

## SPECIAL LAW ON SUPPORT FOR UKRAINIAN CITIZENS

Ukrainian citizens and certain categories of third-country nationals and stateless persons have been granted temporary protection under Council Implementing Decision (EU) 2022/382 of 4 March 2022. Working on the foundations of this temporary protection and in order to implement the Council's decision, Poland has adopted the Act of 12 March 2022 on support for citizens of Ukraine in connection with the armed conflict in the territory of said country (the "Special Law"). The Special Law grants Ukrainian citizens a longer period of legal stay in Poland, simplifying procedures related to their employment, decentralizing the registration of Ukrainian citizens and assigning them a Polish national identification number (PESEL), as well as giving access to medical care and many financial benefits, including parental benefits.

### STATUTORY LEGALIZATION OF STAY IN POLAND UNDER THE SPECIAL LAW

For a period of 18 months (i.e., until 24 August 2023), the stay of any Ukrainian citizen and their spouse, who entered the territory of Poland from 24 February 2022 **directly from Ukraine** and declares their intention to stay within the territory of Poland is deemed to be legal. This legalization of stay also covers children born in Poland after 24 February 2022 to mothers being Ukrainian citizens, who crossed the Polish-Ukrainian border after that date. Furthermore, the Special Law legalises the stay of Ukrainian citizens holding a Polish Card (*Karta Polaka*) and their close relatives without having to satisfy the condition of direct entry into the territory of Poland.

The departure of a Ukrainian citizen from the territory of Poland for a period of more than 1 month deprives them of their right to legally stay in Poland under the Special Law.

### MANDATORY REGISTRATION

If a person whose stay is deemed legal under the Special Law and who entered the territory of Poland on the basis of a national passport, birth certificate, or any other document not being a biometric passport, or without any documents whatsoever, they are obliged to register with any executive authority of a given municipality (*gmina*) within 60 days of their date of entry, in order to be assigned a national identification number (*PESEL*). This obligation does not apply to persons who entered Poland on the basis of a biometric passport.

### OBTAINING A NATIONAL IDENTIFICATION NUMBER (PESEL)

Possessing a PESEL significantly aids a foreigner's ability to act within Poland and communicate with state authorities, as well as simplifying the practical provision of medical care in Poland. Therefore, it is recommended that all persons intending to stay in Poland on the basis of the Special Law apply for a PESEL to be assigned to them. Such applications, signed by the applicant themselves, are submitted in writing to any municipality administrative office (*urząd gminy*) in person. In the case of a minor (i.e., persons under the age of 18), it is sufficient for such applications to be submitted only by one parent/caretaker, a legal guardian, or a person deemed to be a temporary caretaker under the Special Law or a person acting as a minor's *de facto* guardian.

The application form will be available as a bilingual document, in Polish and Ukrainian. The application can be completed by either the applicant or an employee of the municipality administration office in which it is submitted on the basis of data supplied by the applicant. The application should include a photograph and documents confirming the person's identity (translation of these documents into Polish is not necessary). Persons applying for the assignment of a PESEL shall also submit a declaration stating that they arrived in Poland directly from Ukrainian territory and that the details they supplied are correct, subject to criminal liability for making a false declaration. The municipality administration office will take the applicant's fingerprints and keep a copy of the documents submitted confirming the applicant's identity (note that cancelled or expired documents can also be used for this purpose, if they allow for the applicant's identity to be confirmed).

The details of persons who apply for a PESEL under the Special Law shall be kept in a special register maintained by the Minister for Digitization. As part of the process of obtaining a PESEL, it is also possible to automatically create a Trusted Profile (*Profil Zaufany*) on the Polish public e-services platform (*ePUAP*), which facilitates communication with public authorities and courts (in the future, it would be useful to also enable access to government portals in Ukrainian).

#### EXTENSION OF STAY BY OBTAINING A TEMPORARY PERMIT

Persons whose stay has been deemed to be legal may apply, no earlier than 9 months from their date of entry to the territory of Poland and no later than 24 August 2023, for a temporary permit to extend their legal stay in Poland for an additional 3 years, as of the date on which the decision is issued. Such a permit is issued by the appropriate Voivode (provincial governor; *wojewoda*), effective from the application's filing date. Persons holding a temporary permit are entitled to work in Poland without being subject to the usual restrictions concerning foreigners (i.e., the requirement to hold a work permit/statement on the delegation of work, or the employer being subject to a notification duty under the Special Law).

