup>

Persons who were not entitled 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.<sup>53</sup> Those permits, however, were prolonged by law by 18 months specifically for Ukrainian

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<sup>46</sup> 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.

<sup>47</sup> 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 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.

<sup>48</sup> HFHR, 'Sytuacja na granicy polsko-ukraińskiej. Raport z monitoringu. 26.02-2.03.2022', available in Polish here: <https://bit.ly/3LHuvci>, 2-3.

<sup>49</sup> 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. See also Fundacja w Stronę Dialogu, 'To nie są uchodźcy, tylko podróżnicy. Sytuacja romskich osób uchodźczych w województwie podkarpackim. Raport monitoringowy 2022-2023, July 2023, available in Polish here: <https://bit.ly/3UtsJK>, 18-20.

<sup>50</sup> **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.

<sup>51</sup> **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.

<sup>52</sup> Klaus W. (ed), *Ustawa o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa. Komentarz*, Wolters Kluwer 2022, 26.

<sup>53</sup> **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.

nationals and some of their family members.<sup>54</sup> 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.<sup>55</sup> 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.<sup>56</sup> In 2023, the Border Guard issued 179,664 special permits for up to 15-day-long stay in Poland at the Polish-Ukrainian border, including 179,361 for Ukrainian nationals.<sup>57</sup>

It is also worth noting that the Act on Protection provides for the possibility to issue a free-of-charge visa to a person enjoying temporary protection under the general mechanism.<sup>58</sup> 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.<sup>59</sup> In 2022, only one such visa was requested and granted – to a Belarusian national. In 2023, only one such visa was requested and this time it was refused (also regarding a Belarusian national).<sup>60</sup>

While a possibility to issue special visas for temporary protection holders is not used in practice, persons displaced from Ukraine can be granted a visa for humanitarian reasons. In 2022, a total of 352 Ukrainian nationals applied for a visa to Poland based on humanitarian reasons<sup>61</sup>, with 346 of them receiving approval. Additionally, 804 third-country nationals applied for a humanitarian visa in the Polish consulates located in Ukraine, and 798 were granted this visa. In 2023, the numbers decreased with 104 Ukrainian nationals applying for a humanitarian visa to Poland, of which 101 were approved.<sup>62</sup>

### *Denying entry*

While the admission of displaced persons to Poland at the very beginning of the war in Ukraine did not raise major concerns, soon the Polish Border Guard started to issue decisions on a refusal of entry at the Polish-Ukrainian border.<sup>63</sup> In the period between March and 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 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.<sup>64</sup> In 2023, 13,030 decisions on a refusal of

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<sup>54</sup> Article 44 of the Special Law.

<sup>55</sup> 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.

<sup>56</sup> Information from the Border Guard's Headquarters, 9 February 2023.

<sup>57</sup> Information from the Border Guard's Headquarters, 21 March 2024.

<sup>58</sup> Article 110(1-2) of the Act on Protection.

<sup>59</sup> Article 60(1)<sup>(22)</sup> of the Act on Foreigners.

<sup>60</sup> Information from the Ministry of Foreign Affairs, 31 January 2023 and 4 March 2024.

<sup>61</sup> Based on Article 60(1)<sup>(23)</sup> of the Act on Foreigners.

<sup>62</sup> Information from the Ministry of Foreign Affairs, 31 January 2023 and 4 March 2024.

<sup>63</sup> 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'. See also ACAPS, 'Poland: Loss of temporary protection status and social benefits for Ukrainian refugees', 14 November 2023, available here: <https://bit.ly/4ahHdtd>, 5-6.

<sup>64</sup> 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/432pqlm>, 12).

entry were issued at the Polish-Ukrainian border; 12,006 Ukrainian nationals were denied entry at all Polish border crossings.<sup>65</sup>

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.<sup>66</sup> In 2023, only 20 appeals against a decision on a refusal of entry were submitted by Ukrainian nationals; 6 third-country nationals appealed against this decision issued at the Polish-Ukrainian border.<sup>67</sup> 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.

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.<sup>68</sup> 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 Poland<sup>69</sup> (see [Movement and mobility](#)).

Entering Poland is also hampered for non-Ukrainians fleeing the war. In July 2023, SIP, HIAS, Right to Protection and Alliance for Black Justice appealed to Polish authorities to enable entry of all persons fleeing Ukraine and seeking protection in Poland. NGOs noticed that asylum seekers, refugees and complementary protection holders<sup>70</sup> face particular difficulties with entering Poland (mostly related to the lack of travel documents, visas and residence permits). They also stated that Poland seems to not recognise travel documents issued by Ukraine to complementary protection beneficiaries.<sup>71</sup> Moreover, in October 2023, HNLAC published a report focusing on the stateless persons. It stated that in the period of February 2022-June 2023, according to the Border Guard, 4,415 stateless persons, persons with undetermined nationality and recognised refugees were allowed to enter Poland. However, 42 stateless persons and persons with undetermined nationality were denied entry in this period. 49 persons with undetermined nationality were detained upon entry to Poland.<sup>72</sup>

## 2. Freedom of movement

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

The journey towards other European countries and Ukraine was hindered in 2022 and 2023 (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

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<sup>65</sup> Information from the Border Guard Headquarters, 18 March 2024; Border Guard's official statistics for 2023, published here: <https://bit.ly/3fDaMwB>.

<sup>66</sup> Information from the Border Guard's Headquarters, 9 February 2023.

<sup>67</sup> Information from the Border Guard's Headquarters, 27 March 2024.

<sup>68</sup> PRAB, 'Surprisingly surprised', September 2023, available in English here: <https://bit.ly/3J8QmqK>, 6.

<sup>69</sup> SIP, Letter of 30 November 2022 to the European Commission, available in English here: <https://bit.ly/3TgHaEX>, 3-4.

<sup>70</sup> Ukrainian legislation defines a person in need of complementary protection as a person, who is not a refugee, but is in need of protection because of a threat to their life, safety or freedom in the country of origin, owing to a fear of death penalty, torture, inhuman or degrading treatment, punishment, or generalised violence in situations of international or internal armed conflicts, or systematic human rights abuses. UNHCR Ukraine, Forms of asylum and refugee protection, available here: <https://bit.ly/3wCubXh>.

<sup>71</sup> SIP, R2P, HIAS and ABJ, Letter of 5 July 2023, available in Polish and English here: <https://bit.ly/3JY5iZa>.

<sup>72</sup> K. Przybysławska, 'Stateless persons from Ukraine seeking protection in Poland', HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>, 14.

special personal identification number 'PESEL UKR'.<sup>73</sup> 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.<sup>74</sup> In 2022, approx. 1,502,620 persons were given 'PESEL UKR' in Poland. Until the end of December 2023, in total, 1,727,540 persons were granted special temporary protection in Poland.<sup>75</sup> As of 13 February 2024, there were 952,109 special temporary protection beneficiaries.<sup>76</sup>

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 (6 years old from 1 September 2024). Applications are also available in the Ukrainian language.

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

Until 1 July 2024, in accordance with the Special Law, an identity of Ukrainian nationals and their family members was established on a basis of a passport, Pole's Card, or another document with a photo that enabled their identification. In the case of children, birth certificates were also accepted. Invalid documents could have been recognised if they enabled identification. In practice though, due to the lack of identity documents, some beneficiaries, in particular from the Roma minority and stateless persons, struggled with accessing temporary protection (see also [Qualification for temporary protection](#) and [Guarantees for vulnerable persons](#)).<sup>77</sup> In May 2024 the Special Law was amended and since 1 July 2024 only a valid travel document is accepted to confirm a beneficiary's identity.<sup>78</sup> Persons whose identity was confirmed in a different manner will have to reconfirm it by showing a valid travel document in 60 days from the day of its issuance. During the legislative proceedings, UNHCR recalled that "20% of respondents reported that at least one of their household members lacks valid biometric passports. In addition, 13% of respondents stated that they are unable to renew or replace their documentation in Poland due to the cost, lack of information and long waiting times associated with the procedure".<sup>79</sup>

Initially, the Special Law did not specify whether Ukrainian nationals or their family members who already had a PESEL number in Poland,<sup>80</sup> could obtain 'PESEL UKR'. Local authorities, not finding the answer in law, adopted varying approaches to address the matter.. As a consequence, some Ukrainian nationals and their family members could not register as special temporary protection beneficiaries.<sup>81</sup> 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'.

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<sup>73</sup> Article 4 of the Special Law.

<sup>74</sup> 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>.

<sup>75</sup> Information provided by the Ministry of Digital Affairs, 1 March 2023 and 9 April 2024.

<sup>76</sup> Otwarte Dane, 'Szczegółowe statystyki dot. osób zarejestrowanych w rejestrze obywateli Ukrainy i członków ich rodzin, którym nadano status cudzoziemca na podstawie specustawy. Stan na 13.02.2024 r.', available here: <https://bit.ly/3UUJIP6L>.

<sup>77</sup> 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>. See also K. Przybysławska, 'Stateless persons from Ukraine seeking protection in Poland', HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>, 5-6.

<sup>78</sup> Confirming the identity based on other documents is only possible based on a special ordinance that can be adopted in the face of mass influx from Ukraine (Article 4a of the Special Law, in force since 1 July 2024).

<sup>79</sup> UNHCR, 'Draft law amending the Act on Assistance to Citizens of Ukraine in the Context of the Armed Conflict in Ukraine ("the Special Act")'. UNHCR Comments and Observations', April 2024, available here: <https://bit.ly/3QHIs0x>, 2.

<sup>80</sup> A PESEL number is given to all Polish nationals and some foreigners who live or lived in Poland.

<sup>81</sup> SIP, 'We are working for equal access to rights and benefits for Ukrainian citizens', 14 June 2022, available at: <https://bit.ly/3B9thAm>.

In 2023, some other specific difficulties with registration were reported too. For example, the Human Rights Commissioner informed about the practice of denying registration to Ukrainian nationals who had a valid Canadian visa in their passports.<sup>82</sup> Nomada and DRC reported that the Ukrainian documents with Latin transliteration were required. Thus, Ukrainian nationals needed biometric passports which are more costly when a person concerned applies for them from Poland. Accordingly, some Ukrainian nationals travelled back to Ukraine to acquire a biometric passport.<sup>83</sup>

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,<sup>84</sup> an application for 'PESEL UKR' had to be submitted no later than 90 days upon arrival to Poland.<sup>85</sup> Since 28 January 2023, the 90-day time limit has been removed from the Special Law, while a new 30-day time limit (from arrival to Poland) to apply for a 'PESEL UKR' has been introduced.<sup>86</sup> 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.<sup>87</sup> In May 2024, the Special Law was again amended by repealing the 30-day time limit and requiring submitting the application for a 'PESEL UKR' immediately upon entering Poland.

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.<sup>88</sup> In 2023, the situation seems to have improved. However, language barrier and working hours of the respective offices continued to hamper access to registration for Ukrainian nationals, especially for single mothers.<sup>89</sup>

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

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<sup>82</sup> Human Rights Commissioner, 'Ochrona specustawy nie dla Ukraińców z kanadyjską wizą. Rzecznik występuje do Wojewody Mazowieckiego', 13 June 2023, available in Polish here: <https://bit.ly/3wub2H7>.

<sup>83</sup> Nomada, DRC, 'Poland. Protection Monitoring Analysis. Lower Silesian Voivodeship', November 2023, available here: <https://bit.ly/3UUgYTta>, 11-12.

<sup>84</sup> 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).

<sup>85</sup> Article 3(2) of the Special Law.

<sup>86</sup> 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.

<sup>87</sup> 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>.

<sup>88</sup> 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.

<sup>89</sup> See e.g. Nomada, DRC, 'Poland. Protection Monitoring Analysis. Lower Silesian Voivodeship', November 2023, available here: <https://bit.ly/3UUgYTta>, 10.

having one. Appealing against this decision to the second instance administrative authority is excluded.<sup>90</sup> It is unclear whether a judicial remedy is available in those circumstances.<sup>91</sup>

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 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.<sup>92</sup>

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.<sup>93</sup> Thus, the actual number of individuals who were refused issuance of this number is unknown.

### 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.<sup>94</sup> 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 they enjoy temporary protection in Poland.

In practice, persons willing to be recognised as temporary protection beneficiaries under the Act on Protection can 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.<sup>95</sup>

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<sup>90</sup> Article 4(16-17) of the Special Law.

<sup>91</sup> 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. See also M. Łysienia, 'Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland', CEEMR vol. 12 no. 1, 2023, available here: <https://bit.ly/3Wyx4mE>, 193-194.

<sup>92</sup> 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>; SIP, 'SIP w działaniu. Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 r.', September 2023, available in Polish here: <https://bit.ly/3yfSw5V>, 10-11; Mapuj Pomoc, Odpowiedź MSWiA na apel ws. statusu UKR, 2 February 2024, available in Polish here: <https://bit.ly/3wF1hvp>.

<sup>93</sup> Information provided by the Ministry of Digital Affairs, 1 March 2023 and 9 April 2024.

<sup>94</sup> Article 110(5) of the Act on Protection.

<sup>95</sup> Information from the Office for Foreigners, 17 January 2023, and published by the Office online: <https://bit.ly/3B9frOs> and <https://bit.ly/3B5eYge>.

The Office for Foreigners stated in 2023 that, in the procedure concerning temporary protection, the statelessness of a person concerned is established based on his/her passport/identity document and statements.<sup>96</sup> However, the Human Rights Commissioner and NGOs indicated that stateless persons who do not have any document confirming their identity or statelessness may have difficulties accessing temporary protection in Poland.<sup>97</sup>

The Office for Foreigners does not gather information with regards to the length of the waiting period for the certificate to be issued.<sup>98</sup> 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.<sup>99</sup> 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 this protection, and whether and to what extent the abovementioned remedy has been used in practice.

#### 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.<sup>100</sup> Similar right has been provided to children covered by the Ukrainian institutional foster care from 1 July 2024.<sup>101</sup> 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 and 2023, 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.<sup>102</sup> 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.<sup>103</sup> Another NGO, HNLAC, provided free legal aid for Ukrainian nationals in 13 different locations in 2022 and 11 locations in 2023, and operated a dedicated helpline.<sup>104</sup> Also some Polish authorities offered special access to legal assistance. In 2022-2023, Polish

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<sup>96</sup> Letter of the Head of the Office for Foreigners to the Human Rights Commissioner of 20 September 2023, available in Polish here: <https://bit.ly/3WAd1UM>.

<sup>97</sup> Human Rights Commissioner, 'Problemy bezpieczeństwa uchodźców z Ukrainy. Odpowiedź Szefa Urzędu ds. Cudzoziemców', 7 and 27 September 2023, available in Polish here: <https://bit.ly/4dCAgDK>; 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>; K. Przybyłowska, 'Stateless persons from Ukraine seeking protection in Poland', HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>.

<sup>98</sup> Information from the Office for Foreigners, 17 January 2023 and February 2024.

<sup>99</sup> Ibid. See also governmental information published here: <https://bit.ly/3B9frOs>.

<sup>100</sup> Article 25(3aa) of the Special Law.

<sup>101</sup> Article 25<sup>1</sup>(5) of the Special Law, in force since 1 July 2024.

<sup>102</sup> 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) – the assistance continued in 2023 (SIP, 'We have an impact! A summary of key SIP activities in 2023', 5 March 2024, available in English here: <https://bit.ly/3UE8MVA>); 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.

<sup>103</sup> See <https://bit.ly/3B91hgf>. In 2023, it was viewed 900.000 times (see SIP, 'We have an impact! A summary of key SIP activities in 2023', 5 March 2024, available in English here: <https://bit.ly/3UE8MVA>).

<sup>104</sup> 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>; HNLAC, 'Summary of 2023 at the Halina Nieć Legal Aid Center', 13 March 2024, available [here](#).



Ombudsman for Children offered psychological and legal support to children in Ukrainian and Russian language (by phone and chat).<sup>105</sup>

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 20 March 2024, the Special Law has been changed 21 times and another amendment is proceeded by the government at the time of writing.

## 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 they understand about the procedure concerning temporary protection, as well as about his/her rights and obligations in this context. Since April 15, 2022, this information may be published online, on the website of the Office for Foreigners, where, in practice, details regarding eligibility, residence permits, social and medical assistance, employment, and education have been made available. It is available in four languages: Ukrainian, Russian, English and Polish.<sup>106</sup>

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 they understand about all circumstances that may be of significance when a person concerned considers returning to their country of origin. However, this provision applies only when the temporary protection regime no longer applies, thus, it has not been applied yet.

In practice, in 2022 and 2023, information for Ukrainian nationals and other persons fleeing the war in Ukraine has been mostly provided by NGOs and local authorities.<sup>107</sup> Access to information was particularly difficult in the first days of the war.<sup>108</sup> 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.<sup>109</sup> 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;<sup>110</sup>
2. financial allowances for Ukrainian nationals who came to Poland on or after 24 February 2022;<sup>111</sup>
3. financial allowances for persons with disabilities, including those having 'PESEL UKR',<sup>112</sup>
4. persons with disabilities,<sup>113</sup>
5. restoration of PESEL UKR and social benefits,<sup>114</sup>

<sup>105</sup> Rzecznik Praw Dziecka, 'Informacja o działalności Rzecznika Praw Dziecka w 2022 roku oraz uwagi o stanie przestrzegania praw dziecka w Polsce', 31 March 2023, available in Polish here: <https://bit.ly/3QFw3FF>, 281.

<sup>106</sup> See Office for Foreigners' website: <https://bit.ly/41dRZu0>.

<sup>107</sup> 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.

<sup>108</sup> See e.g. HFHR, Input to the EUAA's Asylum Report, February 2023, available in English here: <https://bit.ly/3VgXwOZ>, 3-4.

