

Loss of temporary protection status and social benefits for Ukrainian refugees

OVERVIEW

As at 10 October 2023, there were nearly 959,000 refugees from Ukraine in Poland (UNHCR accessed 10/30/2023). Of those, 957,176 had Temporary Protection (TP) status (Poland's Data Portal 10/10/2023a). 20% of refugees interviewed in Poland between October 2022 and October 2023 said they had visited Ukraine since the conflict began, mainly to visit relatives, obtain documents, check on property, check on the situation in Ukraine, and access healthcare (UNHCR accessed 17/08/2023).

Reports that some Ukrainian refugees in Poland had their temporary protection (TP) status revoked despite still meeting the criteria for protection began in October 2022. The exact number of affected refugees is unknown, but this may have affected several thousand people. The issue has been reported to Poland's Ombudsman and NGOs, and has since been raised by UNHCR (RPO 16/03/2023; SIP 23/05/2023, 15/12/2022, and 04/04/2023; Nasz Rzecznik 20/04/2023; UNHCR 15/03/2023). There have also been reports that some refugees who do not meet the legal criteria for their TP status to be revoked have stopped receiving family benefits, including those who have not left Poland (RPO 16/03/2023; Infor 04/08/2023). While there is no data on how many withdrawals of benefits affected refugees who did not leave the country, this is likely to be the case for more than one in ten refugee children (Sejm 07/07/2023; Poland's Data Portal 26/12/2022 and 27/03/2023).

TP status revocation in Poland occurs 30 days after a refugee from Ukraine has left Poland, but some refugees are losing their TP status without meeting this criterion (Money.pl 23/10/2022; Rzeczpospolita 08/03/2023; RPO 16/03/2023; Wyborcza 18/05/2023). Communications from the European Commission and the UNHCR have also raised questions about whether TP status revocation after 30 days of consecutive absence from Poland complies with international law. For refugees to be able to make informed decisions regarding voluntary long-term return, the UNHCR recommends that visits to Ukraine lasting less than three months do not affect refugees' status, while noting that it might be suspended for the period of the visit (EC accessed 14/07/2023; UNHCR 14/07/2023).

TP status loss has serious implications for refugees' access to social protection and public services, such as healthcare and family benefits (UNHCR 15/03/2023; RPO 16/03/2023; UAPL

22/03/2023). Some refugees who lose their status are required to repay the State for previously received financial benefits (RP.pl 08/03/2023; Nasz Rzecznik 20/04/2023). Some refugees have also had their family benefits withdrawn while their TP status was still active, as a result of insufficient communication around requests for confirmation of stay in Poland.

In 2023, the Border Guard issued a letter indicating the necessity to carefully establish the purpose of Ukrainians entering Poland and whether they are covered by TP (MoI 26/07/2023; Polityka 11/08/2023). While this may be cautiously interpreted as a call to action for the Border Guard, it was not a shift of responsibility, and many Ukrainians had already lost their TP status and family benefits before this statement was made.

About this report

Aim: this report explains the reasons for the undue loss of TP status for refugees from Ukraine in Poland and its impact. It also explores the loss of social protection benefits not caused by TP status loss.

Methodology: this report is based on the analysis of legislation, administrative statistics, information from Polish and Ukrainian media, and statements from public administration, the UNHCR, and NGOs.

Limitations: because the information about Border Guard procedures and ICT systems was drawn from publicly available documents, elements not publicly available may be missing in this report.

