

AIDA Temporary Protection Compilation

The full-scale invasion of Ukraine which began on 24 February 2022 and the ensuing forced displacement led to a prompt reaction from the European Union: on 4 March 2022 with Implementing Decision 2022/382 the Council activated the 2001 Temporary Protection Directive (TPD) for the first time, establishing a temporary protection regime for those fleeing Ukraine.

This document is a compilation of the information on the implementation of the TPD and similar national temporary protection regimes. It collates analysis published in the Asylum Information Database (AIDA) managed by the European Council on Refugees and Exiles (ECRE).

All the EU Member States covered by the AIDA database have applied the TPD, specifically AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI. The United Kingdom, Switzerland and Serbia are also part of AIDA and have separately implemented similar national protection regimes which are analysed.

In activating the TPD, the EU's response to this displacement crisis facilitated access to international protection for those displaced by the fighting and alleviated the responsibilities of Member States. As established in the Council Implementing Decision, temporary protection applies to nationals of Ukraine and to selected third country nationals fleeing Ukraine from 24 February 2022 onwards; the people covered are granted immediate access to a protection status in the EU in the country where they choose to register. Temporary protection in EU countries lasts for a maximum of three years. Initially activated for one year in October 2022 the temporary protection regime was extended until March 2024. As of June 2023, extension up to 2025 has yet to be announced or approved.

To assist Member States in the national-level implementation of the TPD, the Commission has issued operational guidelines and 'Frequently Asked Questions' documents, as well as encouraging states to adopt flexible and wider regimes that go beyond the strict requirements of the Decision. Although the Directive was translated into Member States' national legal frameworks in the months and years following its adoption in 2001 – as is mandatory under EU law – it had not been put to the test until March 2022. Since then, a key priority has been monitoring the operationalisation of the TPD. Indeed, mapping implementation is crucial to ensure that the states' approach incorporates respect for fundamental rights and contributes to the longer-term inclusion in European societies of current TP holders. Monitoring also supports the identification of good practices and lessons learned which could be applied to strengthen asylum systems as a whole.

To this end, the AIDA reports on international protection systems in Europe in 2022 include a detailed annex on the respective country's implementation of the TPD or similar national protection scheme, covering both policy and legal developments. The annex describes the temporary protection procedure, including its scope, access to the procedure, and guarantees for vulnerable persons. It then covers the content of temporary protection, including rights to residence and status, family reunification, freedom of movement, housing, education, labour market access, social welfare, and healthcare.

One year into the implementation of the TPD, in a highly challenging context, there are many positive aspects to highlight: the EU's response was immediate and protection focused; there proved to be multiple advantages to offering automatic and immediate protection; EU institutions and agencies were proactive in offering support and encouraging harmonised practices across the EU, via operational guidelines, funding and on-the-ground assistance; generally, Member States' reactions ensured rapid access to a simple procedure thus allowing immediate access to protection and to a wide spectrum of substantive rights to most people fleeing. Almost 5 million people were granted protection thanks to this immediate response.

Nonetheless, monitoring implementation of the TPD has also revealed challenges and gaps. Even after one year of implementation, there are varying interpretations and thus divergent policies and practices on certain aspects of the TPD and the Council Implementing Decision. In addition, practical difficulties have arisen, linked inter alia to uneven distribution of TPD beneficiaries, entailing very different capacity and resources to be deployed by states. As the displacement continues, access to rights needs to be ensured in order to meet the longer term needs of TP holders. It therefore remains of key importance that EU institutions continue their efforts to ensure a collective response for those fleeing Ukraine.

The document reproduces the 2022 AIDA report annexes on temporary protection and similar statuses, published in spring 2023, as described above. It provides a detailed overview of legislative and practical developments in relation to the procedure for and content of temporary protection in 19 EU member states (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and similar regimes in 3 non-EU countries (Serbia, Switzerland, United Kingdom). The annexes on temporary protection were prepared by the national experts for each of the AIDA country reports on international protection.

The TPD annexes complement the respective 2022 updates of the AIDA country reports. The compilation should be read in conjunction with the full country reports and with other analysis of the TPD, including ECRE Information Sheet and policy documents. For further information please see the AIDA website, www.asylumineurope.org.

The TPD annexes will be updated alongside the country reports in the 2023 updates, with the objective of monitoring implementation of the temporary protection framework, and mapping national level approaches to transitioning out of the TPD regime.

The Asylum Information Database (AIDA) is managed by the European Council on Refugees and Exiles (ECRE). It provides up-to-date information on asylum in Europe, which is open-source and thus accessible to researchers, advocates, legal practitioners, and the general public on the dedicated website www.asylumineurope.org. AIDA covers 23 countries, including 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and 4 non-EU countries (Serbia, Switzerland, Türkiye, and the United Kingdom). The database also promotes the transposition and implementation of EU asylum law in a way that reflects the highest standards of protection as set out in international human rights law and established in best practice.

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Austria



Temporary Protection Procedure

A. General

Due to the illegal war of aggression by the Russian Federation on Ukraine on February 24, 2022, and the resulting refugee movements, the Temporary Protection Directive¹ (TPD) was activated by implementing decision (EU) 2022/382 at the EU level.²

At the national level, further implementation takes place within the framework of the provisional right of residence for displaced persons according to Section 62 AsylG³ and the Displaced Persons Ordinance (*Vertriebenenverordnung*).⁴ The target group of the ordinance, adopted in March 2022, consists primarily of Ukrainian citizens residing in Ukraine before 24 February 2022, beneficiaries of international protection recognised in Ukraine and family members of these two groups.

The Displaced Persons Ordinance also references the reasons for exclusion set out in Article 28 of the Temporary Protection Directive, which are the same as under the 1951 Convention and §§ 6-7 AsylG.

Title (EN)	Original Title (DE)	Abbreviation	Web Link
Federal Act concerning the Granting of Asylum	Bundesgesetz über die Gewährung von Asyl StF: BGBl. I Nr. 100/2005	Asylum Act (AsylG)	http://bit.ly/1jULWW6 (DE)
Ordinance of the Federal Government on temporary protection for displaced persons from Ukraine	Verordnung der Bundesregierung über ein vorübergehendes Aufenthaltsrecht für aus der Ukraine Vertriebene (Vertriebenen-Verordnung – VertriebenenVO) StF: BGBl. Nr. 92/2022	Displaced Persons Ordinance	https://bit.ly/3WWBTCT (DE)

The right of residence for displaced persons arises ex lege (and expires ex lege) without a decision to be. The persons concerned receive an ID card for displaced persons for documentation purposes. The Bundesamt for Fremdenwesen und Asyl (BFA) is responsible for the procedure and the issuing of ID cards. The first registration is carried out by the organs of the public security service or the Provincial Police Directorates (LPD).