<sup>109</sup> See <https://bit.ly/3B91hgf> and <https://bit.ly/3pcF12b>.

<sup>110</sup> SIP, 'Udostępniamy broszurę Dziecko bez opieki w Polsce i Ukrainie', 28 April 2022, available in Polish and Ukrainian here: <https://bit.ly/3Vjxpaf>, HNLAC, 'Opieka tymczasowa nad małoletnim z Ukrainy - poradnik dla opiekunów', April 2023, available in Polish here: <https://bit.ly/3UUUge0p>; In Ukrainian here: <https://bit.ly/4aad6lv>.

<sup>111</sup> SIP, UNHCR, 'Świadczenia dla obywateli i obywaterek Ukrainy – broszura', January 2023, available in Polish and Ukrainian here: <https://bit.ly/3LLYf6C>.

<sup>112</sup> HNLAC, 'Świadczenia dla cudzoziemców z niepełnosprawnością, w tym dla osób z PESEL UKR', available in Polish and Ukrainian: <https://bit.ly/41mgx41>.

<sup>113</sup> SIP, 'Informator dla osób z niepełnosprawnością, które przybyły do Polski w wyniku wojny w Ukrainie', July 2023, available in Polish: <https://bit.ly/4adG6sr>, and Ukrainian: <https://bit.ly/3USSidD>.

<sup>114</sup> HNLAC, 'Instrukcja wznowienia świadczenia wychowawczego 500+ dla rodziców dzieci z Ukrainy', 20 November 2023, available in Polish and Ukrainian here: <https://bit.ly/3WHRxW2>.

6. collective accommodation.<sup>115</sup>

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.<sup>116</sup> According to UNHCR, ‘20% of those interviewed report the need for information on their legal status. Interviews with refugees indicate that both uncertainties around the extension of Temporary Protection and incidents relating to the withdrawal of status and deactivation of PESEL UKR could be factors for this need to still feature so prominently among both early and new arrivals’ (for the latter, see also [Movement and mobility](#) and [Social welfare](#)).<sup>117</sup> The study of CARE also confirmed a low awareness amongst Ukrainian nationals of their rights associated with the temporary protection status.<sup>118</sup>

## 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. However, some special solutions have been introduced with regard to particular groups of vulnerable persons.

### Special temporary protection

#### *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 (for more 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.<sup>119</sup>

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, the co-payment obligation 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 (according to the Special Law amendment of 15 May 2024, in force from 1 July 2024, only if at least one of the children is not older than 14 years old),
- e. Minors (according to the Special Law amendment of 15 May 2024, in force from 1 July 2024, only of those who are in a foster care or who do not receive a 800+ financial allowance; if they get this allowance, then they are eligible for a reduced co-payment obligation),
- f. Persons in a difficult individual situation that prevents them from contributing to the costs.<sup>120</sup>

<sup>115</sup> SIP, ‘Centra zbiorowego zakwaterowania. Poradnik dla osób przybyłych z Ukrainy’, June 2023, available in Polish here: <https://bit.ly/3WyzNfS>, and in Ukrainian here: <https://bit.ly/44yJ9u9>.

<sup>116</sup> HFHR, Input to the EUAA’s Asylum Report, February 2023, available in English here: <https://bit.ly/44EE82F>, 4.

<sup>117</sup> UNHCR, ‘Poland: Joint Protection Analysis’, October 2023, available here: <https://bit.ly/3JX197Y>, 8-9.

<sup>118</sup> CARE, ‘In the Shadows. Ukrainian Domestic Workers in Poland’, 25 October 2023, available here: <https://bit.ly/4bxwb1X>, 33.

<sup>119</sup> 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>.

<sup>120</sup> Article 12(17c) of the Special Law.

It has not been specified in law how it is to be assessed whether a person concerned qualifies for the exemption from the co-payment obligation. In July 2023, the Ministry of Internal Affairs and Administration claimed that these rules are intentionally vague to allow flexibility of local authorities. It also prepared a recommendation for these authorities on how the situation (vulnerability) of a Ukrainian national should be assessed. The Ministry recommends gathering information needed for the assessment in the form of a questionnaire (the example was reportedly provided by the Ministry to local authorities). Ukrainian nationals can be asked to prove the circumstances declared in the questionnaire, but available registries should be used as the primary source to verify these data. The local authorities should determine whether a person is exempt from payment obligations on a temporary or permanent basis. No confirmation of being exempted from the obligation is issued. Studies has shown however that there is no coherency in interpreting and applying these rules<sup>121</sup> (for more, see [Housing](#)). By the Special Law amendment of 15 May 2024, the government attempted to clarify the rules concerning vulnerable persons and their obligation to pay for the accommodation, but the practical application of these changes is unknown at the time of writing.

### *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. Until the end of December 2023, almost 60,000 children who stayed in Poland without a parent or a guardian were granted PESEL UKR.<sup>122</sup>

In response to an influx of unaccompanied minor Ukrainian nationals, a special registry was established.<sup>123</sup> In 2022, 485 unaccompanied Ukrainian children, and 2,750 minors who benefited from foster care in Ukraine, were registered in this registry. In 2023, it was 195 unaccompanied Ukrainian children and 170 minors who benefited from foster care in Ukraine.<sup>124</sup> According to the NGOs, not all unaccompanied minors are inscribed in this registry due to the gaps in law and in practice.<sup>125</sup>

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 (albeit, since 1 July 2024, not institutional, see below) and came to Poland with his/her caregiver, this person is appointed as a temporary guardian in Poland.

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.

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<sup>121</sup> S. Jarosz, W. Klaus (eds), 'W pukniec wyjścia. Monitoring zbiorowego zakwaterowania uchodźczyń z Ukrainy w 2023 r. w świetle zmian ustawowych', Migration Consortium, August 2023, available in Polish here: <https://bit.ly/4dxILF0>.

<sup>122</sup> Information provided by the Ministry of Digital Affairs, 9 April 2024.

<sup>123</sup> Article 25a-25b of the Special Law.

<sup>124</sup> Information from the Ministry of Family and Social Affairs, 16 January 2023 and 12 February 2024.

<sup>125</sup> SIP, Letter to the Ministry of Internal Affairs and Administration, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 17. See also K. Przybyłowska, 'Stateless persons from Ukraine seeking protection in Poland', HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>, 8; Fundacja Dajemy Dzieciom Siłę, 'Dzieci się liczą 2022', 2022, available in Polish here: <https://bit.ly/3UDrIE0>, 363-364.

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.<sup>126</sup> In 2023, in total, 17 new temporary guardians were registered.<sup>127</sup>

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. they are 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.<sup>128</sup>

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.<sup>129</sup>

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 Ukrainian children staying in Poland. Moreover, Poland declared that it intends to provide 'high quality care for children from Ukrainian institutions'.<sup>130</sup>

In October 2022, Helsinki Foundation for Human Rights published a report concerning unaccompanied minors from Ukraine staying in Poland.<sup>131</sup> 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

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<sup>126</sup> Information from the Ministry of Family and Social Affairs, 16 January 2023.

<sup>127</sup> Information from the Ministry of Family and Social Affairs, 12 February 2024.

<sup>128</sup> Article 27 of the Special Law.

<sup>129</sup> 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>.

<sup>130</sup> 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>.

<sup>131</sup> 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>.

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.<sup>132</sup>

In December 2022, NGOs alarmed Polish authorities about the dangers and needs of unaccompanied minors displaced from Ukraine and staying in Poland.<sup>133</sup> Civil society called for:

- ❖ 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).

In May 2023, unaccompanied children from Ukrainian foster care started to be returned to Ukraine with their guardians. According to the Ministry of Family, Labour and Social Affairs, in 2023, 363 unaccompanied children from Ukrainian foster care were returned to Ukraine.<sup>134</sup> It caused an outcry from national and international organisations. Save the Children, IRC and CARE appealed to stop the returns. They were 'deeply concerned about reports that children from institutional care centres are being sent back to Ukraine without an assessment of whether this is in their best interests and without coordinated preparation and planning'.<sup>135</sup> In July 2023, UNHCR published a guidance "Voluntary Return to Ukraine of Refugee Children without Parental Care, including Unaccompanied Children and Children Evacuated from Care Institutions in Ukraine".<sup>136</sup> Polish NGOs and Human Rights Commissioner also expressed concerns about the children's return to Ukraine. However, the Polish Ministry of Family and Social Policy consistently stated that the unaccompanied minors are returned on the basis of the Ukrainian authorities' decisions (and the children's guardians) and there is no possibility to stop these transfers by Polish authorities.<sup>137</sup> However, the amendment of the Special Law of 15 May 2024, by adding Article 25<sup>1</sup>, introduced some means of oversight by the Polish authorities over children covered by the Ukrainian institutional foster care while they are staying in Poland.

In February 2024, the Human Rights Commissioner also noticed the problems of unaccompanied minors from Ukraine who reached the age of majority (18 years old). They needed to leave the foster care system then, even if they continued education.<sup>138</sup> In May 2024, some solutions to these problems were provided: upon the amendments, it is possible to remain in the foster care system until reaching 25 years old if a person concerned continues education or professional training. Some other means of support were also guaranteed for a person leaving the foster care (Polish and Ukrainian).<sup>139</sup>

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<sup>132</sup> Klaus W. (ed), *Ustawa o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa. Komentarz*, Wolters Kluwer 2022, 193-194.

<sup>133</sup> SIP, 'Protection of unaccompanied children from Ukraine in Poland – what should be improved', 6 March 2023, available at: <https://bit.ly/3NSA1tX>.

<sup>134</sup> Information from Ministry of Family, Labour and Social Affairs, 23 February 2024.

<sup>135</sup> Save the Children, IRC, CARE, 'NGOs call for halt to returning children in institutional care centres from Poland to Ukraine', 15 May 2023, available here: <https://bit.ly/3UDTQHi>.

<sup>136</sup> UNHCR, 'Voluntary Return to Ukraine of Refugee Children without Parental Care, including Unaccompanied Children and Children Evacuated from Care Institutions in Ukraine', July 2023, available here: <https://bit.ly/3UzCRpq>.

<sup>137</sup> Human Rights Commissioner, 'Wobec ukraińskich dzieci uchodźczych mają być organizowane powroty do Ukrainy. Kolejna odpowiedź MRiPS', 12 June, 31 October and 14 November 2023, available in Polish here: <https://bit.ly/3UE5wts>. See also HNLAC, 'Stanowisko UNHCR w sprawie w sprawie dobrowolnych powrotów do Ukrainy dzieci uchodźczych', 3 August 2023, available in Polish here: <https://bit.ly/3QDtNid>.

<sup>138</sup> Human Rights Commissioner, 'Dzieci-uchodźcy z Ukrainy muszą opuścić pieczę zastępczą po ukończeniu 18 lat. Wystąpienie do MRPiPS', 12 February 2024, available in Polish here: <https://bit.ly/3QFKycm>.

<sup>139</sup> Article 27a-27c of the Special Law, in force since 1 July 2024.

## *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, but only until 24 August 2023 and again from 1 July 2024 to 30 September 2025. The gap in the provision of psychological assistance by Ukrainian nationals was criticised.<sup>140</sup> Moreover, a special temporary protection beneficiary *may* be provided with free-of-charge psychological assistance. However, providing this assistance is at the discretion of local authorities.<sup>141</sup> 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, but the respective provision was repealed in May 2024, albeit not for children covered by the Ukrainian institutional foster care system.<sup>142</sup> 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.<sup>143</sup>

## *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.<sup>144</sup> 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.<sup>145</sup>

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.<sup>146</sup> In particular, Ukrainian certificates of disability are not recognised in Poland.<sup>147</sup> 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

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<sup>140</sup> Article 64a of the Special Law. See also Human Rights Commissioner, 'Ukraińcom 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>; Human Rights Commissioner, 'Psychologowie z Ukrainy stracili prawo wykonywania zawodu w Polsce. RPO pisze do marszałek Senatu', 2 October and 20 November 2023, 24 January, 13 February and 19 February 2024, available in Polish here: <https://bit.ly/3wvaXTs>.

<sup>141</sup> Article 32 of the Special Law.

<sup>142</sup> Article 25(3b) of the Special Law, repealed by the Special Law amendment of 15 May 2024.

<sup>143</sup> SIP, *Letter to the Ministry of Internal Affairs and Administration*, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 18-19.

<sup>144</sup> Articles 26a, 34-36 of the Special Law. See here: <https://bit.ly/3wl8w67>. See also K. Heba, 'Wsparcie osób z niepełnosprawnością', in: SIP, 'Informator dla osób z niepełnosprawnością, które przybyły do Polski w wyniku wojny w Ukrainie', July 2023, available in Polish here: <https://bit.ly/4adG6sr>, 68-71.

<sup>145</sup> 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>.

<sup>146</sup> *Ibid.*

<sup>147</sup> See also K. Heba, 'Wsparcie osób z niepełnosprawnością', in: SIP, 'Informator dla osób z niepełnosprawnością, które przybyły do Polski w wyniku wojny w Ukrainie', July 2023, available in Polish here: <https://bit.ly/4adG6sr>, 38; Fundacja Dajemy Dzieciom Siłę, 'Dzieci się liczą 2022', 2022, available in Polish here: <https://bit.ly/3UDrIE0>, 359.

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 to a first-instance decision.<sup>148</sup>

In October 2023, UNHCR counted “limited access to specialised services, especially for children with disabilities” as one of the main challenges faced by the Ukrainian children in Poland. The report mentioned in particular problems related to finding rehabilitation services and psychological help for children due to lack of specialised services or available places.<sup>149</sup>

According to the Ministry of Family, Labour and Social Affairs, in 2023, 8,170 Ukrainian nationals applied for being recognised as a person with disability, 7,531 received positive decision, 500 appealed to a first-instance decision.<sup>150</sup>

### *Roma minority*

Roma from Ukraine have been particularly exposed to discrimination when accessing accommodation and other assistance in Poland.<sup>151</sup> They also have struggled with accessing temporary protection, mostly due to the lack of required documents (see [Qualification for temporary protection](#)).<sup>152</sup>

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.<sup>153</sup>

The situation of Roma have been particularly disturbing in Przemyśl, the city nearest to the border, especially at the railway station. Roma were not allowed to enter the overnight room at the station without the valid train ticket, while alternative accommodations proved challenging to secure. Access to sanitary facilities at the station was also hampered. The medical point was closed. Additionally, Roma were also discriminated in accessing the room for mothers and children at the station.<sup>154</sup>

In July 2023, the Towards Dialog Foundation published a report focusing on the situation of Roma displaced from Ukraine who stayed in the Podkarpackie Voivodship, where Przemyśl is situated.<sup>155</sup> The authors concluded that Roma had insufficient access to assistance and were – fully or partly – isolated from the support system offered to persons fleeing the war in Ukraine. Roma were offered lesser assistance in the reception centres, if they could access them at all. They were also discriminated at the

<sup>148</sup> 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>; Amnesty International Polska, “Ukraińcom nie chcą wynajmować”. Najnowsze badania Amnesty International’, May 2023, available in Polish here: <https://bit.ly/3WTCkSf>, 8-9.

<sup>149</sup> UNHCR, ‘Poland: Joint Protection Analysis’, October 2023, available here: <https://bit.ly/3JX197Y>, 12-13.

<sup>150</sup> Information from Ministry of Family, Labour and Social Affairs, 23 February 2024.

<sup>151</sup> See also UNHCR, ‘Poland: Joint Protection Analysis’, October 2023, available here: <https://bit.ly/3JX197Y>, 17-18; ECRI, ‘ECRI Report on Poland (sixth monitoring cycle)’, 27 June 2023, available here: <https://bit.ly/4brWID6>, 28; Amnesty International, ‘Summary of the annual research project “Refugees from Ukraine in Poland”’, June 2023, available here: <https://bit.ly/4bwvbLp>, 2-3.

<sup>152</sup> K. Przybysławska, ‘Stateless persons from Ukraine seeking protection in Poland’, HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>, 5.

<sup>153</sup> 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>.

<sup>154</sup> Human Rights Commissioner, ‘Problemy uchodźców wojennych w Przemyślu. Odpowiedź wojewody na ponowne pismo Rzecznika’, 23 December 2022, 25 January, 5 July and 25 July 2023, available in Polish here: <https://bit.ly/4bdlpxZ>.

