

LEGAL AND SOCIAL PERSPECTIVES ON THE MASS INFLUX OF DISPLACED UKRAINIAN WAR REFUGEES IN GERMANY AND POLAND

Mateusz Bieniasz¹, Anne Czekay²

ABSTRACT

The purpose of the following paper is to present few of the more important circumstances surrounding the mass influx of war migrants from the territories of Ukraine involved in armed conflict from a legal and social perspective, with a particular focus on the simplified procedure for accessing the labour market, as well as the social welfare and education system. Described applied solutions exist in a framework which seems to support the assumptions of the following thesis: state-based institutions shifted into a collective approach provided by EU regulations. This change is desirable, because it redefines asylum from political benefit bestowed by the host state to a human right invoked and accessed by individuals from Ukraine irrespective of their mode of entry³. It will be explored further how, according to the authors, since when and why mass influx is handled this way in both Germany and Poland. The emergence of the temporary protection mechanism in Europe is a precedent, as until now there was no real need for it (i.e. in a situation of mass influx of migrants). Therefore, it was not present in the EU legal system until February 2022

Key words: migration, mass-influx, fleeing, Ukraine, refugees, refugee status, EU, armed conflict, asylum, human Rights, labor, law.

JEL: A12, A13, A14.

1. Introduction

The objective of the publication is to present in a coherent way the **socio-legal aspects of mass influx of refugees in both Germany and Poland with special emphasis placed on employment and labor market**. Sovereign and independent, democratic, social, law-based state of Ukraine, as it is stated in Article 1 of

¹ Berlin School of Economics and Law, Department 3: Public Administration, Germany.

² University of Rzeszów, Faculty of Law and Administration, Poland.

³ Michael Leach and Fethi Mansouri, *Lives in Limbo: Voices of Refugees Under Temporary Protection*, Sydney: University of New South Wales Press, 2004, p. 126.

its Constitution, impacted by the unfortunate realities in which tens of thousands of civil people are essentially forced to abandon their homeland due to wartime deserve recognition of their rights by virtue of an unprecedented character⁴. In search of possibilities to lead normal lives in the times of hardship, in between chaos caused by armed conflict. Articles 3, 6, 22, 25, 28 of **UDHR** are among those of engaging attention, because they are believed by authors to express the spirit of human rights in circumstances handled by temporary protection regulations for those fleeing Ukraine.

Salus rei publicae suprema lex esto – Litterally, health of the state (subject of, in and to international law) or rather health of the public matter in which state functions is the highest law and the public entities in administrative structure are of major importance. Quoted Latin proverb – legal paremia – is basically what governs (or rather should govern) the introduction of any emergency state via authorized public authorities within their power to mitigate negative consequences arising from negligence or inaction. In this case, appropriate steps have been undertaken. The Common Union efforts to this day help wartime escapees find shelter – the only thing they need to enter is their passport or any other issued document allowing valid identification. There is no need to apply for a visa, residence permit. Similarly, any refugee have not to prove available funds, insurance or invitation of another in-state citizen or long-term resident. Spouses without Ukrainian citizenship and their children have also been recently granted the right, on conditions anticipated for Ukrainian citizens only, to enter EU borders in Poland (Amendment in effect as of July 1 2024)⁵.

The law may be perceived as an art of engineering social processes and structure. Their outcome is represented in the data and the data can be used to either criticize or appraise the applied solutions. Here comes the question of how things are made. In the Polish perspective that was a challenge for almost all political powers involved. At the very beginning, there were voices suggesting that the Polish state ought to raise a state of emergency⁶. Management during a state of emergency is an activity of public administrative institutions which is an element of maneuvering national safety in order to prevent emergency situations, becoming ready, reacting to outbursts, removing left over consequences and renewing critical resources and infrastructure. Whereas state of emergency is a situation negatively influencing human safety, property of considerable value or the environment, and **finally causing the administrative bodies who are to be properly**

⁴ Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection.

⁵ Nowelizacja ustawy o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa – Urząd do Spraw Cudzoziemców – Portal Gov.pl, www.gov.pl/web/udsc/novelizacja-ustawy-o-pomocy-obywatelom-ukrainy-w-zwiazku-z-konfliktem-zbrojnym-na-terytorium-tego-panstwa2.

⁶ Journal of Modern Science 1/2023, Vol. 50, p. 38.

adequate in dealing with certain aspects unable to do so because the capacity and available personnel is not enough⁷.

