

SUMMARY

PoMOCna KAWA #28



AMENDMENT TO THE LAW

ON ASSISTANCE TO CITIZENS OF UKRAINE

37 ORGANISATIONS ATTENDED THE MEETING Mudita Association, Women's Rights Centre, Kulawa Warszawa Foundation, Legnica City Municipality, Batory Foundation, Unions Help Refugees, Warsaw City Municipality, Food Bank in Olsztyn, Barka Assistance Foundation, Union of Ukrainians in Poland - circle in Przemyśl and others.

Association for Legal Intervention at PoMOCna Kawa

The guest speaker at our meeting on Tuesday 23 May 2023 was Kornelia Trubilowicz, a lawyer from the Association for Legal Intervention, in her practice providing legal advice to migrants and refugees. The speaker's presentation Last amendment on assistance to citizens of Ukraine - information and guidance provided an opportunity to talk about the legal changes, especially when it comes to the benefits to which citizens of Ukraine living in Poland are entitled. **Below is a brief summary of the lecture and a downloadable SIP presentation.**

Catalogue of benefits for persons from Ukraine

Kornelia Trubilowicz pointed out that in the latest amendment to the speculative law [of April 2024 - editor's note] there were no significant changes to the social benefits that refugees from Ukraine can receive. They can apply for them without having a Residence Card, which is an exceptional regulation - other foreigners must have one. **The benefits available to Ukrainian citizens living in Poland are currently as follows:**

- 300+ benefit,
- family care capital,
- the Good Start benefit,
- 500+ benefit,
- attendance allowance, care allowance, family allowance,
- nursery subsidies,
- monetary and non-monetary benefits provided for in the Social Assistance Act,

The Association for Legal Intervention **has prepared a detailed brochure on benefits for persons from Ukraine** (in Polish and Ukrainian). We encourage you to read it!

Potential problems

The Association for Legal Intervention provides legal assistance to refugees as part of its activities. This allows the lawyers of the SIP team to identify potential **problems related to benefits for people from Ukraine in Poland. Some of the most relevant ones were presented by Kornelia Trubilowicz during PoMOCna Kawa:**

- **denial of a benefit dictated by the existence of an entitlement to receive an analogous benefit in another country.** The problem is that the mere existence of an entitlement to receive a benefit in another country does not mean that the benefit is paid or that the refugee has taken steps to receive it. The law should make the refusal of a benefit conditional on the fact of receiving an analogous benefit in another country, as the mere existence of an entitlement does not create any conflict of interest (this can be compared to a situation where a Polish court dismisses a lawsuit because such a lawsuit can also be filed in a neighbouring country);
- **the child/dependent person has UKR status and the claimant does not have it** - the SIP speaker cited a situation where the same authority in two similar benefit payment cases once refused payment because the mother as claimant did not have the required UKR status, and in a subsequent proceeding decided that even if the claimant did not have this status, it was sufficient for the child to have it, as the benefit is intended for children. Such clerical practices show that it is always worthwhile to appeal against an authority's decision. This is because the administrative court has the possibility to interpret the rules more broadly;
- **the termination of UKR status in cases where departure from Poland has not taken place for more than 30 days,** resulting in the withholding of benefits;

- **Withholding of benefits due to loss of UKR PESEL number** - loss of UKR status may be related to a human error (e.g. the Border Guard may fail to register the date of return to Poland, in which case the status is lost after 30 days) or to the system or to the UKR PESEL register (the Ombudsman has received information about cases in which refugees lost their status although they did not leave the territory of Poland at all);
- **the use of different official practices when it comes to providing evidence of being out of the country for less than 30 days** - there is no single way accepted by all offices in Poland on the basis of the speculative law, which makes it more difficult in some places to provide evidence of this circumstance;
- **different timescales for reinstating wrongly lost UKR status** - some authorities apply a range from the date of the reinstatement application. This is incorrect as it creates a certain 'hole', the creation of which can result in problems in the continuity of benefits.

Possible actions and presentation to download

The Association for Legal Intervention **presented tips for refugees at the meeting to minimise the likelihood of the above-described complications:**



Możliwe działania:

- na przejściach granicznych prosić każdorazowo o stempel w paszporcie
- stanowisko SG: każdorazowo przy przekraczaniu granicy należy okazywać dokument pobytowy diia.pl oraz deklarować o zamiarze wjazdu w związku z korzystaniem w Polsce z uprawnień z ochrony czasowej, aby pozostać w rejestrze PESEL UKR
- od razu po powrocie do kraju upewnić się w rejestrze PESEL jakie widnieją dane (profil zaufany)
- niezwłocznie wyjaśnić sytuację z nr PESEL w urzędzie gminy i złożyć wniosek o przywrócenie PESEL UKR od daty wstecznej, wraz z dokumentami potwierdzającymi deklarowane fakty
- z wyjaśnioną sytuacją PESEL UKR wnioskować o wznowienie wypłaty świadczeń

Na ten moment brak sprawdzonego schematu działania.

PESEL UKR a
świadczenia

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