<sup>155</sup> Fundacja w Stronę Dialogu, ‘To nie są uchodźcy, tylko podróżnicy. Sytuacja romskich osób uchodźczych w województwie podkarpackim. Raport monitoringowy 2022-2023’, July 2023, available in Polish here: <https://bit.ly/3UtcsJK>.

border crossings and with regard to services like education, translation and transport. For months, mothers with children were sleeping on the ground at the Przemyśl railway station, despite the presence of national authorities and international organisations as well as in spite of the interventions of the Human Rights Commissioner. While the domestic authorities have not provided Roma with any or sufficient support, NGOs and Polish Roma community had to fill in the protection gap.<sup>156</sup>

In February 2024, the Towards Dialog Foundation indicated that the Roma who fled from Ukraine are still discriminated in Poland and their situation needs to be urgently improved by taking decisive actions by Polish authorities.<sup>157</sup>

Due to discrimination and lack of support in Poland, some Roma returned to Ukraine or moved to another EU state.<sup>158</sup>

### *Human trafficking victims*

In April 2022, the Polish Human Rights Commissioner called for providing adequate protection to vulnerable persons displaced from Ukraine, inter alia, women and girls at risk of human trafficking. In July 2022, the Polish government answered that the protection of vulnerable persons from Ukraine is sufficient.<sup>159</sup>

The study of the Mixed Migration Centre (MMC) of June 2023 showed that “10% of respondents paid for smuggling services to enter Poland, (...). Most respondents who paid to leave Ukraine illegally arrived in Warsaw in the very first weeks of the crisis.” Moreover, “TCNs used those services less often than Ukrainians (2% vs. 8%), which could be explained by the absence of restrictions on TCNs leaving the country, compared to Ukrainian nationals under Ukrainian martial law”. According to the MMC, this level of smuggling should be considered low and it confirms the effectiveness of the TPD.<sup>160</sup>

In June 2023, GRETA published its evaluation report on Poland,<sup>161</sup> with some remarks concerning human trafficking of Ukrainians seeking protection in Poland:

- “At the time of GRETA’s visit, no victims of THB had been identified among persons fleeing the war in Ukraine. In their comments to the draft report, the Polish authorities indicated that that five investigations had been initiated by the Police into alleged cases of human trafficking targeting Ukrainian refugees, but only one case was confirmed after investigation. It concerns two 17-year-old girls who were forced to provide sexual services. The proceedings are ongoing. No cases were reported by the Border Guard.”
- “Pursuant to the 2022 Law on Assistance to Refugees from Ukraine (Article 72), prison sentences have been temporarily increased for committing or preparing the crime of THB during the armed conflict on the territory of Ukraine (10 to 25 years for committing the crime, and a minimum of one year for preparing the crime). The authorities indicated that this provision is not intended only to situations where the victims or the perpetrator are Ukrainians, nor to crimes committed in Ukraine.”
- “Measures have also been taken to alert persons fleeing the war in Ukraine, as well as the general public, on how to avoid human trafficking through posters and leaflets at border crossing points, reception centres, train stations, and city halls, and also through online information. The Police HQ prepared a leaflet in Ukrainian on human trafficking with information on suspicious conducts as well as contact details of the police hotline and email address. The Border Guard HQ cooperated with NGOs, such as the Lighthouse Foundation, to produce awareness-raising leaflets on human trafficking. The Ministry of the Interior and

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<sup>156</sup> For more see E. Mirga-Wójtowicz, K. Fiałkowska, M. Szewczyk, ‘National and local mobilisation of Roma and non-Roma organisations and activists in Poland supporting Ukrainian Roma forced migrants in the face of the war in Ukraine’, Fundacja Jaw Dikh, ERGO Network, November 2023, available in English here: <https://bit.ly/4adu8za>.

<sup>157</sup> Fundacja w Stronę Dialogu, ‘Apel do polskich władz: Przestańcie traktować społeczność romską z Ukrainy jak uchodźców drugiej kategorii’, February 2024, available in Polish here: <https://bit.ly/3JUnjHR>.

<sup>158</sup> Amnesty International, ‘Summary of the annual research project “Refugees from Ukraine in Poland”’, June 2023, available here: <https://bit.ly/4bwvblp>, 2.

<sup>159</sup> 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>.

<sup>160</sup> MMC, ‘Displaced from Ukraine to Warsaw A case study on journeys, living conditions, livelihoods and future intentions’, June 2023, available here: <https://bit.ly/3UDsTTW>, 7-8.

<sup>161</sup> GRETA, ‘Evaluation Report: Poland. Access to justice and effective remedies for victims of trafficking in human beings’, 9 June 2023, available here: <https://bit.ly/3UA5LFZ>.



Administration distributed similar leaflets in Ukrainian, English and Polish (half a million copies). Numerous civil society organisations also developed and disseminated awareness-raising materials on human trafficking amongst Ukrainian refugees, such as La Strada Poland, A21 and the University of Warsaw, as well as international organisations (e.g. the European Union and UNHCR). Information alerts via SMS were also sent to all people crossing the border from Ukraine to Poland with information on potential threat of THB and possibilities of assistance."

In October 2023, UNHCR commented on the limited number of human trafficking cases registered in Poland: "In light of reports on presumed victims of trafficking among refugees from Ukraine, who seek assistance and support of Ukrainian services upon their return from EU countries, the low number of disclosed trafficking cases may be the result of some existing barriers in referral mechanism, including lack of trust in the response services available and/or limited knowledge where one should seek assistance".<sup>162</sup>

### **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. In 2023, 29 children were granted general temporary protection.<sup>163</sup>

For an unaccompanied temporary protection beneficiary, a guardian is appointed by a court on the motion of the Head of the Office for Foreigners.<sup>164</sup> 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.<sup>165</sup>

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

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<sup>162</sup> UNHCR, 'Poland: Joint Protection Analysis', October 2023, available here: <https://bit.ly/3JX197Y>, 16-17.

<sup>163</sup> Information from the Office for Foreigners, 17 January 2023 and February 2024.

<sup>164</sup> Article 113 of the Act on Protection.

<sup>165</sup> 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: until 30.09.2025  
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 2023?  
Special TP: 496,990,  
General TP: data not available

#### Special temporary protection

Ukrainian nationals and some of their family members (spouses and, from 1 July 2024, children) 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 until 30 September 2025. A child born in Poland to 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'.<sup>166</sup>

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.<sup>167</sup>

In July 2022, the electronic document 'Diia.pl' was introduced and notified to the European Commission as a residence permit required under the TPD.<sup>168</sup> 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.<sup>169</sup> Only since June 2023, some access to 'Diia.pl' has been enabled to some children (through their parents' mobile application).<sup>170</sup> However, still not all children, e.g. unaccompanied or separated from their parents, can receive this document, in violation of TPD.<sup>171</sup> In 2023, such a document for children was downloaded 289,620 times.<sup>172</sup>

<sup>166</sup> Article 2(1-2) of the Special Law.

<sup>167</sup> 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.

<sup>168</sup> 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.

<sup>169</sup> 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>; ACAPS, 'Poland: Loss of temporary protection status and social benefits for Ukrainian refugees', 14 November 2023, available here: <https://bit.ly/4ahHdrrd>; SIP, 'SIP w działaniu. Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 r.', September 2023, available in Polish here: <https://bit.ly/3yfSw5V>, 11.

<sup>170</sup> Article 10(1a-1d) of the Special Law, in force since 5 June 2023. See also Digital Affairs Ministry, 'Diia.pl dla dzieci w aplikacji mObywatel', 5 June 2023, available in Polish here: <https://bit.ly/3UEazdg>.

<sup>171</sup> M. Łysienia, 'Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland', CEEMR vol. 12 no. 1, 2023, available here: <https://bit.ly/3Wyx4mE>, 189.

<sup>172</sup> Information provided by the Ministry of Digital Affairs, 9 April 2024.

'Diia.pl' is accessible via the mobile application 'mObywatel' only after the temporary protection beneficiary obtains the 'PESEL UKR' (see [Registration under temporary protection](#)).<sup>173</sup>

'Diia.pl' is valid for the period for which special temporary protection was granted, so, currently, until 30 September 2025. In Poland, special temporary protection was firstly granted for 18 months starting with 22 February 2022. Next it was prolonged, in April 2022, until 4 March 2024, and in February 2024 – until 30 June 2024. Two exceptions have been also introduced (in force from 27 June 2023 to 1 July 2024). The temporary protection remained valid until 30 August 2024, if a beneficiary attended kindergarten or school, and until 30 September 2024, if they passed the final exams in the high school. These longer periods of validity applied also to their parents and guardians.<sup>174</sup> These rules changed again in May 2024, when the special temporary protection was prolonged until 30 September 2025 for all beneficiaries, with no exceptions.<sup>175</sup>

If a person concerned loses the 'PESEL UKR', 'Diia.pl' is invalidated.<sup>176</sup> In particular, a temporary protection beneficiary loses his/her status upon being absent from Poland for 30 days.<sup>177</sup> Since 28 January 2023, the status is also lost if a person concerned enjoys temporary protection in another EU Member State<sup>178</sup> (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.<sup>179</sup> 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.<sup>180</sup>

As of 13 February 2024, there were 952,109 special temporary protection beneficiaries.<sup>181</sup> However, in 2023, only 496,990 special temporary protection beneficiaries had access to 'Diia.pl'.<sup>182</sup>

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.<sup>183</sup> 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 also facilitated by obtaining 'PESEL UKR' (Article 37(1a) of the Special Law, see [Health care](#)).

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<sup>173</sup> Article 10 of the Special Law.

<sup>174</sup> Article 2(10-11) of the Special Law, in force since 27 June 2023. See also Office for Foreigners, 'Wydłużenie okresu legalnego pobytu obywateli Ukrainy objętych ochroną czasową', 14 June 2023, available in Polish here: <https://bit.ly/4bBfYJj>; Office for Foreigners, 'Wydłużenie okresu legalnego pobytu obywateli Ukrainy objętych ochroną czasową', 22 February 2024, available in Polish here: <https://bit.ly/3JTENUX>.

<sup>175</sup> Article 2(1) of the Special Law, as amended on 15 May 2024, in force since 1 July 2024.

<sup>176</sup> However, the respective rules in this regard were only introduced by the amendment of the Special Law of 13 January 2023.

<sup>177</sup> Article 11(2) of the Special Law.

<sup>178</sup> Article 110(9)(4) and Article 110(10-11) of the Act on Protection, in force since 28 January 2023.

<sup>179</sup> Information provided by the Ministry of Digital Affairs, 1 March 2023.

<sup>180</sup> Ibid.

<sup>181</sup> Otwarte Dane, 'Szczegółowe statystyki dot. osób zarejestrowanych w rejestrze obywateli Ukrainy i członków ich rodzin, którym nadano status cudzoziemca na podstawie specustawy. Stan na 13.02.2024 r.', available here: <https://bit.ly/3UUIP6L>.

<sup>182</sup> Information provided by the Ministry of Digital Affairs, 9 April 2024.

<sup>183</sup> Article 10(7) of the Special Law.

## Further legalisation of stay

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.<sup>184</sup> The change was justified by the incapability of the Polish system of dealing with the expected large number of those applications.<sup>185</sup>

Instead, for Ukrainian nationals, the facilitated possibility to apply for a one-year temporary residence permit was introduced on 28 January 2023. It can be issued until 30 September 2025 (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 (Article 42(13-19) of the Special Law). Since 1 July 2024, also family members of Ukrainian nationals having PESEL UKR can receive a temporary residence permit in a facilitated manner (Article 42(13) and (13a) of the Special Law, as amended in May 2024).<sup>186</sup> Additionally, Articles 42c-42w, added by the Special Law amendment of 15 May 2024, but not in force yet at the time of writing, provide for the right of a special temporary protection beneficiary to receive a residence card (*karta pobytu*) if they had a 'PESEL UKR' on 4 March 2024, they continue to have this number on a day of applying for a residence card and they stayed in Poland for at least 365 days. It is to be valid for 3 years and is to be understood as having a temporary residence permit in Poland. It will enable working without a work permit and notification obligation and running a business in Poland; however, a person must inform the authorities about every change of their place of stay.<sup>187</sup>

## General temporary protection

Under Article 110(5-9) of the Act on Protection, temporary protection beneficiaries<sup>188</sup> 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, and next in January 2024, 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, 4 September 2023 or 4 March 2024. Their validity was automatically prolonged until 4 March 2025.<sup>189</sup>

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 and 2023 for these reasons.<sup>190</sup> 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, and since 1 July 2024, also when they were not

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<sup>184</sup> 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.

<sup>185</sup> I. Florczak, J.K. Adamski, 'Mass influx of people from Ukraine: social entitlements and access to the labour market: Poland', in: I. Florczak, J.K. Adamski (eds), *Mass influx of people from Ukraine: social entitlements and access to the labour market*, Università di Bologna 2024, available here: <https://bit.ly/4akZlAd>, 302-303.

<sup>186</sup> Before, the law concerning access to a temporary residence permit for Ukrainian workers and persons running a business was criticised due to the lack of such a possibility for their children/ see Migration Consortium, Right to Protection, Letter of 24 August 2023, available in Polish and English here: <https://bit.ly/3wyyilH>, 4.

<sup>187</sup> Amendment of 15 May 2024 available [here](#).

<sup>188</sup> Since 28 January 2023, the Act on Protection, in Article 110(7a), provides for a right to this certificate for a child of a temporary protection beneficiary born in Poland.

<sup>189</sup> Office for Foreigners, 'Przedłużenie obowiązywania zaświadczeń o objęciu ochroną czasową do 4 marca 2025 r.', 18 January 2024, available in Polish here: <https://bit.ly/4aerXer>.

<sup>190</sup> Information from the Office for Foreigners, 17 January 2023.

entitled to receive that certificate or informs in writing that they no longer wishes to enjoy general temporary protection in Poland.<sup>191</sup> After the invalidation, a person concerned should leave Poland in 30 days.<sup>192</sup>

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.<sup>193</sup> However, it has been contested whether it can be a residence permit within this meaning.<sup>194</sup> 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 (see [Social welfare](#) and [Health care](#)).<sup>195</sup>

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 they are a temporary protection beneficiary (see [Registration for temporary protection](#)).<sup>196</sup> 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.<sup>197</sup> 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.<sup>198</sup>

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 Law.)<sup>199</sup> 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).<sup>200</sup> In 2023, 118 certificates were issued (mostly for Russian nationals: 52), including 29 for children. As of 31 December 2023, 1,343 third-country nationals were general temporary protection beneficiaries.<sup>201</sup>

## 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.<sup>202</sup> In 2023, 1,770 Ukrainian nationals applied for international protection. 1,126 Ukrainian nationals were granted subsidiary protection, 15 Ukrainian nationals were granted refugee status, 88 were refused international protection. In 2023, the recognition rate was 93%.<sup>203</sup> The

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<sup>191</sup> Article 110(9)(4) and Article 110(10-11) of the Act on Protection, in force since 28 January 2023 and 1 July 2024.

<sup>192</sup> Article 110(12) of the Act on Protection, added in May 2024, in force since 1 July 2024.

<sup>193</sup> 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.

<sup>194</sup> 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.

<sup>195</sup> Article 112(1) and (9) of the Act of Protection.

<sup>196</sup> Office for Foreigners, 'Dodatkowe miejsca wydawania zaświadczeń o ochronie czasowej', 13 May 2022, available in Polish here: <https://bit.ly/3B5eYge>.

<sup>197</sup> Office for Foreigners, 'Zmiana zasad wydawania zaświadczeń o ochronie czasowej', 18 January 2023, available in Polish here: <https://bit.ly/42kstEz>.

<sup>198</sup> Information from the Office for Foreigners, 17 January 2023, and published by the Office online: <https://bit.ly/3B9frOs>.

<sup>199</sup> See Article 100b of the Special Law.

<sup>200</sup> Information from the Office for Foreigners, 17 January 2023.

<sup>201</sup> Information from the Office for Foreigners, January and February 2024.

<sup>202</sup> SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English here: <https://bit.ly/3B8qWFW>, 20.

<sup>203</sup> Information from the Office for Foreigners, 16 February 2024.

positive decisions seem to be mostly based on a serious and individual threat posed to civilians' life or safety due to the indiscriminate violence stemming from the ongoing armed conflict in Ukraine.<sup>204</sup>

In 2022, the Supreme Administrative Court concluded that the war in Ukraine must be taken into account in the court proceedings concerning asylum applications registered before the beginning of the war. The court relied on Article 46 of the Procedures Directive and Article 47 of the Charter of Fundamental Rights.<sup>205</sup> This approach continued in 2023.

781 asylum applications of Ukrainian nationals were still pending as of 31 December 2023. According to the Office for Foreigners, asylum applications of Ukrainian nationals were considered more promptly than the ones concerning other nationalities (except of Belarusians whose applications were also prioritised) in 2023. On average, these proceedings lasted 85 days in 2023.<sup>206</sup>

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.<sup>207</sup> However, a Ukrainian national or his/her family member can withdraw his/her asylum application and again be eligible for temporary protection.<sup>208</sup> 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, a number that surged to 400 cases in 2023.<sup>209</sup> Upon such information, the 'PESEL UKR' is withdrawn.<sup>210</sup>

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 prospective and recognised temporary protection beneficiaries under a general mechanism.<sup>211</sup> 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. However, in practice, some general temporary protection beneficiaries have been denied access to asylum.

If a general temporary protection beneficiary applies for international protection, general rules concerning asylum proceedings are applicable (see [General report](#)).

There is no information on the number of general temporary protection beneficiaries who also applied for asylum.

It is also 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. However, such cases have been reported in practice. For example, in 2023, SIP informed about the Russian national of Chechen origin who had a permanent stay in Ukraine, but she was not present in Ukraine on 24 February 2022, so

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<sup>204</sup> SIP, 'Subsidiary protection for Ukrainian citizens', 24 August 2022, available at: <https://bit.ly/3LOc5oV>.

<sup>205</sup> Naczelny Sąd Administracyjny, judgment of 5 July 2022, no. II OSK 1753/21, see also SIP, 'SIP w działaniu. Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 r.', September 2023, available in Polish here: <https://bit.ly/3yfSw5V>, 14-15.

<sup>206</sup> Information from the Office for Foreigners, 16 February 2024.

<sup>207</sup> Article 2(3) of the Special Law.

<sup>208</sup> Article 2(5) of the Special Law.

<sup>209</sup> Information from the Border Guard's Headquarters, 9 February 2023 and 12 February 2024.

<sup>210</sup> Article 4(17a)<sup>(3)</sup> of the Special Law.

