

# ASSISTANCE TO UKRAINIAN CITIZENS IN CONNECTION WITH THE RUSSIA-UKRAINE WAR IN THE EXAMPLE OF A BENEFIT FOR PROVIDING ACCOMMODATION AND FOOD UNDER POLISH LAW

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## Abstract

In connection with the Russia-Ukraine war, the Polish government has decided not only to accept all refugees from Ukraine. Due to this situation, the Polish government issued the Act of 12 March 2022 on assistance to Ukrainian citizens in connection with the armed conflict in the territory of that country. One of the solutions provided for in this law is the benefit for providing accommodation and food to Ukrainian citizens. Among other things, thanks to this solution, there is no problem of homelessness of Ukrainian citizens in Poland and it was not necessary to set up refugee camps. The article presents legal analysis of the provisions governing the benefit for providing accommodation and food to Ukrainian citizens.

**Key words:** Russia-Ukraine war, benefit, providing accommodation and food.

## Introduction

**Relevance of the topic.** The issue of providing accommodation and food to Ukrainian citizens in the territory of Poland is currently a highly topical issue since over 6 million Ukrainian citizens have entered Poland in connection with the armed conflict (until 20 September 2022, according to United Nations High Commissioner for Refugees (UNHCR), 6,284,379 Ukrainian refugees had crossed Polish-Ukraine border (<https://data.unhcr.org/en/situations/ukraine>, visited on 27.09.2022)). Some of them have already returned to Ukraine and some left for other countries. Nevertheless, it is estimated that there are 1.5 to 2 million persons remaining in Poland (the number of Ukrainian citizens registered for temporary protection or similar national protection schemes alone was 1,391,344 in Poland, as of 19 September 2022 (<https://data.unhcr.org/en/situations/ukraine>, visited on 27.09.2022)). Providing accommodation and food to such a large number of people required the introduction of a new benefit to encourage, in particular private entities, to provide accommodation and food to Ukrainian citizens.

**Research problem.** The main focus of this study is to try to assess whether the current regulations concerning the benefit for providing accommodation and food to Ukrainian citizens are sufficient or whether changes are required, in which case, of what particular type, as well as what were the practical effects of the introduced provisions. Concerning the latter, an attempt will be made to formulate *de lege ferenda* postulates.

**Subject matter of the research.** The subject of this research are the provisions of the Act of 12 March 2022 on assistance to Ukrainian citizens in connection with the armed conflict in the territory of that country and other legal acts pertaining to the benefit for providing accommodation and food under Polish law.

**Research aims and objectives.** Understanding these regulations and applying them correctly is particularly important for the addressees of these provisions, i.e. primarily for persons (natural or legal) providing accommodation and food to Ukrainian citizens, as well as for the very Ukrainian refugees in Poland and Polish administrative bodies. This seems to be all the more important as the provisions introduced have been in effect for a relatively short period of time and there is essentially no literature or case law that could facilitate the application thereof. The latest changes to the regulations pertaining to the matter in question will also be presented.

**Research methods.** As the focus of this study are current legal solutions, the dogmatic and legal method, consisting in a juridical analysis of relevant legal provisions, in particular the provisions of the Act on assistance to Ukrainian citizens in connection with the armed conflict in the territory of that country, has been selected as the basic method for conducting research. This method consists in clarifying the correct meaning of the rule of law encoded in the legal provisions under analysis using

various methods of interpretation, in particular with the use of linguistic interpretation. Furthermore, the study of legal texts has been enriched to a relevant scope by presenting the views of the science of law and judicature. In addition, the statistical method analyses specific legal institutions from the numerical point of view.

## 1. General remarks

As a result of the Russian invasion of Ukraine, there was a massive influx of Ukrainian citizens into the territory of the Republic of Poland. Due to this circumstance, a need arose to implement new legislative solutions quickly, adjusting the Polish state to the new situation. In particular, it was necessary to introduce new benefits that would protect refugees from Ukraine in Poland. These issues were regulated comprehensively in the Act of 12 March 2022 on assistance to Ukrainian citizens in connection with the armed conflict in the territory of that country. Interestingly, this law entered into force retroactively from 24 February 2022 (i.e. from the first day of the invasion).

One of the newly created benefits is the cash benefit for providing accommodation and food to Ukrainian citizens. A basic regulation in this regard can be found in Articles 13 and 13a of the special act, whereby these provisions have already been amended several times. What shall be of relevance for the matter under study, are both the amendment of 8 April 2022 (The Act of 8 April 2022 amending the Act of 12 March 2022 on assistance to Ukrainian citizens in connection with the armed conflict in the territory of that country [Journal of Laws of 2022, item 830]), which, inter alia, explicitly excluded the issuing of decisions in the above-mentioned cases, and the application of the provisions of the Code of Administrative Procedure, and the amendment of 8 June 2022 (The Act of 8 June 2022 amending the Act of 12 March 2022 on assistance to Ukrainian citizens in connection with the armed conflict in the territory of that country [Journal of Laws of 2022, item 1383]), which introduced a deadline for submitting applications for cash benefits for providing accommodation and food to Ukrainian citizens (see Article 1 point 9 and Article 8 the Act of 8 June 2022 amending the Act on assistance to Ukrainian citizens in connection with an armed conflict in the territory of that country and certain other acts [Journal of Laws of 2022, item 1383]).

