Case C-797/25 *

Summary of the request for a preliminary ruling pursuant to Article 98(1) of the Rules of Procedure of the Court of Justice

Date lodged:

8 December 2025

Referring court:

Wojewódzki Sąd Administracyjny we Wrocławiu (Poland)

Date of the decision to refer:

30 October 2025

Applicant:

O.T.

Defendant:

Wojewoda Dolnośląski

Subject matter of the main proceedings

Administrative proceedings before the court of first instance concerning an action against the inaction of an administrative authority with respect to the granting of a temporary residence and work permit to a Ukrainian national authorised to legally reside in Poland on the basis of temporary protection.

Question referred for a preliminary ruling

Must the Treaty principles of:

(a) proportionality (Article 52(1) read in conjunction with Article 51(1) of the Charter of Fundamental Rights of the European Union, OJ 2007 C 303, p. 1, read in conjunction with Article 6(1) of the Treaty on European Union, OJ 2016 C 202, p. 13);

* Language of the case: Polish.

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(b) sincere cooperation and effectiveness (Article 4(3) of the Treaty on European Union);

(c) the 'right to good administration', which includes, among others, the right to have a case examined within a reasonable time (regarded as a principle of the European Union – Article 41(1) read in conjunction with Article 51(1) of the Charter of Fundamental Rights of the European Union, Article 6(1) of the Treaty on European Union, and derived from the case-law of the Court of Justice of the European Union)

– be interpreted as precluding the possibility of temporarily suspending, under national law, the time limits set for conducting administrative proceedings and granting a temporary residence and work permit to a Ukrainian national authorised to legally reside in a Member State on the basis of temporary protection, in connection with Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection (OJ 2022 L 71, p. 1), and Article 3(2)(f) of Directive (EU) 2024/1233 of the European Parliament and of the Council of 24 April 2024 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (recast – OJ 2024 L 1233)?

Relevant legislation

Provisions of national law relied on

1 Ustawa z dnia 12 marca 2022 r. o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa (Law of 12 March 2022 on assistance to nationals of Ukraine in connection with the armed conflict in the territory of that State) ('the UoPOU'):

Article 100c. 1. Until 31 December 2022, the time limits for handling matters concerning the following:

(1) granting to a foreign national:

(a) a temporary residence permit;

(b) a permanent residence permit;

(c) an EU long-term residence permit;

(2) amending:

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(a) a temporary residence and work permit;

(b) a temporary residence permit for the purpose of highly qualified employment;

(3) revoking a foreign national's:

(a) temporary residence permit;

(b) permanent residence permit;

(c) EU long-term residence permit;

– in proceedings conducted by the wojewoda (provincial governor) may not commence, and any proceedings that have already commenced are to be suspended for that period.

2. Actions taken during the period referred to in paragraph 1 above in proceedings concerning the matters referred to in paragraph 1 above are effective.

3. During the period referred to in paragraph 1 above:

(1) the provisions on the inaction of an authority, and the obligation of the authority conducting the proceedings in the cases referred to in paragraph 1 above to notify a party to, or a participant in, the proceedings that the matter has not been handled within the time limit are to be disapplied;

(2) the authority conducting the proceedings in the cases referred to in paragraph 1 above is not to be fined or ordered to pay sums of money to the applicants for failing to adopt decisions within the time limits prescribed by law.

4. The cessation of actions by the authority conducting the proceedings in the cases referred to in paragraph 1 above, or a delay in the performance of those actions within the period referred to in paragraph 1 above, may not form the basis for remedies concerning inaction, protracted proceedings, or infringement of a party's right to have their case examined without undue delay.

Article 100d. *[This article essentially reproduces the content of Article 100c, the only difference being that it indicates a different period during which the time limits for handling the relevant matters do not commence or are suspended – in the current wording of that provision, until 4 March 2026].*

2 Ustawa z dnia 12 grudnia 2013 r. o cudzoziemcach (Law of 12 December 2013 on Foreign Nationals) ('the UoC'):

Article 3. For the purposes of this Law, the terms used shall have the following meanings:

[…]

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(2) foreign national – any person who does not hold Polish citizenship; […].

Article 112a. 1. A decision on the granting of a temporary residence permit to a foreign national is issued within 60 days.