<sup>211</sup> Critically towards this solution, M. Kosiel-Pająk, P. Sadowski, 'British and Polish Temporary Protection Schemes Addressing Displaced Persons from Ukraine', *Časopis pro právní vědu a praxi* nr 4/2023, <https://bit.ly/3WCS1Ik>, 906-907.

was not eligible for temporary protection in Poland. She applied for international protection instead. The Office for Foreigners concluded that her return to Russia after 20 years of stay in Ukraine, concerning her critical approach to Russian invasion in Ukraine, would be an inhuman treatment.<sup>212</sup>

## 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.<sup>213</sup> Ukrainian nationals cannot apply for family reunification with their family members neither staying in another EU Member State nor in Ukraine. Accordingly, there is also no appeal concerning denial of family reunification provided for in law, in violation of Article 29 TPD.<sup>214</sup> 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.<sup>215</sup>

### 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 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 latter is against Article 29 TPD<sup>216</sup>). The lack of procedural rules in this regard may make the right to family reunification illusory.<sup>217</sup> This conclusion is indirectly confirmed by the information provided by the Office for Foreigners. In 2022 and 2023, no applications for family reunification were submitted to the Office for Foreigners and no temporary protection beneficiary was reunited with his/her family.<sup>218</sup>

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<sup>212</sup> SIP, 'Ochrona uzupełniająca dla Czczenki mającej pobyt stały w Ukrainie', 21 July 2023, available in Polish here: <https://bit.ly/4ahViEZ>.

<sup>213</sup> 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; M. Łysienia, 'Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland', CEEMR vol. 12 no. 1, 2023, available here: <https://bit.ly/3Wyx4mE>, 191.

<sup>214</sup> M. Łysienia, 'Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland', CEEMR vol. 12 no. 1, 2023, available here: <https://bit.ly/3Wyx4mE>, 193.

<sup>215</sup> See e.g. SIP, *Letter to the Polish Parliament*, 9 December 2022, available in Polish here: <https://bit.ly/3HUXhnc>, 20.

<sup>216</sup> M. Łysienia, 'Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland', CEEMR vol. 12 no. 1, 2023, available here: <https://bit.ly/3Wyx4mE>, 193.

<sup>217</sup> SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English here: <https://bit.ly/3B8qWFW>, 15.

<sup>218</sup> Information provided by the Office for Foreigners, 17 January 2023 and February 2024.

## 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 applied to the beneficiaries of temporary protection who are accommodated in the reception centres (only 6 persons in 2022 and 10 – in 2023, 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](#)).<sup>219</sup> Only in July 2022, the electronic document ‘Diia.pl’ was introduced and notified to the European Commission. 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.<sup>220</sup>

Since 28 January 2023, a temporary protection beneficiary loses his/her status in Poland, if they enjoy temporary protection in another EU Member State. In those circumstances, his/her ‘PESEL UKR’ is withdrawn.<sup>221</sup> 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.<sup>222</sup>

Moreover, a temporary protection beneficiary loses his/her status (‘PESEL UKR’) upon the 30-day absence in Poland.<sup>223</sup> 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).<sup>224</sup> If a temporary protection beneficiary departs from Poland for a longer period than 30 days via an internal border of the EU, they may inform the respective authorities about this departure, including where and when they are going. Upon such notification, the ‘PESEL UKR’ is withdrawn.<sup>225</sup> Such a withdrawal was reported in 2022 in approx. 4,000 cases and in 2023 – in 13,790 cases.<sup>226</sup>

If a person concerned confirms that his/her absence in Poland was no longer than 30 days, the ‘PESEL UKR’ may (“shall” since 1 July 2024) be restored.<sup>227</sup> If a person concerned loses temporary protection due to the fact that they enjoy this protection in another EU Member State or due to the over 30-day absence

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<sup>219</sup> 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; SIP, ‘SIP w działaniu. Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 r.’, September 2023, available in Polish here: <https://bit.ly/3yfSw5V>, 11-12.

<sup>220</sup> Article 10(7) of the Special Law.

<sup>221</sup> Article 11(4) in conjunction with Article 4(17a)(4) of the Special Law.

<sup>222</sup> 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>.

<sup>223</sup> Article 11(2) in conjunction with Article 4(17a)(1) of the Special Law. Before 28 January 2023, it was ‘one month’.

<sup>224</sup> 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. See also ECRE, ‘Movement to and From Ukraine Under the Temporary Protection Directive’, January 2023, available here: <https://bit.ly/3UBvf5Z>, 2, where this rule was considered to be at odds with the spirit of the TPD.

<sup>225</sup> Article 4(17c-17d) of the Special Law.

<sup>226</sup> Information provided by the Ministry of Digital Affairs, 1 March 2023 and 9 April 2024.

<sup>227</sup> Article 4(17b) of the Special Law.



in Poland, the 'PESEL UKR' may be re-granted, if a person again comes to Poland due to the war in Ukraine. However, difficulties with having the 'PESEL UKR' restored or re-granted were reported (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](#)).

In 2024, EWL reported that many Ukrainian nationals who had temporary protection in Poland decided to move to Germany. The reasons for the move were: recommendations from the family and friends already living in Germany, better social assistance, better remunerations and greater possibility to save some money. In Germany, Ukrainian nationals were offered German language lessons. 59% of respondents were not employed in Poland before moving to Germany. 35% of them declared that they want to stay in Germany, almost half were undecided whether they will go back to Poland.<sup>228</sup>

### **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 they enjoy temporary protection in another EU Member State. In those circumstances, his/her certificate is invalidated.<sup>229</sup> Re-granting temporary protection after invalidating the certificate for temporary protection beneficiaries has not been regulated in the Act on Protection. There is no available information concerning the practice in this regard.

#### *Movement to and from Ukraine*

### **Special temporary protection**

The movement to and from Ukraine was hampered in 2022 and 2023. 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. In 2023, 13,030 decisions on a refusal of entry were issued at the Polish-Ukrainian border; 12,006 Ukrainian nationals were denied entry at all Polish border crossings.<sup>230</sup> (see [Admission to territory](#)). The decisions concerned 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.<sup>231</sup>

- ❖ 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 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.

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<sup>228</sup> EWL, 'Z Polski do Niemiec. Nowe trendy ukraińskiej migracji uchodźczej', September 2023, available in Polish here: <https://bit.ly/3UVnkSr>.

<sup>229</sup> Article 11(4) in conjunction with Article 4(17a)(4) of the Special Law. Article 110(10-11) of the Act on Protection. Information from the Border Guard Headquarters, 18 March 2024; Border Guard's official statistics for 2023, published here: <https://bit.ly/3fDaMwB>.

<sup>231</sup> SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 3-4.

They had no residence permit to show at the border checkpoint that would confirm their status and entitle them to re-enter Poland.<sup>232</sup>

- ❖ 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.<sup>233</sup> 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](#)). Only in June 2023, the access to Diia.pl was enabled for some children (see [Residence permit](#)).

In 2022, there were 22,834 registered border crossings into Ukraine and 69,631 border crossings back into Poland on the basis of the 'Diia.pl' document. Similarly, in 2023, these numbers increased to 187,565 crossings into Ukraine and 434,888 crossings back into Poland using the same document.<sup>234</sup>

- ❖ Temporary protection beneficiaries have been denied entry to Poland if they stayed in Ukraine for a period longer than 30 days.<sup>235</sup> Under Polish law, the temporary protection status ('PESEL UKR') is withdrawn then,<sup>236</sup> so the 'Diia.pl' also becomes invalid.<sup>237</sup> In 2023, according to the Border Guard, Polish authorities were informed about the absence of a special temporary protection beneficiary in Poland for over 30 days in 694,562 cases.<sup>238</sup> Such information should automatically lead to withdrawal of 'PESEL UKR'. This number, however, differs from the data provided for by the Ministry of Digital Affairs which mentioned 384,100 cases of automatic withdrawal of PESEL UKR in 2023.<sup>239</sup>
- ❖ If a person concerned confirms that his/her absence in Poland was no longer than 30 days, the 'PESEL UKR' may be ("shall be" since 1 July 2024) restored.<sup>240</sup> In 2023, it was restored in 13,890 cases.<sup>241</sup> However, in practice, Ukrainian nationals face difficulties with proving that they did not leave Poland for over a month.<sup>242</sup>
- ❖ Moreover, if a person concerned loses temporary protection due to the over 30-day absence in Poland, the 'PESEL UKR' may be re-granted,<sup>243</sup> 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.<sup>244</sup> In 2022, approx. 18,980 persons were automatically re-granted 'PESEL UKR', while approx. 19,950 persons were given this number back on motion.<sup>245</sup> In 2023, according to the Border Guard, 164,184 persons were automatically re-granted 'PESEL UKR'.<sup>246</sup> However, this number, differs from the data provided for by the

<sup>232</sup> 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>; ACAPS, 'Poland: Loss of temporary protection status and social benefits for Ukrainian refugees', 14 November 2023, available here: <https://bit.ly/4ahHdrr>, 6.

<sup>233</sup> This has been clarified in Article 10(7) of the Special Law, added only in January 2023.

<sup>234</sup> Information from the Border Guard's Headquarters, 9 February 2023 and 12 February 2024.

<sup>235</sup> 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>.

<sup>236</sup> Article 11(2) in conjunction with Article 4(17a)<sub>(1)</sub> of the Special Law. As of 28 January 2023, the law states that it is '30 days' instead of 'one month'.

<sup>237</sup> 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).

<sup>238</sup> Information from the Border Guard Headquarters, 12 February 2024.

<sup>239</sup> Information provided by the Ministry of Digital Affairs, 9 April 2024.

<sup>240</sup> Article 4(17b) of the Special Law.

<sup>241</sup> Information provided by the Ministry of Digital Affairs, 9 April 2024.

<sup>242</sup> 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/3Kg37jI>; ACAPS, 'Poland: Loss of temporary protection status and social benefits for Ukrainian refugees', 14 November 2023, available here: <https://bit.ly/4ahHdrr>, 7.

<sup>243</sup> Since 1 July 2024, the Special Law clearly states that it is re-granted from the day of re-entry.

<sup>244</sup> Article 4(17f-17h) of the Special Law.

<sup>245</sup> Information provided by the Ministry of Digital Affairs, 1 March 2023.

<sup>246</sup> Information from Border Guard Headquarters, 12 February 2024..

Ministry of Digital Affairs (75,310 cases of re-granting PESEL UKR by the Border Guard and 48,330 cases of re-granting it by other authorities in 2023).<sup>247</sup>

- ❖ Furthermore, in 2022 and 2023, temporary protection beneficiaries claimed that they were denied entry to Poland despite being away for periods shorter than 30 days.<sup>248</sup> It resulted from a practice of the Border Guard that registered all departures from Poland of those beneficiaries, but only some of their returns to Poland.<sup>249</sup> 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 they were 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 30-day period abroad is only interrupted by inscribing the return to Poland to this special registry.<sup>250</sup> 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 after another short-term travel to Ukraine, or when their social welfare was ceased (see [Social welfare](#)).<sup>251</sup> The abovementioned practice of the Border Guard – despite the critique of civil society – was confirmed by the Ministry of Internal Affairs and Administration<sup>252</sup> as well as the Ministry of Family and Social Affairs.<sup>253</sup> This approach led to the concerns of Ukrainian nationals regarding leaving Poland at all – even for short periods of time,<sup>254</sup> potentially significantly impacting their mobility.
- ❖ 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.<sup>255</sup>

## 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 to and from Ukraine of those beneficiaries could have been hampered.

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<sup>247</sup> Information provided by the Ministry of Digital Affairs, 9 April 2024.

<sup>248</sup> See e.g. UNHCR, ‘Poland: Joint Protection Analysis’, October 2023, available here: <https://bit.ly/3JX197Y>, 9; ACAPS, ‘Poland: Loss of temporary protection status and social benefits for Ukrainian refugees’, 14 November 2023, available here: <https://bit.ly/4ahHdrr>; SIP, ‘SIP w działaniu. Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 r.’, September 2023, available in Polish here: <https://bit.ly/3yfSw5V>, 12; Nomada, DRC, ‘Poland. Protection Monitoring Analysis. Lower Silesian Voivodeship’, November 2023, available here: <https://bit.ly/3UUgYTa>, 11.

<sup>249</sup> 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>.

<sup>250</sup> See also PRAB, ‘What we do in the shadows’, May 2023, available in English here: <https://bit.ly/3oBeAmS>, 12; PRAB, ‘Surprisingly surprised’, September 2023, available in English here: <https://bit.ly/3J8QmqK>, 6.

<sup>251</sup> Ibid., SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English here: <https://bit.ly/3B8qWFW>, 6; PRAB, ‘Surprisingly surprised’, September 2023, available in English here: <https://bit.ly/3J8QmqK>, 6; UNHCR, ‘Poland: Joint Protection Analysis’, October 2023, available here: <https://bit.ly/3JX197Y>, 10; ACAPS, ‘Poland: Loss of temporary protection status and social benefits for Ukrainian refugees’, 14 November 2023, available here: <https://bit.ly/4ahHdrr>. The information about these requirements has been published only in Polish at the Border Guard’s website, see: <https://bit.ly/3WAZL2l> (27.01.2023). However, the government declared in July 2023 that actions would be taken – with the Embassy of Ukraine in Poland – to disseminate this information (see Human Rights Commissioner, ‘Kiedy obywatel Ukrainy nie straci statusu UKR. Wyjaśnienia MSWiA dla RPO (також українською)’, 3 August 2023, available in Polish here: <https://bit.ly/4advycY>).

<sup>252</sup> Human Rights Commissioner, ‘Kiedy obywatel Ukrainy nie straci statusu UKR. Wyjaśnienia MSWiA dla RPO (також українською)’, 3 August 2023, available in Polish here: <https://bit.ly/4advycY>.

<sup>253</sup> Ministry of Family and Social Affairs, ‘Odpowiedź na interpelację nr 40924 w sprawie problemów obywateli Ukrainy dotyczących nieuzasadnionej utraty świadczenia wychowawczego’, 7 July 2023, available in Polish here: <https://bit.ly/4drJPW6>.

<sup>254</sup> UNHCR, ‘Poland: Joint Protection Analysis’, October 2023, available here: <https://bit.ly/3JX197Y>, 10.

<sup>255</sup> SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 4. M. Łysienka, ‘Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland’, CEEMR vol. 12 no. 1, 2023, available here: <https://bit.ly/3Wyx4mE>, 192.

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. In 2023, the numbers rose to 331 border crossings to Ukraine and 241 border crossings back.<sup>256</sup>

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.

However, difficulties with pendular movement of non-Ukrainian temporary protection beneficiaries recognised in other Member States have been reported in practice. SIP, HIAS, Right to Protection and Alliance for Black Justice informed in July 2023 about a case of a Russian national – a recognised refugee in Ukraine and a recognised temporary protection beneficiary in Germany, who was denied entry to Poland on her way back from Ukraine to Germany. She had a travel document as well as the documents confirming that she was a refugee in Ukraine and a temporary protection beneficiary in Germany. No decision was issued - she was just orally informed that she cannot enter Poland because she is Russian<sup>257</sup>. In some other cases, temporary protection beneficiaries were not allowed to enter Poland due to the non-recognition/insufficiency of the residence permits issued for temporary protection beneficiaries by other Member States.<sup>258</sup>

Moreover, in 2023, some stateless persons were denied entry back to Ukraine, according to the HNLAC.<sup>259</sup>

## D. Housing

### Indicators: Housing

- |                                                                                               |                                                                |
|-----------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| 1. For how long are temporary protection beneficiaries entitled to stay in reception centres? | 120 days of free accommodation, co-payment required afterwards |
| 2. Number of beneficiaries staying in reception centres as of 31/12/23                        | Not available                                                  |
| 3. Number of beneficiaries staying in private accommodation as of 31/12/23                    | 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.<sup>260</sup> Throughout the year, long-term accommodation facilities were also established.

<sup>256</sup> Information from the Border Guard's Headquarters, 9 February 2023 and 12 February 2024.

<sup>257</sup> SIP, R2P, HIAS and ABJ, Letter of 5 July 2023, available in Polish and English here: <https://bit.ly/3JY5iZa>.

<sup>258</sup> AIDA, 'Temporary Protection Netherlands', April 2023, available here: <https://bit.ly/3TN9zV5>, 5.

<sup>259</sup> K. Przybyławska, 'Stateless persons from Ukraine seeking protection in Poland', HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>, 17.

<sup>260</sup> 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.

Numerous Polish citizens and residents promptly offered their houses and apartments – also free of charge – to displaced persons from Ukraine.<sup>261</sup> However, rents raised significantly during the year, making it more difficult for displaced persons to find affordable accommodation.<sup>262</sup> 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.<sup>263</sup> While many displaced persons were hosted by Polish society, after a couple of months, the diminishing involvement of those hosts was noticeable.<sup>264</sup>

Most of the persons displaced from Ukraine are living privately in Poland (93% according to the UNHCR's study of November 2023<sup>265</sup>). The use of collective accommodation has been decreasing. In July 2022, only 357,000 out of 1,2 million special temporary protection beneficiaries lived in the collective places of accommodation.<sup>266</sup> 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.<sup>267</sup>

According to the Ministry of Internal Affairs and Administration, the number of persons accommodated in the centres decreased in 2023 (as of 1 March 2023 – 80,932 persons, as of 14 June – 58,732) compared to the end of 2022 (as of 28 December 2022 – 84,896).<sup>268</sup> According to the UNHCR, as of April 2024, approximately 40,000 beneficiaries stayed in the centres contracted by the Voivodes or municipal authorities.<sup>269</sup>

In practice, forms and conditions of accommodation provided to beneficiaries of temporary protection by the Polish authorities differed significantly within a country. There are no applicable standards with regard

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<sup>261</sup> According to the one study, 7% of respondents offered this kind of assistance, see 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. 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, 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.

<sup>262</sup> 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>.

<sup>263</sup> 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.

<sup>264</sup> J. Mędrzecka-Stefańska, A. Petroff-Skiba and A. Wiczorek, '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.