There are no official statistics on the number of people displaced, directly or indirectly, by the conflict, that are present in Austria but beyond the scope of TPD, however that is not to say there are none. As the scope of the Austrian implementation of the TPD is very restrictive and focuses mainly on Ukrainian nationals, there were several reports in March 2022 about third country nationals (TCNs) fleeing from Ukraine to Austria.

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 [2001] OJ L 212/12, available at: <http://bit.ly/409uJhu>.

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, OJ L 71/1, available at: <http://bit.ly/3EHe8lw>.

³ Bundesgesetz über die Gewährung von Asyl StF: BGBl. I Nr. 100/2005, available in German at: <http://bit.ly/1jULWW6>.

⁴ Verordnung der Bundesregierung über ein vorübergehendes Aufenthaltsrecht für aus der Ukraine Vertriebene (Vertriebenen-Verordnung – VertriebenenVO), 11 March 2022, available in German at: <https://bit.ly/3JQBKMV>.

TCNs with a residence permit in Ukraine are allowed to enter Austria for the purpose of organising their onward travel or to legalise their stay in Austria. This concerned mainly students from African and Asian countries who were studying in Ukraine before 24 February 2022. In some cases, the students tried to apply for a status. A Tunisian student was searched and imprisoned by police in Linz. The police argued that the student had asked about possibilities to legalise his stay in Austria and thus showed that he was not willing to travel onward. The Ministry of Interior announced that TCNs who do not show the will to travel onwards to their home countries are viewed to be illegally in the country.⁵

As of 24 March 2023, 464,000 Ukrainian nationals have entered Austria since 24 February 2022. 384,900 have since left Austria again. According to unpublished information by the office of the Refugee coordinator, Andreas Achraimer, around 95,000 persons (63,500 female, 31,500 male) have been registered and between March and 31 December 2022, 89,302 ID cards were issued to displaced persons from Ukraine.

As of 31 December 2022, 91,232 persons were registered as displaced persons from Ukraine, of which 89,770 were Ukrainian nationals. In the Central Register of Residents, 68,124 Ukrainian nationals were registered of which 55,339 received support via Basic care.

As of March 2023, 69,319 Ukrainian nationals have been registered in Central Register of residents in Austria. The difference between the numbers of Ukrainian nationals registered in the Central Register of residents and the number of ID cards issued has many reasons: Some ID cards were issued to non-Ukrainian nationals (eg married partners), some were on short term visits to Ukraine at the time and some moved back or to other countries for indefinite time without de-registering. After the process of sending out the new ID cards at the start of 2023, it is to be expected that the number of ID cards issued will be closer to the number of persons registered in the Central Register of residents. As of March 2023 53,223 Ukrainian nations receive Basic care.

In 2022, 628 Ukrainian nationals applied for asylum in Austria (as opposed to 91 in 2021).

Beneficiaries of temporary protection in Austria have almost exclusively Ukrainian citizenship:

Citizenship of beneficiaries of temporary protection in Austria as of 31 December 2022			
Citizenship	Total	Male	Female
Ukraine	88,790	28,456	60,334
Russian Federation	276	114	162
Armenia	98	46	52
Moldova	63	35	28
Georgia	63	50	13
Accumulated top 5	89,290	28,701	60,589
Rest	640	451	189
Total	89,930	29,152	60,778

Source: Ministry of Interior, Detailstatistik – Kennzahlen BFA, Annual report 2022, available in German at: <https://bit.ly/3Ap2RKu>.

⁵ "Flucht aus Ukraine: Tunesischer Student festgenommen", www.orf.at, 21 March 2022, available in German at: <https://bit.ly/40kUStc>.

B. Qualification for temporary protection

The target group essentially includes (§§ 1-2 of the Displaced Persons Ordinance):

- ❖ Ukrainian nationals residing in Ukraine before 24 February 2022 (§ 1 Z 1 Displaced Persons Ordinance);
- ❖ Non-Ukrainian third-country nationals with international protection or equivalent national protection in Ukraine who had to leave Ukraine on or after February 24th, 2022 (§ 1 Z 2 displaced persons regulation). This applies to people with refugee status (asylum) or complementary protection (equivalent to subsidiary protection) in Ukraine, as well as recognised stateless persons;
- ❖ Family members of the two categories mentioned above (including non-Ukrainian nationals, §§ 1 Z 3 in conjunction with 2 Expellees Ordinance). Family members are defined in § 2 Displaced Persons Ordinance as including spouses, registered partners, minor unmarried children of the eligible person and / or that of their spouse or registered partner, other close relatives if they lived in the same household in Ukraine and were substantially or fully dependent on them. These family links must have existed prior to 24 February 2022.

Austria further extended protection to two categories of Ukrainians (§ 3 Displaced Persons Ordinance) who had left Ukraine prior to 24 February 2022 and were lawfully present in Austria on that date:

- ❖ Ukrainian nationals with a residence permit in Austria as of 24 February 2022, if it is not renewed, since these individuals cannot return to Ukraine;
- ❖ Ukrainian nationals lawfully residing in Ukraine as of 24 February 2022 that were in Austria either under a visa exemption on 24 February 2022 (holders of biometric passports) or under a visa for Austria. They are only eligible after the visa expired.

Reasons for exclusion are similar to the reasons for exclusion of the 1951 Convention and § 6 Abs 1 Z 2 and Z 4 AsylG, replicating article 28(1) TPD). The exclusions apply to all of the target groups listed.

Regarding persons who left Ukraine prior to 24 February 2022, Ukrainian nationals lawfully present in Austria on 24 February 2022 are eligible to register as displaced persons under the TPD.

