

GMS Flash Alert

Immigration Edition

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Poland – Legislation Just Approved Offers Relief/Integration Measures for Ukrainians

Until now, the legalisation of stay and work for Ukrainian citizens on the territory of the Republic of Poland has been carried out on the basis of:

- certain rules applicable to the citizens of states that are not European Union (EU) members, and
- special arrangements applicable, among others, to the citizens of Ukraine.

On 12 March 2022, Poland’s parliament, the Sejm, adopted an Act on aid for the citizens of Ukraine in connection with the armed conflict on the territory of that country, which provides, among others, for special rules regarding the legalisation of stay and work in the territory of the Republic of Poland of Ukrainian citizens who have come to Poland in the period since 24 February 2022.¹ The Act has been already signed by Poland’s President.

Below we highlight key regulations to be introduced, with retroactive effect from 24 February 2022.²

WHY THIS MATTERS

The armed conflict in Ukraine is forcing large numbers of people to leave their jobs, their homes, their way of life, and cross borders – in hopes of reaching safety – into Ukraine’s neighbouring countries, such as Moldova, Hungary, Slovakia, and Poland, which has taken on the majority of refugees fleeing Ukraine.

This refugee situation is forcing a re-think in the EU and its member states of standard border-crossing policies and practices.³

The measures in Poland’s new Act aim to provide assistance to Ukrainian citizens fleeing the armed conflict, and to facilitate their assimilation in Poland.

Immigration counsel, global-mobility professionals, tax service providers, and companies with employees (and their families) relocating as they flee danger in Ukraine, should keep abreast of the changing situation and take steps to assist those affected.

Entry and Stay Rules

As provided for in the Act, a Ukrainian citizen's stay in the territory of the Republic of Poland will be considered legal for 18 months counted from 24 February 2022, if such citizen arrives legally in Poland directly from Ukraine during the period from 24 February 2022, and declares an intention to remain in the territory of Poland. The stay of a child born in the territory of the Republic of Poland of a Ukrainian mother, whose stay is considered legal in accordance with the above provisions, will also be considered legal.

The above regulations will apply to persons who crossed the border:

- under the visa-free regime (based on a biometric passport),
- holding a national visa (D) or a Schengen visa (C) or a residence permit issued by any other country in the Schengen area,
- based on consent of the Border Guard Commander (so-called "extraordinary entry") – without a passport.

The above provisions will also apply to the citizens of Ukraine holding a Pole's Card and to persons who are members of their immediate family, who left Ukraine in the period from 24 February 2022, and legally arrived in the territory of the Republic of Poland.

KPMG NOTE: CORONAVIRUS POLICIES

The Act **does not require** Ukrainian citizens crossing the border to undergo a **coronavirus-related quarantine**, have a **COVID-19 vaccination certificate**, or present a **negative coronavirus test**.

Temporary Residence

The Act introduces special rules regarding the submission by Ukrainian citizens of applications for temporary residence. A person entering Poland in the period from 24 February 2022, will be able to submit an application for temporary residence no earlier than nine months from the date of entry and no later than 18 months from 24 February 2022. An application submitted sooner than nine months from the date of entry will be left by the *voivode* (government-appointed governor and administration) without consideration. The permit will be granted for a period not longer than three years and will provide access to Poland's labour market without the need to have a work permit.

Holders of a valid Pole's Card who intend to settle permanently in the territory of the Republic of Poland will still be able to apply for a permanent residence permit in accordance with the general rules set out in the Act on Foreigners.

KPMG NOTE

Ukrainian citizens are being encouraged to apply for a personal identification number (PESEL number) as it is a condition for obtaining aid and benefits (described below).

If the entry of a Ukrainian citizen into Poland was not recorded by the Border Guard at a checkpoint during the border control, a relevant application should be submitted no later than 60 days from the date of entry to any executive body of a commune within the territory of Poland.

Minors Entering/Staying in Poland with No Accompanying Adult Guardians

The Act also regulates establishing a temporary guardian for minors staying on the territory of the Republic of Poland without the supervision of adults responsible for them in accordance with the law in force in Poland. The temporary guardian will be entitled to represent the minor and to exercise custody over the minor and the minor's property.