<sup>265</sup> UNHCR, 'Multi-Sector Needs Assessment - Results Overview (MSNA Poland 2023)', November 2023, available here: <https://bit.ly/4b8YuUP>, 36.

<sup>266</sup> 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.

<sup>267</sup> 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>.

<sup>268</sup> Human Rights Commissioner, MSWiA wyjaśnia zasady udziału uchodźców wojennych z Ukrainy w kosztach udzielanej im pomocy, 19 June and 1 August 2023, available in Polish here: <https://bit.ly/3UV17nt>.

<sup>269</sup> UNHCR, 'Draft law amending the Act on Assistance to Citizens of Ukraine in the Context of the Armed Conflict in Ukraine ("the Special Act"). UNHCR Comments and Observations', April 2024, available here: <https://bit.ly/3QHis0x>, 4.

to these conditions.<sup>270</sup> 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 criticised 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.<sup>271</sup> In 2023, the conditions in the centres that continued to operate were improved insignificantly or not at all.<sup>272</sup>

In 2023, many accommodation centres were shut down (with some closures being deemed premature).<sup>273</sup> Before the closure of the centre, temporary protection beneficiaries needed to find an apartment by themselves or they were relocated to other centres – sometimes far away and many times. Such (multiple) relocations often hampered the integration processes that have already started in the previous place of accommodation.<sup>274</sup> For example, in August 2023, the relocation of the residents of the PTAK centre in Nadarzyn started. The conditions in this centre were negatively assessed by the Commissioner for Human Rights.<sup>275</sup>

Some persons who fled from Ukraine were also discriminated in their access to accommodation, with Roma individuals being particularly affected<sup>276</sup> (see [Guarantees for vulnerable groups](#)).

### 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.<sup>277</sup> 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.<sup>278</sup> In May 2024, the law was changed again limiting the assistance that may be granted by the regional authorities. They may still, however, offer housing and food in collective accommodation centres.

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<sup>270</sup> 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>; S. Jarosz, W. Klaus (eds), 'W puknie wyjścia. Monitoring zbiorowego zakwaterowania uchodźczyń z Ukrainy w 2023 r. w świetle zmian ustawowych', Migration Consortium, August 2023, available in Polish here: <https://bit.ly/4dxiLF0>, 20; N. Bloch, Z. Szmyt, 'Nomadland. Miejsca zbiorowego zakwaterowania osób uchodźczych z Ukrainy w Wielkopolsce a procesy integracyjne', Raport CeBaM UAM 1/2024, available in Polish here: <https://bit.ly/3QEB69b>, 8.

<sup>271</sup> 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.

<sup>272</sup> S. Jarosz, W. Klaus (eds), 'W puknie wyjścia. Monitoring zbiorowego zakwaterowania uchodźczyń z Ukrainy w 2023 r. w świetle zmian ustawowych', Migration Consortium, August 2023, available in Polish here: <https://bit.ly/4dxiLF0>, 9.

<sup>273</sup> Ibid., 6, 23-24, 26.

<sup>274</sup> N. Bloch, Z. Szmyt, 'Nomadland. Miejsca zbiorowego zakwaterowania osób uchodźczych z Ukrainy w Wielkopolsce a procesy integracyjne', Raport CeBaM UAM 1/2024, available in Polish here: <https://bit.ly/3QEB69b>, 35-36.

<sup>275</sup> Human Rights Commissioner, 'Po wizytacji BRPO punktu pobytu dla uchodźców z Ukrainy w Nadarzynie. Odpowiedź Wojewody Mazowieckiego', 5 and 22 September 2023, available in Polish here: <https://bit.ly/3wk5EXb>.

<sup>276</sup> Fundacja w Stronę Dialogu, 'To nie są uchodźcy, tylko podróżnicy. Sytuacja romskich osób uchodźczych w województwie podkarpackim. Raport monitoringowy 2022-2023', July 2023, available in Polish here: <https://bit.ly/3UtcsJK>, 46-48.

<sup>277</sup> 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.

<sup>278</sup> See also ECRI, 'ECRI Report on Poland (sixth monitoring cycle)', 27 June 2023, available here: <https://bit.ly/4brWID6>, 27.

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.<sup>279</sup> 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, they 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](#)).<sup>280</sup> Moreover, according to the amendment adopted in May 2024, payments for children benefiting from 800+ financial allowance are reduced to PLN 15 per day per person. Furthermore, 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.

As noticed by SIP in November 2023, '(t)hese new rules were criticised by the NGOs and Commissioner for Human Rights<sup>281</sup> since their inception. They are considered to be contrary to the TPD and unclear. In particular, it is vague who is to be considered not obliged to co-pay for the accommodation and how it is going to be assessed. In July, Ministry of Internal Affairs and Administration claimed that these rules are intentionally vague to allow flexibility of local authorities. It also prepared a recommendation for these authorities on how the situation (vulnerability) of a Ukrainian national should be assessed, but it has not been made public. In August 2023, the Migration Consortium published a report<sup>282</sup> concerning the access to accommodation for Ukrainian nationals upon the introduction of the co-payment obligation. The research conducted in 6 voivodeships has shown that there is no coherency in interpreting the law in question and applying this obligation in practice. Not enough information has been given by the government both to the concerned Ukrainian nationals (some of whom thus returned to Ukraine fearing homelessness in Poland) and to local authorities responsible for the accommodation centres. It is unknown how many persons have been exempted from the co-payment obligation. The Consortium stated that the observed practice raises concerns whether the situation of Ukrainian nationals is really scrutinised. Meanwhile, the access to other accommodation is increasingly limited. NGOs are forced to provide support to Ukrainian nationals, filling gaps created by the new law'.<sup>283</sup> Moreover, if a person concerned is not paying for the stay in the centre – despite the co-payment obligation – in practice, they may be moved to a lower-standard centre.<sup>284</sup> The introduction of the co-payment obligation forced temporary protection beneficiaries to look for the cheaper accommodation (e.g. to rent an apartment). Some families were also separated as a result of the co-payment obligation: those family members who were not obliged to pay stayed in the centre, while the others moved. Due to the accommodation problems, some temporary protection beneficiaries returned to Ukraine or sought protection elsewhere.<sup>285</sup>

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 private companies. Until 1 July 2024, the Special Law provided for a financial allowance – PLN 40 per person per day - for persons who offered a free-of-charge

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<sup>279</sup> 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.

<sup>280</sup> 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.

<sup>281</sup> Human Rights Commissioner, 'MSWiA wyjaśnia zasady udziału uchodźców wojennych z Ukrainy w kosztach udzielanej im pomocy', 19 June and 1 August 2023, available in Polish here: <https://bit.ly/3UV17nt>.

<sup>282</sup> See the Migration Consortium report: S. Jarosz, W. Klaus (eds), 'W puknie wyjścia. Monitoring zbiorowego zakwaterowania uchodźczyń z Ukrainy w 2023 r. w świetle zmian ustawowych', August 2023, available in Polish here: <https://bit.ly/4dxilF0>.

<sup>283</sup> SIP, 'Input to the EUAA Asylum Report 2024', November 2023, available here: <https://bit.ly/3yaRYye>, 19. See also Bloch, Z. Szmyt, 'Nomadland. Miejsca zbiorowego zakwaterowania osób uchodźczych z Ukrainy w Wielkopolsce a procesy integracyjne', Raport CeBaM UAM 1/2024, available in Polish here: <https://bit.ly/3QEB69b>, 33-35.

<sup>284</sup> SIP, 'Centra zbiorowego zakwaterowania. Poradnik dla osób przybyłych z Ukrainy', June 2023, available in Polish here: <https://bit.ly/3WyzNfS>, 13; S. Jarosz, W. Klaus (eds), 'W puknie wyjścia. Monitoring zbiorowego zakwaterowania uchodźczyń z Ukrainy w 2023 r. w świetle zmian ustawowych', August 2023, Migration Consortium, available in Polish here: <https://bit.ly/4dxilF0>, 17, 20.

<sup>285</sup> Bloch, Z. Szmyt, 'Nomadland. Miejsca zbiorowego zakwaterowania osób uchodźczych z Ukrainy w Wielkopolsce a procesy integracyjne', Raport CeBaM UAM 1/2024, available in Polish here: <https://bit.ly/3QEB69b>, 25-28.

accommodation *and* food to special temporary protection beneficiaries. This assistance was limited to 120 days; only in particularly justified circumstances, it could have been prolonged (see [Guarantees to vulnerable persons](#)). It was paid to a landlord, upon his/her motion.<sup>286</sup> There was no possibility to appeal when the allowance was denied, but individuals could initiate civil proceedings against the municipality in such cases.<sup>287</sup> Since 30 April 2022, having a PESEL number by a tenant was required.<sup>288</sup> In 2022, 1,211,110 applications for this financial allowance were registered, in 2023 – over 560,000 applications were registered. The Ministry of Digital Affairs does not have data concerning decisions on those applications,<sup>289</sup> however, some difficulties in obtaining this allowance were reported.<sup>290</sup> According to the UMP's study, only one-third of respondents who hosted persons displaced from Ukraine applied for this assistance.<sup>291</sup> The amount of the financial allowance was also considered insufficient to cover the costs of accommodating and feeding Ukrainian nationals.<sup>292</sup> Moreover, abuses of the landlords receiving the above-mentioned allowance were also mentioned in some reports.<sup>293</sup> In May 2024, the rules concerning this financial allowance were repealed.

According to the Amnesty International's study of May 2023, approx. 200,000 apartments might have been rented in Poland by special temporary protection beneficiaries. AI noticed that not all Ukrainian nationals managed to rent an apartment. Poles are often unwilling to rent their apartments fearing that, in case of any problems, they will not be able to evict Ukrainian tenants. Meanwhile, with regard to those Ukrainian nationals who managed to rent an apartment, abuses of the landlords were reported (e.g. a lack of written contracts, unexpected increase of the rent, threats, violations of privacy).<sup>294</sup>

The cases of homeless Ukrainian nationals persisted throughout 2023 as well.<sup>295</sup>

### 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.<sup>296</sup> 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, 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,

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<sup>286</sup> Article 13 of the Special Law.

<sup>287</sup> Article 13(1b) of the Special Law. See also Provincial Administrative Court in Szczecin, decision of z dnia 20 October 2023, no. II SA/Sz 770/23.

<sup>288</sup> 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>.

<sup>289</sup> Information provided by the Ministry of Digital Affairs, 1 March 2023 and 9 April 2024.

<sup>290</sup> 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>.

<sup>291</sup> 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.

<sup>292</sup> M. Kosiel-Pająk, P. Sadowski, 'British and Polish Temporary Protection Schemes Addressing Displaced Persons from Ukraine', *Časopis pro právní vědu a praxi* nr 4/2023, <https://bit.ly/3WCs1lk>, 909.

<sup>293</sup> Nomada, DRC, 'Poland. Protection Monitoring Analysis. Lower Silesian Voivodeship', November 2023, available here: <https://bit.ly/3UUgYTd>.

<sup>294</sup> Amnesty International Polska, "'Ukraińcom nie chcą wynajmować". Najnowsze badania Amnesty International', May 2023, available in Polish here: <https://bit.ly/3WTcKsf>, 4-6. See also N. Bloch, Z. Szmyt, 'Nomadland. Miejsca zbiorowego zakwaterowania osób uchodźczych z Ukrainy w Wielkopolsce a procesy integracyjne', Raport CeBaM UAM 1/2024, available in Polish here: <https://bit.ly/3QEB69b>, 25-27.

<sup>295</sup> Amnesty International Polska, "'Ukraińcom nie chcą wynajmować". Najnowsze badania Amnesty International', May 2023, available in Polish here: <https://bit.ly/3WTcKsf>, 12.

<sup>296</sup> Article 112 of the Act on Protection.



and one person for 10 days in Biała Podlaska).<sup>297</sup> In 2023, 15 persons applied for the provision of food and accommodation in the reception centre. 10 persons were accommodated in these centres (9 persons in Bezwola for almost three months and 1 person in Podkowa Leśna-Dębak for approx. 4,5 months). Only one person remained there at the end of 2023.<sup>298</sup>

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.<sup>299</sup> 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.<sup>300</sup> 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.<sup>301</sup> 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](#)).<sup>302</sup> Moreover, the assistance is not granted if a person concerned seeks asylum (then, they benefit from material reception conditions for asylum seekers).<sup>303</sup> 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).<sup>304</sup>

## E. Employment and education

### 1. Access to the labour market

The differential access to labour market of special and general temporary protection beneficiaries was criticised and considered to be against the TPD.<sup>305</sup>

#### Special temporary protection

Since 24 February 2022, in addition to the previous rules concerning third-country nationals' labour in Poland,<sup>306</sup> 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 (7 days according to the amendment adopted in May 2024, in force since 1 July 2024) – a labour office about hiring a Ukrainian national (a 'notification procedure'). 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

<sup>297</sup> Information provided by the Office for Foreigners, 17 January 2023.

<sup>298</sup> Information provided by the Office for Foreigners, February 2024.

<sup>299</sup> SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 5-6.

<sup>300</sup> 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.

<sup>301</sup> Information provided by the Office for Foreigners, 17 January 2023.

<sup>302</sup> Article 12(4-4f) of the Act on Protection.

<sup>303</sup> Article 12(1b) of the Act on Protection.

<sup>304</sup> Article 112(6-8) of the Act on Protection.

<sup>305</sup> M. Górski, 'Wpływ specustawy ukraińskiej na sytuację prawną migrantów przymusowych z Ukrainy na polskim rynku pracy', CMR Working Papers 135/193, September 2023, available in Polish here: <https://bit.ly/3WD7DR6>.

<sup>306</sup> Before 24 February 2022, Ukrainian nationals already had facilitated access to labour market in Poland.

therein. The working time and remuneration can be proportionally increased.<sup>307</sup> Since 1 July 2024, the remuneration should be no less than minimum wage and a change in the conditions of employment must be notified too. Having a PESEL number is not required to work in Poland under those new rules. The introduction of the notification obligation was seen as contrary to TPD by some authors.<sup>308</sup>

In 2022, 786,164 notifications have been registered concerning 558,719 third-country nationals.<sup>309</sup> In 2023, the notification procedure was the most popular pathway for legalizing the work of Ukrainian nationals in Poland (85% of Ukrainian workers in 2023). From 15 March 2022 (the first notification in practice) to 31 December 2023, 1,866,000 notifications have been registered (however, some persons could have been covered by more than one notification). At the end of 2023, 358,000 Ukrainian nationals worked in Poland on the basis of notification.<sup>310</sup>

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 Ukrainian nationals, or made some mistakes in this regard, were given another chance to fulfil this obligation.<sup>311</sup> If an employer does not fulfil the notification obligation, a Ukrainian national should not be fined (the exception from a general rule).<sup>312</sup> In 2024, the Border Guard confirmed that no Ukrainian national was fined for illegal work since the beginning of the war in Ukraine.<sup>313</sup> However, it should be mentioned that working without a notification or against its conditions may be considered an illegal work, which may lead to issuing a return decision.<sup>314</sup>

In 2022-2024, some Ukrainian nationals were found to have been working illegally in Poland.<sup>315</sup> It is also worth mentioning that in the CARE study of October 2023, almost half of the respondents (Ukrainian domestic workers who mostly came to Poland after the latest Russian invasion of Ukraine) admitted to having no contract with their employees.<sup>316</sup> In November 2023, the study by DRC and Nomada, focussing on the Lower Silesian voivodeship, showed that employers are unwilling to legally employ Ukrainian nationals and pay them remuneration in full or at all. Ukrainian nationals are, however, unaware of how to report such violations or are afraid to do so.<sup>317</sup>

Some 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, only until 24 August 2023, and again from 1 July 2024 to 30 September 2025, see more [Health care](#)),
- d. academic teachers and researchers (Article 46-49),

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<sup>307</sup> Article 22(1) of the Special Law.

<sup>308</sup> I. Florczak, J.K. Adamski, 'Mass influx of people from Ukraine: social entitlements and access to the labour market: Poland', in: I. Florczak, J.K. Adamski (eds), *Mass influx of people from Ukraine: social entitlements and access to the labour market*, Universita di Bologna 2024, available here: <https://bit.ly/4akZlAd>, 313.

<sup>309</sup> Information from the Ministry of Family and Social Affairs, 16 January 2023.

<sup>310</sup> Ministry of Family, Labour and Social Policy, 'Informacja o zatrudnieniu cudzoziemców w Polsce', January 2024, available in Polish here: <https://bit.ly/3UT1b8l>, 7, 12.

<sup>311</sup> Ministry of Family and Social Policy, 'Umożliwienie pracodawcom złożenia zaległych lub błędnych powiadomień', available in Polish here: <https://bit.ly/3HWryCm>.

<sup>312</sup> Article 22(5c) of the Special Law. However, in their communications the Border Guard claims differently, see e.g. Border Guard, 'Pracowali nielegalnie w Polsce', 11 March 2024, available in Polish here: <https://bit.ly/3WYDcva>.

<sup>313</sup> SIP, 'Ukrainian citizens may not be punished for employers' mistakes', 8 April 2024, available here: <https://bit.ly/4bf8XOy>.

<sup>314</sup> SIP, *Letter to the Polish Parliament*, 9 December 2022, available in Polish here: <https://bit.ly/3HUXhnc>, 5-6.

<sup>315</sup> 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); 'Pracowali bez zezwolenia i na innych warunkach', 7 November 2023, available in Polish here: <https://bit.ly/4dzPaKX>; 'Pracowali nielegalnie w Polsce', 11 March 2024, available in Polish here: <https://bit.ly/3WYDcva>.

<sup>316</sup> CARE, 'In the Shadows. Ukrainian Domestic Workers in Poland', 25 October 2023, available [here](#), 31.