The Council of the EU issued a decision based on a proposal from the Commission formally notifying that indeed there is a confirmed mass influx of displaced persons from non-EU countries (Ukraine) posing an overload threat to national state-led asylum systems upon arrival. Due to the establishment of an immediate and temporary protection regardless of the date of arrival on current-day or near-to-be current day. It was implemented for the first time since the directive introduction in 2001 following troubling difficulty surrounding conflicts in former Yugoslavia.

2. Access to labor market

Why are labor and employment so important in the context of incoming foreigners? The legal provision of work in the country of arrival is the basis for the parallel acquisition of social rights. In practice, it should approach them as close as possible to the citizens of the state which is the temporary protection state for them. Ultimately, this will allow the newcomers to live in dignity and ensure the protection of their families fleeing war. It is the duty of the state to respect human rights on its territory, ensure their attainment to individuals and eliminate the risks they face.

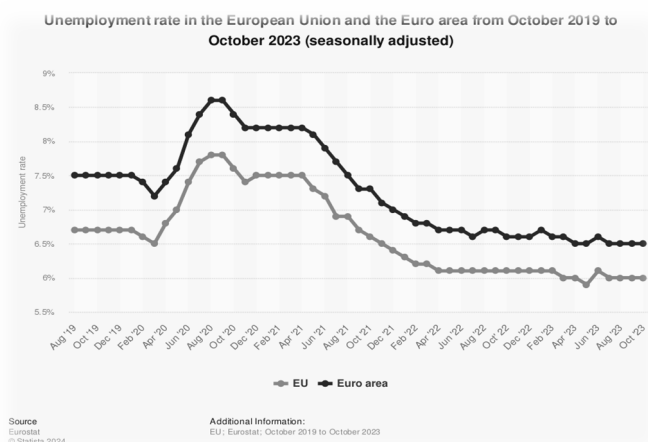


Figure 1. Unemployment Rate in the European Union and the Euro Area (October 2019 to October 2023)

Source: EU: Monthly unemployment rate 2019–2023 | Statista.

⁷ Act of 26 April 2007 on crisis management J. Law 2007, No. 89, item 590, as amended.

Economic struggles in a post pandemic world - recovering from the hit which left many jobless people is a fact portrayed by an increase in unemployment during the period universal to all major EU states. Societies of Germany and Poland are now under pressure from problems their migrant reception state institutions face. Authors refer to the fact that there is a common direction provided by EU regulations being a part of a broader trend in which administrative law becomes common, e.g. the process of Europeanisation, even so a difference in perspective still remains. The law is somewhat homogeneous because solutions are being adopted in virtually identical spheres - regulations regarding foreigners. Acting of the law differs each country because every single sovereign nation within the EU community has its country-specific legal ramifications resulting from organizational differences in inner-state institution systems. There are structural distinctions between organization of the legal system in these two countries. It is quite a task to all state-led systems in Europe to distribute welfare and provide employment to around 6.3 million people who remained abroad (data as of end of 2023), fleeing the war as refugees and asylum-seekers, according to UNHCR data⁸. This challenge has been solved in a completely different way in Germany and Poland in reference to accommodation of Ukrainian refugees in spite of common EU agenda.

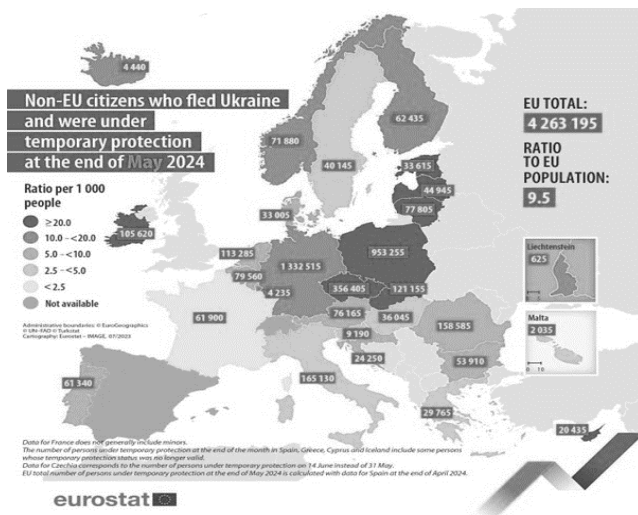


Figure 2. Number of Ukrainian Refugees Under Temporary Protection in EU Member States

Source: Eurostat.

⁸ Ukraine situation | Global Focus (unhcr.org) Source: UNHCR (as of end of 2023) Estimated, number of internally displaced people in Ukraine (After: IOM).

3. Access to labor market in Germany

Since this article focuses on refugees coming from Ukraine, it should be highlighted that Ukrainian refugees are classified refugees under temporary protection according to the 2001 Temporary Protection Directive, which was implemented in February of 2022 following the Russian invasion of Ukraine⁹.