There are several court cases pending regarding the question of whether Ukrainian nationals that entered Austria after 24 February 2022 but had left Ukraine before 24 February 2022 are eligible for temporary protection. In one case, the BVwG annulled the negative decision of the first instance authority.⁶ The Constitutional Court announced that it will examine some of these cases in the first half of 2023.⁷ In a ground-breaking case with a decision from 15 March 2023, the Constitutional Court found the practice of the Austrian authorities and BVwG to exclude Ukrainians that were not present in Ukraine on 24 February from temporary protection in Austria as unlawful. In this case, a Ukrainian national who has been on vacation to Georgia on the day of the invasion and could not return to Ukraine as planned registered for TP in Austria but was denied a temporary protection status. This decision was arbitrary and thus found unlawful as the Displaced persons ordinance in accordance with the TPD speaks of “residence” in Ukraine and not about “being physically present” in Ukraine on 24 February 2022.⁸

The scope of the TPD in Austria is restricted compared to the Council Decision (for further details and information regarding legal action taken in these matters, see Legal assistance). Notably, Austria chose not to offer temporary or other adequate protection for TCNs covered by the Council Decision (article 2(2) and 2(3)). TCNs are allowed to enter the country but are not eligible for temporary protection unless they were BIPs in Ukraine. Stateless persons are only eligible if they have already received some sort

⁶ “BVwG: Wer gilt als „vertrieben“ im Sinne der VertriebenenVO?”, BVwG 18.11.2022, [W196 2262218-1/3E](https://bit.ly/3JPNwXO) und BVwG 07.12.2022, [W189 2259726-1/4E](https://bit.ly/3JPNwXO), available in German at: <https://bit.ly/3JPNwXO>.

⁷ VfGH, „Vorschau auf das Programm des VfGH im ersten Halbjahr 2023“, available in German at: <https://bit.ly/42CqUCJ>.

⁸ VfGH, E3249/2022-12, 15 March 2023, available in German at: <https://bit.ly/3ZVrJ6M>.

of protection status in Ukraine. All other TCNs are thus dependent on the regular asylum system.⁹ This is also the case for family members of Ukrainian nationals covered by TP who are themselves TCNs. All TCNs that do not fall under the TPD regime have access to the regular asylum system. Applications for titles of stay according to the Residency Law (NAG) generally cannot be submitted in Austria but must be submitted before an Austrian embassy. After the start of the Russian invasion in Ukraine, the embassies in Bratislava, Ljubljana and Munich were empowered by the Ministry of External Affairs to receive applications based on the Residency Law (NAG).

§ 4 of the Displaced persons Ordinance foresees that temporary protection is granted until 3 March 2023 and will be prolonged automatically by half a year or a year in case the TPD is not withdrawn by a Council decision. The Ordinance was amended by the government on 30 January 2023 stating that the temporary stay will be prolonged until 4 March 2024.¹⁰ An application for renewal was not necessary: ID cards for the beneficiaries were already issued and sent out them.

C. Access to temporary protection and registration

1. Admission to territory

Before the activation of the TPD at the EU level and clarification as to on what grounds persons fleeing from Ukraine could enter the country, there were some reports of NGOs such as Mission Lifeline from 1 March 2022 that the Austrian police refused the entry to TCNs fleeing Ukraine that did not apply for asylum.¹¹ The Ministry of Interior clarified that TCNs fleeing from Ukraine are allowed to enter the country based on Art. 5(c) of the Schengen Border Code for the purpose of planning their onward travel or regularisation of stay in Austria.¹² After March 2022, there were no reports of refusal of entry of TCNs or Ukrainian nationals.

There is no known evidence of difficulties experienced by people who have returned to Ukraine and are seeking to re-enter the country.

2. Freedom of movement

The Austrian police issued an internal decree on 27 February 2022 enabling Ukrainian nationals without biometric passports to enter the country.¹³ There are no reports about Ukrainians having problems with moving onwards to other countries.

3. Registration under temporary protection

The right of residence arises *ex lege* on the basis of the Displaced persons Ordinance (Vertriebenenverordnung). The Displaced Persons Ordinance entered into force on 12 March 2022. The protection status was initially granted until 3 March 2023 with the provision that it will be prolonged for another year if the Council will not withdraw the activation of the TPD.

⁹ Verordnung der Bundesregierung über ein vorübergehendes Aufenthaltsrecht für aus der Ukraine Vertriebene (Vertriebenen-Verordnung – VertriebenenVO), available in German at: <https://bit.ly/3JQBKMV>.
¹⁰ Bundesgesetzblatt II 27/2023, 30 January 2023, available in German at: <https://bit.ly/41b6yyF>.

¹¹ „Einreise für Nichtukrainer schwieriger“, www.orf.at, 1 March 2022, available in German at: <https://bit.ly/3LV4iHl>.

¹² Ministry of Interior, Internal decree, GZ 2022-0.183.851, 10 March 2022, unpublished but cited in the judgement by the Federal Administrative Court, L518 2254117-1/20 E, 23 January 2023, available in German at: <https://bit.ly/3UPM2ls>.

¹³ Ministry of Interior, Internal decree, GZ 2022-0.183.851, 10 March 2022, unpublished but cited in the judgement by the Federal Administrative Court, L518 2254117-1/20 E, 23 January 2023, available in German at: <https://bit.ly/3UPM2ls>.

The ID card for displaced persons is to be issued ex officio by the BFA to persons who fall within the scope of the Displaced Persons Ordinance. There is no formal application: An initial registration is carried out by the police and the registration papers are forwarded to the BFA. Displaced persons from Ukraine can register for displaced person status with the police at the arrival centres located in 7 out of 9 provinces. The police register the personal data – usually this information is taken from the person's Ukrainian passport – and arrange for registration with the health insurance agency as well as the registration in the central basic care information system (GVS BIS) if the wish to do so is expressed. There is no further interview. If the conditions for the status are fulfilled, the ID card for displaced persons is issued and sent to the persons concerned (see Residence permit).

In the registration process, existing biometric passports with a chip are read out and the signature is recorded on the data entry form. These data points – including the photo stored on the passport – are sent to the BFA. This data can then be used for the print order to the State Printing Office which is responsible for the production of the ID card. Under these circumstances, it is not required that the stranger submit a passport photo to the BFA.

If a person expresses the intention to receive displaced person status at the border, they are referred to one of the 28 regional police registration centres.¹⁴ Upon registration, the person will receive an ID card. If the person wishes to get Basic Care, the person has to register with the responsible Social Care unit of the respective provinces. In the first months, in every province there was a central first reception centre designed for Ukrainians where they could register for the ID card, social security, basic care and allocation of accommodation. Some provinces have since closed these centres due to small number of new people arriving from Ukraine.