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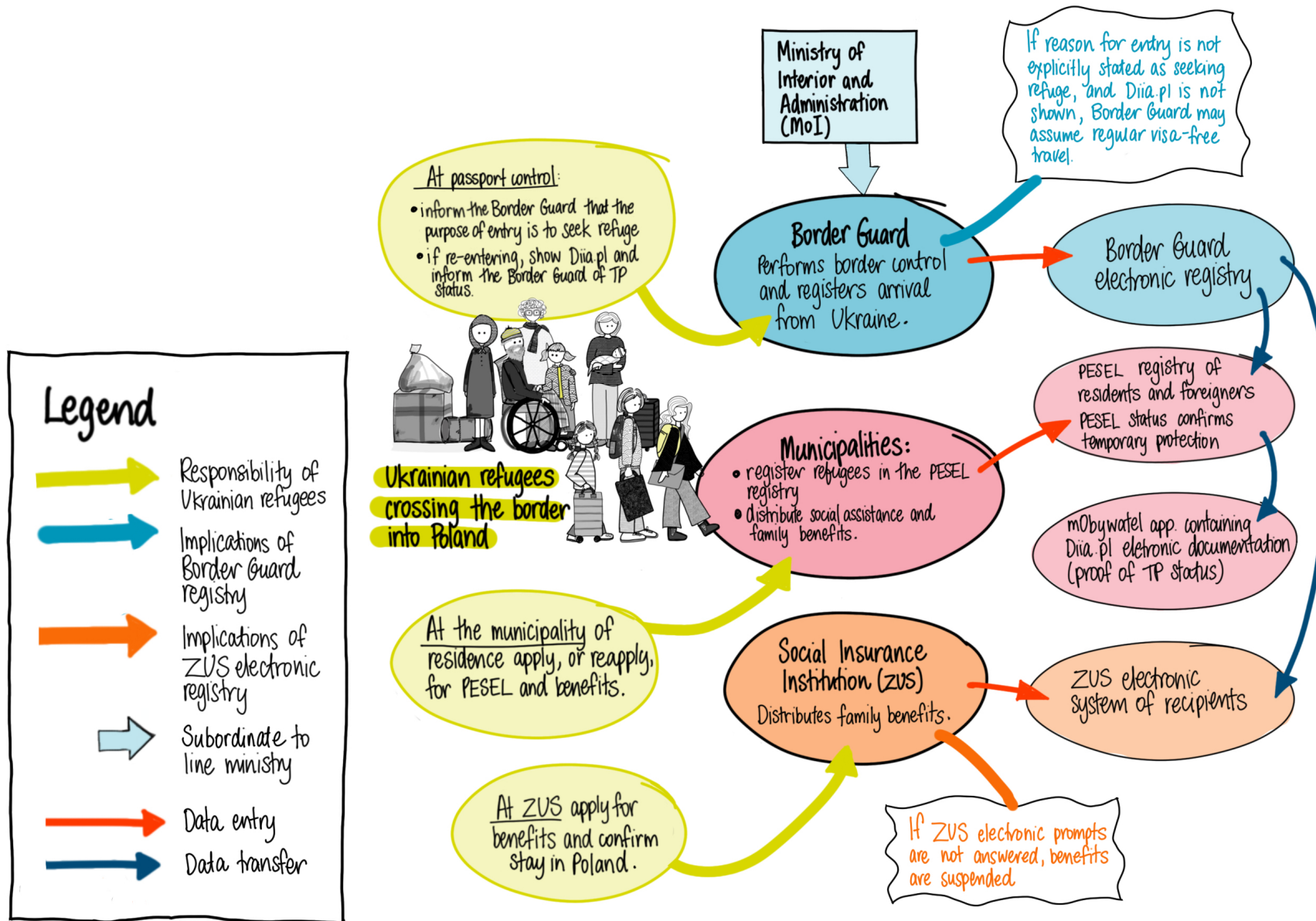
KEY FINDINGS

- ACAPS estimates 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. This happens when they travel to Ukraine for less than 30 days but do not explicitly declare and prove to the Border Guard that they have TP status upon their return. This places the burden of responsibility on the refugees themselves, many of whom are not aware of this obligation. Border Guard data on the reason for entry is used to determine if one is still covered by TP and eligible for benefits, and a non-confirmation of TP status by the Border Guard results in its loss.
- The loss of TP status means that the duration of residence in Poland is altered (typically – shortened to max. 90 days) and refugees from Ukraine lose the right to universal family benefits, free healthcare, and the right to work without a work permit. Many refugees from Ukraine only become aware that their TP status has been revoked when they try to access healthcare or when their family benefits are withdrawn.
- Documentation as proof of TP status was only made available in the last week of July 2022 (five months after the full-scale invasion of Ukraine). Many cases of TP status loss occurred because some Border Guards applied the rules of visa-free movement, denying re-entry to those who had been in Poland for more than 90 days in the last 180 days, and refugees from Ukraine had no proof of TP status to show otherwise. The document proving TP status is only available electronically, making it difficult for people with low digital literacy to access.
- Groups most vulnerable to undue TP loss include people with limited access to digital media (including those with low digital literacy and/or without a smartphone), people with complex healthcare needs, the most economically vulnerable Ukrainian refugees, and Ukrainian Roma refugees.
- 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. The number of those who lost their benefits because they did not confirm their residency to ZUS is unknown, but according to ACAPS estimates, this may have affected about one in ten refugee children in the first quarter of 2023 and has likely continued since.
- Refugees who lost TP status and received family benefits initially continued to do so because ZUS did not know they had lost their TP status. Once Border Guard data become available to social protection institutions, these refugees were asked to repay the benefits they had continued to receive. This may have affected between 3,000 and 4,000 refugees. Avenues for recourse can take months, leaving refugees in a precarious position where they are unable to access benefits and healthcare, increasing their economic vulnerability.

