

SUMMARY

PoMOCna KAWA #34



LEGAL ISSUES — LEGAL RESIDENCE OF REFUGEES FROM UKRAINE IN POLAND

26 ORGANIZATIONS PARTICIPATED IN OUR MEETING OVUM Association, Mudita Association, Lodz Multicultural Centre, Migrant Info Point, Foundation of Social and Economic Initiatives, Ocalenie Foundation, Centre for Women's Rights, Foundation for Child Development and others

On Tuesday 4 July, we hosted a speaker from the Association for Legal Intervention – Patrycja Mickiewicz (legal adviser with many years of experience in the field of migration law)

Two groups of Ukrainian citizens and two laws

Patrycja Mickiewicz, in order to structure her considerations on the legalisation of the stay of Ukrainian citizens in Poland, **divided them into two groups - those who stayed in Poland before 24 February 2022, and those who, under temporary protection, arrived on the territory of Poland with the intention to stay here after the escalation of the Russian Federation's invasion of Ukraine.**

In order to understand the issues related to the legalisation of the stay of persons from Ukraine in Poland, **it was furthermore necessary to refer to two laws that regulate these issues.** These are:

- **the Act on Foreigners** – which sets out the principles and conditions for the entry of foreigners into the territory of the Republic of Poland, their transit through this territory, their stay and departure, as well as the procedure and authorities competent in these matters;
- **special law about helping Ukrainian citizens in Poland** ("specustawa") – which defines specific principles of legalising the stay of Ukrainian citizens who came to the Republic of Poland from the territory of Ukraine due to military actions conducted on the territory of this country, and Ukrainian citizens holding the Card of the Pole who, together with their immediate family, came to Poland due to these actions.

First regulations and amendments

The speaker drew the audience's attention to the fact that **in the public space in the context of the legalisation of the stay of Ukrainian citizens there is a date of 24 August 2023 – which we can already forget.** It is related to the first regulations. At that time, legal residence lasted from 18 months, i.e. from 24 February 2022 to 24 August 2023. However, **an amendment in June 2023 introduced a new end date for legal residence – essentially 4 March 2024.** As Patrycja Mickiewicz explained, the legislator provided for two situations where the deadline for staying in Poland is longer. It applies to persons (and their parents) who:

- benefit from pre-school and school education in Poland;
 - are receiving education in Poland;
- then the date of their legal residence **expires on 31 August 2024;**
- who take the final secondary school leaving exam in a resit period
- then the date of legal residence **expires on 30 September 2024.**

The confirmation of the right to legal residence (which is acquired by operation of law - i.e. without the need to write applications etc.) **is the pesel number with the annotation UKR.**

Ukrainians who resided in Poland before the outbreak of war

As an expert from the Association for Legal Intervention pointed out, **people who came from Ukraine to Poland before the invasion are also covered by special arrangements.** However, it is done partly under the procedure of the special law on assistance to Ukrainian citizens. These are persons who do not benefit from temporary protection in Poland and legalise their stay in principle on the basis of the provisions of the Act on Foreigners in the same way as citizens of any other country which is not a member state of the European Union. The Specustawa extends the validity of residence permits until 4 March 2024:

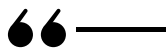
- **national visas** (this does not give the possibility to cross the border except for drivers in international transport);
- **temporary residence permits**, the validity of which also ends from 24 February 2022.

Covid regulations

The speaker assessed that **the situation of people who came to Poland before the war under the visa-free regime and remained in Poland on the basis of the so-called covid regulations (i.e. also introduced in the area of legalisation of stay in connection with the coronavirus pandemic) seems to be more complicated.** The covid regulations did not extend the right to stay in visa-free traffic, but gave the possibility to submit an application for temporary stay on the basis of the Act on foreigners until the day on which 30 days have elapsed from the end of the epidemiological emergency. It is difficult to unequivocally answer the question of whether such a person benefits from the solutions of the specustawa

Unnecessary amendment

The repeal, in January 2023, of the provisions of Article 38 of the specustawa, which allowed, in principle, any Ukrainian citizen whose stay on the territory of the Republic of Poland is or was considered legal, to obtain a temporary residence permit for a period of three years, **is considered an unfavourable change. As explained by Patrycja Mickiewicz:**



This was a great solution that many, many people have been waiting for. Why? Well, because the legislator, when meeting the deadline for this condition of submitting the application within a certain period, provided for the granting of a permit for a period of 3 years [...]. This was the solution that many were waiting for, because [...] it was such a guarantee of stability. A lot of people came to Poland not knowing what was going to happen, what it was going to be like. Everyone knew that this stay would be legal until 24 August, which seemed such a distant date at the beginning, but for many people there was already a fear of what would happen next. So this solution sort of introduced a sense of security.

It should be noted that **there were grounds for refusal to receive a permit, and these were as follows:**

- it is required for reasons of defence or state security or the protection of public safety and order;
- it is mandatory to enter the data of a citizen of Ukraine in the list of foreigners whose residence on the territory of the Republic of Poland is undesirable.

The legislator has instead introduced a regulation according to **which only three specific groups of Ukrainian citizens enjoying temporary protection in Poland can successfully apply for a temporary residence permit under the provisions of the Act on foreigners.** These are refugees from Ukraine who:

- will apply for a temporary residence and work permit;
- will submit an application for temporary residence in order to work in a highly qualified profession;
- carry out economic activity in Poland and indicate such a reason as the basis of their application for a permit.



The Association for Legal Intervention **provides all legal information related, among other things, to the legalisation of residence of Ukrainian citizens on [its information portal for people fleeing Ukraine](#).** There you can also find training offers, receive quick legal advice and follow the latest legal developments in connection with refugees.



If you need a contact for a specific organisation, please email us at mapujpomoc@culturelab.pl.