[…]

4. Appeal proceedings concerning the granting of a temporary residence permit to a foreign national are to be completed within 90 days.

3 Ustawa z dnia 14 czerwca 1960 r. – Kodeks postępowania administracyjnego (Law of 14 June 1960 – Code of Administrative Procedure) (the 'KPA'):

Article 35. 1. Public administration bodies are obliged to handle matters without undue delay.

Article 37. 1. A party has the right to file a reminder if:

(1) the matter has not been handled within the time limit stipulated in Article 35 or in specific provisions, or within the time limit specified in accordance with Article 36(1) (inaction);

(2) the proceedings are conducted for longer than is necessary to resolve the matter (protracted proceedings).

2. A reminder includes a statement of reasons.

3. A reminder is filed:

(1) with a higher-level authority through the authority conducting the proceedings;

(2) with the authority conducting the proceedings – if there is no higher-level authority.

4 Ustawa z dnia 30 sierpnia 2002 r. – Prawo o postępowaniu przed sądami administracyjnymi (Law of 30 August 2002 on Proceedings before Administrative Courts) ('the PPSA')

Article 3. 2. Judicial review by administrative courts of the activities of public administration bodies includes adjudicating on actions concerning: […]

(8) inaction or protracted proceedings in the cases listed in points 1–4 [including the failure to issue an administrative decision] or protracted proceedings in the case stipulated in point 4a;

Article 53. 2b. An action against inaction or protracted proceedings may be brought at any time after a reminder has been filed with the competent authority.

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Article 149. 1. The court, when upholding an action against inaction or protracted proceedings in the cases listed in Article 3(2)(1)–(4), or against protracted proceedings in the cases stipulated in Article 3(2)(4a):

(1) obliges the authority to issue an act or interpretation or to perform an action within a specified time limit;

(2) obliges the authority to determine or recognise the right or obligation arising from the provisions of law;

(3) finds that the authority has been inactive or has protracted the proceedings.

1a. At the same time, the court determines whether the inaction of the authority or the protraction of the proceedings by the authority constitutes a flagrant breach of the law.

1b. In the case referred to in paragraphs 1(1) and (2) above, the court may also rule on the existence or non-existence of a right or obligation if the nature of the case so permits and the facts of the case are beyond reasonable doubt.

2. In the case referred to in paragraph 1 above, the court may also decide *ex officio* or at the request of a party to impose a fine on the authority in the amount stipulated in Article 154(6) [currently PLN 81 817.20] or award a sum of money from the authority to the applicant amounting to no more than half of the amount stipulated in Article 154(6) [currently PLN 40 908.60].

Provisions of European Union law relied on

Treaty on European Union ('TEU') – Article 4(3) and the first subparagraph of Article 6(1);

Treaty on the Functioning of the European Union ('TFEU'): Article 4(2)(j), and Articles 78 and 79;

Charter of Fundamental Rights of the European Union ('the Charter') – Article 41(1), Article 51(1) and Article 52(1);

Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof – Article 5(1), Articles 8, 12 and 17, Article 19(1) and Article 20;

Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents – Article 3(2)(b) and (d);

Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals

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for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (recast) – Article 2(2)(a);

Directive (EU) 2021/1883 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC – Article 3(2)(a);

Directive (EU) 2024/1233 of the European Parliament and of the Council of 24 April 2024 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (recast) – Article 3(2)(f) and (g) and Article 5(2);

Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection – recitals 7 and 16;

Council Implementing Decision (EU) 2025/1460 of 15 July 2025 extending temporary protection as introduced by Implementing Decision (EU) 2022/382 – recitals 9, 10 and 11;

Council Recommendation of 16 September 2025 on a coordinated approach to the transition out of temporary protection for displaced persons from Ukraine – recitals 3, 4, and 5.

Provisions of international law relied on

Convention for the Protection of Human Rights and Fundamental Freedoms ('the ECHR') – Articles 6 and 13.

Case-law relied on

National case-law

See point 44 et seq. below.