KEY TERMS

- Refugees from Ukraine refers to all people who have fled Ukraine because of the armed conflict. Not all refugees from Ukraine are eligible for TP, and many are not granted refugee status in host countries (UNHCR 14/06/2023).
- Temporary protection (TP) is a form of international protection (SIP accessed 24/10/2023). It involves a set of measures to protect displaced people in the case of their mass arrival to the European Union (EU). It includes the right to residence and access to socioeconomic rights (EC accessed 05/06/2023; OpenLex accessed 23/08/2023; ACAPS 05/09/2023). As at October 2023, TP for refugees from Ukraine would last until March 2024 (European Council/Council of the EU 28/09/2023). In Poland, TP only applies to Ukrainian nationals and limited categories of third-country nationals (EUAA 08/2022)
- The Special Act is the customary shortened name of the Polish Law of 12 March 2022 on Assistance to Citizens of Ukraine in Connection with the Armed Conflict on the Territory of the Country. The Special Act implements the EU directive on TP and includes additional provisions (OpenLex accessed 23/08/2023).
- PESEL refers to both the Polish personal identification number and the Universal Electronic System for Population Registration (Govt. Poland accessed 17/08/2023; RPO 27/11/2012).
- PESEL UKR is a PESEL number with a 'UKR' annotation, denoting the status of TP holders from Ukraine in the PESEL registry. Refugees from Ukraine can apply for it at municipalities. Active UKR status in the PESEL registry means active TP status (Govt. Poland accessed 14/07/2023; OpenLex accessed 23/08/2023).
- NUE status is used in the PESEL registry and Border Guard registry to refer to a person who is neither Polish, a citizen of another EU country, nor a holder of TP (MoI 26/07/2023).
- Diia.pl is an electronic identification document in the mObywatel mobile application. It is issued to every PESEL UKR holder aged 13 or older. It was made available on 23 July 2022 (Govt. Poland 22/07/2022 and 26/07/2022). Before that, refugees from Ukraine had no documentation attesting to their TP status (RPO 22/08/2022). The possibility to add children below the age of 13 was made available on 5 June 2023 (Govt. Poland 05/06/2023). The application does not notify the user if their UKR status (TP status) has been revoked (Mapuj Pomoc 10/01/2023).

HOW REFUGEES FROM UKRAINE INTERACT WITH KEY INSTITUTIONS IN POLAND



Source: ACAPS

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TEMPORARY PROTECTION

The Council of the EU adopted the Temporary Protection Directive in 2001. It covers the “minimum standards for giving TP in the event of a mass influx of displaced persons”, including a residence permit for the duration of TP and rights to social protection and public services. It was activated on 04 March 2022 to support people fleeing the war in Ukraine and was transposed into EU member states’ legislation with several acts, including the Special Act of Poland (EC accessed 17/08/2023; OpenLex accessed 23/08/2023; ACAPS 05/09/2023). Refugees apply for TP at municipalities (Govt. Poland accessed 14/07/2023).

Citizens of Ukraine granted TP status in Poland have a range of rights and access to benefits, including:

- the right to work in Poland without an additional permit
- healthcare access without the requirement to pay for health insurance
- the right to family benefits paid by ZUS and, if income criteria are met, to social assistance benefits paid by municipalities on the same terms as Polish citizens
- conditional rights to NFIs and shelter (SIP accessed 14/07/2023; SIP 23/05/2023).

According to the Special Act, TP is revoked if a Ukrainian refugee leaves Poland for more than 30 days which results in the loss of most of these rights. TP status is also revoked, if its holders renounce it and apply for asylum,¹ or if they receive an alternative document allowing for legal residence, such as a work and residence permit² (OpenLex accessed 23/08/2023; SIP 24/08/2023; Govt. Poland 31/03/2023). These statuses entail more narrow sets of rights (SIP accessed 24/10/2023; UNHCR accessed 24/10/2023).

CROSS-BORDER MOVEMENTS BETWEEN UKRAINE AND POLAND

Since 2017, Ukrainians have had the right to visa-free travel to Poland for a total of 90 days within a 180-day period. They can also obtain visas, residence permits, work permits, and international protection (Polish Border Guard 09/06/2017; Govt. Poland accessed 17/08/2023; MOS accessed 17/08/2023; Govt. Poland accessed 18/09/2023). Before the February 2022 invasion, there were more than 1.35 million Ukrainians in Poland, and there was continuous movement

¹ TP is a form of international protection, but it tends to be opposed to “international protection” in some explanatory texts for the public. Some of the other forms of international protection in Poland include refugee status and subsidiary protection (SIP accessed 24/10/2023; SIP 23/06/2023). They are referred to in practice as asylum, and people who apply for them are called asylum seekers (UNHCR accessed 24/10/2023). TP gives more rights than recognised refugee status or subsidiary protection and, in particular, than that of an asylum seeker (SIP accessed 24/10/2023; UNHCR accessed 24/10/2023).

² TP status includes a residence permit and the right to work, lasting until the end of TP (EC accessed 17/8/2023; OpenLEX accessed 23/8/2023). TP holders may choose to apply for a temporary residence permit with a right to work and renounce TP. By doing this, they lose some rights (e.g. they need to find work or register as unemployed to earn health insurance), but their legal stay in Poland does not terminate with the end of TP (SIP 24/08/2023; Govt. Poland 31/03/2023).

between the countries, with more than four million border crossings into each country in 2021 (GUS 04/06/2020; Polish Border Guard 25/01/2023). Movement in both directions has since intensified. In 2022, 9.6 million Ukrainians crossed into Poland (nine million via the Ukrainian-Polish border), and 7.4 million non-Polish nationals (mostly Ukrainians) crossed into Ukraine (Polish Border Guard 25/01/2022).

