

Protection and Shelter Sector Meeting on reception facilities

23 November 2023

Agenda

- 1. State of Play collective sites in Poland - IOM/Habitat**
- 2. Legal analysis on security of tenure and eviction - Halina Niec**
- 3. Emerging and identified protection risks related to closures and relocations - UNHCR**
- 4. Next steps- UNHCR**

1. Updates

- Relocations – meeting with Ministry of Interior, Anna Karpińska on 23rd October to discuss strategy towards CCs. On Sector side represented by Alicja, Paulina & Katarzyna Oyrzanowska UNHCR
- As a priority for 2024, the MOI would like to **focus on most vulnerable groups especially elderly, PwD and unaccompanied children.**
- As of end of August we have **1906 CCs managed by gov.** the number is still fluid but not too much.
- There is still **approx. 30% available places** overall.
- **533 CCs were closed** in the summer merging/decongestion process. The general idea behind this process was of economic origins, and to limit the number of centers with capacity over 300 people. This has been achieved, aside from Ossa Hotel that still has more than 500 inhabitants.
- The demography hasn't changed much, **43% are children.**
- As of end of August there was **52,000 people staying at CC.** This summer, MOI noticed influx of newcomers (first time) possibly connected with summer jobs.
- MOI mentioned that **Malopolska & Podlasie are locations with special focus** and need of support because more 10% of all refugees in these voivodships are staying at CCs.
- We are planning to organise a meeting combined with Protection Sector & MOI to discuss this report findings in details.
- Partners updates (key challenge – cross cutting issues)

Forms of accomodation



Refugees from Ukraine use different types of accomodation in Poland. For various reasons, some of them reside in collective centers, some in private apartments, and others avail themselves of hospitality of Polish hosts, without any written agreement whatsoever. Understanding the differences in types of accommodation is crucial for grasping the legal protection.

~~TYPES OF CONTRACTS:~~

Ukrainian refugees in Poland reside under the following arrangements:

- ◆ Lease agreement (NAJEM),
- ◆ Lending for use agreement (UŻYCZENIE),
- ◆ Hospitable provision of premises for use (Precarium).

Legal protection



Collective accommodation arrangements:

◆ A significant portion of refugees, opts against independently renting apartments due to the substantial financial burden of rent costs. Instead, they choose to reside in **collective accommodation centers**. These centers are organized by the Voivode based on the special law providing assistance to citizens of Ukraine from March 2022.

Collective accommodation is also frequently organized by foundations and associations. **Accommodation is typically free and usually occurs within the framework of the so-called "Program 40+."** This program involves reimbursing the costs of providing accommodation and meals for individuals arriving from Ukraine due to the conflict.

◆ Residing in collective accommodation centers generally takes place without a formal agreement, as part of humanitarian aid. Refugees, as a rule, do not enter into agreements in this regard.

Legal protection



Protection from eviction in winter:

- ◆ From November 1st to March 31st, bailiffs are **prohibited from carrying out evictions** unless the municipality or creditor has specified the residence to which the evicted person is to be relocated.



Legal protection

Lease agreement:

- ◆ Definition:

A lease agreement is a formal arrangement between a landlord and a tenant, regulating the use of a property in exchange for rent.

- ◆ Legal Protection:

Tenants are covered by the Tenancy Law, providing legal protection. The prohibition of eviction during the winter period is a significant aspect of this protection.

- ◆ Important!