European Union case-law

Judgment of 16 December 1976, *Rewe-Zentralfinanz and Rewe-Zentral*, 33/76, EU:C:1976:188;

Judgment of 12 November 1996, *United Kingdom v. Council*, C-84/94, EU:C:1996:431;

Judgment of 12 June 2003, *Schmidberger*, C-112/00, EU:C:2003:333;

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Opinion of Advocate General Campos Sánchez-Bordona in *Framholm*, C-195/25, EU:C:2025:700.

Succinct presentation of the facts and procedure in the main proceedings

5 On 29 April 2024, O.T., a Ukrainian national, submitted an application to the Provincial Governor of the Dolnośląskie Province for a temporary residence and work permit in Poland. The applicant resides legally in Poland on the basis of temporary protection and has been assigned a personal identification number (PESEL) with UKR status.

6 By letter dated 29 January 2025, the applicant filed a reminder with the Szef Urzędu ds. Cudzoziemców (Head of the Office for Foreign Nationals), stating that the Provincial Governor of the Dolnośląskie Province was unduly delaying the proceedings in her case. On 19 May, the applicant, acting through an attorney, brought an action before the Wojewódzki Sąd Administracyjny (Regional Administrative Court) in Wrocław (the referring court) against the inaction of the Provincial Governor of the Dolnośląskie Province. By her action, the applicant sought: (a) a finding of inaction in flagrant breach of the law; (b) an obligation on the Provincial Governor of the Dolnośląskie Province to examine the application within 14 days; (c) the imposition of a fine on the Provincial Governor of the Dolnośląskie Province; (d) an award of PLN 10 000 from the Provincial Governor of the Dolnośląskie Province to the applicant as compensation for the infringement of her right to have her case examined within a reasonable time; and (e) an award of the costs of the proceedings.

Essential arguments of the parties in the main proceedings

7 In support of her action, the applicant stated that despite applying for a temporary residence and work permit on 29 April 2024 and subsequently filing a reminder, the case had not been resolved, which constituted an infringement of the party's right to have their case examined within a reasonable time.

8 In response to the action, the Provincial Governor of the Dolnośląskie Province requested that it be dismissed. In justifying his position, he pointed out that Article 100c(1) and Article 100d(1) of the UoPOU were applicable to the case; those articles provide for the suspension of time limits for handling matters concerning the granting of a temporary residence permit to a foreign national. The governor also clarified that the main factors contributing to the longer processing times of applications for legal residence submitted by foreign nationals were the huge increase in the number of applications for permits received in recent years and the difficulties in filling staff shortages at the [provincial governor's] office. Therefore, there were no grounds for a finding of inaction and the action should be dismissed.

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Succinct presentation of the reasoning in the request for a preliminary ruling

Justification for referring a preliminary question

9 The case concerns the inaction of an administrative authority with respect to issuing a decision on the granting of a temporary residence and work permit to a Ukrainian national in Poland.

10 The time limit for the authority to issue a decision on the granting of a temporary residence and work permit to a foreign national is essentially governed by Article 112a(1) of the UoC, according to which that time limit is 60 days.

11 If the above time limit is not met, the foreign national may file a reminder with the administrative authority and subsequently bring an action before an administrative court (Article 37 of the KPA, and Article 3(2)(8) and Article 53(2b) of the PPSA). In the action, the foreign national may request that the authority be obliged to resolve the matter within a specified time limit, that a fine of up to PLN 81 817.20 be imposed on the authority, and that the applicant be awarded a sum of up to PLN 40 908.60.

12 However, it follows from Articles 100c and 100d of the UoPOU that the national legislature has temporarily suspended the time limits for granting temporary residence permits to foreign nationals and, as a result, has made it impossible to invoke legal remedies for inaction, protracted proceedings, or infringement of the party's right to have their case examined without undue delay. The time limits were initially suspended until 31 December 2022, but this was subsequently extended several times and they are currently suspended until 4 March 2026.

13 Importantly, pursuant to Articles 1 and 2 of the UoPOU, the residence of Ukrainian nationals who arrived in Poland from Ukraine in connection with the hostilities that began in Ukraine on 24 February 2022 is considered legal.

14 Both the UoC and the UoPOU concern migration and asylum policy, which is a shared competence between the Union and the Member States under Article 4(2)(j) TFEU (area of freedom, security and justice). Therefore, the provisions of the UoC and UoPOU must comply with the requirements of EU law, including directives that are subject to implementation into Polish national law. Public administration bodies and courts must also take account of EU law when interpreting and applying the provisions of the UoC and UoPOU.