Referring to the *ratio legis* of the provisions in question, it should be pointed out that, in the first place, they are to provide accommodation and food to Ukrainian citizens who came to the territory of the Republic of Poland from the territory of Ukraine in connection with hostilities on the territory of that country. This solution was especially needed in the first weeks of the invasion, when a number of Ukrainian citizens exceeding 140,000 was recorded (see Table 1 indicating the number of Ukrainian refugees entering Poland from 24 February 2022 and Chart 1 indicating the trend related to the entry of Ukrainian refugees into Poland). By 20 September 2022, over 6 million people appeared in total, and at least 1.4 million remained. Polish institutions on their own were unable to provide such a number of persons with accommodation and food. Therefore, a benefit was introduced to encourage the voluntary admission of Ukrainian citizens in exchange for a flat-rate cash benefit calculated for each day of providing that accommodation and food.

Undoubtedly, such cash benefit serves primarily a humanitarian function as it allows to satisfy the basic biological needs of people fleeing the war. Additionally, the intention of the legislator was to prevent the homelessness of Ukrainian citizens in the territory of Poland. Such a threat was present, on the one hand, due to the fact that a large number of people were entering the territory of Poland (especially in the first weeks of the invasion) and, on the other hand, the income disproportions between Polish and Ukrainian citizens. For example, in 2021, Poland's GDP per capita (in current international \$) amounted to \$37,502.60, while Ukraine's to \$14,219.80 (<https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>, 02.10.2022). Additionally, after Russia's invasion of Ukraine, the Ukrainian hryvnia devalued significantly. There was a danger that the latter would be unable to rent premises in Poland on a commercial basis. Moreover, reducing the risk of homelessness of Ukrainian citizens has indirectly contributed to the maintenance of public order and state security. The introduction of this solution also made it possible to relieve public institutions, especially shelters for homeless people, by accommodating Ukrainian citizens in private entities.

Table 1. Entry of Ukrainian refugees into the territory of Poland since 24 February 2022

Date of border crossing from Ukraine	Number of individuals	Date of border crossing from Ukraine	Number of individuals	Date of border crossing from Ukraine	Number of individuals	Date of border crossing from Ukraine	Number of individuals
24.02.2022	30096	21.03.2022	29501	15.04.2022	23621	10.05.2022	17687
25.02.2022	46347	22.03.2022	30328	16.04.2022	18717	11.05.2022	20600
26.02.2022	76575	23.03.2022	29598	17.04.2022	17011	12.05.2022	21461
27.02.2022	98115	24.03.2022	31706	18.04.2022	19581	13.05.2022	20634
28.02.2022	99245	25.03.2022	29700	19.04.2022	24464	14.05.2022	22241
01.03.2022	97499	26.03.2022	30045	20.04.2022	21739	15.05.2022	19143
02.03.2022	97379	27.03.2022	26062	21.04.2022	19292	16.05.2022	18718
03.03.2022	98517	28.03.2022	20512	22.04.2022	17069	17.05.2022	19690
04.03.2022	105317	29.03.2022	21793	23.04.2022	14434	18.05.2022	20840
05.03.2022	127579	30.03.2022	24777	24.04.2022	9320	19.05.2022	21362
06.03.2022	140843	31.03.2022	22440	25.04.2022	13168	20.05.2022	23031
07.03.2022	140558	01.04.2022	20497	26.04.2022	20727	21.05.2022	22372
08.03.2022	126322	02.04.2022	22916	27.04.2022	24102	22.05.2022	19530
09.03.2022	116399	03.04.2022	21614	28.04.2022	23374	23.05.2022	17872
10.03.2022	85825	04.04.2022	17987	29.04.2022	22748	24.05.2022	20280
11.03.2022	76065	05.04.2022	20470	30.04.2022	22822	25.05.2022	21010
12.03.2022	78108	06.04.2022	23542	01.05.2022	19037	26.05.2022	21430
13.03.2022	80123	07.04.2022	22933	02.05.2022	17996	27.05.2022	22245
14.03.2022	70935	08.04.2022	26711	03.05.2022	18744	28.05.2022	24585
15.03.2022	65787	09.04.2022	28212	04.05.2022	24403	29.05.2022	20948
16.03.2022	59218	10.04.2022	27615	05.05.2022	24035	30.05.2022	20280
17.03.2022	51462	11.04.2022	23449	06.05.2022	23788	31.05.2022	21833
18.03.2022	41825	12.04.2022	23262	07.05.2022	25690	01.06.2022	20745
19.03.2022	38992	13.04.2022	24046	08.05.2022	23030	02.06.2022	21631
20.03.2022	32915	14.04.2022	26025	09.05.2022	16635	03.06.2022	21705

Source: Own study based on the data of the UNHCR (<https://data.unhcr.org/en/situations/ukraine>, 27.09.2022).

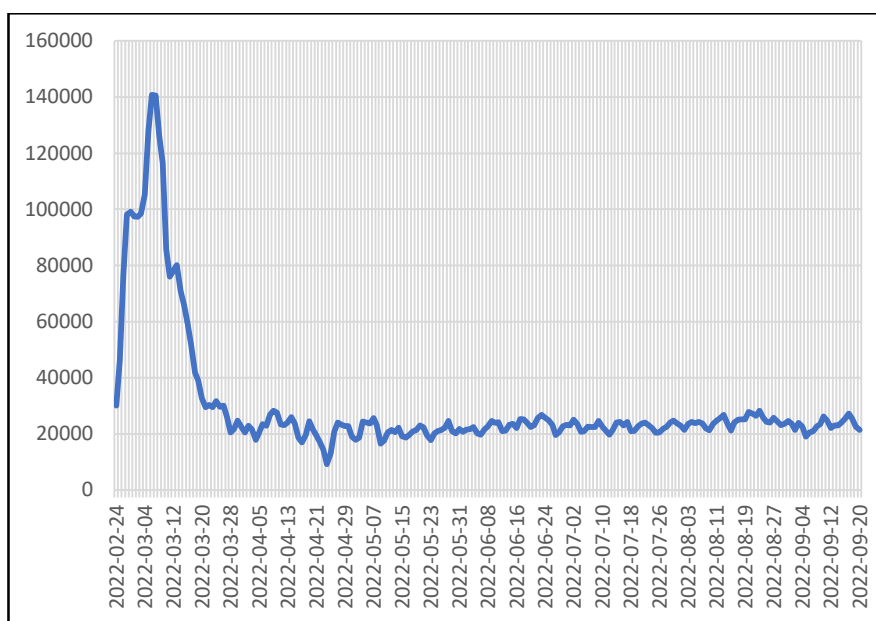


Figure 1. Entry of Ukrainian refugees to the territory of Poland since 24 February 2022 (per day)

Source: Own study based on the data of the UNHCR (<https://data.unhcr.org/en/situations/ukraine>, 27.09.2022).