There is no specific time limit for persons to apply for status, although the stay of Ukrainian nationals in Austria is only legal the first 90 days, if they have a biometric passport.

Generally, the persons are advised to bring all sorts of identity documents to the registration. A passport is usually sufficient. If no evidence is available further examinations such as interviews have to take place.

The standard proof for residency in Ukraine before 24 February 2022 is the passport stamp upon leaving the country. In case of biometric passports, it is assumed that the persons left Ukraine after 24 February. If there is no passport or no stamped passport, other proofs can be submitted. In case of doubts, a examination proceeding by the authority is started and the person is invited to an interview. Temporary protection for family members is only relevant if the person does not fulfil the conditions of being eligible for TP themselves. Generally a birth certificate or any other proofs can be submitted. If this is not sufficient from the perspective of the authority the person concerned or the relevant family member is invited for an interview at the authority. In practice, this topic is not of relevance as TCNs are not allowed to access TP.

After providing all the necessary documents, applicants are directly provided with an identity card for displaced persons as a residence permit. There is no intermediary document while a person waits for the ID card.

Initially, displaced persons from Ukraine encountered lengthy procedures of issuing the documents. This was mainly a consequence of the high number of arrivals and the lack of established work flows and crisis management. The lack of technical equipment such as fingerprint scanners and the distribution of these throughout the country led to a backlog of cases in the first couple of weeks. As the

¹⁴ FAQ Ukraine, BBU GmbH, available in German, English and Ukrainian at: <https://bit.ly/3zb8jQM>.

registration was the precondition for the persons to enter the basic care system many displaced persons were dependent on the support of civil society organisations that provided shelter and food.¹⁵

As there is no formal procedure and written decision, there is no appeal and no right to get free legal assistance foreseen. In order to get a written decision, persons have to bring in an application for a declaratory decision before the first instance authority¹⁶ which can be appealed in case of rejection.¹⁷

4. Legal assistance

There is no written decision and therefore no access to free legal assistance foreseen. If the ID card is not issued, the beneficiary of the temporary protection has to apply for a declaratory decision. As soon as the decision is issued, it can be appealed. However, there is no free legal assistance funded by the state for this procedure.

A network of NGOs (**Diakonie** and **Caritas**) offers free legal counselling and representation in these cases.¹⁸ The goal of the counselling project is the equal legal treatment of all people who have fled from Ukraine as some points of the Displaced persons Ordinance were identified to be unlawful, especially with regard to the exclusion of some groups. By means of strategic litigation, selected cases should be brought in front of the Austrian Constitutional Court and the European Court of Justice. In the focus of the project is the exclusion of certain groups and the fact that decisions are not issued in written form and therefore cannot be challenged in court.

According to the NGOs, the main points of strategic litigations are:

- ❖ Legal protection: The Displaced Persons Ordinance does not provide any legal protection mechanism in the sense of a judicial review in the event that the status of displaced person is not granted. It is questionable whether the rule is in conformity with Art. 47 CFR as an effective remedy is not provided. Thus in selected cases will be challenged whether national implementation is adequate as the TPD foresees the establishment of a legal remedy.
- ❖ Deadline cases: The Displaced Persons Ordinance foresees in general that only persons who have left Ukrainian territory after 24 February are eligible for the temporary protection status. However, there is no objective justification for the unequal treatment of Ukrainians who, for example, left the country a few days before or a few days after 24 February 2022. In addition to equality law considerations, considerations regarding the meaning of the word “expelled” are also at the centre of the argumentation when it comes to the topic of the “deadline” after which the persons must have left Ukraine. Section 1 (1) of the Ordinance on Displaced Persons provides for a status for persons who have been “displaced” from February 24, 2022. “Expulsion” from the home country is not to be equated with “physical abandonment”.¹⁹ In a ground-breaking case, in March 2023 the Constitutional Court issued a decision, that was declared arbitrary and thus found unlawful, declaring that the exclusion of Ukrainian nationals from TPD on the basis that the person was not physically present in Ukraine on 24 February 2022 when the person had its residency in Ukraine.²⁰

¹⁵ „Ist da jemand? Staat lässt Flüchtlingshelfer in Stich“, profil, 9 May 2022, available in German at: <https://bit.ly/3KJj3ft>.

¹⁶ Art 56 AVG, VfGH, E 1994/10/25 92/07/0102, 25 April 1996, available in German at: <https://bit.ly/3UTBJwG>.

¹⁷ Art 63 AVG.

¹⁸ Diakonie Flüchtlingsdienst, Rechtsberatung für Vertriebene aus der Ukraine, available in German and Ukrainian at: <https://bit.ly/42NDzmg>.

¹⁹ Verordnung der Bundesregierung über ein vorübergehendes Aufenthaltsrecht für aus der Ukraine Vertriebene (Vertriebenen-Verordnung – VertriebenenVO), 11 March 2022, available in German at: <https://bit.ly/3JQBKMY>.

²⁰ VfGH, E3249/2022-12, 15 March 2023, available in German at: <https://bit.ly/3ZVrJ6M>.

- ❖ Partners instead of spouses: The Ordinance on Displaced Persons only foresees the provision of temporary protection status for “registered partnerships”, although this legal concept is unknown in the Ukrainian legal system and is therefore irrelevant in practice. Art 15 para 1 (a) of the TPD mentions “unmarried partners who have a permanent relationship with the reference person” if they “are treated similarly to married couples in accordance with the legislation or the customs of the respective Member State”. This provision was taken up in Article 2, paragraph 4, letter a of the Council decision, whereby there was a linguistic change in the German language version: “treated in a similar way” became “equal”. This is obviously an editorial mistake under Union law, a translation error, since the English, French and Italian language versions, for example, continue to speak of “comparable” treatment instead of “equal treatment”.²¹ As a consequence, TCN unmarried partners are currently not afforded TP in the Austrian implementation of the TPD.
- ❖ Third-country nationals with permanent residence in Ukraine: Article 2 (2) of the Council Decision stipulates that the Member States must afford either temporary protection or an equivalent protection status in accordance with their national law to third-country nationals with non-Ukrainian citizenship who were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit and who cannot return to their country of origin under safe and permanent conditions. In the national implementation, these third-country nationals who are entitled to permanent residence are excluded from the status of displaced persons, in practice the BFA refers them to the asylum procedure. However, this does not represent an “equivalent protection status” since the impossibility of returning under “safe and permanent conditions” is a sui generis concept below the threshold of Art. 3 ECHR relevant in the asylum procedure.²²

In general, NGOs like Diakonie Flüchtlingsdienst and Caritas Wien offer free legal counselling to displaced persons from Ukraine. There is no funding for legal counselling by the state.