15 The UoC implements, among others, the provisions of Directive 2024/1233, Article 5(2) of which stipulates that 'the competent authority shall adopt a decision on the application for a single permit as soon as possible and in any event within 90 days of the date of submission of a complete application. The time limit referred to in the first subparagraph shall cover checking the labour market situation where such a check is carried out in connection with an individual application for a single permit. Where no decision is taken within the time limit

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provided for in this paragraph, any consequences shall be determined by national law'.

16 It is important to note, however, that pursuant to its Article 3(2)(f), Directive 2024/1233, which lays down the time limit for issuing a decision (up to 90 days), does not apply to third-country nationals who are authorised to reside in a Member State on the basis of temporary protection, or who have applied for authorisation to reside there on that basis and are awaiting a decision on their status.

17 The UoPOU, in turn, implements, among others, Directive 2001/55. That directive sets out the minimum conditions for the general provision by Member States of temporary protection to displaced persons arriving en masse who are unable to return safely and permanently to their country of origin on account of the conditions prevailing there. According to Article 5(1) of Directive 2001/55, the existence of a mass influx of displaced persons is established by a Council Decision, which in the case of Ukrainian nationals is Decision 2022/382. One of the effects of granting temporary protection to Ukrainian nationals is that they are allowed to reside and work legally in a Member State, as is clear from Articles 8 and 12 of Directive 2001/55. In such cases, legal residence and work do not require a permit to be obtained beforehand.

18 It follows from the above that the national legislature decided to suspend temporarily the time limits for granting a residence permit and the possibility of invoking a remedy against an administrative authority's delay in granting it, while at the same time implementing at the national level all the rights arising from the temporary protection granted to Ukrainian nationals under Decision 2022/382, which are identical to the rights arising from a residence permit.

19 In light of the above, an interpretation of EU law is required in so far as it guarantees the right of individuals to have their applications for legal residence examined within a reasonable time by the administration of a Member State applying EU law, taking into account the principles of proportionality, sincere cooperation and effectiveness, and the right to good administration.

Reasoning in the request for a preliminary ruling – general observations

20 The war that started with the invasion of Ukraine by the armed forces of the Russian Federation poses both a political and an organisational challenge for the institutions of the European Union and its Member States. That situation requires extraordinary measures to be taken, including the need to introduce restrictions on the exercise of certain rights.

21 It should be emphasised that it is precisely due to the extraordinary nature of the international situation (war) and the internal situation (mass immigration) that the EU decided to apply a solution of a general nature, namely to grant displaced persons from Ukraine temporary protection as provided for in Directive 2001/55, said protection being granted by way of Decision 2022/382. In essence, this means

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that migrants from Ukraine have acquired *ipso iure* the right to legally reside, work, conduct business, and access health care, education and social security in a Member State of the Union without having to apply for a decision granting international protection or a residence permit, which they would normally have to obtain.

22 Obviously, the regulations referred to here concern the instruments of asylum policy rather than migration policy, but there is nevertheless a close link between them as they concern the right of a foreign national to legally reside in a Member State of the Union. In principle, being granted residence on the basis of international protection, or applying for such protection, rules out the possibility of simultaneously applying for legal residence under migration policy. The existence of such a link is confirmed by the fact that when temporary protection is applied or international protection is sought, the application of directives concerning the right to residence of third-country nationals is consistently excluded [see Article 3(2)(f) and (g) of Directive 2024/1233; Article 3(2)(b) and (d) of Council Directive 2003/109; Article 3(2)(a) of Directive 2021/1883; and Article 2(2)(a) of Directive 2016/801].

23 Similar relationships are present in Polish law. Under Article 99(1)(4) and (5) of the UoC, proceedings related to the granting of a temporary residence permit to a foreign national are not initiated if, on the date the application for such a permit is submitted, the foreign national concerned resides in the territory of the Republic of Poland, inter alia, in connection with the granting of asylum, subsidiary protection or temporary protection, or has been granted refugee status in the Republic of Poland or is seeking international protection or asylum.