To sum up this chapter, let us quote *in extenso* Article 13 of the special act regulating the basic issues related to cash benefits for providing accommodation and food to Ukrainian citizens.

**Art. 13. 1.** Each entity, in particular a natural person running a household, that will provide, at their own expense, accommodation and food to the citizens of Ukraine referred to in Art. 1 paragraph 1, may be granted, at their request, a cash benefit in that respect for a period not longer than 120 days of arrival of that citizen of Ukraine in the territory of the Republic of Poland. The payment period may be extended in particularly justified cases.

**1a.** In matters related to the cash benefit referred to in paragraph 1, administrative decisions shall not be issued and the provisions of the Act of 14 June 1960 – Code of Administrative Procedure shall not apply.

**1b.** In the event of a dispute regarding the cash benefit referred to in paragraph 1, the entity that has submitted the application may bring an action for that benefit against the commune competent to consider the application.

**1c.** In the case for a benefit referred to in 1b, no other claims can be made.

**1d.** The cash benefit referred to in paragraph 1 is not subject to enforcement pursuant to the provisions of the Act of 17 November 1964 – Code of Civil Procedure and the provisions of the Act of 17 June 1966 on enforcement proceedings in administration (Journal of Laws of 2022, item 479).

**1e.** The cash benefit declaration shall be submitted within one month of the last day of the period covered by the application.

**1f.** A cash benefit application submitted after the deadline referred to in 1e shall not be considered.

**2.** The tasks of the commune referred to in section 1.1 and Article 13a sections 3 and 4 shall constitute government administration tasks entrusted to the commune and the funds allocated for the implementation thereof shall be provided by the voivode. The costs of serving these tasks by the commune shall be PLN 16 per each examined application for a cash benefit. If the event that the accommodation and food conditions are verified by the commune, these costs shall be PLN 32 per each considered application.

**3.** The Council of Ministers shall define, by way of a regulation, the maximum amount of the cash benefit and the conditions for the granting and extending of the payment thereof, taking into account the number of Ukrainian citizens entering the territory of the Republic of Poland, the situation of the civilian population and the prospects of ceasing of the hostilities in the territory of Ukraine and humanitarian considerations as well as the current condition of state budget and public finances.

**4.** A cash benefit application shall include,

- 1)** Applicant's first and last name or name of legal entity;
- 2)** Applicant's National Identification Number (PESEL) or Tax Identification Number (NIP);
- 3)** indication of the period for which accommodation has been provided and the number of persons accepted;
- 4)** First and last name and PESEL of the person accepted for accommodation;
- 5)** Applicant's declaration on provision of accommodation and;
- 6)** Payment account number to which the benefit will be paid
- 7)** Applicant's declaration, under pain of criminal liability for making false statements, that the data provided in the application is true;
- 8)** Address of stay of the persons accepted for accommodation;
- 9)** Applicant's e-mail address and telephone number;
- 10)** A statement that a benefit for the person accepted for accommodation for the period indicated has not yet been paid;
- 11)** Applicant's statement that no additional remuneration, including rent, for the period specified in point 3, has been received.

**5.** The minister competent for public administration shall determine, by way of a regulation, the template of the application for the cash benefit referred to in section 1, in paper form or in the form of an electronic document within the meaning of the Act of 17 February 2005 on the computerization of the activities of entities performing public tasks, bearing in mind the need to ensure efficient payment of the benefit.

## **2. Subjective scope**

Pursuant to Article 13 section 1 of the special act, a cash benefit may be granted to any entity, in particular a natural person running a household, who provides, at their own expense, accommodation and food to the Ukrainian citizens referred to in Article 1 section 1 of the special act. The above provision distinguishes between two groups of persons. On the one hand, it indicates who may be entitled to the benefit, and on the other hand, it specifies who shall be provided with accommodation and food in order to enable effective application.

Referring to the question of who may actually be entitled to the said benefit, it should be noted that the provision has a very wide scope in this respect. The Polish legislator has assumed that each entity, in particular a natural person running a household, may have a right to it. The pronoun *each* means that in this case basically no subjective limitations shall apply. Admittedly, *natural persons running a household* are mentioned *expressis verbis* and therefore, this group will certainly be entitled to this benefit, but this is only an exemplary listing (Article 13.1. Each entity, in particular a natural person running a household [...]).

There is also no doubt as to the fact that the benefit will also be available to organizational units, legal persons and entrepreneurs, since these are explicitly mentioned in the Regulation on the maximum amount of cash benefit for providing accommodation and food to Ukrainian citizens and the conditions for the granting and extending the payment thereof (see § 2 section 2 point 2 of the above Regulation). In addition to the above-mentioned entities, it is assumed, in practice, that this benefit may also be applied for by local government units, hospitals, care and treatment facilities, hotels, motels, etc.