<sup>317</sup> Nomada, DRC, 'Poland. Protection Monitoring Analysis. Lower Silesian Voivodeship', November 2023, available [here](#), 5-8.

- e. school teachers' assistants if they know the Polish language (Article 57-57a<sup>318</sup>),
- 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.<sup>319</sup> 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 persons in Poland.<sup>320</sup> In 2022 and 2023 respectively, 78,558 and 42,433 Ukrainian nationals were registered as unemployed persons. As of 31 December 2022 and 31 December 2023 respectively, 14,709 and 12,942 were registered as unemployed or looking for a job.<sup>321</sup>

The governmental and local portals have been created to facilitate contact between Ukrainian nationals seeking employment (having a PESEL number) and employers in Poland.<sup>322</sup> As of 4 January 2023, 3,535 persons benefited from the governmental database.<sup>323</sup> IOM Poland also activated a special website - in Polish and Ukrainian language – concerning legal employment in Poland.<sup>324</sup> On many job-seeking websites, ads were published by Polish employers offering jobs to persons displaced from Ukraine.<sup>325</sup>

Special temporary protection beneficiaries can run a business in Poland under the same rules as Polish citizens. Having a PESEL number is required.<sup>326</sup> Until 30 September 2025, Ukrainian nationals running a registered business in Poland can obtain a temporary residence permit without proving that they have a sufficient income, or without fulfilling other criteria normally required in these proceedings.<sup>327</sup> 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 to register their businesses in Poland.<sup>328</sup> Data regarding the business activity of special temporary protection beneficiaries is not available.

While special temporary protection beneficiaries in particular, and Ukrainian nationals in general, face some difficulties in finding jobs in Poland (see below), their integration into the Polish labour market is considered overall good.<sup>329</sup> However, the data concerning Ukrainian nationals' active participation in the

<sup>318</sup> Article 57a of the Special Law, in force since 1 September 2024.

<sup>319</sup> Article 42 (13-19) of the Special Law.

<sup>320</sup> Article 22(6-7) of the Special Law.

<sup>321</sup> Information from the Ministry of Family and Social Affairs, 16 January 2023 and 12 February 2024

<sup>322</sup> 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.

<sup>323</sup> Information provided by the Ministry of Digital Affairs, 1 March 2023.

<sup>324</sup> See: <https://bit.ly/3pcF12b>.

<sup>325</sup> A. Chłoń-Domińczak i R. Pater, 'Labour market and the economy', in: M. Bukowski and M. Duszczyk (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 36.

<sup>326</sup> Article 23 of the Special Law.

<sup>327</sup> Article 42(12) and (12a) of the Special Law.

<sup>328</sup> Information from the Ministry of Economic Development and Technology, 11 January 2023. See also Dębowska, 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.

<sup>329</sup> P. Kaczmarczyk, 'How serious is the risk of deskilling of Ukrainian war refugees (and what we can do about it)', *CMR Spotlight* no. 9 (54), September 2023, available here: <https://bit.ly/3JSYz2K>, 3.

Polish labour market differ depending on the study. While some studies published in 2023 show that over 60% of Ukrainian nationals were employed in Poland, others state that it was over 80%.<sup>330</sup>

According to the report published in September 2022 by EWL and Warsaw University, over 430,000 Ukrainian nationals who flew 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.<sup>331</sup> According to the more recent report of EWL and Warsaw University, as of February 2023, approx. 900,000 Ukrainian nationals who flew from Ukraine after 24 February 2022, found jobs in Poland (82% of adults). 27% of the respondents who work in Poland found a job in the first three months upon arrival.<sup>332</sup>

According to another 2022 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.<sup>333</sup> 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.<sup>334</sup>

In February 2023, NRC stated that: 'In Poland, the largest single share of respondents (49%) indicated that (adult) work has been their main source of income, followed by savings (34%) and humanitarian assistance (27%).'<sup>335</sup>

In June 2023, ECRI called on Polish authorities to facilitate the recognition of diplomas and other qualifications of Ukrainian workers. The procedure is currently too lengthy and costly.<sup>336</sup>

The UNHCR's report of November 2023 shows that 61% of respondents – Ukrainian nationals of working age – worked in Poland and 32% of respondents declared difficulties in supporting themselves and finding a job. The main challenges included: a lack of knowledge of the Polish language, a lack of decent employment opportunities and a lack of employment opportunities suited to their skills.<sup>337</sup> An earlier study stated: 'UNHCR Protection monitoring data shows a dramatic decrease in employment rate prior and after displacement for refugees between 19 and 59 years old, moving from 76% to 57% for refugees who have attained higher education. For the same group, unemployment rose from 4% to 22% after displacement, affecting equally men and women interviewed within this age group.'<sup>338</sup>

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<sup>330</sup> See also L. Lukianova, 'Ukraińscy migranci wojenni na polskim rynku pracy. Szanse i ograniczenia', *Rynek Pracy* 187(4), available in Polish here: <https://bit.ly/4b9skbF>, 66.

<sup>331</sup> EWL and Warsaw University, 'Uchodźcy z Ukrainy - aktywizacja zawodowa w Polsce i Niemczech', September 2022, available in Polish here: <https://bit.ly/42FWezK>.

<sup>332</sup> EWL and Warsaw University, 'Uchodźcy wojenni z Ukrainy. Rok w Polsce', February 2023, available in Polish here: <https://bit.ly/42j18CY>.

<sup>333</sup> 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.

<sup>334</sup> 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.

<sup>335</sup> NRC, 'Hidden Hardship: 1 Year Living in Forced Displacement for Refugees from Ukraine', February 2023, available here: <https://bit.ly/3ybSDPZ>, 24.

<sup>336</sup> ECRI, 'ECRI Report on Poland (sixth monitoring cycle)', 27 June 2023, available here: <https://bit.ly/4brWID6>, 28. See also Nomada, DRC, 'Poland. Protection Monitoring Analysis. Lower Silesian Voivodeship', November 2023, available here: -11.

<sup>337</sup> UNHCR, 'Multi-Sector Needs Assessment - Results Overview (MSNA Poland 2023)', November 2023, available here: <https://bit.ly/4b8YuUP>, 19, 24-25. See also P. Kaczmarczyk, 'How serious is the risk of deskilling of Ukrainian war refugees (and what we can do about it)', *CMR Spotlight* no. 9 (54), September 2023, available here: <https://bit.ly/3JSYz2K>, 3-4.

<sup>338</sup> UNHCR, 'Poland: Joint Protection Analysis', October 2023, available here: <https://bit.ly/3JX197Y>, 15.

Other sources showed that some Ukrainian nationals did not access labour market due to the traumatic experiences in Ukraine and the following poor mental health, or the problems with the childcare.<sup>339</sup>

In December 2023, the Polish National Bank presented its own study on the economic situation of Ukrainian nationals who fled Russian invasion. 62% of respondents were employed; however, they tended to work in temporary, seasonal and part-time jobs more often than pre-war migrants from Ukraine. Additionally, a higher percentage of them were paid less than PLN 3.000 per month (48% compared to 21%).<sup>340</sup>

Also in December 2023, the Polish Economic Institute informed that, according to their study, 65% of Ukrainian nationals who fled Russian invasion found a job in Poland. The study reiterated the abovementioned barriers to accessing the labour market while also highlighting the discrimination of Ukrainian workers in Poland.<sup>341</sup>

In March 2024, UNHCR and Deloitte published a study showing that employment of Ukrainian nationals who fled the Russian invasion positively affected the Polish economy.<sup>342</sup>

### General temporary protection

Third-country nationals enjoying temporary protection under the Act on Protection can work in Poland without any work permit or notification obligation. There are no limitations or additional obligations in this regard. They can also run a business under the rules on business activity applicable to non-Polish nationals.<sup>343</sup>

## 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.<sup>344</sup> 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 school.<sup>345</sup> 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 not attending Polish schools*

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 Warsaw at the beginning of 2023<sup>346</sup>,

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<sup>339</sup> L. Lukianova, 'Ukraińscy migranci wojenni na polskim rynku pracy. Szanse i ograniczenia', *Rynek Pracy* 187(4), available in Polish here: <https://bit.ly/4b9skbF>, 66, 75.

<sup>340</sup> NBP, 'Sytuacja życiowa i ekonomiczna migrantów z Ukrainy w Polsce w 2023 roku. Raport z badania ankietowego', December 2023, available in Polish here: <https://bit.ly/4bzdQlk>, 20.

<sup>341</sup> PIE, 'Uchodźcy z Ukrainy na polskim rynku pracy: możliwości i przeszkody', December 2023, available in Polish here: <https://bit.ly/3ymiK6y>.

<sup>342</sup> UNHCR, Deloitte, 'Analysis of the impact of refugees from Ukraine on the economy of Poland', March 2024, available here: <https://bit.ly/3yb3Z6x>.

<sup>343</sup> 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>.

<sup>344</sup> Article 165 (1) and (2) of Law of 14 December 2016 on education.

<sup>345</sup> Article 165 (8) of the Law of 14 December 2016 on education.

<sup>346</sup> SIP, 'Protection of unaccompanied children from Ukraine in Poland – what should be improved', 6 March 2023, available at: <https://bit.ly/3NSA1tX>.

53% of Ukrainian children in Poland in October 2023<sup>347</sup>). Instead, they can 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.<sup>348</sup> However, not all parents fulfil this informative obligation.<sup>349</sup> Moreover, some children who were supposed to be attending Ukrainian school online are not going to any school in practice. According to the Ministry of Education and Science, there is no legal possibility to monitor whether children staying in Poland are really attending Ukrainian online schools.<sup>350</sup> Other children tried to attend both Polish in-person and Ukrainian online schools (estimated 30%).<sup>351</sup>

In 2022, almost 200,000 new Ukrainian pupils were attending Polish schools, while approx. 500,000 were learning online within the Ukrainian education system.<sup>352</sup> In mid-2023, according to UNHCR and UNICEF, only half of **Ukrainian refugee children (nearly 173,000) were enrolled in schools in Poland. Older pupils are less willing to participate in the Polish education system: only around 22% of children at secondary school age attended a Polish school at the end of the 2022/2023 school year.** In July 2023, UNHCR and UNICEF published a statement where they encouraged parents to register Ukrainian children in Polish schools and warned that low levels of enrolment could lead to exclusion.<sup>353</sup>

In February 2024, Care, IRC, Save the Children and Triangle published a report titled: 'Out of School: Assessment on barriers to school enrolment for Ukrainian refugee adolescents in Poland'.<sup>354</sup> The report identifies the main reasons for continuing education within the Ukrainian system and difficulties in accessing Polish education. That included: the hope to continue education in Ukraine, challenges associated with transferring Ukrainian diploma certifications for appropriate placements in the Polish education system, increased crowding in the Polish schools, complications related to the timing of arrival in Poland and enrolment applications per school year, difficulties with understanding of the enrolment procedures, cultural and language barriers, not sufficient support of cultural assistants, challenges in transferring the accreditation of Ukrainian educators to the Polish system, lacking psychosocial support, and high hidden costs of Polish education.

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<sup>347</sup> CEO, NRC, 'Uczniowie uchodźczy z Ukrainy w polskim systemie edukacji', October 2023, available in Polish here: <https://bit.ly/3wkQvEZ>, 5.

<sup>348</sup> §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>.

<sup>349</sup> Care, IRC, Save the Children, Triangle, 'Out of School: Assessment on barriers to school enrolment for Ukrainian refugee adolescents in Poland', February 2024, available here: <https://bit.ly/4dAPauj>, 34-35.

<sup>350</sup> 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; Human Rights Commissioner, 'Nierozwiązane problemy edukacji dzieci i młodzieży z Ukrainy. Min. Przemysław Czarnek odpowiada RPO', 31 March and 13 June 2023, available in Polish here: <https://bit.ly/4dAUoWR>; Amnesty International, 'Sytuacja uczniów z Ukrainy w Polsce – odpowiedź Ministerstwa Edukacji i Nauki na petycję Amnesty International', 5 June 2023, available in Polish here: <https://bit.ly/3QCUV0A>.

<sup>351</sup> 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; UNHCR, 'Wspólny komunikat prasowy UNHCR i UNICEF: Ponad połowa ukraińskich dzieci uchodźców nie jest zapisana do szkół w Polsce', 10 July 2023, available in Polish and English here: <https://bit.ly/3JYc6Gc>; UNICEF, Plan International, Save the Children, "It is cool here, no doubt about it... but home is home." Exploring the subjective wellbeing of children and adolescents living in Poland in the face of the war in Ukraine', November 2023, available here: <https://bit.ly/4agK9nK>, 6.

<sup>352</sup> 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>; 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.

<sup>353</sup> UNHCR, 'Wspólny komunikat prasowy UNHCR i UNICEF: Ponad połowa ukraińskich dzieci uchodźców nie jest zapisana do szkół w Polsce', 10 July 2023, available in Polish and English here: <https://bit.ly/3JYc6Gc>.

<sup>354</sup> Care, IRC, Save the Children, Triangle, 'Out of School: Assessment on barriers to school enrolment for Ukrainian refugee adolescents in Poland', February 2024, available here: <https://bit.ly/4dAPauj>.

Another study mentioned that some Ukrainian children with disabilities were also excluded from the Polish education system.<sup>355</sup>

In May 2024, the Special Law was amended: the rule that the 800+ financial allowance and the “Good Start” allowance are only available for children attending Polish schools or kindergartens was introduced. This change was seen as an introduction of mandatory education for Ukrainian children in Poland by the UNHCR<sup>356</sup> or as a measure leading to unequal treatment by SIP.<sup>357</sup>

### *Children attending Polish schools*

In July 2023, UNHCR and UNICEF informed that nearly 173,000, refugee children from Ukraine were at the time enrolled in the Polish school system. ‘In Poland, refugees from Ukraine constitute 4 per cent of all registered students. In more than 85,000 classes there is at least one refugee student’.<sup>358</sup> According to another study, in November 2023, 293,229 children with PESEL UKR number were attending Polish schools.<sup>359</sup>

### *Facilitations and entitlements*

Some special rules were adopted to facilitate coping with the unprecedented challenge of accepting thousands of new Ukrainian pupils to Polish schools, under the Special Law.

- ❖ 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.<sup>360</sup>
- ❖ 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.<sup>361</sup> As of April 2023, only 50% of Ukrainian pupils attended additional Polish language lessons.<sup>362</sup>
- ❖ The limit for the maximum number of children in a class was increased if Ukrainian children were attending the class.<sup>363</sup>
- ❖ Some special rules concerning the participation of Ukrainian pupils in final exams and as regards ending school were established.<sup>364</sup>
- ❖ In schools, where an additional class was established 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).

<sup>355</sup> Fundacja Dajemy Dzieciom Siłę, ‘Dzieci się liczą 2022’, 2022, available in Polish here: <https://bit.ly/3UDrIE0>, 359-360.

<sup>356</sup> UNHCR, ‘Draft law amending the Act on Assistance to Citizens of Ukraine in the Context of the Armed Conflict in Ukraine (“the Special Act”). UNHCR Comments and Observations’, April 2024, available here: <https://bit.ly/3QHs0x>, 6.

<sup>357</sup> SIP, ‘The Polish government is working on changes to the Special Act and we reported some comments related to it’, 19 April 2024, available here: <https://bit.ly/3UUn9GQ>.

<sup>358</sup> UNHCR, ‘Wspólny komunikat prasowy UNHCR i UNICEF: Ponad połowa ukraińskich dzieci uchodźców nie jest zapisana do szkół w Polsce’, 10 July 2023, available in Polish and English [here](#).

<sup>359</sup> Care, IRC, Save the Children, Triangle, ‘Out of School: Assessment on barriers to school enrolment for Ukrainian refugee adolescents in Poland’, February 2024, available [here](#), 22.

<sup>360</sup> §6b of the Ordinance 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>.

<sup>361</sup> §11a *ibid*.

<sup>362</sup> Ministry of Education and Science, Letter of 7 June 2023, available in Polish [here](#).

<sup>363</sup> §7-11 Ordinance of the Minister of Education and Science on organisation of education and care of children and youth from Ukraine.

<sup>364</sup> §2-§6 and §6c-§6d *ibid*; Articles 58b and 58c of the Special Law, in force since 1 July 2024. 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>.

- ❖ Non-Polish teachers' assistants have been allowed to perform their tasks in Polish schools if they know the 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.<sup>365</sup>
- ❖ 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 daycare.<sup>366</sup> A minor special temporary protection beneficiary may also receive social welfare for pupils (Article 53). In 2021/2022, the latter support was given to 6,784 Ukrainian pupils, in 2022/2023: to 7,742 Ukrainian pupils.<sup>367</sup>
- ❖ A free-of-charge transport of minor special temporary protection beneficiaries to schools or other places where education or childcare is provided and may be organised by local authorities (Article 52).
- ❖ Some new rules have been established to facilitate the creation of nurseries by local authorities (Article 28).
- ❖ Since 1 September 2024, schools can additionally hire an intercultural assistant to support foreign pupils' contacts within the school environment and cooperate with their teachers and parents.<sup>368</sup>

In April 2023 and February 2024, the validity of special temporary protection was in general prolonged first until 4 March 2024, next until 30 June 2024, but exceptionally to 30 August 2024, if a beneficiary attends kindergarten or school, and until 30 September 2024, if they pass the final exams in the secondary school. These longer periods of validity applied also to the pupils' parents and guardians.<sup>369</sup> Human Rights Commissioner raised doubts about whether these exceptional periods of validity are capable of serving their purpose, i.e. to increase school attendance for Ukrainian pupils.<sup>370</sup> In May 2024, the Special Law was changed again: the legal stay of all special temporary protection beneficiaries was prolonged until 30 September 2025. However, access to some social welfare benefits was limited only to those beneficiaries whose children attend Polish schools (see [Social welfare](#)).

