

**Dear Readers,**

it has been two and a half months since the war started. Even though special legislation for Ukrainians is in place and has already been amended, it remains vague.

We have been providing free legal support for those fleeing the war and we have noticed that some questions are asked more often than others. Therefore, we have prepared **answers to a set of questions most frequently asked** by Ukrainian employees and their employers and would like to share them with you.

Please feel free to share it with your employees and everyone who might be interested – reliable information is something we all need now more than ever.

**We hope you will find this article useful and informative. If you have any further questions, please contact us.**

**Global Mobility&Immigration Team**



### **Q1: Who can leave Ukraine?**

The Ukrainian authorities have banned male Ukrainians between 18 to 60 years of age from leaving the country. There are few exceptions to this rule, including men who are single parents, have at least 3 dependent children or a child with a disability, as well as some men with certain disabilities, men who are adoptive parents, guardians or carers looking after someone who needs care and has no one else to provide it. Moreover, men who can confirm that they permanently reside abroad are also allowed to leave Ukraine.

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### **Q2: What is required for children under 16 to leave Ukraine?**

While crossing the border a child must be accompanied by one of the parents, grandparents, adult brother or sister, stepmother or stepfather, who will provide documents confirming family relation (birth or marriage certificate, etc.). Moreover, a child can leave Ukraine with another person authorised by at least one of the parents in writing, which is confirmed by a Ukrainian notary public or relevant local authorities. As a rule, taking a child under 16 out of Ukraine requires online registration for the child on the Ukrainian consulate website.

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### **Q3: What are the rules of entry from Ukraine to Poland at the moment?**

There are no entry restrictions. Neither a negative Covid test result nor a vaccination certificate is required and the quarantine on arrival has been lifted.

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### **Q4: What documents are necessary for entry? What is the legal basis for staying in Poland after crossing the border for people who do not have visas or residence cards?**

Ukrainian citizens with biometric passports can enter and stay in Poland for up to 90 days. Those who do not have a biometric passport may enter Poland based on a special consent granted by the Border Guard for up to 15 days. The Border Guard require that any identification document be presented when entering Poland.

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### **Q5: What are the rules for importing animals from Ukraine to Poland?**

Dogs, cats and ferrets can be allowed in, even if the usual requirements are not met. They would be examined for rabies and vaccinated in Poland for free. Other animals are allowed in without any additional requirements.

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**Q6: Who is covered by the Act on support for Ukrainian citizens due to war (the “special legislation”)?**

In principle, any person who meets the following conditions jointly is covered by the special legislation:

- 1) is a Ukrainian citizen (or their spouse, or, possibly, a close relative of a Ukrainian citizen who has the “Pole’s Card”),
- 2) legally entered Poland on or after 24 February 2022,
- 3) came to Poland from Ukraine, either directly or through other countries,
- 4) does not have a valid temporary or permanent residence permit, long-term EU residence permit, the refugee, subsidiary protection, tolerated or humanitarian stay status in Poland,
- 5) has arrived in Poland because of the armed conflict between Russia and Ukraine,
- 6) declares their intent to stay in Poland,
- 7) has not applied for international protection nor declared the intention to submit such an application.

People who do not meet the above conditions will be entitled to the rights and benefits under the special legislation only if the legislation provides for it.

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**Q7: What Ukrainians should do upon their arrival in Poland to make sure their stay will be legal?**

All non-nationals who are covered by the “special legislation” and did not register while crossing the Polish border should report for registration procedure to the commune authorities office (Urząd gminy) within 90 days (previously 60 days) of entry into Poland. When registered, they will receive a PESEL number. Local authority registration also applies to people who had a PESEL number before the outbreak of war.

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**Q8: Will those who received a passport stamp confirming they crossed the border have to report for registration procedure to the commune authorities?**

Although it is not mandatory in such a case, it is recommended for all persons who are entitled to stay legally in Poland for 18 months under the special legislation. This is because registering residence at the commune authorities’ office (Urząd gminy) is connected with assigning a PESEL number. A document confirming that a person has been given a PESEL number with "UKR" is required by the majority of authorities to confirm entitlement to the rights conferred in the special legislation.

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**Q9: Can Ukrainian citizens legally stay in Poland if they entered based on special permission from the Border Guard and have already been here for more than 15 days?**

Non-nationals covered by the special legislation can legally stay in Poland by 24 August 2023, without applying for additional visas or residence permits.