From a formal point of view, it does not matter whether the person providing accommodation and food and the citizen of Ukraine using the accommodation and food are close relatives (relatives or in-laws) or complete strangers. There was an actual case where a Ukrainian citizen, already living in Poland, who provided accommodation and food to her parents who came to the territory of the Republic of Poland from the territory of Ukraine in connection with the hostilities. In the light of Article 13 section 1 of the special act, she was entitled to receive the benefit. It is also irrelevant whether the person providing accommodation and food has Polish, Ukrainian or foreign citizenship. What appears important is the sole fact that they provide accommodation and food in the territory of Poland.

Next, it ought to be specified who should be provided with accommodation and food to make it possible for these persons to apply for the benefit. Pursuant to Article 13 section 1 of the special act, it is necessary to provide accommodation and food to a citizen of Ukraine who came to the territory of the Republic of Poland from the territory of Ukraine in connection with hostilities in the territory of that country. In the light of the above regulations, it should be emphasized that a person accepting accommodation and food should be a Ukrainian citizen. The mere fact of being in the territory of Ukraine and subsequently entering the territory of Poland in connection with the armed conflict is not enough. This fact is also emphasized by the title of the special act, namely “the Act of 12 March 2022 on assistance to Ukrainian citizens in connection with the armed conflict in the territory of that country”.

Only exceptionally does the Polish legislator allow for the payment of the benefit for providing accommodation and food to a person who does not have Ukrainian citizenship. Such an exception has been provided for in Article 1 section 2 of the special act and concerns the spouse of a Ukrainian citizen. According to this provision, whenever the law refers to a Ukrainian citizen, it is also understood as a Ukrainian citizen who does not have Ukrainian citizenship, provided that he or she came to the territory of the Republic of Poland from the territory of Ukraine in connection with hostilities in the territory of that country and is not a Polish citizen or a citizen of a Member State of the European Union other than the Republic of Poland.

To sum up, it should be emphasized that *de lege lata*, a Ukrainian citizen for whose accommodation and food the said benefit is to be paid must have a PESEL number. The Universal Electronic System for Population Registration (PESEL) number is an eleven-digit numerical symbol that uniquely identifies a natural person, containing the date of birth, serial number, gender and a check number. For more on this subject see the Act of 24 September 2010 on population records (consolidated text: Journal of Laws of 2022, item 1191). In the original legal environment, a Ukrainian citizen was not required to have a PESEL. This change was introduced by the amendment of 27 April 2022 (see Article

1 point 1 letter c) of the Act of 27 April 2022 amending the Act of 12 March 2022 on assistance to Ukrainian citizens in connection with the armed conflict in the territory of that country [Journal of Laws of 2022, item 930]). and meant to enable the monitoring of the expenditure of public funds on cash benefits for providing accommodation and food to Ukrainian citizens and so eliminate possible abuses in this respect. In the above-mentioned amendment, it was also decided to create an electronic database of applications for granting benefits for providing accommodation and food to enable the commune authority to determine whether an application for funds for the same period has not been submitted already for a given person with assigned PESEL number (see Justification for the draft Act of 27 April 2022 amending the Act of 12 March 2022 on assistance to Ukrainian citizens in connection with the armed conflict in the territory of that country, form no. 2198, Sejm of the 9<sup>th</sup> term of office).

### **3. Conditions and amount of cash benefit for providing accommodation and food to a citizen of Ukraine**

**Providing accommodation and food.** The basic condition for receiving the benefit is, of course, the provision of accommodation and food to a Ukrainian citizen who came to the territory of the Republic of Poland from the territory of Ukraine in connection with hostilities in the territory of that country. At the beginning, it should be emphasized that in Article 13 section 1 of the special act, the coordinating conjunction "and" is used, which means that accommodation and food must be provided at the same time; providing only accommodation or only food is not enough.

It should further be noted that the concept of *accommodation* itself has neither been defined in the special act nor in the implementing acts. In this situation, the term *accommodation* should be understood in accordance with the common meaning of this word. In a Polish language dictionary, *accommodation* [*zakwaterowanie*] means "assigning someone a place of temporary residence (<https://sjp.pwn.pl/szukaj/zakwaterowanie.html> [retrieved on 28.09.2022]). The accommodation conditions must not endanger people's lives or health (e.g. this cannot be accommodation in unpermitted buildings). Interestingly, a certain derogation from the above rule has been introduced by Article 12a of the special act. According to this provision, for the purposes of collective residence of Ukrainian citizens referred to in Article 1 section 1 (it should be emphasized that this unique solution does not apply to accommodating Polish citizens; Polish citizens may not live in buildings that do not meet the requirements of design, fire or sanitary regulations), in the period until 31 August 2023, a temporary use of a structure is allowed, including a building other than a collective residence building, which does not meet the applicable requirements of design, fire or sanitary regulations (!) if, during such use, the conditions therein ensure that the basic requirements are met in the following scope: 1) the load-bearing capacity and stability of the structure and safety of use, 2) fire safety, 3) hygiene, health and the environment. However, if the above-mentioned building is intended to accommodate more than 20 people, the fulfilment of the basic requirements is confirmed by a positive opinion, respectively, of locally competent: 1) poviast construction supervision inspector, 2) poviast (municipal) commander of the State Fire Service, 3) state poviast sanitary inspector.

Admittedly, Article 13 of the special act does not specify this explicitly, but the ministry guidance emphasizes that a person accommodating a citizen of Ukraine and applying for the benefit should have legal title to the premises where the refugee is accommodated. This does not have to be a property right, but be the right to use the premises, e.g. under a rental or lending agreement. From a logical point of view, it is difficult to provide accommodation to somebody without being entitled to have the premises at one's disposal (at least to some extent).