In practice, there is no free legal assistance provided to displaced persons from Ukraine. NGOs assisting displaced persons are only operating in the major cities. The legal counselling unit of the BBU GmbH that assists asylum seekers in the regular asylum procedure are not available for displaced persons from Ukraine as their scope of work is limited by law. At the borders, there are no NGOs present.

5. Information provision and access to NGOs

There is no specific provision in law on mandatory provision of information for beneficiaries of temporary protection.

The BBU GmbH, BFA and Ministry of Interior offer information on entry into the territory, documentation, protection plans, and administrative procedures through specially designated webpages²³ in multiple languages, primarily Ukrainian, Russian, English, and German. The office of the Refugee coordinator, Andreas Achrainer, who is also CEO of BBU GmbH, also works together with administrators of Ukrainian telegram groups in Austria.

²¹ Rechtsberatung für Vertriebene aus der Ukraine, available in German and English: <https://bit.ly/417PhGG>.
²² Rechtsberatung für Vertriebene aus der Ukraine, available in German and English: <https://bit.ly/417PhGG> [7 April 2023]

²³ BBU GmbH, Informationen für Schutzsuchende, available in German, English, Ukrainian and Russian: <https://bit.ly/3KkR4BG>; BFA, Informationen zur Verlängerung des Aufenthaltsrechts für Vertriebene aus der Ukraine, available in German and Ukrainian: <https://bit.ly/3ZXvvN4>; Ministry of Interior, Ukraine, available in German and Ukrainian: <https://bit.ly/3ZROMQe>.

The majority of Ukrainians is familiar with smart phones, apps, and QR codes. Written info sheets are therefore not as popular for this group or are not used. However, there is a large group, especially people above 60/70 years, who are not reachable via Youtube videos or social messenger groups. This group uses phone hotlines and personal contact is more important. The relevant information material is prepared in a multimedia and multilingual format. There have been improvements in communication processing over the last year, however it was chaotic at the beginning.

A small group of deaf Ukrainians came to Austria in March 2022. The deaf community in Austria helped with interpreters right from the start. For this group it was very challenging, especially at the beginning in terms of communication. The support of the Austrian community of deaf persons helped in avoiding chaotic situations.

In March 2022, the Austrian government set up the Ukraine Refugee Coordination Unit.²⁴ Among other things, its task is to coordinate relevant stakeholders in the area of care and accommodation for displaced persons. In addition, the staff unit supports the coordination of aid and donations and other support offers to Ukraine. The staff unit is obliged to report to the federal government. A key task is to improve the processing of information and the communication of relevant information for Ukrainians with a temporary protection permit.²⁵

Authorities²⁶, police²⁷, NGOs²⁸, employment agency²⁹, basic care centres³⁰ etc. have created their own Ukraine pages on their websites and info sheets. Information has been translated into Ukrainian and Russian. The BBU GmbH has also set up a hotline that can be reached 24/7 and that offers advice and information in the first language, Ukrainian and/or Russian. Advice is also available in German and English. There is also audio-video material available.³¹

Ukrainian volunteers coordinate and support refugees, especially with information on e.g. rules, basic care, education, work, contact persons. They are organised through the social messenger Telegram. There are several different groups, usually one main group with several subgroups per federal state. The refugee coordination unit works closely together with telegram moderators and tries to improve living conditions for Ukrainian refugees.

Authorities provide information on how to get temporary protection at border crossings. Such information is most typically provided in Ukrainian, Russian, English and German. However, in most cases, the authorities will post this information online, and volunteers will provide it directly at the checkpoints.

D. Guarantees for vulnerable groups

There is no specific mechanism to identify vulnerable groups upon arrival. Similar to asylum seekers, there is the possibility of accommodation in assisted living for people with increased care needs (for further information, see [General Report - Special reception needs of vulnerable groups](#)). However, the mechanism established for asylum seekers is not available in the process of registration of displaced

²⁴ Federal chancellery – announcement ukraine refugee coordination unit <https://bit.ly/co/GteA>.

²⁵ Salzburger Nachrichten alternation refugee coordinator <https://bit.ly/co/Gte7>.

²⁶ Eg the Province of Upper Austria, <https://bit.ly/3Kmdpi7>; Land Tirol, <https://bit.ly/3zK6H0w>.

²⁷ Ministry of Interior, 'Erfassung und Aufenthalt', available in German at: <https://bit.ly/3MunSuG>.

²⁸ Eg Diakonie Flüchtlingsdienst, see <https://bit.ly/co/Gtej>; NGO tralalobe, see <https://bit.ly/co/Gtel>; Volkshilfe Wien, see <https://bit.ly/co/Gten>.

²⁹ Labour Market Service, 'Labour Market in Austria for refugees from Ukraine', available at: <https://bit.ly/3zG1Q0m>.

³⁰ Fonds Soziales Wien, 'Anlaufstellen für vertriebene Menschen aus der Ukraine', available in German at: <https://bit.ly/3GrBqD6>.

³¹ BBU federal agency for care and support services, see <https://www.bbu.gv.at/ukraine>.

persons from Ukraine as they are never in the responsibility of the first reception centres for asylum seekers where the medical checks take place. The number of places in the framework of increased care needs was already significantly too low before the arrival of displaced persons from Ukraine. There are insufficient places for people with disabilities, elderly people with and without care needs, chronically ill people as well as people with psychological and/or physical disabilities.

As Austria started evacuations of vulnerable persons from Moldova, it appeared that there was no mechanism in place to identify capacity available to house handicapped persons. The announcement to evacuate up to 2,000 persons with special needs was followed by the evacuation of only 540 persons.³² The reduction of the numbers was partly due to the lack of adequate accommodation and treatment.

There is no special separate process for the care of displaced minors. The same standards apply as for other unaccompanied minors seeking protection (see [general report – unaccompanied children](#)).