### Challenges

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.<sup>371</sup> Hate speech and violence towards Ukrainian pupils were also reported.<sup>372</sup> 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

<sup>365</sup> Article 50b of the Special Law.

<sup>366</sup> Article 26(1)<sup>(3)</sup> and <sup>(5)</sup> of the Special Law.

<sup>367</sup> Ministry of Education and Science, Letter of 7 June 2023, available in Polish [here](#).

<sup>368</sup> Article 165(8a) of the Law of 14 December 2016 on education, in force since 1 September 2024.

<sup>369</sup> Article 2(10-11) of the Special Law, in force since 27 June 2023. See also Office for Foreigners, 'Wydłużenie okresu legalnego pobytu obywateli Ukrainy objętych ochroną czasową', 14 June 2023, available in Polish [here](#).

<sup>370</sup> Human Rights Commissioner, 'Zróżnicowanie sytuacji osób przybyłych z Ukrainy. Uwagi RPO dla Senatu', 23 May 2023, available in Polish [here](#).

<sup>371</sup> 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): <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): <https://bit.ly/42lDdYg>.

<sup>372</sup> A. Gmiterek-Zabłocka, "Coraz częściej słyszę o wyzwiskach i mowie nienawiści w szkołach". Pomóc mają specjaliści asystenci, Tok.fm, 7 June 2022, available [here](https://bit.ly/3pt5B7C) 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): <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): <https://bit.ly/3NUAiwG>, 14-15.



schools were not sufficiently supported by the state.<sup>373</sup> The same problems continued in 2023 and at the beginning of 2024, as it is shown in more detail below.

In June 2022, the 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 was already inefficient. Over 80% of Ukrainian children joined regular classes, not the preparatory ones. In some classes, 50% of pupils were Ukrainian, and 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.<sup>374</sup>

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.<sup>375</sup> 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.<sup>376</sup> In Lublin, 64 Ukrainian teachers started to work as teacher assistants in 41 schools.<sup>377</sup> However, the number of those assistants is still insufficient taking into account the great number of new Ukrainian pupils.<sup>378</sup> The abovementioned problems continued in 2023. In October 2023, only 288 preparatory classes were organised for 3,700 pupils. In some voivodeships, there were no preparatory classes organised.<sup>379</sup> Moreover, Care, IRC, Save the Children and Triangle noticed that: 'While some schools are staffed with cultural assistants by the municipality, the majority of local education authorities do not have the budget to cover the costs of supporting the number of students needing cultural assistance and rely on external funding from INGOs — both of which result in staffing that is disproportionate to need. In some instances, Ukrainian teachers volunteer their time to support the students, without financial support'.<sup>380</sup>

In March 2023, the Human Rights Commissioner intervened before the Ministry of Education and Science, asking for better support for Ukrainian pupils. He noticed, *inter alia*, that many children are not attending any school, there is an insufficient number of preparatory classes (only 8% of Ukrainian children enrolled in these classes, according to the Commissioner), schools are overcrowded, insufficient number of

<sup>373</sup> 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.

<sup>374</sup> 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 ucieczce Społeczeństwo polskie wobec migracji wojennej z Ukrainy*, Warsaw University 2022, available in Polish here: <https://bit.ly/42ljmO3>, 85-87.

<sup>375</sup> 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.

<sup>376</sup> A. Gmiterek-Zablocka, "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>; 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>.

<sup>377</sup> A. Dąbrowska, 'Lublin Social Committee to Aid Ukraine. 90 days of assistance. Report', available in English here: <https://bit.ly/3HRtMmc>, 8.

<sup>378</sup> 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.

<sup>379</sup> CEO, NRC, 'Uczniowie uchodźcy z Ukrainy w polskim systemie edukacji', October 2023, available in Polish here, 5, 18, 21-24.

<sup>380</sup> Care, IRC, Save the Children, Triangle, 'Out of School: Assessment on barriers to school enrolment for Ukrainian refugee adolescents in Poland', February 2024, available here, 36. See also L. Lukianova, 'Ukraińscy migranci wojenni na polskim rynku pracy. Szanse i ograniczenia', Rynek Pracy 187(4), available in Polish here, 72.

cultural assistants and psychosocial support, bullying and discrimination. According to the teachers, the biggest challenge they face is a language barrier and dealing with war-traumatised children.<sup>381</sup>

In October 2023, according to the Civic Education Centre's study, only 53% of Ukrainian pupils who fled Russian invasion were enrolled at Polish schools. 4,500 Ukrainian pupils in the secondary school age did not continue learning in the next class: due to leaving Poland, lack of promotion or resigning from participating in the Polish education system. According to this study, only 3% of Ukrainian children who fled the Russian invasion are enrolled at preparatory classes. The report also confirmed the decreasing number of preparatory classes.<sup>382</sup>

Peer violence, bullying, harassment and discrimination against Ukrainian pupils continued to be a problem in 2023 and 2024.<sup>383</sup> For example, Nomada and DRC reported in their study concerning the Lower Silesian Voivodeship that the cases of bullying were mentioned by the overwhelming majority of the respondents. The teachers often did not react or themselves contributed to the hate speech at school.<sup>384</sup>

Accessing public kindergartens was also hampered in 2022 and 2023 due to the lack of spaces.<sup>385</sup>

### *Vulnerable pupils*

In August 2022, the Human Rights Commissioner appreciated the Ministry of Education and Science's information for Ukrainian parents of children with special educational needs about their rights in Poland. However, he 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.<sup>386</sup> Moreover, schools for deaf pupils were reported to be unable to cope with the challenge of accepting new children from Ukraine.<sup>387</sup>

In 2024, Care, IRC, Save the Children and Triangle noticed a particularly problematic situation of unaccompanied minors from Ukrainian foster care who stayed in Poland in special accommodation centres (of whom some had disabilities). 'Education delivery in these centres varies widely, influenced by factors such as the specific needs and disability status of the children, the geographical location of the centres, and the availability of staff. Unfortunately, this variability often leads to situations where children have limited or no access to educational opportunities that are adequately tailored to their needs. This issue is particularly acute for children with high support needs or severe disabilities, who are frequently excluded from any learning opportunities. Furthermore, these children find themselves in a state of extreme isolation, caught between two child protection systems and unable to fully benefit from either. This predicament arises from the absence of a solid legal and political framework facilitating cooperation between the Polish and Ukrainian governments'.<sup>388</sup>

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<sup>381</sup> Human Rights Commissioner, 'Nierozwiązane problemy edukacji dzieci i młodzieży z Ukrainy. Min. Przemysław Czarnek odpowiada RPO', 31 March and 13 June 2023, available in Polish [here](#).

<sup>382</sup> CEO, NRC, 'Uczniowie uchodźcy z Ukrainy w polskim systemie edukacji', October 2023, available in Polish [here](#), 5, 18, 21-24.

<sup>383</sup> See e.g. *ibid.*, 37; PIE, 'Uchodźcy z Ukrainy na polskim rynku pracy: możliwości i przeszkody', December 2023, available in Polish [here](#), 22; UNICEF, Plan International, Save the Children, "It is cool here, no doubt about it... but home is home." Exploring the subjective wellbeing of children and adolescents living in Poland in the face of the war in Ukraine', November 2023, available [here](#), 6; IRC, 'Child Protection Monitoring Report (June - September 2023)', December 2023, available [here](#), 12-13.

<sup>384</sup> Nomada, DRC, 'Poland. Protection Monitoring Analysis. Lower Silesian Voivodeship', November 2023, available [here](#), 13.

<sup>385</sup> UNHCR, 'Poland: Joint Protection Analysis', October 2023, available [here](#), 13.

<sup>386</sup> Human Rights Commissioner, 'Ukraińscy uczniowie z niepełnosprawnościami wymagają wsparcia. RPO pisze do MEIN', 20 August 2022, available in Polish here: <https://bit.ly/3BbcN14>.

<sup>387</sup> 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>.

<sup>388</sup> Care, IRC, Save the Children, Triangle, 'Out of School: Assessment on barriers to school enrolment for Ukrainian refugee adolescents in Poland', February 2024, available [here](#), 36.

## 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).

## 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.<sup>389</sup> This is the only special rule as regards education provided in the law concerning general temporary protection beneficiaries.

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).<sup>390</sup> The data for 2023 are not available, however, as of 31 December 2023, 24 temporary protection beneficiaries received assistance only in the form of Polish language lessons and materials.<sup>391</sup>

## F. Social welfare

### Special temporary protection

#### Entitlements

Until 1 July 2024, a special temporary protection beneficiary having a PESEL number was entitled to a one-time financial allowance – PLN 300.<sup>392</sup> However, in May 2024, the Special Law was changed and such a benefit can now be only granted if a special ordinance is adopted in case of a mass influx to Poland of Ukrainian nationals (Article 31<sup>1</sup> of the Special Law, in force since 1 July 2024).

Moreover, special temporary protection beneficiaries, having a PESEL number and staying in Poland with children, are, *inter alia*, entitled to:<sup>393</sup>

1. Family benefits, specified in the 2003 Law on family benefits,<sup>394</sup>
2. 500+ financial allowance (since 1 January 2024: 800+) – for every Ukrainian child under 18 years old having a PESEL number: PLN 500 (800) per month. It may be applied for only online and is not available to Ukrainian parents of non-Ukrainian children.<sup>395</sup> In May 2024, the respective law was changed and since 1 July 2024 this benefit is available only if a child attends a Polish school or kindergarten.
3. 'Good start' allowance: PLN 300 at the beginning of the school year (for more on financial support for pupils, see [Access to education](#)). In May 2024, the respective law was changed and since 1 July 2024 this benefit is available only if a child attends a Polish school..

<sup>389</sup> Article 112(6)<sub>(2-3)</sub> of the Act on Protection.

<sup>390</sup> Information provided by the Office for Foreigners, 17 January 2023.

<sup>391</sup> Information provided by the Office for Foreigners, February 2024.

<sup>392</sup> 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>.

<sup>393</sup> Article 26 of the Special Law.

<sup>394</sup> Ustawa z dnia 28 listopada 2003 r. o świadczeniach rodzinnych, available in Polish here: <https://bit.ly/41kHwgm>.

<sup>395</sup> 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>.

The general rules regarding those benefits apply to special temporary protection beneficiaries (the same as for Polish citizens), with some minor exceptions. For example, concerning 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 they stayed in Ukraine) is not taken into account.<sup>396</sup> Some of those benefits are also granted to temporary guardians.<sup>397</sup> 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.<sup>398</sup>

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 following the 2004 Law on social assistance.<sup>399</sup> 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), until 1 July 2024 - with some minor exceptions.

Special temporary protection beneficiaries can also benefit from food aid within the Fund for European Aid to the Most Deprived (since 1 July 2024, EU funds for food assistance).<sup>400</sup> Moreover, UNHCR, in cooperation with the Polish government, offered special financial support to persons fleeing Ukraine.<sup>401</sup>

In December 2023, the Polish National Bank presented its own study on the economic situation of Ukrainian nationals who fled Russian invasion. 53% of respondents declared benefitting from social welfare in Poland. 500+ allowance was the most popular with 44% of respondents reporting that they received it.<sup>402</sup>

The social benefits available to Ukrainian nationals have been considered insufficient to cover their basic needs.<sup>403</sup>

### *Hampered access*

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 after a long waiting period. It hampered their possibility of accessing social welfare.<sup>404</sup>

In 2023, the cases of denying access to the benefits provided for in the 2003 Law on family benefits to some adult temporary protection beneficiaries staying in Poland were reported due to the misleading formulation of Article 26(1)(1) of the Special Law. It states that Ukrainian nationals are entitled to family benefits if they stay in Poland with children. However, not all “family benefits” are intertwined with childcare. For example, some elderly temporary protection beneficiaries were refused a care allowance. The Human Rights Commissioner intervened, which led to the Ministry of Family and Social Policy’s statement that elderly Ukrainian nationals staying in Poland without children are not excluded from

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<sup>396</sup> Article 26(2) of the Special Law.

<sup>397</sup> Article 26(4-4f) of the Special Law.

<sup>398</sup> Article 26(3g-3h) of the Special Law.

<sup>399</sup> Article 29 of the Special Law, Ustawa z dnia 12 marca 2004 r. o pomocy społecznej, available in Polish here: <https://bit.ly/3M8MjNB>.

<sup>400</sup> Article 33 of the Special Law.

<sup>401</sup> 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>.

<sup>402</sup> Narodowy Bank Polski, Sytuacja życiowa i ekonomiczna migrantów z Ukrainy w Polsce w 2023 roku. Raport z badania ankietowego, December 2023, available in Polish [here](https://bit.ly/42EbPQ3).

<sup>403</sup> A. Minkiewicz, P. Mirabelli, A. Nosowska and L. Pelham, ‘Equality versus equity: a case study from Poland’, FMR no. 72, September 2023, available [here](https://bit.ly/42EbPQ3), 22.

<sup>404</sup> 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.

receiving this allowance.<sup>405</sup> This issue was also considered by the courts, who took the same approach to eligibility for a care allowance, e.g. with regard to adult persons with disabilities enjoying temporary protection in Poland, but not having any children.<sup>406</sup>

Furthermore, as noticed by SIP, '(a)nother problem reported by the temporary protection beneficiaries is the lack of access to family benefits when a child has a Ukrainian nationality and accordingly the 'PESEL UKR' (so temporary protection based on the Special Law), but his/her parent is not a Ukrainian national and was granted temporary protection on the basis of the Act on Protection. The access to family benefits is regulated differently for these two groups of temporary protection beneficiaries. Thus, in the above circumstances, despite the fact that the real beneficiary of the family benefits is the child itself, his/her parent is not entitled to ask for these benefits (e.g. Provincial Administrative Court in Gliwice, judgment of 24 August 2023, no. II SA/GI 869/23, not final)<sup>407</sup>.

Moreover, as already mentioned above (see [Movement and mobility](#)), in 2022 and 2023, many persons had their temporary protection terminated due to the "30-day absence in Poland" rule – even when they never left Poland – at all or for more than 30 days.<sup>408</sup> In 2023, Border Guard informed the respective Polish authorities about the absence of a special temporary protection beneficiary in Poland for over 30 days in 694,562 cases.<sup>409</sup> Such information automatically leads to a withdrawal of the 'PESEL UKR'; thus, also to losing access to social benefits.

According to the official data published in July 2023, "500+" allowance was ceased from 1 June 2022 to 31 May 2023 in case of approx. 140,000 Ukrainian nationals. Only in the first 14 days of June 2023, another 1,310 persons lost a right to receive this benefit.<sup>410</sup> In the period of 1 June and 25 October 2023, social benefits were ceased in 13,000 cases due to the lack of return to Poland within 30 days from the day of the departure.<sup>411</sup> It is unknown how many of these people really left Poland for more than 30 days and how many of those decisions are based on the incorrect data in the special registry run by the Border Guard (see [Movement and mobility](#)).<sup>412</sup> However, in 2023, NGOs were often informed about the instances of the social benefits' refusals/cessations despite the lack of absence in Poland for more than 30 days.<sup>413</sup> ACAPS estimated in November 2023 that 'several thousand refugees from Ukraine benefitting from temporary protection (TP) status in Poland have lost this status without meeting legal criteria for its revocation'.<sup>414</sup>

Furthermore, as indicated by SIP,<sup>415</sup> 'since the amendments of the law in January 2023, any departure from Poland of a temporary protection beneficiary or his/her child leads to the suspension of payment of social benefits. If that beneficiary or child returns to Poland, the benefits should be reinstated retroactively, unless a person concerned is no longer entitled to receive them.<sup>416</sup> However, in practice, social benefits are often not reinstated. SIP provided legal assistance in a case where a Ukrainian national was absent

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<sup>405</sup> Human Rights Commissioner, 'Kłopoty obywateli Ukrainy z zasiłkiem pielęgnacyjnym. Skuteczna interwencja Biura RPO', 23 October 2023, available in Polish [here](#).

<sup>406</sup> See e.g. Provincial Administrative Court in Gorzów Wielkopolski, judgment of 29 November 2023, no. II SA/Go 608/23.

<sup>407</sup> SIP, 'Input to the EUAA Asylum Report 2024', November 2023, available [here](#), 19.

<sup>408</sup> See e.g. Human Rights Commissioner, 'Uchodźcy z Ukrainy tracą status UKR, a wraz z nim - prawo do świadczeń wychowawczych. Wyjaśnienia ZUS', 2 August, 26 October, 24 November 2023, available in Polish [here](#).

<sup>409</sup> Information from the Border Guard Headquarters, 12 February 2024.

<sup>410</sup> Ministry of Family and Social Affairs, 'Odpowiedź na interpelację nr 40924 w sprawie problemów obywateli Ukrainy dotyczących nieuzasadnionej utraty świadczenia wychowawczego', 7 July 2023, available in Polish [here](#).

<sup>411</sup> Human Rights Commissioner, 'Uchodźcy z Ukrainy tracą status UKR, a wraz z nim - prawo do świadczeń wychowawczych. Wyjaśnienia ZUS', 2 August, 26 October, 24 November 2023, available in Polish [here](#).

<sup>412</sup> SIP, 'Input to the EUAA Asylum Report 2024', November 2023, available [here](#), 18.

<sup>413</sup> See e.g. Ibid.; UNHCR, 'Poland: Joint Protection Analysis', October 2023, available [here](#), 9; HNLAC, 'Instrukcja wznowienia świadczenia wychowawczego 500+ dla rodziców dzieci z Ukrainy', 20 November 2023, available in Polish [here](#).