Aid Provided by Public Authorities

The *voivode* (government-appointed governor and administration) will be able to provide Ukrainian citizens arriving in Poland with aid consisting of:

- accommodation;
- full-day collective meals;
- transport to and between places of accommodation, to centres run by the Head of the Office for Foreigners, or to places where medical care is provided to citizens of Ukraine;
- financing transfers by means of public transport and specialised transport intended for persons with disabilities, in particular to and between the places of accommodation or medical care;
- supply of sanitary and personal hygiene products and other products.

Any natural person or other entity running a household that provides accommodation and meals to Ukrainian citizens arriving in Poland may be granted a cash benefit in this regard on the basis of an agreement concluded with the commune for a period not exceeding 60 days. The benefit payment period may be extended in particular cases that demonstrate valid justification.

A citizen of Ukraine, whose stay in the territory of the Republic of Poland is considered legal, is to be entitled to aid in the form of a single monetary payment of PLN 300 per person, intended for living costs, particularly to cover the expenses for food, clothing, footwear, personal hygiene products, and accommodation.

Furthermore, a Ukrainian citizen staying in Poland under the terms stipulated in the Act, may be provided with free psychological help financed by the head of the commune where such citizen is staying.

In addition, Ukrainian citizens will be able to receive family benefits, parental benefit, benefit for "a good start," "family care capital," and co-financing of the parent's fee for the child's stay in a nursery, children's club, or at a day-care provider. Children and pupils, whose stay in Poland is considered legal, will be provided with education, schooling, and care in schools and kindergartens.

Ukrainian citizens will also be entitled to medical care provided in the territory of the Republic of Poland, including basic health-care services.

Employment Rules

A Ukrainian citizen will be able to work in Poland if his/her stay is regarded as legal under provisions on entry from 24 February 2022 or when his/her stay has already been legalised, if, within 14 days of taking up work, the entity for which such Ukrainian citizen works notifies a district labour office competent for the place of residence or the registered office of the entity, about the hiring of said citizen (notification is made via the electronic system – praca.gov.pl).

Consideration should also be given to currently applicable regulations allowing the employer to submit a statement on the hiring of the Ukrainian citizen, which may cover a period not longer than 24 months.

According to the adopted Act, Ukrainian citizens will be able to undertake and perform their business activity in Poland under terms similar to those governing Polish citizens, provided that they obtain the PESEL number.

Finally, citizens of Ukraine will be able to register as “unemployed” or a “jobseeker.”

Tax Issues

The Act covers tax preferences. Among the matters covered is the possibility to deduct expenses incurred for the production, or the purchase, of goods and services that are the subject of a donation in response to the effects of the armed conflict in Ukraine, during the period from 24 February to 31 December 2022. This applies to non-governmental organisations (including Ukrainian ones), local government units, the Governmental Agency for Strategic Reserves, and entities providing health-care and emergency medical services in Poland and Ukraine, provided that the costs of production or the purchase of goods or services were not themselves the subject of tax-deductible costs, including through depreciation write-offs.

Expenses incurred for providing free “allowances,” such as free-of-charge medical assistance granted to non-governmental organisations, will be also treated as tax-deductible provided that they had not been the subject of tax-deductible costs, including through depreciation write-offs. Furthermore, the Act provides for a PIT exemption for the value of humanitarian aid and benefits provided by the Act to refugees residing in Poland.

Importantly, on 4 March 2022, a decree of the Minister of Finance amending the decree on goods and services subject to reduced VAT rates was published in the Polish Journal of Laws (*Dziennik Ustaw*). According to the decree, a 0-percent VAT rate is to be applied to free-of-charge deliveries of goods or provision of services aimed at supporting victims of the armed conflict in Ukraine made between 24 February and 30 June 2022. Preferential treatment may be applied to contributions made to the Governmental Agency for Strategic Reserves, health-care entities, and local government units, i.e., entities acting as key coordinators or intermediaries for the aid provided.

FOOTNOTES:

- 1 For the text and status of the Act, “Rządowy projekt ustawy o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa,” see the Sejm webpage: <https://www.sejm.gov.pl/Sejm9.nsf/PrzebiegProc.xsp?nr=2069> .
- 2 For more information, see the original report (in English) “Legal Alert: Special Arrangements for Ukrainian Citizens,” published by the KPMG International member firm in Poland.
- 3 For related coverage, see [GMS Flash Alert 2022-045](#), 4 March 2022.

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