If a person has signed a lease agreement, they should carefully review the agreement's conditions and know their rights. Protection against eviction is crucial, especially during the winter. **A lease agreement for a duration longer than one year should be concluded in writing. If the written form is not adhered to in the case of an agreement made for a period longer than one year, the agreement is considered to be concluded for an indefinite period.**

Legal protection



Occasional lease agreement:

- ◆ An occasional lease agreement is a particular form of residential lease, aimed at providing **additional protection for the interests of the apartment owner**. This is manifested by the **tenant attaching to the lease agreement a declaration in the form of a notarial deed voluntarily subjecting themselves to execution and committing to vacate and surrender the premises**. Additionally, the lease agreement includes an indication of another residence where the tenant can reside in the event of execution, as well as a statement from the owner of that other residence expressing readiness to accept the tenant.
- ◆ It should be noted that the fulfillment of requirements, such as **indicating another residence and providing a statement from its owner about accepting the tenant, has been waived for citizens of Ukraine** covered by the law on assistance to citizens of Ukraine in connection with the armed conflict in that country.
- ◆ Ukrainian citizens covered by the provisions of this law, when entering into an occasional lease agreement, are **only obligated to submit a declaration in the form of a notarial deed, in which they subject themselves to execution and commit to vacating and surrendering the premises used under the lease agreement**.
- ◆ Additional protection for the interests of the apartment owner in occasional leases is evident in the fact that, in the event of the tenant's non-compliance with the agreement's provisions or its termination, the apartment owner can **carry out the eviction of the tenant from the apartment without the need for a court proceeding**.

Legal protection



Lending for use agreement:

- ◆ Characteristics:

A loan for use agreement is the free provision of premises.

- ◆ Legal Protection:

The Ukrainian special law from 2022 **excluded Ukrainian refugees from statutory protection against eviction in winter period, meaning they do not have a winter eviction ban.**

- ◆ **HOWEVER** - there are certain legal safeguards.

Legal protection



Lending for use agreement:

- ◆ Important!

Refugees on a lending for use agreement must be aware of the lack of full protection. Article 68 of the law on assistance to citizens of Ukraine in connection with the armed conflict in that country states that, in the case of a loan for use agreement, the provisions of the law on tenant rights and the municipal housing stock do not apply. **This means that the bailiff can relocate such a tenant to a shelter, hostel, or other facility providing accommodation, as indicated at the request of the bailiff by the competent municipality due to the location of the premises subject to eviction. This also applies to regulations concerning the prohibition of eviction during the winter period.**

However, this exemption does not imply arbitrary eviction and does not allow landlords to throw tenants "out on the street." **According to Article 1046, paragraph 4, of the Civil Procedure Code**, if the evicted individual is not entitled to social housing, the bailiff, in principle, while fulfilling the obligation to vacate the premises, will relocate the evicted person to another residence or room for which the tenant has legal title and where they can reside. If the evicted individual does not have legal title to another residence or room where they can live, the bailiff will refrain from carrying out the action until the relevant municipality, based on the location of the premises subject to eviction and upon the bailiff's request, designates temporary accommodation for the tenant.

Legal protection



Precarium:

- ◆ Definition:

Precarium is the provision of premises without legal formalities, based on courtesy or humanitarian relations.

“Precarium,” a form of tenure of property that arose under Roman law (in Polish prekarium), is not regulated by statute in Poland, but the existence of this notion is confirmed in decisions by Polish courts and in legal commentaries. There is no single definition of precarium. According to the legal literature, property can be said to be held in precarium when in social dealings the owner wishes to provide a favour to another, guided by courtesy or humanitarian concerns

- ◆ Legal Protection:

There is no formal legal protection for the tenant in the case of precarium. The landlord can revoke access to the property at any time.

- ◆ Important!

If a person is using precarium, they should remember it's a short-term relationship and be aware that the landlord can end this form of accommodation at any time.

Legal protection



To recap:

- ◆ Ukrainian refugees in Poland can opt for various forms of accommodation, and their protection against eviction depends on the type of agreement in place.
- ◆ A lease agreement provides the highest level of protection, especially during the winter season.
- ◆ The lending for use agreement is not covered by protection against winter eviction under the Ukrainian special law of 2022, but some protection still can be invoked.
- ◆ Precarium, although common, lacks formal legal protection, no safeguards against eviction exist.

A clear understanding of these differences will enable refugees to better comprehend their legal situation and adhere to the applicable regulations.