24 It appears that both the decision granting international protection and the decision authorising residence for foreign nationals are equivalent instruments that serve to regulate the legal status of Ukrainian nationals who have arrived in the territory of a Member State as a result of the war in Ukraine. If so, both procedures are equally exposed to potential overload in the event of mass immigration. Therefore, they should be subject to identical assessments as regards the possibility of introducing restrictions on the right to obtain a decision within a reasonable time.

25 According to official data, in 2024 Poland received 7 000 applications for international protection from Ukrainian nationals (compared to 1 800 in 2023 and 1 800 in 2022). As for applications from Ukrainian nationals for temporary residence permits, 252 545 were submitted in 2024 (compared to 295 978 in 2023 and 294 032 in 2022). Most Ukrainian nationals are in Poland on the basis of temporary protection. Currently, 993 000 people are registered on that basis. The cited figures therefore point to the continuing significant inflow of such applications, which particularly concerns the system for granting temporary residence permits.

Principle of proportionality

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26 The essence of the principle of proportionality arising from the Charter of Fundamental Rights is that the means employed by the legislature should be suitable for the purpose of achieving the desired objective and not go beyond what is necessary to achieve it (judgment in *United Kingdom v. Council*, C-84/94). Restrictions must in fact correspond to objectives of general interest and must not, taking account of the aim of the restrictions, constitute disproportionate and unacceptable interference, impairing the very substance of the rights guaranteed (judgment in *Schmidberger*, C-112/00).

27 In the present case, the purpose of the national legislation in question is to suspend the time limits for issuing residence permits and thus to make it impossible to challenge the inaction of the administrative authorities and protracted proceedings in such cases. That restriction was introduced in response to mass immigration.

28 At the same time, the restriction is compensated by granting Ukrainian nationals the right of residence on the basis of temporary protection. The restriction stipulated in Articles 100c and 100d of the UoPOU is temporary in nature and closely linked to (coordinated with) subsequent decisions of the Council to extend the period of temporary protection.

29 In addition to humanitarian objectives, temporary protection pursues administrative and organisational objectives, too. That is because by granting a general right of residence, the protection is intended to relieve the administrative systems of the Member States of the need to issue individual residence permits, or at least to eliminate the time pressure in that regard. Those objectives remain valid, as is clear from Council Implementing Decision 2025/1460 (recitals 9, 10, and 11) and the Council Recommendation of 16 September 2025 (recital 3). In that context, it appears that national provisions excluding, for the duration of temporary protection, the right of a foreign national to challenge the inaction of an authority and protracted proceedings in cases concerning the granting of a residence permit are consistent with the fundamental assumptions underlying the temporary protection scheme.

30 The above statement is confirmed by the opinion of the Advocate General in *Framholm*, C-195/25 (points 74–77), who notes that one of the objectives of Directive 2001/55 is to ensure that national asylum systems are not brought to a standstill. Directive 2001/55 thus forms part of the common system for examining applications for international protection, which already provides for the possibility of postponing the decision on such an application where ‘a large number of third-country nationals or stateless persons simultaneously apply for international protection, making it very difficult in practice to conclude the procedure within the six-month time limit’.

31 Therefore, because postponing the adoption of a decision cannot be ruled out in cases where a large number of third-country nationals apply for international protection at the same time, it is difficult to find any reasons why such a postponement could not be applied in the case of the administrative migration

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system. In the case of Poland, it is the administrative migration system that receives most applications submitted as a result of the mass immigration of Ukrainian nationals, and it is that system which is most overburdened.

32 It is worth repeating that the granting of temporary protection excludes the application of directives concerning the right to residence for the period during which third-country nationals benefit from such protection (see point 22 above). Therefore, the very fact that temporary protection is applied makes it difficult to invoke the provisions of the residence directives that set maximum time limits for the issuing of residence permits.

33 The referring court wishes to add that in the UoPOU, the national legislature decided to extend the period of legal residence for those Ukrainian nationals who had arrived in Poland prior to the outbreak of the war and who, at the time when hostilities began, already resided in Poland on the basis of visas and temporary permits previously granted to them (Article 42 of the UoPOU). The extension of the period of legal residence is valid throughout the period of temporary protection. Consequently, that category of persons also enjoys the right to legal residence granted *ex lege*.