<sup>414</sup> ACAPS, 'Poland: Loss of temporary protection status and social benefits for Ukrainian refugees', 14 November 2023, available [here](#), 1, 7.

<sup>415</sup> SIP, 'Input to the EUAA Asylum Report 2024', November 2023, available [here](#), 18-19.

<sup>416</sup> Article 26 (3g-3i) of the Special Law.

from Poland for three hours and her social benefits were firstly suspended, then ceased (...). In fact, the introduction of the abovementioned rules led to thousands of suspensions of social benefits across Poland'. According to media reports, in 2023, the payments of the 500+ benefit were suspended in case of 18,000 Ukrainian nationals within a span of just over two months.<sup>417</sup> According to the Social Security Institution (ZUS), in the period of 1 June and 25 October 2023, social benefits were suspended in 35,000 cases, restored in 14,000 cases and ceased in 13,000 cases due to the lack of return to Poland in 30 days.<sup>418</sup>

As explained by SIP, '(t)he Social Security Institution (ZUS) suspends and ceases social benefits on the basis of the information provided for in the special registry run by the Border Guard, which it seems to consider binding.<sup>419</sup> Other proofs – confirming absences shorter than 30 days – are often ignored by this institution. There is no coherent jurisprudence in this regard: some courts reproach ZUS for ignoring evidence (e.g. Provincial Administrative Court in Lublin, judgment of 2 February 2023, no. II SA/Lu 877/22), while others indicate that its actions were correct (e.g. Provincial Administrative Court in Gliwice, judgment of 26 May 2023, no. II SA/GI 90/23)'.<sup>420</sup>

'The Ministry of Family and Social Affairs advised in July 2023 that in the situation of the suspension/cessation of social benefits based on the incorrect data in the special registry, a person concerned should apply to have PESEL UKR restored and to correct data in the registry by the Border Guard.<sup>421</sup> However, in practice, persons concerned struggled with having their PESEL UKR restored (especially with a retroactive effect).<sup>422</sup> While in May 2023, the government informed municipalities how the restoration should be done,<sup>423</sup> this instruction was not a law (only a guidance), it was much overdue and seemed to be unknown or not followed. Moreover, in practice, the Border Guard was not promptly nor willingly changing data in the special registry'.<sup>424</sup> Some requests to rectify data in this registry were denied. Moreover, in practice, the restoration of social benefits – after the restoration of the UKR status – often lasted for months, leaving beneficiaries without needed support.<sup>425</sup> In May 2024, the Special Law was amended in order to clarify the rules in this regard. Now, the law states directly that the date of restoration is the same as the day of withdrawal of the PESEL UKR. Thus, there should be no gap in the status and access to benefits upon successful restoration.

Furthermore, withdrawal of the 'PESEL UKR' is done automatically. Concerned persons are not informed about it and no decision is issued. In practice, they learn that they are no longer temporary protection beneficiaries, e.g. only when their social assistance is ceased or when they are denied access to medical assistance.<sup>426</sup> In practice, Border Guard inserts the information about over-30-days stays abroad (real and presumed) into a special registry with a delay (even of a couple of months). Some Ukrainian nationals and their family members, unaware that they lost their temporary protection status, received in this period

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<sup>417</sup> PAP, 'ZUS wstrzymał kilkanaście tysięcy świadczeń dla uchodźców z Ukrainy, którzy wyjechali z Polski', 22 August 2023, available in Polish [here](#).

<sup>418</sup> Human Rights Commissioner, 'Uchodźcy z Ukrainy tracą status UKR, a wraz z nim - prawo do świadczeń wychowawczych. Wyjaśnienia ZUS', 2 August, 26 October, 24 November 2023, available in Polish [here](#).

<sup>419</sup> Ibid.

<sup>420</sup> SIP, 'Input to the EUAA Asylum Report 2024', November 2023, available [here](#), 18.

<sup>421</sup> Ministry of Family and Social Affairs, 'Odpowiedź na interpelację nr 40924 w sprawie problemów obywateli Ukrainy dotyczących nieuzasadnionej utraty świadczenia wychowawczego', 7 July 2023, available in Polish [here](#). See also Human Rights Commissioner, 'Uchodźcy z Ukrainy tracą status UKR, a wraz z nim - prawo do świadczeń wychowawczych. Wyjaśnienia ZUS', 2 August, 26 October, 24 November 2023, available in Polish [here](#).

<sup>422</sup> Human Rights Commissioner, 'Uchodźcy z Ukrainy są błędnie pozbawiani statusu uprawniającego do opieki medycznej i pomocy. *Ponowne pismo RPO*', 16 March 2023 and 16 June 2023, available in Polish [here](https://bit.ly/3Kg37jI): <https://bit.ly/3Kg37jI>; ACAPS, 'Poland: Loss of temporary protection status and social benefits for Ukrainian refugees', 14 November 2023, available [here](#), 7.

<sup>423</sup> Human Rights Commissioner, 'Kiedy obywatel Ukrainy nie straci statusu UKR. Wyjaśnienia MSWiA dla RPO (також українською)', 3 August 2023, available in Polish [here](#).

<sup>424</sup> SIP, 'Input to the EUAA Asylum Report 2024', November 2023, available [here](#), 19.

<sup>425</sup> UNHCR, 'Poland: Joint Protection Analysis', October 2023, available [here](#), 10; Human Rights Commissioner, 'Uchodźcy z Ukrainy tracą status UKR, a wraz z nim - prawo do świadczeń wychowawczych. Wyjaśnienia ZUS', 2 August, 26 October, 24 November 2023, available in Polish [here](#).

<sup>426</sup> UNHCR, 'Poland: Joint Protection Analysis', October 2023, available [here](#), 10.

social welfare, which was requested to be returned afterwards.<sup>427</sup> ACAPS estimated in November 2023 that this could have happened to approximately 3,000-4,000 temporary protection beneficiaries.<sup>428</sup>

ACAPS also noticed other difficulties associated with receiving social benefits: 'Since late 2022, Poland's Social Insurance Institution (ZUS) has systematically requested that refugees from Ukraine confirm their residence in Poland. These requests are only made through a website, and refugees must log in to see the request. Many refugees have been unable to comply because they do not receive other notifications and are unaware that a request has been made.'<sup>429</sup>

### 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.<sup>430</sup>

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.<sup>431</sup> In 2023, the problem continued, but the statistical data are not available.<sup>432</sup>

The financial allowance is provided for a period of minimum 2 months,<sup>433</sup> 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.<sup>434</sup>

Granting assistance in the form of accommodation and food, or a financial allowance, is dependent on the financial situation of the beneficiary.<sup>435</sup> 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. Data for 2023 were not made available.<sup>436</sup> Moreover, the assistance is not granted if a person concerned seeks asylum (then, they benefit from material reception conditions for asylum seekers).<sup>437</sup>

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.<sup>438</sup> 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.

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<sup>427</sup> 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/3Kg37jI>.

<sup>428</sup> ACAPS, 'Poland: Loss of temporary protection status and social benefits for Ukrainian refugees', 14 November 2023, available [here](#), 1, 8-9.

<sup>429</sup> Ibid., 1, 7-8.

<sup>430</sup> Article 112 of the Act on Protection.

<sup>431</sup> Information provided by the Office for Foreigners, 17 January 2023.

<sup>432</sup> Information provided by the Office for Foreigners, February 2024.

<sup>433</sup> 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.

<sup>434</sup> Information provided by the Office for Foreigners, 17 January 2023.

<sup>435</sup> Article 112(4-4f) of the Act on Protection.

<sup>436</sup> Information provided by the Office for Foreigners, 17 January 2023.

<sup>437</sup> Article 112(1b) of the Act on Protection.

<sup>438</sup> SIP, Letter of 30 November 2022 to the European Commission, available in English here: <https://bit.ly/3TgHaEX>, 5-6.

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.<sup>439</sup> Thus, 43% of the general temporary protection beneficiaries benefited from this allowance in 2022.

The total numbers for 2023 are not available. As of 30 June 2023, 194 general temporary protection beneficiaries received a financial allowance and medical assistance, 20 received assistance only in the form of Polish language lessons and materials, 11 persons were granted only medical assistance, and 5 persons received only the financial allowance. As of 31 December 2023, 169 general temporary protection beneficiaries received a financial allowance and medical assistance, 24 received assistance only in the form of Polish language lessons and materials, 6 persons were granted only medical assistance, 2 persons received only the financial allowance and 1 person was accommodated in the reception centre.<sup>440</sup>

## G. Health care

### Special temporary protection

#### *Entitlements*

Ukrainian nationals and some of their family members enjoying temporary protection can access the general healthcare system in Poland (with some minor exceptions).<sup>441</sup> 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.<sup>442</sup>

Additionally, special temporary protection beneficiaries *may* be provided with free-of-charge psychological assistance. Providing this assistance is at the discretion of local authorities.<sup>443</sup> 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.<sup>444</sup> 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.<sup>445</sup>

Polish authorities *may* assist special temporary protection beneficiaries with transport to medical establishments.<sup>446</sup> 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.

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<sup>439</sup> Information provided by the Office for Foreigners, 17 January 2023.

<sup>440</sup> Information provided by the Office for Foreigners, February 2024.

<sup>441</sup> Article 37 of the Special Law.

<sup>442</sup> 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>.

<sup>443</sup> Article 32 of the Special Law.

<sup>444</sup> Article 25(3b) of the Special Law, until 30 June 2024. Since 1 July 2024, Article 25<sup>1</sup>(6) of the Special Law with regard to children and persons from Ukrainian institutional foster care system.

<sup>445</sup> SIP, Letter to the Ministry of Internal Affairs and Administration, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 18-19.

<sup>446</sup> Article 12(1)<sub>(3)</sub> of the Special Law.



Ukrainian nationals who fled from Ukraine after 24 February 2022 are also eligible to receive funding for purchasing medicines. It is financed by state<sup>447</sup> and private donors.<sup>448</sup> In practice, some doubts were raised about whether children and the elderly are entitled to free-of-charge medicines. In September 2023, the Human Rights Commissioner asked the Ministry of Health to take a stand; no answer was provided or published.<sup>449</sup> It is unknown whether this letter was answered.

Access to a labour market for Ukrainian doctors, dentists, nurses and midwives has been facilitated (until 24 June 2024). According to one study, already by January 2023, some 5,000 Ukrainian doctors, and 2,000 Ukrainian nurses and midwives applied to benefit from the facilitated access to employment in Poland.<sup>450</sup> Ukrainian doctors, dentists, nurses and midwives can also have their Polish language lessons co-financed from a state budget.<sup>451</sup> Some support to medical practitioners is also offered by private initiatives, e.g. the Polish-Ukrainian Economic Chamber (language courses, etc.).<sup>452</sup>

Ukrainian psychologists could also provide psychological assistance to their compatriots, but only until 24 August 2023. It has been criticised that this possibility was not prolonged further, despite the fact that the limited availability of psychological assistance to Ukrainian nationals is considered to be one of the biggest concerns in Poland.<sup>453</sup> Over one hundred NGOs called for an immediate change in the law in this regard.<sup>454</sup> The Human Rights Commissioner intervened too.<sup>455</sup> The law was changed in May 2024: Ukrainian psychologists are again entitled to assist their compatriots from 1 July 2024 to 30 September 2025 (Article 64b of the Special Law).

In 2022-2023, the Polish Ombudsman for Children offered psychological and legal support to children in Ukrainian and Russian language (by phone and chat).<sup>456</sup>

### *Hampered access*

In the UNHCR's study of November 2023, 27% of respondents declared that they had limited access to healthcare in Poland.<sup>457</sup>

Practical difficulties included a language barrier.<sup>458</sup> Polish authorities informed that 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.<sup>459</sup> Despite that, the language barrier was prominently mentioned as a main difficulty in the reports published in 2023 concerning access to different services, including healthcare, in Poland.

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<sup>447</sup> E.g. PFRON, 'Zaopatrzenie w wyroby medyczne - wsparcie dla uchodźców z Ukrainy', 1 April 2022, available in Polish here: <https://bit.ly/3LPbJyj>.

<sup>448</sup> See e.g.: <https://bit.ly/44Mz7Fc>.

<sup>449</sup> Human Rights Commissioner, 'Kwestia bezpłatnych leków dla uchodźców wojennych z Ukrainy w wieku do 18. oraz po 65. roku życia. Pismo do MZ', 26 September 2023, available in Polish [here](#).

<sup>450</sup> C. Katsiaticas, J. Segeš Frelak, G. Güzelant, A. Piłat, 'Creative approaches to boosting the employment of displaced Ukrainians in Central and Eastern Europe', ICMPD, September 2023, available [here](#), 3.

<sup>451</sup> Articles 61-64a and Article 22i of the Special Law.

<sup>452</sup> See [here](#).

<sup>453</sup> UNHCR, 'Poland: Joint Protection Analysis', October 2023, available [here](#), 12.

<sup>454</sup> Mapuj Pomoc, 'Apel o interwencję w sprawie kryzysu w świadczeniu pomocy psychologicznej obywatelom Ukrainy (aktualizacja)', 11 August 2023, available in Polish [here](#).

<sup>455</sup> Human Rights Commissioner, 'Psychologowie z Ukrainy stracili prawo wykonywania zawodu w Polsce. RPO pisze do marszałek Senatu', 2 October and 20 November 2023, 24 January, 13 February and 19 February 2024, available in Polish [here](#).

<sup>456</sup> Rzecznik Praw Dziecka, 'Informacja o działalności Rzecznika Praw Dziecka w 2022 roku oraz uwagi o stanie przestrzegania praw dziecka w Polsce', 31 March 2023, available in Polish [here](#), 281.

<sup>457</sup> UNHCR, 'Multi-Sector Needs Assessment - Results Overview (MSNA Poland 2023)', November 2023, available [here](#).

<sup>458</sup> Ibid., 33; UNHCR, 'Poland: Joint Protection Analysis', October 2023, available [here](#), 12.

<sup>459</sup> 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>.

Studies concerning access to healthcare for Ukrainian nationals in Poland indicated also that long waiting periods for appointments and too high costs of medical assistance were problematic issues in 2022 and 2023. However, these reports acknowledged that Polish nationals face the same problems. Moreover, some Ukrainian nationals showed the lack of trust in the Polish medical system. Some temporary protection beneficiaries temporarily returned to Ukraine to receive a medical treatment or medications they needed.<sup>460</sup> The lack of information how to seek medical and psychological assistance in Poland was also often listed as a reason for not accessing this support.<sup>461</sup>

In 2022 and 2023, Ukrainian nationals who have lost 'PESEL UKR' (due to their absence in Poland for more than 30 days, see [Movement and mobility](#)) lost also their access to public healthcare. They sometimes learned that they were no longer temporary protection beneficiaries after already being treated in hospitals and other medical establishments. In these circumstances, they were required to pay back the costs of the treatment (similarly as with the social allowances, see [Social welfare](#)).<sup>462</sup>

Reports from 2022 also informed about Ukrainian women who struggled with accessing their reproductive rights, in particular an abortion after being raped in Ukraine.<sup>463</sup> The Federation for Women and Family Planning called on the international community to intervene in Poland to adequately address the sexual and reproductive health needs of women and girls affected by the war in Ukraine.<sup>464</sup>

### 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.<sup>465</sup> In 2022, 67 persons were denied medical assistance and financial allowance due to the lack of a certificate for a person enjoying temporary protection.<sup>466</sup> In 2023, the problem continued, but the statistical data are not available.<sup>467</sup>

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.<sup>468</sup>

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.<sup>469</sup> Moreover, medical assistance for temporary protection beneficiaries is not granted if a person concerned seeks asylum (then, they benefit from material reception conditions for asylum seekers).<sup>470</sup>

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<sup>460</sup> Save the Children and IMPACT, 'Experiences, Needs and Aspirations of Children, Adolescents and Caregivers Displaced from Ukraine', available [here](#), 39-40. See also UNHCR, 'Poland: Joint Protection Analysis', October 2023, available [here](#), 11-12; L. Murray, J. Linke and R. Stoican, 'The protection needs identified by displaced Ukrainian children and adolescents', FMR no. 72, available [here](#), 35; UNHCR, 'Multi-Sector Needs Assessment - Results Overview (MSNA Poland 2023)', November 2023, available [here](#), 33.

<sup>461</sup> See e.g. UNHCR, 'Multi-Sector Needs Assessment - Results Overview (MSNA Poland 2023)', November 2023, available [here](#), 34.

<sup>462</sup> UNHCR, 'Poland: Joint Protection Analysis', October 2023, available [here](#), 10.

<sup>463</sup> 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>.

<sup>464</sup> 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>.

<sup>465</sup> Article 112 of the Act on Protection.

<sup>466</sup> Information provided by the Office for Foreigners, 17 January 2023.

<sup>467</sup> Information provided by the Office for Foreigners, February 2024.

<sup>468</sup> Information provided by the Office for Foreigners, 17 January 2023.

<sup>469</sup> Article 112(4d) of the Act on Protection.

<sup>470</sup> Article 112(1b) of the Act on Protection.

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.<sup>471</sup> Thus, 47% of the general temporary protection beneficiaries benefited from medical assistance organised by the Office for Foreigners in 2022.

Total numbers for 2023 are not available. As of 30 June 2023, 194 general temporary protection beneficiaries received a financial allowance and medical assistance and 11 persons were granted only medical assistance. As of 31 December 2023, 169 general temporary protection beneficiaries received a financial allowance and medical assistance and 6 persons were granted only medical assistance.<sup>472</sup>

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<sup>471</sup> Information provided by the Office for Foreigners, 17 January 2023.

<sup>472</sup> Information provided by the Office for Foreigners, February 2024.