Legal Framework

Beyond 15 days, a TCN may be eligible for four general types of legal stay:

- PESEL Registration
- Temporary Protection
- Other forms of legal stay (i.e. work visa)
- International Protection (refugee status)

PESEL
- Only if they are the *spouse* of a Ukrainian citizen

Temporary Protection
- If they can prove they legally resided in Ukraine prior to 24 Feb and are unable to return to the country under safe conditions or region of origin, or
- Held international protection or equivalent national protection in Ukraine
Applications for International Protection

Between 24 Feb-18 April:

- **Ukraine**: 973 applications
- **TCN (total)**: 1,515
- **Top 5 Countries (besides Ukr)**
  - Belarus
  - Iraq
  - Russia
  - Afghanistan
  - Tajikistan
“Accessing International Protection”

- English
- Polish
- Ukrainian
- Russian
- French
- Dari
- Sorani Kurdish
- Arabic
Forms of Protection under Polish Law

- **International protection**: refugee status and subsidiary protection
- **Asylum**: a separate, national form of protection
- **Humanitarian or tolerated stay**: national form of legalization of stay in case there is no possibility of deportation/return
Eligibility

A person has a right to apply for international protection at any time if they:

- **Are on Polish territory** (including in detention) or at a Polish border
- Fear that they would be **persecuted in their country of origin**:
  - For reasons of race, religion, nationality, membership of a particular social group or political opinion, or
  - Would be at serious risk of death penalty and execution, torture, inhumane treatment, or a serious threat to life due to widespread violence or armed conflict.
- **A person can include other family members** (i.e. minor children, spouse) only if the relevant family member is physically present during the submission
Who Processes Claims?

In Poland, the **Government**, not UNHCR, is responsible for processing international protection claims and recognizing someone as a refugee.

- Applications for international protection must be filed through **Polish Border Guard**.
- The **Office for Foreigners (OFF)** is responsible for processing claims and making a decision.
Six Step Procedure

1. Clearly express intent to apply for international protection to a Border Guard Officer

   • When entering Poland at a border
   • Within a detention facility, reception center, or other official location
   • At any time from within Poland by visiting any Border Guard unit or outpost

For persons with disability, older persons, pregnant women, single parents, foster children, hospitalized or arrested: a written declaration can be submitted by post or e-mail
Six Step Procedure:

2. Border Guard registers an application (interview, photos, fingerprints, medical exam)

3. Border Guard submits the application to the Office for Foreigners

4. Office for Foreigners initiates a review and conducts an interview

5. Office for Foreigners issues a decision (within 6 months)

6. An applicant can appeal a decision
Important Considerations

• A person **cannot work for 6 months from date of submission**
  – Even if they were in Poland before applying
  – After 6 months: if there is no decision, they can apply for a work permit

• A court may decide to put an applicant in **detention**
Factsheet

Overview: Legal Frameworks and Procedures in Poland

The below represents simplified summaries of border processing and protection procedures.

Border Processing

In 2021, amendments to the E.U. COVID Regulation and the Act on Shading Protection to Foreigners (Law on Foreigners) restricted the categories of persons able to enter territory and access international protection.

International Protection Procedures

For those able to apply, the Polish legal regime recognizes and recognizes two forms of protection:

- International protection: refugees and subsidiary protection
- National protection: humanitarian or tolerated stay

Under a unified procedure, both international and national protection are considered. National protection may be recognized within the framework of a return procedure if there are grounds not to return an applicant to their home country.

A separate status, "asylum," arises from the Constitution and is only granted for State interest, under separate Office for Foreigners procedure upon application by mail.

Accessing International Protection

The European Union (E.U.) and the United Nations (U.N.) have established the European Protection Order (EPO) as the basis for international protection. National protection in Poland is equivalent to subsidiary protection.

Who Processes International Protection Claims?

Who can apply for international protection in Poland?

How to apply for international protection in Poland?

What documentation is needed?

What happens after I submit my application in Poland?

I am the spouse of the main applicant. What will the procedure look like for me?

Can I work while my application is pending?

Can I appeal a negative decision?

Other options for legal stay in Poland

Help.unhcr.org/poland

Detention Pamphlet

Important Information for You and Your Family

You are in an immigration detention facility in Poland

It is run by Polish Border Guards

You have already been through a lot, but your journey is not over yet.

This is a resource to help answer your immediate questions.

The information in this pamphlet is not legal advice, and it does not have everything you need to know.

There may be other resources that can better answer your questions.