In some provinces, some NGOs offered additional psychosocial services that are now funded by the state to provide help to individuals fleeing Ukraine suffering from mental health problems, including torture survivors and traumatised beneficiaries.³³ In Vienna, there are projects where outreach psychological support is offered directly in the refugee facilities.³⁴ This includes stabilisation and relief talks in individual or group settings, but also crisis intervention. If necessary, referrals are made to other counselling and support systems. Displaced persons, like others seeking protection, have access to the various projects offering psychotherapy and crisis intervention services. There are no statistics available, although NGOs in the field and media reports show that there is more demand than offer.³⁵

³² Ministry of Interior, Answer to parliamentary request 11120/AB, 12 August 2022, available in German at: <https://bit.ly/408VnG9>.

³³ Diakonie Flüchtlingsdienst, *AMIKE*, available in German, Ukrainian, English and Russian: <https://bit.ly/43g0l0X>; Asylkoordination, 'Projekt Reset', available in German at: <https://bit.ly/3ZTYWzu>.

³⁴ Institut für Frauen- und Männergesundheit, Projekt „NEDA“, available in German and Ukrainian: <https://bit.ly/3zFmSw9>.

³⁵ Der Standard, 'Lehrkräfte wollen mehr Unterstützung für ukrainische Schüler', 15 February 2023, available in German at: <https://bit.ly/40S5CQh>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of temporary protection?
1 year until 3 March 23, prolongation until 4 March 2024³⁶
2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 9 January 2023?
89,648³⁷

Once the registration process is finalised, the identity card for displaced persons is sent by mail to the registered address given. In addition, there are also some mobile police units that can be called to go to people with disabilities for the purpose of their registration, especially people with restricted mobility. At the beginning of 2022, the issuing of identity cards for displaced persons was delayed. It now takes on average about 2 weeks from submitting the application to receiving the ID card.

The ID card for displaced persons is issued in a uniform EU format (such as Residence permits according to §§ 55-57 AsylG and according to the NAG). The card contains the following information: first name, surname, date and place of birth, nationality, gender, picture, signature, date of issuance, validity date (always "03.03.2023"), type of residence permit ("Permit for displaced persons"), reference to labour market access ("Labour market access with labour market document").

According to Section 3 Paragraph 5 AsylG-DV, the photo may also be older than 6 months, provided the foreigner is recognisable. However, it has to meet passport photo criteria. Storing fingerprints on the ID card is permissible (see § 6 AsylG-DV and VO 1030/2002), but not directly mandatory. In any case, there were obstacles in data collection by the police due to the high number of arrivals and lack of technical equipment at the start leading to a backlog of cases which resulted in problems for displaced persons accessing the basic care services. After establishing work flows and distribution of finger print scanners throughout the whole country, the backlog was reduced by the end of the summer 2022. At the time of writing only few new registrations are being conducted. Displaced persons are being registered and can access basic care system and social security at the arrival centres. ID cards are usually sent out within 14 days.

The Displaced persons Ordinance foresees a right to stay in Austria for one year upon arrival with the maximum until 4 March 2023. In December 2023, the Austrian government announced that the right to stay was prolonged for another year until 3 March 2024. Following the announcement, new ID cards were issued and sent to beneficiaries. A separate application was not necessary. The responsible authority remains the BFA.

Access to the labour market through a working permit is directly connected to the ID card issued. However, in order to access labour market, card holders still have to apply for a separate working permit at the labour market service, which is issued without further examination.

The right to apply for family allowance and child care subsidies is also directly connected to the residence permit received.

³⁶ Ministry of interior, 'Schutz für Flüchtende aus der Ukraine verlängert', 22 December 2022, available in Ferman at: <https://bityl.co/Gtdf>.

³⁷ Statistics presented as part of a meeting organised by the Ukraine Refugee Coordination Unit.

In principle, onward travel and registration in other EU member states is possible for displaced persons from Ukraine registered in Austria. In some cases, displaced persons wishing to move to Austria from another MS reported to NGOs that they were advised by the previous host country to opt out of basic care or social welfare systems in the respective member state before moving to Austria. In the process of renewal of ID cards following the prolongation of the TP, a few cases were detected via the EU coordination platform, where were also registered in the basic care or social welfare system of other MS.³⁸

According to Section 4 (3) of the Displaced persons Ordinance, the temporary right of residence expires if the person leaves the federal territory for more than just a short time. However, there is no legal definition of the term 'short time' and no court case where this question had to be clarified. In similar cases regarding the interpretation of when the place of residency is permanently moved (eg withdrawal of asylum status because of moving to another country) it is observed that a short-term absence of less than three month will not lead to an expiry of status. However, the statal institution providing Basic Care in Upper Austria mentions a time period of less than three weeks being unproblematic. The basis of this assumption is unknown.³⁹ Moreover, should the temporary right of residence expire, it would arise again ex lege when re-entering Austria if the requirements were still met.

There is no formal procedure to withdraw the status but an automatic expiry once the conditions for granting the temporary protection are not given anymore. There is no declaratory decision to be issued in Austria unless the displaced persons explicitly apply for it.

In some cases reported by NGOS, beneficiaries of temporary protection already registered in other member states were denied registration in Austria. After intervention in the Ministry of Interior, the registration was conducted and the persons received ID cards.

2. Access to asylum

The temporary right of residence does not exclude the right to apply for asylum. However, according to § 22 (8) of the Asylum Act, the time limit of 6 months for the authorities to take a first instance decision in the asylum procedure is suspended if the applicant is eligible temporary protection. This means that no further steps need to be taken by the authorities in assessing the asylum procedure as long as the temporary right of residence exists. However, the BFA is also free to decide on the asylum application. There is strategic litigation done by NGOs arguing that the suspension of the time limit is unlawful. There is no judicial decision on the matter yet.

B. Family reunification

Temporary protection beneficiaries do not benefit from existing provisions concerning family reunification beyond the TPD framework, such as [family reunification of international protection beneficiaries](#).

Family members of beneficiaries of temporary protection can also come to Austria and register for temporary protection as long as the family members lived in Ukraine before 24 February 2022. Family members are married spouses or registered partners, underage children and partners or other close relatives, if they lived in the same household and were dependent on the beneficiary.

³⁸ Protocol of the Platform Ukraine meeting organised by the Refugee Coordinator on 24 February 2023, unpublished.

³⁹ Land Oberösterreich, Nachbarschaftshilfe für Flüchtlinge aus der Ukraine – FAQ, available in German at: <https://bit.ly/3KmW48l>.

If the criteria also apply to the family member directly temporary protection is to be issued on this basis and not on the fact that the person is a family member.⁴⁰

There are no material requirements to fulfil.