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**Q10: Will those who left Ukraine after 24 February 2022 and came to Poland through Slovakia be protected and allowed to stay in Poland?**

After the amendments, the special legislation treats all persons fleeing Ukraine in the same way, regardless of whether they came to Poland directly from Ukraine or through another country. If other statutory conditions are met, those arriving directly and through other countries will be entitled to the automatic extension of their stay in Poland and other rights deriving from the right of residence under the special legislation.

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**Q11: A Ukrainian citizen went on a business trip to Georgia on 22 February 2022. In the meantime, Russia attacked Ukraine and that citizen moved from Georgia to Poland because it was impossible to return to Ukraine due to the outbreak of war on 24 February 2022. Can such a person legally stay in Poland?**

Even though it is not explicitly stated in the legislation, the Act was intended to cover people who had their main and permanent place of residence in Ukraine before the war broke out. Therefore, it can be assumed that a person who went on a business trip or holiday abroad shortly before the war started and later came to Poland because it was impossible to return home, is automatically covered by the special legislation. Such an interpretation is also supported by the special legislation rationale.

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**Q12: Can non-Ukrainian citizens legally stay in Poland if they left Ukraine after 24 February 2022?**

According to the special legislation, non-nationals who are neither Ukrainian citizens nor spouses of Ukrainian citizens nor closest relatives of a Ukrainian citizen who has the Pole's Card, are not covered by the regulations. However, in certain circumstances, they can use temporary protection under the EU law or legalise their stay under general rules.

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**Q13: Can Ukrainian citizens legally stay in Poland if their residence permits have expired after 24 February 2022?**

Those Ukrainians who have already lived in Poland based on national visas or temporary residence permits will have their documents extended under the special legislation to 31 December 2022 if they expired after 24 February 2022. However, the extended documents will not entitle the holder to cross the border. Ukrainian citizens who stay in Poland based on the Schengen visa or under the visa-free program will have their right to reside in Poland extended by 18 months.

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**Q14: A Ukrainian citizen has been working as an international truck driver since 1 June 2021. His visa expires in May 2022. Will it be possible to continue travelling after his visa is automatically renewed?**

As an exception, the special legislation provides that Ukrainian international drivers can obtain visa stickers confirming the automatic extension of their national visas. However, this can only be applied to visas that will not last longer than twelve months in total if extended to 31 December 2022. New visa stickers for drivers should be handled by the governor of the province where a particular non-national resides, therefore, such a new visa sticker should be requested from the provincial Governor's office (Urząd Wojewódzki). The stickers will enable drivers to continue their work, including driving to other Schengen countries. Although the above rules come directly from the legislation, in practice, most offices currently cannot cope with implementing this requirement and certain offices simply do not extend visas. Perhaps that is why under the amended Act it is possible to issue residence permits for international drivers of Ukrainian origin. As far as we know, their applications are treated as a priority, so that they get new residence cards as soon as possible and can continue working.

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**Q15: Can people whose stay in Poland was extended under the special legislation leave Poland? If yes, for how long?**

Non-nationals covered by the special legislation can leave Poland and then come back. However, each stay outside the territory of Poland cannot last longer than one month. Longer stays outside Poland will cause non-nationals to lose their status under the special legislation and, consequently, the right to legally stay in Poland and other benefits provided for in the special legislation. The exact wording of the legislation stipulates that non-nationals will lose their right of residence only if they stay outside Poland for longer than one month. Therefore, it can be assumed that several shorter trips, even if they sum up to more than one month, will not deprive Ukrainian citizens of their special status. Notably, the right to stay in Poland prolonged based on the special legislation does not entitle them to cross the border. There must be another basis for re-entering Poland (e.g. unused days under the visa-free program) or a special permit from the Border Guard must be obtained. However, it will also depend on the regulations applicable in the country to which a given person intends to go, as the special legislation sets out the status of persons fleeing Ukraine only within the territory of Poland.

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**Q16: Is it possible to extend/obtain documents in Ukrainian consulates?**

Since the beginning of May, it has been possible to obtain new passports in all Ukrainian consulates in Poland. Furthermore, the validity of international passports for Ukrainian citizens can also be extended for 5 years through an appropriate passport note. If a Ukrainian child under 16 does not have a passport, their parents can have the child's data entered into their international passports.

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#### Q17: How to legalise further stay in Poland?

Ukrainian citizens and their eligible family members who have the residence right under the special legislation will be able to extend their stay through a temporary residence permit. The temporary residence permit for 3 years will be granted under simplified rules. However, applications can be submitted no sooner than 9 months after arriving in Poland, which means the end of November 2022 at the earliest. Application for any type of temporary residence permit before this date will be refused. As an exception, the amended legislation allows international drivers whose stay has been extended under its provisions to apply for temporary residence and work permits at any time.