People under temporary protection are entitled to various benefits, such as receiving a residence permit for the entire duration of their protection¹⁰ or being allowed to seek employment¹¹. The member states of the European Union are mandated to ensure that those under temporary protection have access to these benefits. Consequently, Germany is also required to provide these benefits to Ukrainian refugees.

To be allowed to work and gain access to the labor market, Ukrainian refugees need a residence permit. It is therefore important to understand the process by which they can acquire this permit.

Upon first arriving in Germany and deciding to stay for more than 90 days, Ukrainians must undergo an initial registration. Following this step, they are assigned a place to live. Once they have arrived in the assigned city or municipality, they then need to officially register at the local registration office. This step is necessary to be able to apply for a residence permit¹².

According to the Section 24 of the Residence Act, foreigners are granted a temporary residence permit when being granted temporary protection¹³. While this step may be more procedural for Ukrainian refugees, it is evidently important, because the residence permit is a requirement to receive access to the labor market.

This provisional residence document must include the words “gainful employment permitted” („Erwerbstätigkeit erlaubt”). As long as Ukrainian refugees possess this document, they are entitled to choose any kind of employment in Germany, while still respecting entry restrictions certain professions may have¹⁴.

4. Access to labor market in Poland

Legal basis for entering labor market in Poland and specific conditions defined for temporary protection for people fleeing Ukraine lasting until 30 September 2025 has been described in Article 22 of Act on Assistance to Citizens of Ukraine in relation to armed conflict on its territory Act (Polish: *Ustawa o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa*¹⁵). The act defines stay conditions, work eligibility, general set-up provisions

⁹ see Council Directive 2001/55/EC (2001), pp. 12–23.

¹⁰ see *ibid.*, p. 12.

¹¹ see *ibid.*, p. 16.

¹² see BAMF, “Registration, residence permit and asylum”.

¹³ see Section 24, Residence Act.

¹⁴ see BMAS, “Labour law (Arbeitsrecht)”.

¹⁵ Dz.U. 2022, poz. 583, ze zm.

and application procedures for both the incoming displaced persons and employers.

The applied solution distinguishes itself from general foreigner employment rules due to the fact that ability and entitlement to exercise the right to work is granted *de iure* without the need for an extensive administrative procedure leading to a positive decision in the form of a work permit.

There are 8 border crossings at the Polish-Ukrainian border. In every voivodeship there is at least one reception point – 24 in total (as of July 2024). At the end of 2024 the most important and active border crossings are railway junctions which offload the two-way transborder migration of war refugees. These are: Medyka, from where trains are coming through Przemyśl all the way from or to the Krakow Main Station (Line number 91) and Dorohusk, where trains are coming through Lublin all the way to or from the Warsaw East Rail Station (Line number 7)¹⁶.

The registration and admission are possible after the incoming foreigner will be assigned a PESEL number. The institutions responsible for these actions are municipal offices and/or border crossing guard offices. Firstly, the newcomers are recognized through Ministerial grade attestation, which is issued on behalf of the Minister of Foreigners by subordinate directors and under their authority by in-field officers. Attestation is based on an immediate PESEL number application and assignment – either by the border crossing guard office or the refugee himself in any selected municipal office. Voivodship Governors are responsible for notifying foreigners in case of changing their status. The governors are also a second-instance authority in the administrative procedure for assigning a PESEL number.

The term for an employer to report employment of Ukrainian refugees is 7 days from the day of work beginning which is stated in a contract underlying the employment relationship. Remuneration for work corresponds to the minimum wage identical to the one received by Poles and Polish citizens. Private entities should adhere to the laws in order to avoid embezzlement and exploitation.

The employer formal obligation has some strict requirements also listed under the aforementioned article. The regulation states general work conditions policy guidelines. Failure to meet legal standards in labor law usually concerns: minimum wage requirements, maximum weekly hour work time, safety measures imposed by OSHA (Polish BHP). Another may include: failure to meet technical norms or environmental protection infringement¹⁷. The job offers are published locally at employment offices in a traditional form preferred by management of

¹⁶ Source: Database of Railway Lines/Railway Atlas Of Central Europe At. <https://www.atlaskolejowy.net/infra/?id=linie-pl>.

¹⁷ J. Fundowicz, K. Łapiński, B. Wyżnikiewicz, “Szara Strefa 2023”, First Ed. Institute for Economic Forecasting and Analysis. p. 6.

the district administrative division unit or online through internet registers available under www.praca.gov.pl as well as <https://pomagamukrainie.gov.pl/>.