Also, a definition of food [*wyżywienie*] is not provided in the special act or executive acts. According to a Polish language dictionary "[it is] to provide someone with a sufficient amount of food to live on" (<https://sjp.pwn.pl/szukaj/wyzywienie.html> [retrieved on 28.09.2022]). However, the above provisions do not indicate how many meals and of what quality (e.g. caloric value) shall be provided. However, it is assumed that it is to be at least the amount of food that is sufficient for survival. As for the quality of food, it is assumed that it shall be edible.

It should also be added that accommodation and food are to be provided at the applicant's own expense and this person may not receive any other remuneration in return for providing accommodation and food (e.g. rent may not be charged from Ukrainian citizens) as double financing is not allowed in this case.

**Optional or obligatory benefit.** From the point of view of a literal interpretation, it should be stated that this benefit is optional (Article 13.1 Each entity, in particular a natural person running a household [...] may be granted [...]). Therefore, even if the conditions stipulated in this provision are fulfilled, this person may not receive the benefit. Especially if, in a given factual state, it would constitute an abuse of the law. In practice, however, this benefit stands close to an obligatory one and is paid if the conditions provided for in the regulations are met.

Additionally, it should be noted that the regulation on the minimum amount of the benefit for the provision of accommodation and food provides for the case of obligatory refusal to grant this benefit. Pursuant to § 3 section 4 of the above regulation, the benefit should be denied if the conditions of accommodation and food endanger the lives or health of people (e.g. expired food or products that are generally unfit for eating) or if the application referred to in Article 13 section 1 of the special act contains false information, whereas providing false information should be understood as non-compliance of the information submitted in the application with reality. It does not matter whether false information is provided intentionally or unintentionally.

However, *de lege ferenda*, it would be advisable to amend § 3 section 4 of the regulation on the minimum amount of the benefit for the provision of accommodation and meals. Currently, from the literal point of view (the use of the conjunction "and"), it indicates that the refusal takes place if the accommodation and food endanger life or health. It seems advisable to use an additional alternative in this provision. The authority would then be obliged to refuse the benefit if only the accommodation would endanger life or health. So would be the case if only food constituted a threat to life or health.

**Amount of the benefit.** The benefit is set at PLN 40 per day for each person provided with accommodation and food. The amount of the benefit is a lump sum. Therefore, it is irrelevant what actual costs have been incurred to provide accommodation and food. Exceptionally, the above amount may be increased by the voivode in the case of 1) providing accommodation and food to Ukrainian citizens before the effective date of the Act, 2) when the entity providing accommodation and food to Ukrainian citizens is an organizational unit, legal entity or entrepreneur. It should also be added that the benefit is paid in arrears, i.e. after the provision of accommodation and meals has been completed.

However, it seems that, considering current inflation situation, the amount of PLN 40 per day is insufficient and its increase should be considered. The above amount has not been adjusted since the introduction of the regulations on the provision of accommodation and food. And yet, during these months, high inflation persisted and continues to be high, amounting to: 8.5% in February (see Central Statistical Office, Price Indices of Consumer Goods and Services in February 2022, page 1), 11.0% in March (see Central Statistical Office, Price Indices of Consumer Goods and Services in March 2022, page 1), 12.4% in April (see Central Statistical Office, Price Indices of Consumer Goods and Services in April 2022, page 1), 13.9% in May (see Central Statistical Office, Price Indices of Consumer Goods and Services in May 2022, page 1), 15.5% in June (see Central Statistical Office, Price Indices of Consumer Goods and Services in June 2022, page 1), 15.6% w July (see Central Statistical Office, Price Indices of Consumer Goods and Services in July 2022), 16.1% in August (see Central Statistical Office, Price Indices of Consumer Goods and Services in August 2022, page 1), 17,2% in September (see Central Statistical Office, Price Indices of Consumer Goods and Services in September 2022, page 1), as compared to the same months last year.

**Time limitation.** The benefit is granted for the period during which accommodation and food are actually provided to Ukrainian citizens, but not longer than for 120 days from the date of arrival of the Ukrainian citizen in the territory of the Republic of Poland. This period was extended from the original 60 to 120 days. However, government officials announced that it would not be extended in general as this time should be enough for Ukrainian citizens to become independent.

This period starts on the date of arrival of a Ukrainian citizen in the territory of the Republic of Poland, not from the date of start of accommodation. Thus, it may turn out that a given Ukrainian citizen

will not be able to use the full 120 days of the benefit if he or she has not found accommodation and food immediately. If a Ukrainian citizen crosses the border several times, the said period runs from the date of the first crossing.

It should also be added that this 120-day period may, in individual particularly justified cases, be extended. Such circumstances are specified in the regulation on the minimum amount of the benefit for the provision of accommodation and food. This period may be extended if a citizen of Ukraine: has a disability certificate, is 60 (women) or 65 (men), is a pregnant woman or a person bringing up a child up to 12 months of age by themselves in the territory of the Republic of Poland, takes care of three or more children or is a minor listed in Article 25a section 1 of the special act. Interestingly, however, the regulations do not provide for the maximum deadlines for such an extension.

#### 4. Procedural issues

When referring to procedural issues, it should first be pointed out that this benefit is granted only on application and not *ex officio*, as it is not a social assistance benefit, and consequently Article 102 section 2 of the Act on social assistance, enabling the granting of social assistance *ex officio* (The Act of 12 March 2004 on Social assistance [Journal of Laws of 2021, item 2268, as amended]) is not applicable. Article 61 § 2 of the CAP enabling the commencement of an administrative case *ex officio* also does not apply to the benefits for the provision of accommodation and food.

The application should include the elements indicated in Article 13 section 4 of the special act (see chapter 1 of this article). When submitting the application, a statement must be made, under penalty of liability for making a false statement, stating as follows,

- accommodation and food have been provided to a Ukrainian citizen at the expense of the applicant,
- no benefit has been paid for the person accepted for accommodation for the indicated period,
- for the period to which the application relates, no additional remuneration has been received, including rent,
- the data provided in the application is true.