Refugees who arrive to seek refuge for the first time, and do not yet have TP, enter Poland on the basis of visa-free movement, or on the basis of a visa or a residence permit if they have one (Polish Border Guard 22/07/2022). Once they apply for TP, their right to stay in Poland changes from 90 days over 180 days to until the end of TP (Nasz Wybór 26/02/2022; OpenLex accessed 23/08/2023).

LOSS OF TEMPORARY PROTECTION

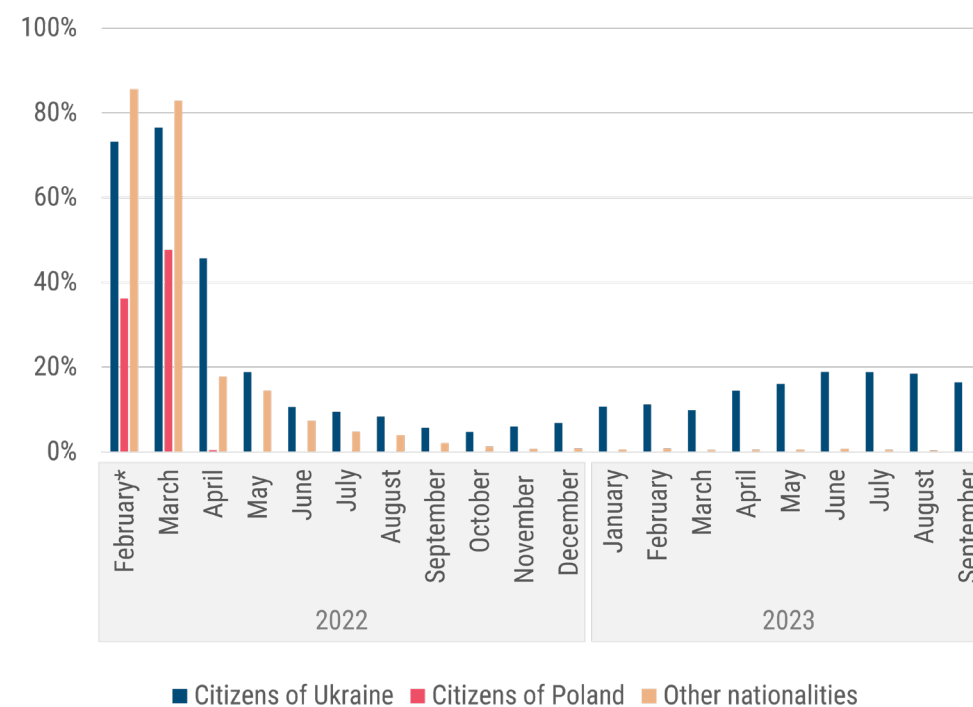
Reasons behind TP status loss

The most common point at which Ukrainian refugees lose their TP status is at the border when they re-enter Poland from Ukraine. There have also been cases of refugees losing their status despite not having left Poland, but such cases are rarer, and the reasoning behind them is not always clear (Nasz Rzecznik 28/06/2023; SIP 04/04/2023).

Data from the Border Guard registry is transferred to the PESEL registry and is the basis for upholding or revoking UKR status (OpenLex accessed 17/08/2023; Money.pl 23/10/2022; Rzeczpospolita 08/03/2023). Whenever Ukrainian refugees leave Poland for short visits to Ukraine and re-enter Poland, it is not guaranteed that the Border Guard will verify their TP status. Instead, the Border Guard requires everyone to explicitly state if they are seeking refuge and declare TP status, if they have it, by showing their Diia.pl. Many refugees unaware that they needed to re-affirm their TP status at the border have had their status revoked (changed to NUE) in the PESEL registry (RPO 16/03/2023; Gazeta Prawna 28/12/2022).

A major reason for this is that the **Border Guard does not consider all people crossing from Ukraine to Poland as needing protection by default** (Polish Border Guard 22/07/2022). The Ministry of the Interior and Administration (Moi) and the Border Guard have emphasised a distinction between people arriving “in connection to the hostilities in Ukraine” or “who declared evacuation from Ukraine” and regular cross-border movement (Moi accessed 14/07/2023; Polish Border Guard 27/01/2023). When this distinction is applied in practice, people entering from Ukraine are more often recorded as arriving for reasons other than “evacuation,” as demonstrated in Figure 1.

Percentage of people crossing from Ukraine to Poland considered by the Border Guard as evacuated



Source: ACAPS using data from Poland's Data Portal (accessed 11/10/2023)

*Since 24 February 2022.