According to article 65 the officers of Police, State Fire Guard, Border Guard, Customs Office, Internal Security Agency and State Protection Service may collaborate directly to tackle tasks that concern people fleeing from Ukraine. Their collaboration lasts 40 hours per week and additionally compensated for any overtime.

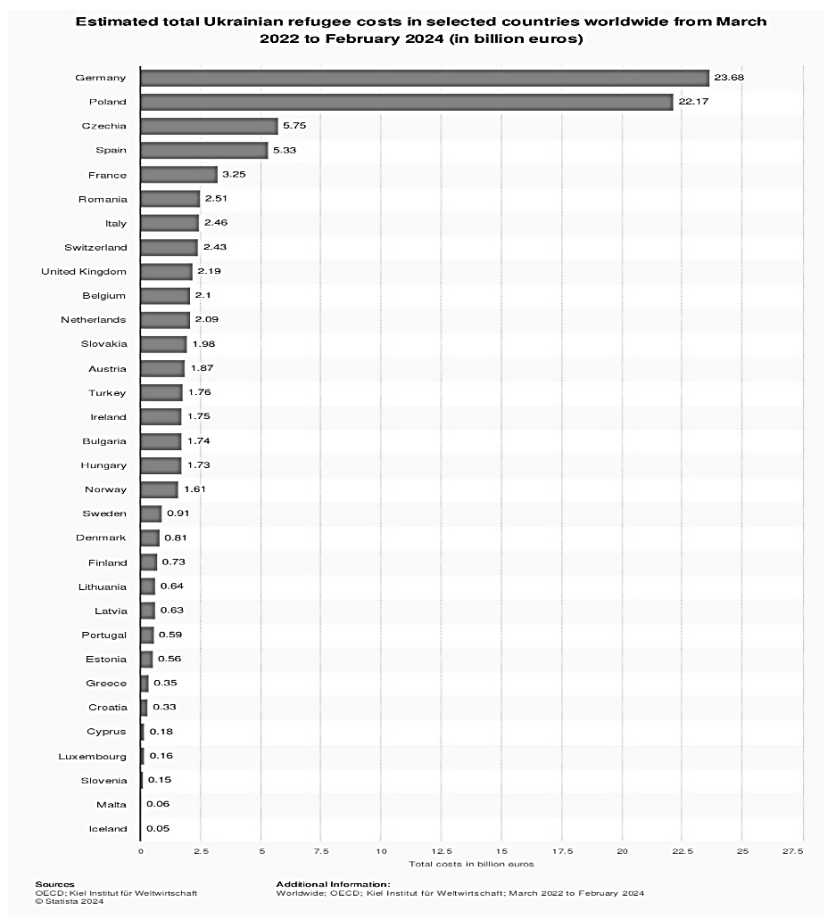


Figure 3. Estimated Total Ukrainian Refugee Costs in Selected Countries Worldwide (March 2022 – February 2024, in Billion Euros)

Source: OECD | Statista.

The German economy is approximately 5.5 times larger than Polish (2023 World Bank Data) There is estimated that the contribution of Ukrainian citizens the Polish GDP is within 0.7–1.1% GDP.

It is not therefore surprising that public spending is of considerable order of magnitude – declining population, vital importance of foreigners for keeping up the growth of the economy and percentage of foreigners working in the overall economy on an upward trend approaching 7% of whom 67% (December 2023) are Ukrainians.

Poland's population is steadily declining and the figures indicate that between November 2023 and April 2024 it fell by 72 000 people according to Statistics Poland calculations. What is more, 2024 January data show that the birth rate was the lowest since records began. In this context the mass influx of refugees may be perceived as a positive information. The express pace of the introduction of elaborated regulations adapted to the requirements of European law is not surprising. Only 5 days have elapsed from the submission of the draft by the Prime Minister on 07.03.2023 to its announcement in the Journal of Laws and entry into force on 12.03.2023 as a result of the legislative initiative vested in the Council of Ministers on the basis of Article 118(1) of the Polish Constitution. Prior works on the draft project at the Ministry of Internal Affairs and Administration supervised by the Minister of Internal Affairs and Administration were conducted under the direction of the respective secretary of state at the ministry. The act itself involved Ministry of the Internal Affairs and Administration leading following Ministries cooperating in the works: Ministry of the Family and Social Policy, Ministry of Health, Ministry of Foreign Affairs and Ministry of Education and Science¹⁸. The proposed law was intended from the outset to be an extraordinary law (*lex specialis*), supporting legal act, alongside the existing legal acts in the area of migration and asylum, in particular the Act of December 12, 2013 on foreigners, in accordance with the requirements of temporary protection set out by the EU. As a rule, the regulations have retroactive effect from 24 February 2022. From the date of enactment, Ukrainian citizens may legally reside in Poland (18 months initially). Refugees have been given the right to work in our country, as well as granted access to the national health care and education system. Those who have decided to host Ukrainian citizens in their homes also receive financial support.