Upon arrival, family members follow the same registration process as beneficiaries of temporary protection. Proofs for the family relationship should be presented at registration (eg birth certificate). If the proofs are not sufficient, the BFA will contact the persons involved for an interview at the authority.⁴¹ Married partners, registered partners, underage children and partners or close relatives that lived in the same households or were dependent on the beneficiary and lived before 24 February 2022 in Ukraine are considered family members. They get the same protection status as the beneficiaries.

C. Movement and mobility

Beneficiaries of temporary protection have freedom of movement within the country. There are no travel restrictions, although those who receive basic care are in effect restricted in their movement as if they leave they will be expelled from basic care and have to reapply in the next province.

If the beneficiaries receive basic care (see Social welfare), they are allowed to stay away from the organised housing for three days.

From March until November 2022 displaced persons could travel free of charge on public transportation.⁴² Displaced persons are accommodated in the basic care assistance system, which also covers asylum seekers. Within the framework of basic care,⁴³ some costs are covered in the area of mobility/ticket for public transport. However, these are limited to: summons to authorities, medical appointments, transfers from the arrival centre to reception centres. For school-age children up to 15 years of age, the costs of the ticket from the place of residence to school and back are covered. In fact, the issue of mobility is insufficiently solved and is a known problem in accommodation within the framework of basic care. In the federal province of Vorarlberg, there has been a reduced ticket for social welfare recipients and those seeking protection in basic services since 2016.⁴⁴

Beneficiaries of temporary protection also enjoy freedom of movement towards other EU Member States once they are registered.

Short-term travel to Ukraine often occurs. There are no reports about problems when returning.

⁴⁰ BFA, 'FAQ Ukraine', available in German, English, Ukrainian and Russian: <https://bit.ly/41xfajF>.

⁴¹ BFA, 'FAQ Ukraine', available in German, English, Ukrainian and Russian: <https://bit.ly/41xfajF>.

⁴² See for instance Orf news, 'Freifahrt für Ukrainer läuft wieder aus', 29 October 2022, available in German at: <https://bit.ly/co/GtYG>; ÖBB, 'Ukraine-Hilfe', available in Ukrainian, English and German at: <https://bit.ly/co/GtYL>.

⁴³ See Law Grundversorgungsvereinbarung zw Bund und Länder, available in German at: <https://bit.ly/co/GtZX>.

⁴⁴ Vorarlberg, 'Vorarlberger „maximo fair“ österreichweites Vorbild', 14 October 2022, available in German at: <https://vorarlberg.orf.at/stories/3177999/>.

D. Housing

Indicators: Housing

- | | |
|--|----------------------|
| 1. For how long are temporary protection beneficiaries entitled to stay in reception centres? | No limit |
| 2. Number of beneficiaries staying in reception centres and state organisation housing as of 21 March 2023 | 15,992 |
| 3. Number of beneficiaries staying in private accommodation as of 21 March 2023 | 36,998 ⁴⁵ |

The main form of accommodation provided to beneficiaries of temporary protection is private accommodation. For private housing, financial benefits can be applied for within the framework of the Basic Care. The amount of the payments varies depending on the province. On average, mostly everywhere the payments are as follows:

- ❖ Single person: € 260,- food allowance and € 165,- rent allowance
- ❖ Families (more than one person):⁴⁶ € 260,- (per adult) / € 145,- (per child) food allowance and € 330,- family rent allowance

Moreover, temporary protection beneficiaries are entitled to basic care services (see Social Welfare), which includes access to reception centres. There are different forms of organised accommodation: the most common form is the one where food allowance is paid per person per day. This depends on the province and is approx between € 6,- to 7,- per day. There are also accommodation options where full board (breakfast, lunch and dinner) is provided.

Beneficiaries of temporary protection are entitled to the same basic care services as [asylum seekers](#). Responsible authorities are the Basic care authorities of the province of residency. In practice, organised housing and implementation of pay-out is done by NGOs contracted by the provinces.

There is no time limit for beneficiaries of temporary protection to stay in reception centres and state-organised housing.

As of 27 January 2023, 39,166 beneficiaries were staying in private accommodation and 15,979 beneficiaries were staying in organised housing. 13 persons were accommodated in first reception centres.

There are other types of accommodation used, such as former hotels (Hotel de France in Vienna)⁴⁷ which were already used as quarantine centres during the Covid-19 pandemic. They now serve as reception centres exclusively for displaced persons from Ukraine.

In 7 out of 9 federal states, there are arrival centres for Ukrainian refugees. They are situated in the capitals of the federal state. Due to high numbers of displaced persons from Ukraine, former hotels or former pensioners' accommodation were used to house displaced persons. These buildings are mostly fairly old. Available arrival centres were for example a former university, a former mail distribution centre or former hotels. It is foreseen that displaced persons do not stay there longer than three days. In practice, many stay longer when the alternative housing option is in a rural area for example. Beneficiaries often prefer to stay close to Vienna. They cannot be forced to go to a specific area like asylum seekers (see [General Report – Freedom of movement](#)). If they overstay they are not kicked out.

⁴⁵ Statistics presented as part of a meeting organised by the Ukraine Refugee Coordination Unit.

⁴⁶ Art 9 GVV.

⁴⁷ ORF News, 'Hotel de France wird Flüchtlingsunterkunft', 9 November 2022, available in German at: <https://bit.ly/41KSCfm>.

In the first month after 24 February 2022, the basic care system could not cope with the high number of arrival of beneficiaries. The system was dysfunctional and in many cases it took months for the authorities to process the application. This resulted in many people having to wait for basic care money to be distributed. Civil society organisations jumped in and provided money and housing for the beneficiaries. As of January 2023, the number of newly registered persons is low, thus the waiting time for processing should not exceed 14 days in the provinces.

Reasons for a refusal of basic services is if there is no need for help, e.g. because the person has enough income. Otherwise, the same rules apply as otherwise in basic care in organised accommodation: absolute house bans are possible in case of violence, massive alcohol and drug consumption, noise pollution and constant violation of the house rules.

Temporary protection beneficiaries are entitled to the following reception conditions:

- ❖ Financial allowance for private accommodation;
- ❖ Accommodation in reception centres;
- ❖ Meal allowance in reception centres where meals can be prepared by the beneficiaries themselves (between € 6-7 per day per person);
- ❖ Financial allowance or vouchers for clothing (€ 150,- per person per year);
- ❖ Financial allowance for schoolkids (€ 200,- per child per schoolyear);
- ❖ In reception centres where meals/food are offered, people receive pocket money (€ 40,-per person per month).