Between 24 February 2022 and 10 October 2023, the Border Guard “only reported 23% of all crossings from Ukraine to Poland as evacuations” (i.e. as seeking refuge). Even in the first two months after the intensification of the conflict in Ukraine, only three-quarters of people entering Poland were considered to be “evacuating.” This proportion dropped drastically in April–May 2022, and most people were registered as arriving for reasons other than “evacuation” (Poland's Data Portal accessed 17/08/2023). While the reason for this drop is unclear, it may be because of a change in approach by the Border Guard or because of potential differences between border control procedures for first arrivals compared to those re-entering, in particular because of the amount of data entered into the EU border information system in the case of those who arrive to the EU for the first time (EC accessed 17/08/2023; OpenLex accessed 12/18/2023).

The trends suggest that at some point, the Border Guard likely shifted from assuming that people entering from Ukraine were seeking refuge to applying the regular criteria for visa-free travel. Reports in Polish media that refugees who visited Ukraine (or another non-EU country) encountered difficulties re-entering Poland began in July 2022 (Rzeczpospolita 25/07/2022; Prawo.pl 27/07/2022; RPO 22/08/2022). This timing suggests that refugees who arrived in Poland soon after the 2022 Russian invasion of Ukraine and were admitted on the basis of visa-free travel were denied re-entry after a visit to Ukraine because their 90 days of visa-free movement had elapsed. This is also reflected in the fact that between March 2022–June 2023 16,645 Ukrainians were denied entry to Poland from Ukraine, mainly resulting from a lack of documentation or because they had stayed in Poland for more than 90 days over the last 180 days (Polish Border Guard 22/01/2023). Had the Border Guard considered them potential refugees, it may be assumed that some could have proven that they already had TP status, and others could have been admitted with the permission of the commander of the Border Guard post (SIP accessed 17/08/2023). The Mol and Border Guard have also used the distinction between “evacuation” and normal cross-border movement to explain entry denials (Rzeczpospolita 25/07/2022; Mol accessed 14/07/2023; Polish Border Guard 27/01/2023).

It is important to note that TP recipients did not receive documentation confirming their status before the last week of July 2022, so they did not have proof of TP status when re-entering Poland before this date (Govt. Poland 22/07/2022; Prawo.pl 27/07/2022; RPO 22/08/2022; Embassy of Ukraine in Poland Facebook 30/01/2023). As a result, some Border Guards applied the rules of visa-free movement to their return to Poland rather than the rules of the Special Act, denying re-entry to those who had stayed in Poland for more than 90 of the last 180 days, even if they had TP status (Prawo.pl 27/07/2022; RPO 22/08/2022). This demonstrates that the Border Guard did not routinely assume that someone visiting Ukraine and returning to Poland was still seeking refuge. At the same time, refugees were unaware that they had re-entered Poland on the basis of regular visa-free movement, and most of those who lost their TP status only learnt about it when they stopped receiving family benefits (RPO 16/03/2023).

Initiatives increasing awareness of border-crossing procedures

As the issue of losing TP status gained media coverage, the Border Guard issued a statement that **citizens of Ukraine returning to Poland must inform the Border Guard of their TP status and present their Diia.pl at passport control**. Failure to comply may result in their data not being recorded and the loss of their PESEL UKR (Polish Border Guard 27/01/2023; Polish Border Guard X 27/01/2023). This is in line with the Mol’s interpretation of the Special Act, which is that it only covers Ukrainians who specifically declared evacuation (Mol accessed 14/07/2022). Whether the requirement for refugees to inform the Border Guard of their TP status and to present their Diia.pl is a law (as argued by the Mol) or simply a practice applied by Border Guard officers (as argued by the Ombudsman and lawyers representing refugees) remains contested (RPO 03/08/2023; Gazeta Prawna 28/12/2022).

The Ukrainian Border Guard, the Embassy of Ukraine in Poland, and Ukrainian media immediately reposted the Polish Border Guard’s statement (DPSU 28/01/2023; Embassy of Ukraine in Poland 28/01/2023; Ukrainska Pravda 28/01/2023; UNIAN 30/01/2023). The share of people recorded as “evacuating” has increased slightly between January and July 2023, but more than 80% of those crossing into Poland between February–September 2023 were still not categorised as seeking refuge. The share of those “evacuating” dropped slightly in August–September 2023 (see Figure 1). TP status loss also continues to be reported to the Ombudsman’s Office, who notes that **refugees may still be unaware of such an obligation** (RPO 04/06/2023). Refugees may still lack information on the process, as seen in questions and opinions on social media and UNHCR’s finding that 19% of refugees from Ukraine surveyed in Poland in May–October 2023 had information needs regarding legal status (UNHCR accessed 24/10/2023; Embassy of Ukraine in Poland Facebook 30/01/2023).

In August 2023, five months after the Ombudsman’s intervention, **the Chief Commander of the Border Guard issued a letter to border staff indicating a necessity to “carefully establish” the purpose of Ukrainians’ entry into Poland and “their enjoyment of the entitlements granted by the Act on Assistance”**, i.e. whether they were covered by TP (Mol 26/07/2023; Polityka 11/08/2023). This may be cautiously interpreted as a call to action but not a shift of responsibility. The Mol also reminded refugees of their legal obligation to declare the purpose of their arrival at the border. The Mol is planning a campaign to inform refugees of the actions required to maintain TP status. Ukraine will co-disseminate the campaign (Mol 26/07/2023).