5. Education

Official figures recently published claim that 134 000¹⁹ children of Ukrainian refugees are participating in the Polish education system. It poses a challenge for cultural assimilation and raises a question whether to teach incoming minors in their national language only, adjust the existing program to fit their linguistic needs or teach them Polish from a level of beginners. The selected solution

¹⁸ 9th Legislature Gov. Draft, Parliamentary Print, No. 2069.

¹⁹ Poland: Refugee students from Ukraine in the Polish education system | European Website on Integration (europa.eu: https://migrant-integration.ec.europa.eu/library-document/poland-refugee-students-ukraine-polish-education-system_en).

concentrates on offering Polish classes for interpersonal interaction between students and growth of their intellectual abilities but children are allowed to enter and acquire the second spoken language (Polish) up to their preferred pace.

As of amendment introduced 15 May 2024 in effect since the first of July 2024, participation in the national education system is mandatory beginning the new 2024/2025 school year on September 1, 2024. Compulsory schooling for children is inextricably linked to the eligibility to receive monthly parental social security child welfare checks.

6. Unprecedented character

Recent developments have not had equivalents so far, even though EU countries do have immigration experience related to migratory pressures. Collective temporary protection regulations were adopted willingly for the first time. Temporary protection serves rather as specific complementary background solution than general state-based foreigners law. It is a less formal and more agile way to accommodate numerous waves of refugees in situation when administrative systems will face an obviously resource-intensive nature, which could exceed the forces and resources of the State. At the same time, the adopted remedies were planned to be temporary (maximum of 3 years divided into two one and a half year periods). Afterwards, they are prepared to be transformed into national instruments of temporary residence rather than temporary protection.

7. Conclusions

Simplified procedures for accessing the labor market, social welfare, and education systems in both countries indicate the leading role of EU regulations in shaping national responses to crises. The activation of the **Temporary Protection Directive (2001)** for the first time in EU history provided a framework for granting immediate protection to Ukrainian refugees, allowing them to access residence permits, employment, and social benefits without overly lengthy bureaucratic processes. In Poland's case, the positive opportunity and impact is potentially heightened by growing demographic concerns, whereas in the Germany's instance, the economy has absorbed Ukrainian refugees more easily, with their labor contributing to economic growth. As of late 2024 (November), the Federal Employment Agency reported that approximately 296,000²⁰ Ukrainian refugees held socially insured jobs in Germany, a significant increase from 214,000 reported the previous year. The influx has helped mitigate labor

²⁰ <https://www.arbeitsagentur.de/presse/2025-07-knapp-300000-menschen-aus-der-ukraine-gehen-in-deutschland-einer-arbeit-nach> – Federal Employment Agency Feb 19, 2025 | Press release No. 7.

shortages in many particular sectors, namely healthcare, manufacturing, logistics and construction. The challenge for Poland, one may argue, was mainly administrative, due to a lack of prior experience in dealing with the mass inflow of people. In Germany, solutions were simply added on top of the existing act i.e. section 24, to make Ukrainian asylum-seekers qualify for help in particular federal states. Holders of a residence permit for temporary protection under Section 24 of Residence Act amounted 941,559 until February 2024²¹.

Poland created a whole new act dedicated towards dealing with emergency in Ukraine – armed conflict on the state's territory aimed at its citizens who look for shelter abroad, within European Union borders. As of February 2025, active UKR PESEL status citizens amount for 992,643 people²². Current-day geopolitical tensions pose an increasingly higher risk of mass displacement and refuge, highlighting the need for agile and collective approaches to manage future influxes of refugees while upholding human rights and ensuring socio-economic integration. Despite the administrative differences, the experience of waves of migration and the rising number of foreigners in relation to the total population of the country allows for conclusion that well-developed consistent common practices may exist in both countries. They provide also reliable access to social security through efficient use of affluence available to each state – means of transportation, population records, legal instruments of administrative authorities to handle the reception of refugees in large numbers.

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²¹ https://asylumineurope.org/wp-content/uploads/2024/06/AIDA-DE_Temporary-Protection_2023.pdf, p. 5.

²² Detailed statistics on persons registered in the register of citizens of Ukraine and members of their families. Otwarte Dane: <https://dane.gov.pl/en/dataset/2715>, zarejestrowane-wnioski-o-nadanie-statusu-ukr/resource/64533/table.

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Council Directive 2001/55/EC on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, (2001). *Official Journal*, L212, pp. 12–23.