Principles of sincere cooperation and effectiveness

34 From the point of view of the principles of sincere cooperation and effectiveness, the question remains as to whether the relevant provisions of Articles 100c and 100d of the UoPOU make it impossible or excessively difficult for Ukrainian nationals to exercise their rights under EU law (see the judgment in *Rewe-Zentralfinanz and Rewe-Zentral*, 33/76).

35 On the one hand, that question can be answered in the affirmative by pointing out that suspending the time limit for processing a residence permit application and making it impossible to challenge the authority's delay at least makes it difficult to obtain such a permit within a reasonable time (for instance, within the time limit stipulated in Article 5(2) of Directive 2024/1233).

36 On the other hand, it can also be argued that due to the special circumstances, those principles are not affected, as the provisions of the UoPOU guarantee Ukrainian nationals the right to legal residence on a general basis, that is to say, without the need to obtain a permit. Legal residence granted *ex lege* implements the provisions and decisions adopted at EU level (Decision 2022/382 read in conjunction with Directive 2001/55), and the aim of those regulations was to address the problem of mass migration in a general manner by granting temporary legal residence, taking into account the need to relieve the administrative systems of Member States by making it unnecessary to adopt individual decisions (see recital 16 of Decision 2022/382 and recital 10 of Decision 2025/1460).

37 Such relief can only be real and effective if Member States, at least for the duration of temporary protection, are not held responsible for any delays in the processing of applications for decisions determining the national legal status of

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foreign nationals. This must apply equally to applications for international protection (asylum policy) and applications for residence and work permits (migration policy), as in a situation of mass immigration both systems are equally prone to being overwhelmed given that their ultimate purpose is to grant legal residence. From that perspective, the provisions of Articles 100c and 100d of the UoPOU are a consequence of the systemic assumptions underlying temporary protection and do not appear to be contrary to the principles of sincere cooperation and effectiveness.

Right to good administration

38 The right of an individual to have their case examined promptly by an administrative authority serves to ensure the efficiency and effectiveness of asserting or protecting specific rights to which that individual is entitled. The case in question concerns a Ukrainian national's right to legally reside and work under the EU's migration policy (Article 79 TFEU).

39 The temporary suspension of the time limit for granting a residence and work permit to a foreign national and making it impossible to invoke remedies against delay undoubtedly limit the effectiveness of the EU's migration policy instruments. However, the negative assessment of the exclusion described above is not so obvious if we consider that the Ukrainian national's right to legally reside and work in the EU was previously granted to him or her under the EU's asylum policy (Article 78 TFEU) in connection with being granted temporary protection.

40 It should be emphasised that, pursuant to Article 19(1) of Directive 2001/55, Member States have the power to provide that temporary protection may not be enjoyed concurrently with the status of asylum seeker. In light of that provision, the right of a refugee who enjoys temporary protection to have a decision on asylum adopted within a reasonable time may therefore be suspended.

41 Attention should also be drawn to Article 17 of Directive 2001/55. Under that provision, persons enjoying temporary protection must be able to lodge an application for asylum at any time. The examination of any asylum application not processed before the end of the period of temporary protection is completed after the end of that period.

42 Moreover, under Article 20 of Directive 2001/55, it is only when the temporary protection ends that the general laws on protection and on foreign nationals in the Member States begin to apply. Thus, in light of the above provision, temporary protection is a legal institution which, due to its extraordinary nature, may justify the exclusion or restriction of general rights relating to the protection of foreign nationals.

43 It therefore appears that even at the level of detailed EU regulations, the need to take into account the impact of mass immigration of Ukrainian nationals on the timely processing of applications for permits is recognised.

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National case-law

44 In the case-law of Polish administrative courts, the interpretation and application of Articles 100c and 100d of the UoPOU is controversial with regard to: 1) the personal scope of application of those provisions; and 2) their applicability in light of general legal principles, in particular the principle of proportionality.