Demographic groups most vulnerable to TP status loss

Undue TP loss can happen to anyone but may be more likely to affect specific vulnerable groups. These include:

- **people with limited access to digital media (including those with low digital literacy and/or a without a smartphone), including many older people, and people with certain disabilities**, because retaining TP status requires the use of a smartphone with Diia.pl, while retaining family benefits requires the use of the ZUS platform (RPO 31/07/2023; Nasz Rzecznik 20/04/2023; Radio Opole 15/05/2023)
- **people with more complex healthcare needs**, because accessing healthcare is one of the most commonly cited reasons for visiting Ukraine, since accessing healthcare in Poland is more difficult than in other hosting countries (IOM 06/06/2023; UNHCR accessed 24/08/2023)
- **the most economically vulnerable Ukrainian refugees** who return temporarily to Ukraine because of a lack of financial resources or a sustainable source of income in their host country (IOM 06/06/2023; UNHCR 06/07/2023)
- **Roma refugees**, who face historical exclusion, are often affected by economic vulnerability and language barriers, and tend to travel between countries more (Forum Razem 29/03/2023; UNHCR 17/03/2023 and 03/11/2022).

Estimated scale of TP status loss

It is unknown exactly how many refugees have lost TP status, but it can be assumed that the number is not incidental given that the Ombudsman has received numerous complaints on the issue and that it has been reported to NGOs and raised by UNHCR (RPO 16/03/2023; SIP 23/05/2023, 15/12/2022, and 04/04/2023; UNHCR 15/03/2023). ACAPS estimates the number of people affected at **several thousand**.

Between March 2022–June 2023, 16,645 Ukrainians were denied entry to Poland, mainly resulting from a lack of documentation or because they had stayed in Poland for more than 90 days over the last 180 days (Polish Border Guard 22/01/2023). Many of them were TP holders, although their exact number is unknown (SIP 07/07/2023).

According to survey data from October–December 2022, of the 21% of adult refugees in Poland who visited Ukraine, 2% declared TP status loss upon return. This is about 0.5% of all surveyed adult refugees from Ukraine in Poland.³ This would amount to about 7,300 people by the end of 2022.⁴ It can be assumed that these proportions are underestimations as respondents could only indicate TP status loss if earlier in the survey they declared “difficulties returning to host country.” It is also unknown what proportion of the losses was because of a visit longer than 30 days and what proportion was erroneous (UNHCR accessed 25/08/2023). There may also be people still unaware that they have lost TP status.

Another approximation of the scale of status loss is that as at May 2023, there were more than 11,000 members in a social media group on this topic (Gazeta Wyborcza 18/5/2023).

Options for TP status restoration

TP recipients who have returned to Poland within 30 days but whose return was not recorded in the Border Guard registry of refugees from Ukraine must send an e-mail to the Border Guard facility where they crossed the border with a request to correct their data (Infor 04/08/2023). Status issues are resolved quickly at some crossing points, but other crossing points have ignored repeated requests from refugees to correct their data (Gazeta Wyborcza 18/05/2023).

Because all border crossings from Ukraine are recorded in the Border Guard system, it can be assumed that the Border Guard has the return date recorded. That said, the Border Guard asks refugees requesting the correction of their status to present evidence that their travel was less than 30 days (Gazeta Wyborcza 18/05/2023). Because the Border Guard stopped

affixing stamps in passports of Ukrainian refugees after the launch of Diia.pl, some refugees struggle to confirm their return date (Gazeta Wyborcza 18/05/2023; RPO 03/08/2023). NGOs have since advised refugees to keep evidence, such as train tickets or automated text messages received when crossing the border (CPPHN accessed 24/08/2023).

Once the data is corrected in the Border Guard system, a municipality needs to correct it in the PESEL registry. To maintain UKR status continuity (and avoid a period of NUE status), the departure date from Poland, not that of return, must be entered as the date of status change in the PESEL registry (Mol 26/07/2023).

People who have lost TP status legitimately (because they left Poland for more than 30 days) may reapply for it at municipal offices (Mol 26/07/2023; SIP 16/06/2023). That said, some municipal offices have refused a new assignment of UKR status, especially if someone has reapplied more than once (SIP accessed 24/08/2023). In such cases, NGOs advise refugees to try in another municipality (Nasz Rzecznik 20/04/2023).

Ukrainian citizens who have lost TP may also apply for another form of international protection. If they do not, they have the right to visa-free residence for 90 days within a 180-day period, need a work permit, and need to pay insurance to access public healthcare (WUP Poznań accessed 14/07/2023; Gov't Poland accessed 24/08/2023).