The application for the cash benefit is submitted within one month from the last day of providing accommodation and food to a Ukrainian citizen. An application submitted in breach of the above deadline shall not be examined, which means that the application is not examined in terms of content and no further actions are taken. This solution is relatively new and is aimed at preventing abuse with respect to the payment of the benefit. Over a longer period of time, however, it would become difficult for the authorities awarding the benefit to verify whether the applicant has actually provided accommodation and food to a Ukrainian citizen.

The benefit procedure itself is informal, simplified and quick (the application is considered within one month from the date of its submission to an office), which should by no means be assessed positively. Firstly, because the legislator has resigned from issuing administrative decisions and applying the provisions of the Code of Administrative Procedure in considering such cases in general (Article 13 section 1a of the special act). The latter, however, raises some doubts. What not applying the provisions of the Code of Administrative Procedure means in practice is that applicants are deprived of a number of procedural guarantees (e.g. the authority does not call for formal deficiencies in the application to be supplemented, it is not possible to apply for the exclusion of the employee dealing with the case, no justification of the decision is issued). Since the Code of Administrative Procedure does not apply, procedural issues concerning the benefit are regulated only by a few provisions of the special act (especially Articles 13 and 13a) and the regulation on the model application for a cash benefit for providing accommodation and food to Ukrainian citizens coming to the territory of the Republic of Poland in connection with hostilities and the regulation on the maximum amount of the cash benefit arising from the provision of accommodation and food to Ukrainian citizens and the conditions for granting this benefit and extending payment.

In practice, this procedure is limited to examining the statement made by the applicant under pain of criminal liability for submitting false information. If it meets the formal conditions and does not raise



any substantive doubts, then the decision is reduced to the actual payment of the benefit to the bank account indicated in the application. In the event that the application raises doubts (e.g. as to the truthfulness of the data provided therein), the legislator provides the bodies considering the matter a possibility to verify the application. Pursuant to § 3 section 3 of the Regulation on the maximum amount of the benefit, a commune may make the granting or payment of the benefit conditional on the verification of the accommodation and food conditions. Such verification is carried out by authorized employees of an organizational unit of a commune or commune legal entity.

It should also be emphasized that the applicant may not be appeal to a superior public administration body. In the event of a dispute regarding the cash benefit for the provision of accommodation and food, the entity that submitted the application may bring an action for the benefit against the commune competent to examine the application. At the same time, no claims other than the payment of benefits may be pursued before a court (e.g. compensation for the renovation of the premises in order to admit Ukrainian citizens).

It should also be borne in mind that the cash benefit referred to in section 1, is not subject to enforcement on the basis of the provisions of the Code of Civil Procedure (The Act of 17 November 1964 r. on Code of Civil Procedure [consolidated text: Journal of Laws of 2021, item 1805, as amended]) and the provisions of the Act on enforcement proceedings in administration (The Act of 17 June 1966 on enforcement proceedings in administration [consolidated text: Journal of Laws of 2022, item 479]).

## Conclusions

1. It should be stated that the Polish law governing the benefit for providing accommodation and food to Ukrainian citizens who came to the territory of the Republic of Poland from the territory of Ukraine in connection with hostilities in the territory of that country have essentially fulfilled their purpose to this point. Hundreds of thousands of Ukrainian citizens have been provided with accommodation and food in Poland owing to these regulations. This was especially important in the first weeks of the invasion, when there were days when more than 140,000 Ukrainian citizens crossed the border.

2. The introduction of provisions regulating the benefit for the provision of accommodation and food for Ukrainian citizens made it unnecessary to establish refugee camps in Poland, which would certainly hinder their integration and relatively normal functioning of these persons in Poland.

3. The introduction of provisions regulating the benefit for providing accommodation and food has also contributed to the prevention of homelessness of Ukrainian citizens in Poland.

4. The introduction of provisions regulating the benefit for the provision of accommodation and food to Ukrainian citizens also made it possible to relieve public institutions, especially social welfare centres, which are responsible for providing assistance to people in a difficult life situation. Public shelters would not be able to accommodate such a great number of Ukrainian citizens.

5. It should also be added that the above positive effects were not achieved solely by the provisions regulating the benefit for providing accommodation and food. Such state of affairs was also due, to some extent, to other circumstances, such as the help of other countries that accepted refugees, the help from Ukrainian citizens living in Poland before the invasion and other benefits enabling independent support of Ukrainian citizens in Poland (e.g. "childcare benefit" for parents in the amount of PLN 500 per month [about €110] for each child up to the age of 18; "family care capital" for parents in the total amount of PLN 12,000 [about €2,660] for the second and subsequent children aged 12 to 36 months; "co-financing of the fee for a child's stay in a nursery or kindergarten" in the amount of PLN 400 per month [about €90], social assistance benefits [in cash and in kind, e.g. sending to nursing home], "family benefits" for low-income families), (or more information on the type and scope of benefits to which Ukrainian citizens in Poland are entitled see Article 26 of the special act).

6. It appears that the provisions concerning the benefit for the provision of accommodation and food to Ukrainian citizens are generally sufficient, although at certain points it seems that they could be clarified or modified.

7. *De lege ferenda* the provision regulating the obligatory refusal to grant a benefit should be modified. Currently, both the accommodation and food conditions must be life or health threatening for

the authority to be obliged to refuse to grant the benefit. It seems that these grounds should be separated (an alternative should be introduced), so that the body is obliged to refuse to grant the benefit as soon as the accommodation conditions endanger life or health or the food conditions endanger life or health.