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#### Q18: What is international protection (refugee status or subsidiary protection, not to be confused with temporary protection)? Is it worth applying for?

This is an alternative solution to those introduced by the special legislation. Those who apply for international protection will have their ID retained by Polish authorities, who will issue a temporary document for them. The applicants will not be allowed to leave Poland for the entire proceedings (approx. 1.5-2 years). Moreover, it is not clear whether the applicants will be allowed to work until the application is considered (or within 6 months after applying). We believe it will be possible in some circumstances. Nonetheless, we recommend applying for international protection only to those who cannot use any other option and they qualify for this kind of protection.

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#### Q19: Will Ukrainian citizens be allowed to work when they arrive in Poland?

According to the special legislation, Ukrainian citizens legally residing in Poland, including those Ukrainian citizens whose stay is recognized as legal under its provisions, **can work without any additional permits**. The only mandatory requirement is for the employer to notify the employment office that a non-national started work within 14 days from the date of the work commencement.

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#### Q20: Can people covered by the special legislation work for a foreign employer?

Unfortunately, right now it is not possible for formal reasons. The aforementioned requirement to notify the employment office that a non-national started work should be submitted to the district employment office (Powiatowy Urząd Pracy) for the seat of the employer. There is no district employment office competent for the employers with registered offices outside Poland. Moreover, filling in the notification form requires providing the employer's NIP and REGON numbers, which foreign companies do not have. This means that the foreign employer is not able to comply with the requirement to notify the employment office. Therefore, it should be concluded that the right to employ Ukrainian nationals in Poland under the provisions of the special act does not, in practice, apply to foreign employers.

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**Q21: Does the special legislation allow remote working for a foreign employer from Poland?**

Remote working for a foreign employer should be considered as working under Polish law. This means that in its existing form, the special legislation does not allow it, as in the case of on-site working for a foreign entity. Some liberal voices claim that working remotely for an employer with a registered office outside Poland does not involve any formalities. However, these interpretations are not binding for the Polish supervisory authorities, so it is recommended to use the safest solutions.

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**Q22: Can people covered by the special legislation carry out business activity in Poland?**

Yes, the special legislation stipulates that Ukrainian citizens can establish and carry out business activity on the same terms and conditions as Polish citizens. For this purpose, it is enough if a non-national stays in Poland legally (in compliance with the special legislation or the Foreign Nationals Act) and has a PESEL number. Ukrainians can undertake business activity in any form provided for by Polish law, including sole proprietorship. A non-national who carries out business activity may, for example, provide B2B services to a foreign company.

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**Q23: How to enrol a child in school?**

Apply for admission to the chosen school. The admission decision is made by a school headmaster. If there are no places available in the chosen school, the applicant should contact a commune authorities' office (Urząd gminy) for information about available school spots.

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**Q24: Can an older brother register his minor sister at a commune authorities' office (Urząd gminy) and get social assistance for her if their parent stayed in Ukraine?**

According to the special legislation, a person having actual custody over a child may register the minor at the commune authorities' office and apply for assigning a PESEL number to the child, which, in turn, entitles them to apply for a one-off cash benefit of PLN 300. For broader representation, for example, to obtain a 500+ benefit, the person having actual custody over the child should apply to the family court to be recognised as a temporary guardian for the minor. The court should decide on the matter within 3 days.

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**Q25: Does the special legislation provide for any other support measures, such as access to medical care, social assistance, etc.?**

Non-nationals covered by the special legislation have access to health care on the same terms and conditions as Polish citizens. It also provides for easier access to numerous social benefits, such as a one-off cash benefit of PLN 300 per person, access to the Family 500+ program and others.

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**Q26: How to get a PESEL number?**

To obtain a PESEL number, a non-national has to apply in person to any commune authorities' office (Urząd gminy). Exceptionally, the procedure may be carried out externally at the place of residence of people who are unable to reach a local authorities' office because of health or disability reasons. Alternatively, a parent or guardian may apply on behalf of such persons. At the office, it is necessary to provide a document with a photo allowing for identity verification (e.g. a travel document, a Pole's Card), a 45x35 mm colour photograph and a birth certificate for children under 18. The applicants must submit their fingerprints (applies to people over 12 years old), fill in and legibly sign personal data forms.

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**Q27: Can a person who obtained a PESEL number in Poland go to another EU country and use temporary protection there?**

The European Commission guidelines confirm this possibility. A person who is granted temporary protection in one EU country may move to another EU country and enjoy temporary protection there as well. However, in such a case, all rights resulting from the protection in the first EU country expire. It is not possible to exercise rights in two or more countries at the same time.