LOSS OF FAMILY BENEFITS

Reasons for the loss of family benefits

TP status holders, similarly to beneficiaries of international protection, are eligible for universal family benefits paid by ZUS; refugees from Ukraine without these statuses are not. On 20 January 2023, ZUS started suspending the payment of family benefits from the day a refugee leaves Poland. If they return within 30 days, benefits are continued (with a top-up paid for the period of suspension). Benefits are terminated and TP revoked if refugees do not return or if they return more than 30 days after their departure (Rzeczpospolita 08/03/2023; PIT 10/08/2023; Nasz Rzecznik 20/04/2023). Benefits are also suspended if refugees return before 30 days have passed but lose TP status at the border or do not confirm their residence to ZUS.

The suspension of benefits begun when ZUS started to receive Border Guard data, estimated to be in the summer of 2022. ZUS asks refugees whose eligibility has not been attested

³ 20% of those who visited Ukraine * 18% of those who encountered difficulties * 70% declaring status loss.

⁴ Based on the number of people who applied for TP by the end of 2022 (1,505,260) (Poland's Data Portal 10/10/2023b). This is an approximation which should be read cautiously. It is based on the assumption that the survey is representative and that children travel as often as adults. Authors note that results are indicative and should not be extrapolated to the refugee population. Only the results from 2022 have been used, as those from 2023 shifted focus from representativeness to specific groups (UNHCR 14/12/2023; UNHCR accessed 25/08/2023).

by the Border Guard to confirm their residency in Poland. Such automated requests are periodically sent to randomly selected refugee recipients. Recipients of these requests have three days to confirm their residence before their benefits are suspended (with the possibility of resuming after confirmation) (Business Insider 24/08/2023; Money.pl 23/10/2022; SIP accessed 23/08/2023). The only notification of such a request is via ZUS' electronic platform. Recipients need to periodically log into the ZUS platform to see if there is a request. There are no other notifications – not by post, email, or text message. This has led to the loss of family benefits for people who did not regularly log in, including those unaware of the platform's existence (Nasz Rzecznik 20/04/2023; Radio Opole 15/05/2023).

It is likely that those who did not leave Poland have lost their benefits without losing their TP status. If the loss of benefits was directly followed by a loss of status, the proportion of TP status holders receiving the universal family benefit would not have changed significantly, whereas in fact it decreased. The Special Act only regulates the transfer of data from PESEL to ZUS, not the other way (SIP accessed 23/08/2023). That said, cases of TP loss after non-confirmation of residence to ZUS cannot be ruled out.

Municipal social assistance centres that pay income-dependent benefits (which are different from universal family benefits paid by ZUS) have the same right to request confirmation of residence from recipients. Since 1 April 2023, they have been able to check if refugees' UKR status is active in the PESEL registry (SIP accessed 23/08/2023).

Estimated scale and impact of the loss of benefits

By 2022, about 110,00 recipients had their family benefits terminated, and another 18,000 recipients lost their benefits between June–August 2023 (Gazeta Wyborcza 19/12/2022; Money.pl 22/08/2023). While **some of these decisions were legitimate, others were based on the erroneous non-confirmation of TP status at the border or of residence on the ZUS platform** (Gazeta Prawna 28/12/2022; Rzeczpospolita 08/03/2023; Nasz Rzecznik 20/04/2023).

Between December 2022 and March 2023, **the number of child recipients of the universal family benefit (known as the 500+ benefit) dropped by approximately 39,000, while the number of children with TP status increased by approximately 3,500**. The share of children with TP status who received this benefit dropped from about 74% in December 2022 to 63% in March 2023⁵ (Sejm 07/07/2023; Poland's Data Portal 26/12/2022 and 27/03/2023). This means that approximately **15% of child recipients, who constitute 11% of all refugee children with TP,**

lost their benefits by March 2023 because their caregivers did not know to confirm their residence to ZUS. Some of them may have lost their benefits because they lost their TP status. This number is likely higher after September 2023 because ZUS has continued asking refugees to verify their residence in a way that is not easily accessible and does not provide notification (Radio Opole 15/05/2023; Infor 22/08/2023).

Mothers and other caregivers with children feel TP loss especially keenly because family benefits often constitute a considerable part of their income, especially if they are single and unemployed. For instance, in May 2023 in Poland, 44% of single caregivers were not in employment, and 71% indicated Polish social protection benefits as a source of income (UNHCR accessed 30/10/2023).⁶

Requirement to repay benefits received during the period of not being covered by TP

Some refugees who have lost their TP status because they left Poland for more than 30 days, or whose TP status was not confirmed at the border upon their return, have continued to receive benefits from ZUS for months after their return despite their formal ineligibility. Data from the Border Guard registry was only made available to ZUS in the summer of 2022, and its automated transfer to ZUS begun in January 2023 (Money.pl 23/10/2022; Rzeczpospolita 08/03/2023; Nasz Rzecznik 20/04/2023; RPO 16/03/2023). Once ZUS had received this data, it started issuing requests for confirmation of residence in Poland; if not confirmed, ZUS requested for refugees to repay undue benefits (Rzeczpospolita 08/03/2023; Gazeta Wyborcza 18/05/2023). The requirement to repay is made after 30 days of non-confirmation of residence but forfeited if refugees are able to have their data corrected in the Border Guard's registry (Nasz Rzecznik 20/04/2023). It is unknown how many refugees were required to repay the benefits, but this may have affected about 3000-4000 people (Rzeczpospolita 08/03/2023; Dziennik Zachodni 10/03/2023).