45 As regards the first issue, the view is expressed in the case-law that the provisions of Articles 100c and 100d of the UoPOU cannot be applied to foreign nationals who do not enjoy temporary protection and who cannot be granted legal residence *ex lege* (judgments of the Regional Administrative Court in Wrocław: of 14 March 2023, No II SAB/Wr 1411/22; of 18 April 2023, No III SAB/Wr 1241/22; and of 6 June 2023, No I SAB/Wr 1415/22; judgment of the Regional Administrative Court in Łódź of 18 April 2023, No III SAB/Łd 16/23; judgment of the Regional Administrative Court in Gdańsk of 13 October 2022, No III SAB/Gd 98/22; and judgment of the Regional Administrative Court in Gliwice of 12 April 2024, No II SAB/Gl 19/24).

46 There is also an opposing view that the regulation in question covers all foreign nationals, not only those whose residence in Poland is caused by the war in Ukraine (judgments of the Naczelny Sąd Administracyjny [Supreme Administrative Court] of 13 February 2024, No II OSK 2362/23, and of 27 June 2024, No II OSK 2608/23).

47 As regards the second issue, the view is expressed in the case-law that the provisions in question do not infringe the Konstytucja Rzeczypospolitej Polskiej (Constitution of the Republic of Poland) and EU law, including the Charter of Fundamental Rights, or Articles 6 and 13 of the European Convention on Human Rights (judgments of the Supreme Administrative Court of 23 October 2024, No II OSK 801/24, and of 30 October 2024, No II OSK 1303/24). At the same time, it is emphasised that the right to good administration and the right to a court (see Articles 41 and 47 of the Charter of Fundamental Rights) may be subject to restrictions due to the need to protect, inter alia, the public interest, which results from Article 52(1) of the Charter of Fundamental Rights (judgment of the Supreme Administrative Court of 23 October 2024, No II OSK 801/24). It is also noted that according to the government's explanatory memorandum for the amendment extending the application of Articles 100c and 100d of the UoPOU, the legislature's aim is to ensure a smooth transition to temporary residence for Ukrainian nationals currently enjoying temporary protection that will not additionally burden the government administration (judgment of the Supreme Administrative Court of 20 February 2025, No II OSK 1961/24).

48 However, there is also a view that generally rejects the application of Articles 100c and 100d of the UoPOU on the grounds that they violate the right to a court (judgment of the Regional Administrative Court in Poznań of 8 November 2023, No II SAB/Po 105/23). It has also been pointed out that the successive extensions by the national legislature of the application of Article 100d of the

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UoPOU are contrary to the requirements of the principle of proportionality. Thus, inaction or protracted proceedings in matters concerning the granting of residence and work permits should be assessed in light of the events that occurred after 1 July 2024, thereby disapplying Article 100d of the UoPOU (judgments of the Supreme Administrative Court: of 12 June 2025, No II OSK 3096/24; of 13 June 2025, No II OSK 2940/24; and of 5 August 2025, No II OSK 2719/24).

Final remarks and proposed answer

49 The referring court notes that the national legislature allows Ukrainian nationals who enjoy temporary protection to apply for a temporary residence permit. Those applications are accepted for consideration, but permits are usually issued after the expiry of the time limits arising from national law and after the expiry of the maximum time limits stipulated in the directives concerning the right to residence.

50 In the view of the referring court, that is due primarily to the massive scale of the immigration caused by the ongoing war in Ukraine, that is to say, to circumstances of an objective and extraordinary nature, which should be taken into account when interpreting EU and national law.

51 At the same time, it should be emphasised that the vast majority of administrative courts consider actions by foreign nationals against an authority's inaction or protracted proceedings in cases related to the granting of residence permits and examine the merits of each case, taking individual circumstances into account. The Supreme Administrative Court has consistently pointed out that an action against an authority's inaction or protracted proceedings in a case referred to in Article 100c(1) and Article 100d(1) of the UoPOU is not inadmissible within the meaning of the PPSA (judgments of the Supreme Administrative Court: of 13 February 2024, No II OSK 2362/23; of 25 September 2025, No II OSK 2646/24; and of 1 October 2025, No II OSK 2732/24).

52 Given the extraordinary nature of the situation caused by the war in Ukraine, as well as the overall legal framework described above, which was intended, inter alia, to prevent the administrative systems of the Member States from becoming overwhelmed, the referring court proposes that the question referred be answered as follows: the principles indicated in the question referred for a preliminary ruling do not preclude the temporary suspension of the relevant time limits in national law.

WORKING DOCUMENT