

**SOCIAL WELFARE FOR REFUGEES IN POLAND
AS AN EXAMPLE OF THE IMPLEMENTATION
OF ARTICLE 23 OF THE CONVENTION RELATING
TO THE STATUS OF REFUGEES**

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The refugee phenomenon has been around for centuries. However, over the years, its scale and causes, the attitude of the international community to refugees and their legal status, as well as the ways in which refugees are helped have been changing. The development of the principles of protecting refugees after the Second World War in international law and the domestic law of states and their approaches to this phenomenon was a result of the intensification of international cooperation in human rights [1, p. 373].

According to Article 1 of the Convention Relating to the Status of Refugees, drawn up in Geneva on 28 July 1951, a refugee is a person who ‘(...) owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable (...) or unwilling to avail himself of the protection of that country (...) as a result’ [2]. This Convention is the key legal document on the protection of refugees adopted at the United Nations Conference in Geneva in 1951. The so-called New York Protocol of 1967 abolishing temporal and geographical restrictions on the award of refugee status was attached to the Convention [3]. Poland ratified this Convention and the New York Protocol in 1991.

It should be emphasized that Article 23 of the Convention Relating to the Status of Refugees lays down the right of refugees to social welfare [4]. In the light of the Convention, this right is an important element of the system of legal protection of refugees. This is because the objective of social welfare is to provide individuals with living conditions that do not breach human dignity, to integrate them into the host society, and to make them independent. Refugees are often deprived of their livelihoods and are therefore at risk of poverty and exclusion. Social welfare should therefore support refugees so that they can play a full role in society. This is an important task of social welfare, because the foundation of its concept is the person and his needs [5, p. 354].

Considerations on the matter of social welfare for refugees in the Polish legal order require the definition of a refugee adopted in the norms of national law. Under Polish law, the conditions for awarding, refusing to award and depriving a person of refugee status, as well as awarding, refusing to award and depriving a person of subsidiary protection are specified by the Act on the award of protection to foreigners in the Republic of Poland of 13 June 2003 (AoAPF) [6]. In accordance with Article 13, para. 1 AoAPF: 'Refugee status in the Republic of Poland is awarded to a foreigner who, as a result of a well-founded fear of persecution in his country of origin because of his race, religion, nationality, political convictions or membership of a particular social group, is unable or unwilling to avail himself of the protection of that country.' [7]. However, paragraph 2 states that 'Refugee status is also awarded to a minor child of a foreigner who has received refugee status in the Republic of Poland, who is born in this territory.' [8].

Under Polish law, the matter of the forms and extent of social welfare for refugees is regulated in the Act on Social Welfare of 12 March 2004 [9]. It should be pointed out that difficulties in the integration of foreigners in Poland who have received refugee status, subsidiary protection or a temporary residence permit granted in connection with the circumstance referred to in Article 159, para. 1, item 1(c) or (d) of the AoF are among the reasons for providing social welfare benefits [10]. It is also extremely important that the Act on Social Welfare contains Chapter 5 bearing the title of 'Integration of foreigners who have gained refugee status or subsidiary protection in the Republic of Poland,' in which the legislator decided that foreigners who are refugees can apply for social welfare intended to support the process of their integration. Social welfare is awarded to refugees for no more than 12 months. Its wording includes cash benefits of PLN 721 to PLN 1,450 per month per person, which should be allocated to, for instance, subsistence, in particular to cover the costs of food, clothing, footwear and housing. It also includes covering the costs of learning Polish or paying health insurance contributions, as specified in the regulations on healthcare benefits financed with public funds. Social welfare for refugees is provided within the framework of an individual integration programme and assumes the form of an agreement between the county family welfare centre and the foreigner. The forms and scope of welfare should be customized and should depend on the foreigner's and his family's situation [11].

Social welfare for refugees in Poland has been related to integration assistance, the elements of which depend on the applicant's and his family's situation [12, p. 202]. As mentioned, its content includes certain benefits that are intended to enable refugees to function in conditions reflecting human dignity and for them to gain independence. Meanwhile, as the Supreme Audit Office points out, the social welfare system for refugees that operates in Poland does not ensure that they become properly integrated into society, nor does it create conditions for them to take up an independent life [13, pp. 8–9 and 15]. The Polish

social welfare system is also currently facing the task of providing social welfare to Ukrainian citizens who have come to Poland as a result of Russia's military aggression against Ukraine. This group of Ukrainian citizens can benefit from social welfare on the same terms as Polish citizens. This arises from the provisions of the Act on aid to the citizens of Ukraine in connection with the armed conflict in that country of 12 March 2022 [14].

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4. See Article 23 of the Convention Relating to the Status of Refugees.
5. I. Sierpowska, Pomoc społeczna jako administracja świadcząca. Studium administracyjnoprawne. Warszawa. 2012.
6. The Act on the award of protection to foreigners in the Republic of Poland of 13 June 2003 (Journal of Laws of 2022, item 1264, as amended). See also: The Act on foreigners of 12 December 2013 (Journal of Laws of 2021, item 2354, as amended), hereinafter» 'AoF'. A foreigner, according to Article 3(2) AoF, is anyone who does not have Polish citizenship. On subsidiary protection for foreigners, see: T. Kołodziej, Ubieganie się o udzielenie ochrony międzynarodowej – aspekty praktyczne. LEX/el. 2022.
7. See Article 13(1) AoAPF.
8. See Article 13(2) AoAPF.
9. The Act on Social Welfare of 12 March 2004 (Journal of Laws of 2021, item 2268, as amended), hereinafter: 'SWA'.
10. See Article 7(11) SWA.
11. See Article 91 and 92 SWA.
12. K. Gołębiowska, Polityka integracji imigrantów w Polsce. Długofalowa strategia czy działania ad hoc?. Wydawnictwo Naukowe WNPiD UAM. 2022.
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ADMINISTRATIVE AND LEGAL MECHANISM FOR THE PROTECTION OF INDIVIDUAL RIGHTS IN THE CONDITIONS OF MARTIAL LAW IN UKRAINE

АДМІНІСТРАТИВНО-ПРАВОВИЙ МЕХАНІЗМ ЗАХИСТУ ПРАВ ОСОБИ В УМОВАХ ВОЄННОГО СТАНУ В УКРАЇНІ

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Як в Україні, так і у інших країнах світу ефективна реалізація адміністративно-правового механізму захисту прав людини та громадян є одним з найголовніших критеріїв, показником демократичності та правового розвитку. Категорія «безпека» – це базова потреба людини, дефіцит якої найбільше відчувається в умовах війни. Страх перед загрозами безпеці змушує людину шукати в суспільстві засоби захисту від загроз. 24 лютого 2022 року в Україні введено воєнний стан, причиною чому стала військова агресія російської федерації проти