Refugees may be asked to repay the benefits to ZUS despite the following conditions:

- They did not know they were expected to confirm their TP status upon return (as noted earlier, the statement from the Border Guard was issued much later and is not widely known).
- They did not know that they lost their TP status.
- They had no legal obligation to inform ZUS about leaving Poland.

⁵ Calculations are based on the number of refugee child recipients of the 500+ benefit and on the administrative data of TP holders by age. Because the benefits are suspended on the day of departure from Poland and TP status is withdrawn after 30 days of non-return, to eliminate cases where benefits were suspended but reinstated upon return, referential data on the number of TP holders from the following months was used, i.e. from the end of January and April 2023, respectively. This is an estimation, because the number of TP holders ages 0–17 was used, whereas people ages 18–26 are also eligible for the benefits if they study. This age category was omitted because few refugees from Ukraine (about 1,000) study in Polish higher education institutions (Poland's Data Portal accessed 24/10/2023).

⁶ 4th round of May 2023, data for Poland.

There is no legal obligation for refugees to inform authorities of their plans to temporarily leave Poland, and many do not know that (prior to ZUS being able to access the Border Guard's data) **this was “required” in practice. As such, demands for repayment often come as a surprise.** A declaration of the intention to leave Poland for more than 30 days is described in the Special Act only in the context of going to another EU member state, and some lawyers see it as an opportunity to facilitate TP access across the EU. An official form of the declaration is available (SIP accessed 23/08/2023; SIP 24/08/2023). Regardless, public institutions were acting as though informing the authorities of their temporary departure plans was obligatory. Before it received automated access to Border Guard data, ZUS required Ukrainian refugees to submit the official declaration form, and the MoI, when asked to confirm or deny if such declarations were obligatory, avoided answering (ZUS 19/08/2022; Pleszew 12/05/2022; SEJM 21/09/2022). Some refugees also face barriers in filling the declaration, as the form includes information in Ukrainian but must be filled out in Latin characters, which some struggle with (ZUS 19/08/2022). Others are not aware of or do not remember how to use the ZUS platform, and many may not know of ZUS' expectation to inform authorities of their intention to temporarily leave Poland (Nasz Rzecznik 20/04/2023).

Requests for repayment also occur if a refugee received healthcare after losing their TP status. In one example, a refugee received in-patient care at a Polish hospital because their caregiver believed their TP status was still valid and that, consequently, they had free healthcare. The individual later received a bill for approximately USD 2,000 (Gazeta Wyborcza 18/05/2023).

The requirement to repay benefits is likely to affect the financial situation of refugees, as 32–46% of refugee households in Poland face financial challenges in meeting their needs (REACH/UNHCR 06/11/2022; UNHCR 4th round, Poland, accessed 30/10/2023). This may explain why by March 2023, only USD 8,300 of nearly 500,000 or 2% of the money overpaid by ZUS to refugees from Ukraine has been repaid (Rzeczpospolita 08/03/2023; Dziennik Zachodni 10/03/2023). As at October 2023, there were no reports about consequences for those who do not repay.

On 20 January 2023, ZUS started suspending the payment of family benefits from the day a refugee leaves Poland, which means that there are no overpaid benefits, and the risk of demands for their return should be eliminated. Benefits are continued if refugees come back to Poland within 30 days (Rzeczpospolita 08/03/2023; PIT 10/08/2023).

Restoration of family benefits

There are clear **procedures for restoring benefits to Ukrainian refugees who have lost them, but the process can take months.** This can push refugees already in precarious economic situations further into poverty (Nasz Rzecznik 28/06/2023; Gazeta Wyborcza 18/05/2023).

- If the date of return is within 30 days of leaving Poland and confirmed in the Border Guard registry, benefits suspended on the day of departure are automatically restored, with a top-up from the day of suspension (Money.pl 16/08/2023; SIP accessed 23/08/2023).
- Refugees whose benefits were revoked on the basis of non-confirmed TP status in the Border Guard's registry should contact the Border Guard and then inform ZUS by e-mail or telephone that they have asked the Border Guard to correct their data (Infor 04/08/2023).
- Those who had their benefits suspended because of non-confirmation of residence to ZUS, which they later confirmed, should receive benefits from the following month on the condition that administrative data confirms their eligibility (SIP accessed 23/08/2023).
- Refugees who apply anew for TP (receive new UKR status), without continuity from the previous one, may reapply for benefits and will not receive a top-up for the period when they were considered ineligible (Polityka 11/08/2023).