#### EMPLOYMENT

Under the Special Law, Ukrainian citizens may enter into employment in Poland. This applies both to persons whose stay has been deemed to be legal under the Special Law as well as persons whose stay in Poland is legal on other grounds.

This is done by way of a delegation of work by a particular entrepreneur. The entity delegating work to a Ukrainian citizen must notify the appropriate county labour office (*powiatowy urząd pracy*) within 14 days of said citizen beginning their employment. The entity delegating work must give such notice electronically through the *praca.gov.pl* system. This notice must include, among others, the entity's taxpayer identification number (*NIP*) and statistical number (*REGON*) (or their national identification number (*PESEL*)). This means that the system does not allow for the delegation of work by foreign entrepreneurs. Thus, only Polish entrepreneurs, or local branches of foreign entrepreneurs, as holders of a NIP and REGON, will be able to delegate work to Ukrainian citizens in Poland.

## UNDERTAKING BUSINESS ACTIVITIES

Persons whose stay in Poland has been deemed to be legal under the Special Law or the Act on foreigners (thus, excluding those whose legal stay is governed by the Act on granting protection to foreigners within the territory of the Republic of Poland), can undertake business activities on the same terms as Polish citizens (i.e., as a sole proprietorship, by means of an entry in the Central Registration and Information on Business (*Centralna Ewidencja i Informacja o Działalności Gospodarczej; CEIDG*), as well as unregistered business activity or through partnerships and capital companies). In such cases, obtaining a national identification number (*PESEL*) is a prerequisite to undertake business activities in Poland under the provisions of the Special Law.

At the same time, we would also note that, even before the Special Law came into effect, Ukrainian citizens were able to undertake business activities in accordance with Article 4 of the Act of 6 March 2018 on the principles for the participation of foreign entrepreneurs and other foreign persons in business activities in the territory of the Republic of Poland (the **“Act on the principles of participation”**). This Act permits persons lacking a PESEL to undertake business activities.

In light of the above, there exist doubts as to whether the obligation to possess a PESEL arises solely to the extent that the provisions of the Special Law are more favourable than those of the Act on the principles of participation, or rather that the Special Law imposes a duty to possess a PESEL on all Ukrainian citizens whose stay has been deemed legal under the Special Law or who are legally staying in Poland under the Act on foreigners (e.g., by holding a temporary residence permit), regardless of the form by which they undertake business activities in Poland.

## BENEFITS AND FINANCIAL SUPPORT

The Special Law provides for a number of benefits for Ukrainian citizens, including medical care (i.e., access to doctors, hospitals, etc.), a one-time financial payment of PLN 300 (an application for this payment can be submitted at a local social welfare centre (*ośrodek pomocy społecznej*)), as well as many parental benefits. Accessing most benefits is conditional on a person being assigned a PESEL.

## TRAVELLING WITHIN THE EUROPEAN UNION

The Special Law does not serve as a legal basis under which Ukrainian citizens may apply for a travel document authorising them to travel within the EU. Therefore, in principle only Ukrainian citizens holding a biometric passport (thus falling within the visa-free regime) or who have been issued a visa by an EU Member State have the right to move freely within the EU for 90 days within a 180-day period. The absence of such provisions in the Special Law may limit the free movement of Ukrainian citizens within the EU in respect of their ability to choose their final destination.

Ukrainian citizens will have the possibility to apply, 9 months after their date of entry into Poland, for a temporary residence permit valid for 3 years, which would entitle them to receive a residence card once a decision is issued granting them a residence permit. However, there remains no basis to issue a foreigner with a Polish travel document which would remedy their lack of a biometric passport as a travel document.

**Contact:**



**Anna Matsiyenskaya**

Lawyer

[anna.matsiyenskaya@wkb.pl](mailto:anna.matsiyenskaya@wkb.pl)