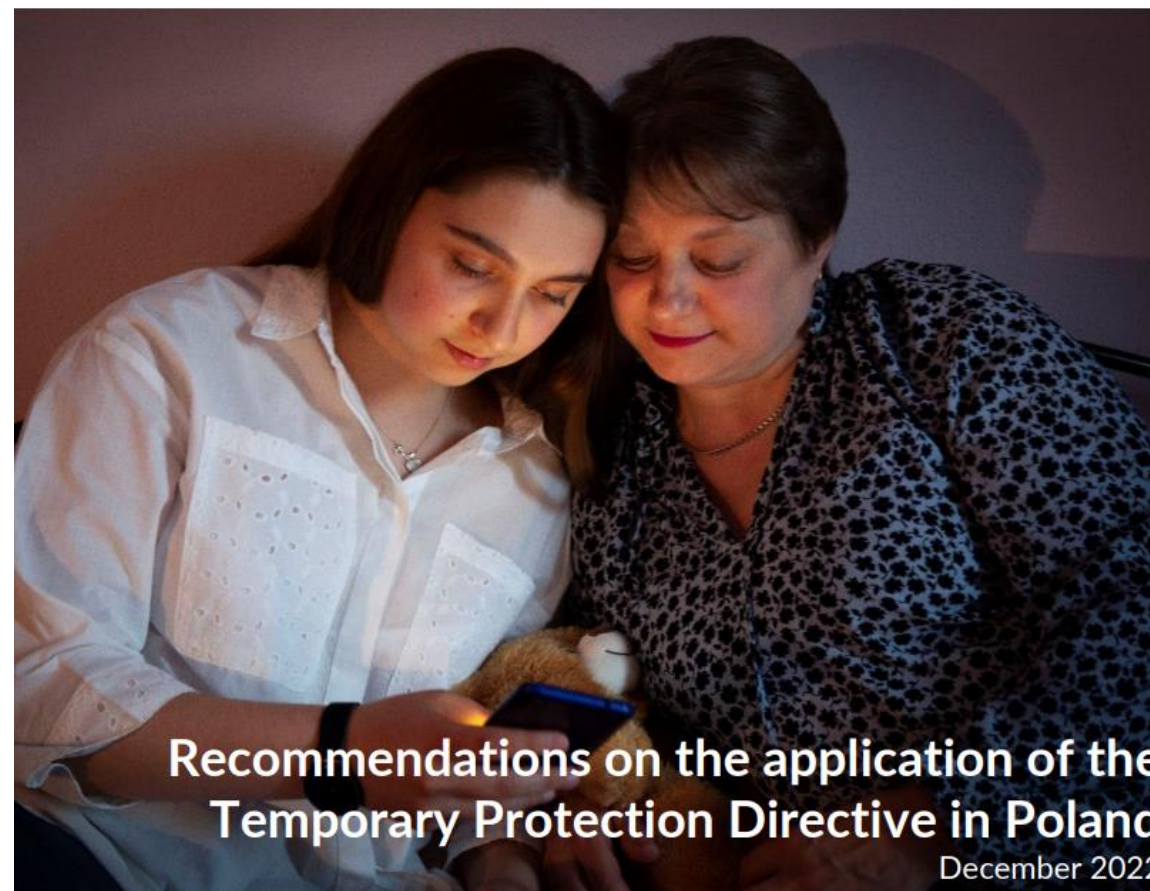
Protection Risks

- Dual pressure (financial contributions and closures/relocations) resulting in premature return decisions, onward movements
- MHPSS concerns ahead and during closures and relocations
- Lack of meaningful engagement with community and lack of information on rights and options
- Possible isolation and limited access to services as result of relocations
- Limited options available + lack of affordable housing in Poland
- Other emerging risks? Homelessness, family separation, immediate risks upon return



Next steps

- Mapping of available sites
- Advocacy
- Linkages with cash for rent
- Linkages with longer term social protection schemes
- Promote access to social housing
- Engagement with Crisis Management units- voivodship
- Enhance information provision and MHPSS support



Recommendations on the application of the
Temporary Protection Directive in Poland

December 2022