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**Q28: How to get medical help?**

To confirm their right to health care, non-nationals will have to provide their PESEL number, show a printed confirmation of their trusted profile activation or an e-document that can be activated after registering with the local authorities (Urząd gminy). In short, to use medical assistance it is necessary to get a PESEL number and activate a trusted profile and then go to a selected public health provider to get the necessary assistance.

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**Q29: Are Ukrainian citizens eligible for income tax exemption on received assistance, in particular monetary and non-monetary donations?**

To some extent, yes. Humanitarian aid in the form of food and accommodation provision, financing medical treatment or education and courses to change professional qualifications received between 24 February 2022 and 31 December 2022 by taxpayers who are Ukrainian citizens coming from Ukraine to Poland as a result of the war on Ukrainian territory within that timeframe are exempt from personal income tax. However, despite the original plans, a similar exemption was not applied to tax on donations.

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**Q30: What other forms of legal employment in Poland are available for Ukrainians, apart from that specified in the special legislation?**

Employment of Ukraine citizens who legally stay in Poland is also possible based on:

- 1) statement on entrusting work;
- 2) work permits;



- 3) temporary residence and work permit;
- 4) temporary residence permit for carrying out work requiring high skills.

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## ALERTS

### **#ALERT: Special Act - Immigration Office will not process complaints regarding Residence Permit for a foreigner**

The government managed to complete work on changes to the special bill on help for Ukrainian refugees before Easter. More: [here](#).

### **#ALERT: Special bill - Ukrainians will obtain visas in Poland, Belarusians will legalize their stay more easily (if a minister issues an additional regulation)**

The government accelerated work on further amendments to the special bill on helping Ukrainian citizens fleeing the war. More: [here](#).

### **#ALERT: Removal of the quarantine after arrival to Poland**

From 28 March 2022 there is no obligation to quarantine after arrival to Poland. More: [here](#).

### **#ALERT: Special law on help for Ukraine – equal status for Ukrainians regardless of the route of arrival to Poland**

The first of the announced changes to the special law concerning Ukrainian citizens who came to Poland in connection with the ongoing war were published on Saturday of 26 March 2022. More: [here](#).

### **#Alert: Special act on help for Ukraine - entry from Slovakia will not deprive from right to stay in Poland**

The Polish special act on help for Ukrainian citizens does not protect all persons who fled Ukraine because of the war. More: [here](#).

**#Alert: The unprecedented decision of the EU Council to introduce temporary protection for displaced persons in connection with the armed conflict in Ukraine**

The Council of the EU took into account the Commission's proposal and took the unprecedented decision resulting in the introduction of temporary protection for displaced persons in connection with the armed conflict in Ukraine. More: [here](#).

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**#ALERT: Draft of a special act - simplification of employment of Ukrainian citizens in Poland**

The government has completed work on a draft of a special law aimed at helping Ukrainian citizens who fled from the war in their country. The key points of the planned act are..Read more: [here](#).

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**#Alert: The European Commission (EC) proposes granting temporary protection to people seeking refuge in connection with the armed conflict in Ukraine.**

The EC today launched the procedure for granting temporary protection to people who seek refuge in EU Member States due to the armed conflict in Ukraine. More: [here](#).

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**#Alert: The Ministry is planning significant facilitations to the legalization of work and stay of refugees from Ukraine**

The Ministry of Family and Social Policy has announced that Ukrainian citizens who entered Poland on February 24, 2022 or later will most likely be able to legally stay in Poland for the next 18 months. More: [here](#).

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**#ALERT: Poland lifts quarantine after entry from Ukraine and closes airspace to planes from Russia**

On 25 February 2022, quarantine restrictions for persons crossing border with Ukraine due to the war were lifted. More: [here](#).

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**#Alert: General Military Mobilization in Ukraine**

As of Thursday, 24 February 2022 the Ukrainian authorities announced general military mobilization. More: [here](#).

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**#ALERT: Possibility of entering Poland by foreigners in the face of the war in Ukraine**

In connection with Russia's attack on Ukraine, we are starting a series of entries about the possibilities of supporting employees from Ukraine (already employed in Poland) and solutions related to the arrival and stay in Poland of foreigners leaving Ukraine. More: [here](#).

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**#Alert: Poland removes entry restrictions under Covid regulations except for Russia and Belarus**

Polish government significantly limited restrictions under Covid regulations in entry to Poland from outside UE from 19 February 2022. More: [here](#).