8. Another suggestion for amending the applicable regulations in this regard is the need to adjust the amount of the benefit for providing accommodation and food to Ukrainian citizens. High inflation results in the fact it is increasingly difficult to provide accommodation and food to Ukrainian citizens for the amount of the benefit defined in March 2022, especially for legal persons or organizational units (e.g. hotels or motels). In the long run, this fact may discourage the provision of accommodation and food to Ukrainian citizens.

9. Looking at the conditions for granting the benefit, it would be worth clarifying the concepts of *accommodation* and *food*. Currently, there is no statutory definition of these terms, and their colloquial understanding is imprecise. In practice, this may raise problems on the part of the applicant and the authority granting the benefit, whether the accommodation and food have been provided, and thus whether the person in question is entitled to the benefit.

10. As illustrated with the statistics presented in Chapter 1, the current number of Ukrainian citizens crossing the Polish border has stabilized and fluctuates around 20,000 people a day. Therefore, the Polish legislator is gradually starting to withdraw from this exceptional benefit. Representatives of the Council of Ministers have already publicly emphasized that 120 days from the time of arrival for which the benefit is due, as a rule, should be sufficient for Ukrainian citizens to become independent in Poland although it is possible to extend the above-mentioned period in individual cases. The results of the survey conducted among Ukrainian citizens show that the number of refugees staying in collective accommodation (e.g. halls or schools) was below 10%. The more frequently indicated forms of free assistance in accommodation were places in hotels, hostels, shelters, etc. paid by the state or local governments (11%) and living with families in Poland (18%). To about 20% of refugees from Ukraine accommodation was provided by Ukrainian citizens already staying in Poland. Before the war, there were about 1.5 million economic immigrants from Ukraine on the territory of Poland. What is exceptional in terms of a refugee crisis, is the fact that about 1/3 of the refugees did not need help with accommodation, because they paid for rent themselves. On the other hand, about 10% of the refugees indicated a different type of accommodation not mentioned in the questionnaire (Chmielewska-Kalińskam Dudek, Strzelecki, 2022, page 20).

11. Due to hostilities dynamics, it cannot be ruled out that there will be a need for other changes in the foreword of the regulations in the future.

## References

1. The Act of 12 March 2022 on assistance to Ukrainian citizens in connection with the armed conflict in the territory of that country (Journal of Laws of 2022, item 583, as amended),
2. The Regulation of the Minister of the Interior and Administration of 16 March 2022 on the model application for a cash benefit for providing accommodation and food to Ukrainian citizens coming to the territory of the Republic of Poland in connection with hostilities (Journal of Laws of 2022, item 608, as amended),
3. <https://sjp.pwn.pl/szukaj/zakwaterowanie.html> (retrieved 28.09.2022),
4. The Regulation of the Council of Ministers of 4 May 2022 on the maximum amount of the cash benefit arising from the provision of accommodation and food to Ukrainian citizens and the conditions for granting this benefit and extending payment (Journal of Laws of 2022, item 1020, as amended),
5. The Act of 8 April 2022 amending the Act of 12 March 2022 on assistance to Ukrainian citizens in connection with the armed conflict in the territory of that country (Journal of Laws of 2022, item 830),
6. The Act of 8 June 2022 amending the Act of 12 March 2022 on assistance to Ukrainian citizens in connection with the armed conflict in the territory of that country (Journal of Laws of 2022, item 1383),

7. The Act of 14 June 1960 on Code of Administrative Procedure (consolidated text: Journal of Laws of 2021, item 735, as amended),
8. The Act of 17 June 1966 on enforcement proceedings in administration (consolidated text: Journal of Laws of 2022, item 479),
9. <https://data.unhcr.org/en/situations/ukraine> (retrieved 27.09.2022),
10. The Act of 17 November 1964 r. on Code of Civil Procedure (consolidated text: Journal of Laws of 2021, item 1805, as amended),
11. Chmielewska-Kalińskam I., Dudek, B., Strzelecki, P. (2022). *Sytuacja życiowa i ekonomiczna uchodźców z Ukrainy w Polsce. Raport z badania ankietowego zrealizowanego przez OO NBP*. Warsaw: Narodowy Bank Polski
12. The Act of 24 September 2010 on population records (consolidated text: Journal of Laws of 2022, item 1191),
13. Justification for the draft Act of 27 April 2022 amending the Act of 12 March 2022 on assistance to Ukrainian citizens in connection with the armed conflict in the territory of that country, form no. 2198, Sejm of the 9th term of office,
14. The Act of 12 March 2004 on social assistance (Journal of Laws of 2021, item 2268, as amended),
15. <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD> (retrieved 02.10.2022)
16. Główny Urząd Statystyczny, Wskaźniki cen towarów i usług konsumpcyjnych w lutym 2022 r., 2022, retrieved 2 october 2022,  
[https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/2/124/1/wskazniki\\_cen\\_towarow\\_i\\_uslug\\_konsumpcyjnych\\_w\\_lutym\\_2022\\_r.pdf](https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/2/124/1/wskazniki_cen_towarow_i_uslug_konsumpcyjnych_w_lutym_2022_r.pdf),
17. Główny Urząd Statystyczny, Wskaźniki cen towarów i usług konsumpcyjnych w marcu 2022 r., 2022, retrieved 2 october 2022,  
[https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/8/69/1/szybki\\_szacunek\\_wskaznika\\_cen\\_towarow\\_i\\_uslug\\_konsumpcyjnych\\_w\\_marcu\\_2022.pdf](https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/8/69/1/szybki_szacunek_wskaznika_cen_towarow_i_uslug_konsumpcyjnych_w_marcu_2022.pdf),
18. Główny Urząd Statystyczny, Wskaźniki cen towarów i usług konsumpcyjnych w kwietniu 2022 r., 2022, retrieved 2 october 2022,  
[https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/21/1/1/szybki\\_szacunek\\_wskaznika\\_cen\\_towarow\\_i\\_uslug\\_konsumpcyjnych\\_w\\_kwietniu\\_2022\\_r.pdf](https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/21/1/1/szybki_szacunek_wskaznika_cen_towarow_i_uslug_konsumpcyjnych_w_kwietniu_2022_r.pdf)
19. Główny Urząd Statystyczny, Wskaźniki cen towarów i usług konsumpcyjnych w maju 2022 r., 2022, retrieved 2 october 2022,  
[https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/21/2/1/szybki\\_szacunek\\_wskaznika\\_cen\\_towarow\\_i\\_uslug\\_konsumpcyjnych\\_w\\_maju\\_2022\\_r.pdf](https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/21/2/1/szybki_szacunek_wskaznika_cen_towarow_i_uslug_konsumpcyjnych_w_maju_2022_r.pdf)
20. Główny Urząd Statystyczny, Wskaźniki cen towarów i usług konsumpcyjnych w czerwcu 2022 r., 2022, retrieved 2 october 2022,  
[https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/8/70/1/szybki\\_szacunek\\_wskaznika\\_cen\\_towarow\\_i\\_uslug\\_konsumpcyjnych\\_w\\_czerwcu\\_2022\\_r.pdf](https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/8/70/1/szybki_szacunek_wskaznika_cen_towarow_i_uslug_konsumpcyjnych_w_czerwcu_2022_r.pdf)
21. Główny Urząd Statystyczny, Wskaźniki cen towarów i usług konsumpcyjnych w lipcu 2022 r., 2022, retrieved 2 october 2022,  
[https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/21/3/1/szybki\\_szacunek\\_wskaznika\\_cen\\_towarow\\_i\\_uslug\\_konsumpcyjnych\\_w\\_lipcu\\_2022\\_roku.pdf](https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/21/3/1/szybki_szacunek_wskaznika_cen_towarow_i_uslug_konsumpcyjnych_w_lipcu_2022_roku.pdf),
22. Główny Urząd Statystyczny, Wskaźniki cen towarów i usług konsumpcyjnych w sierpniu 2022 r., 2022, retrieved 2 october 2022,  
[https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/2/130/1/wskazniki\\_cen\\_towarow\\_i\\_uslug\\_konsumpcyjnych\\_w\\_sierpniu\\_2022\\_r.pdf](https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/2/130/1/wskazniki_cen_towarow_i_uslug_konsumpcyjnych_w_sierpniu_2022_r.pdf),
23. Główny Urząd Statystyczny, Szybki szacunek wskaźnika cen towarów i usług konsumpcyjnych we wrześniu 2022 r., 2022, retrieved 2 october 2022,  
[https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/21/5/1/szybki\\_szacunek\\_wskaznika\\_cen\\_towarow\\_i\\_uslug\\_konsumpcyjnych\\_we\\_wrzesniu\\_2022\\_r.pdf](https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5464/21/5/1/szybki_szacunek_wskaznika_cen_towarow_i_uslug_konsumpcyjnych_we_wrzesniu_2022_r.pdf)

**ASSISTANCE TO UKRAINIAN CITIZENS IN CONNECTION WITH THE RUSSIA-UKRAINE WAR IN THE EXAMPLE OF A BENEFIT FOR PROVIDING ACCOMMODATION AND FOOD UNDER POLISH LAW**

**Dr. Michał Soćko**

**Summary**

In connection with the Russia-Ukraine war, the Polish government has decided not only to accept all refugees from Ukraine. Currently, over 6 million Ukrainian citizens have come to Poland in connection with the war. About 1.5-1.6 million Ukrainian citizens remained in Poland, which is a big challenge for the Polish state. Due to this situation, the Polish government issued the Act of 12 March 2022 on assistance to Ukrainian citizens in connection with the armed conflict in the territory of that country. One of the solutions provided for in this law is the benefit for providing accommodation and food to Ukrainian citizens.

The article presents *ratio legis* and a legal analysis of the provisions of the on assistance to Ukrainian citizens in connection with the armed conflict in the territory of that country and other legal acts regulating benefit for providing accommodation and food to Ukrainian citizens. Understanding these regulations and applying them correctly is very important for the addressees of these provisions. The latest amendments to these matters will also be presented.

The main focus of this study is to try to assess whether the current regulations concerning the benefit for providing accommodation and food to Ukrainian citizens are sufficient or whether changes are required, in which case, of what particular type. Concerning the latter, an attempt will be made to formulate *de lege ferenda* postulates.

As the focus of this study are current legal solutions, the dogmatic and legal method, consisting in a juridical analysis of relevant legal provisions, has been selected as the basic method for conducting research. This method consists in clarifying the correct meaning of the rule of law encoded in the legal provisions under analysis using various methods of interpretation, in particular with the use of linguistic interpretation

Among other things, thanks to this solution, there is no problem of homelessness of Ukrainian citizens in Poland and it was not necessary to set up refugee camps. The introduction of provisions regulating the benefit for the provision of accommodation and food to Ukrainian citizens also made it possible to relieve public institutions, especially social welfare centres.

Currently, the provisions regarding the provision of accommodation and food to Ukrainian citizens are generally sufficient, although at certain points it seems that they could be clarified or modified. In particular, the concepts of *accommodation* and *food* should be clarified, the conditions for obligatory refusal to grant the benefit should be amended, and the amount of the benefit adjusted.

The Polish solutions in this area can also be utilized by other countries that have admitted Ukrainian citizens.

**Key words:** Russia-Ukraine war, benefit, providing accommodation and food