A big part of the private living space was provided by the Austrian civil society. There was a great willingness to provide housing. In practice, many people providing accommodation assumed that the state would take over after a few months if necessary. Many private accommodation providers are in trouble with the costs of permanent accommodation of displaced persons, which means that some beneficiaries have had to switch to organised facilities.⁴⁸

In February and March 2022, matching private accommodation hosts and beneficiaries was mostly organised by NGOs like [Train of Hope](#), [Diakonie](#) or [Caritas](#). The state owned BBU GmbH which operates the first reception centres for asylum seekers in the regular asylum procedure provided a hotline and provided first housing possibilities specially designated for displaced persons from Ukraine.⁴⁹ This form of accommodation was predominantly used by displaced persons from Ukraine transiting through Austria in the first months.

BBU GmbH also built up a matching system for private housing which operated in parallel to the NGOs' initiatives.

NGOs have demanded an inflation compensation (Teuerungsausgleich) for private housing providers and supporting NGOs.⁵⁰ The minister of Interior announced that a payment of € 300 (for accommodation of a single person) and € 600 (for a family) would be granted to private housing providers. A law was presented in February 2023, but at the time of writing this law still has not being implemented.

There are no sufficient safeguards to prevent problems associated with inappropriate private hosting. The Austrian basic care system has focused on organised housing throughout the last years. This is a consequence of the government policy to prevent integration during the asylum procedure.

⁴⁸ Wiener Zeitung, 'Späte Hilfe für Helfer', 2 February 2023, available in German at: <https://bit.ly/3ZOmG8d>
⁴⁹ BBU GmbH, Informationen für Schutzsuchende, available in German, English, Ukrainian and Russian: <https://bit.ly/3KkR4BG>.

⁵⁰ 'Managementkrise im Asylbereich: NGOs verfassen 7-Punkte-Plan', Kurier, 23 September 2023, available in German at: <https://bit.ly/3U8X8BP>.

With the arrival of more than 50,000 persons from Ukraine the government had to backtrack on this point and ask civil society for support. Many problems arose due to the fact that in previous years private accommodation of persons in basic care did not exist. There are no minimum standards for private housing. There is no Ombudsman that would be competent to receive complaints, and NGOs have received several reports in which Ukrainians complained about exploitation or bad housing conditions. As the displaced persons feared that they would get transferred to a rural area in case they complained there is a strong reluctance to make the reports public. In one case in Lower Austria, the regional government of Lower Austria stopped supporting a privately-run accommodation centre financially as some reports alleged substandard living conditions and labour exploitation.⁵¹ In the specific case, a worn-out former home of the blind was used as accommodation where Ukrainians could live as basic care recipients. The persons living there reported that they had to work for free in the accommodation.⁵²

E. Employment and education

1. Access to the labour market

Beneficiaries of temporary protection are allowed to work in principle. The right to work is bound to a working permit that has to be applied for separately by the employer at the Labour Market Service. The working permit is to be issued without further examination for beneficiaries of temporary protection. In reality, it only takes a few days up to maximum two weeks to receive the working permit. Because of this waiting time and the fact that the working permit can only be obtained through an application to be presented by the employer, persons displaced from Ukraine struggle to find a job, given this dependence to an employer's actions.

It has been announced that a law is to be passed in spring 2023 to end the requirement of obtaining a working permit for displaced persons from Ukraine. Then the integration process into labour market will be easier.

As displaced persons from Ukraine only have access to the Basic care system (Grundversorgung) they do not have the same access to the services of labour market service as have beneficiaries of social security service.

In some provinces, displaced persons are obliged to register with the labour market service. There is a lack of German courses and qualification measures for displaced persons, especially in rural areas.

In principle, beneficiaries of temporary protection can work as employees or self-employed, have access to vocational training and enjoy equal treatment with workers in EU Member States regarding remuneration and other conditions.

For employment purposes, all persons with temporary protection are considered foreigners with a residence permit and are granted free access to the labour market and may be included in the register of job seekers.

In practice, the integration into the labour market is hindered for beneficiaries that also receive basic care. There is a very low maximum limit of money that can be earned additionally to the basic care (€ 110). If beneficiaries earn more they run the risk of losing basic care, access to the social security system, organised housing etc. As the group of displaced persons from Ukraine mainly consists of women and children, it is in many cases not possible to work full time. Therefore, it is risky to start

⁵¹ 'Hohe Kosten: Private Flüchtlingsunterkunft sorgt für Wirbel', Kleine Zeitung, 24 August 2023, available in German at: <https://bit.ly/3FXgwvB>

⁵² Orf.at, 'Aufregung um privates Flüchtlingsquartier', 17 May 2022, available in German at: <https://bit.ly/3ZVxlbR>.

working and losing access to basic care because if the job is lost after few months it might be difficult to access the basic care system again.

As of December 2022, 11,776 working permits were issued and 8,126 persons were working (2,237 men and 5,889 women).⁵³

2. Access to education

In Austria, schooling is compulsory for 9 years for children aged 6-15. At the beginning of 2022, compulsory schooling did not include displaced persons. However, with the start of the new school year in September 2022, compulsory schooling was communicated about more broadly and demanded by the school authorities.^{54 55}

In practice many children attend school in Austria in the morning and school in Ukraine via online tools in the afternoon.⁵⁶

Children up to 16 years old are entitled to education under the same conditions as nationals. After the end of compulsory schooling, access to education depends on the capacity of the schools. In this area, some problems have been surged because schools simply did not have the capacity to accept all displaced persons under the age of 18.

As of 13 February 2023, 5,590 displaced persons from Ukraine were attending primary school (Prim – 6-10 yrs old), 5,404 were attending middle school (Sek I, 11-14 yrs old) and 2,075 attended high school (Sek II, 15-18 yrs old).

Displaced persons from Ukraine in schools as of 13 February 2023				
Province	Primary school	Middle school	High school	Total
Burgenland	227	197	103	527
Kärnten	198	204	54	456
Niederösterreich	1,333	1,342	426	3,101
Oberösterreich	685	646	191	1,522
Salzburg	260	239	120	619
Steiermark	578	523	248	1,349
Tirol	380	397	60	837
Vorarlberg	164	139	42	345
Wien	1,865	1,717	831	4,413
All provinces	5,690	5,404	2,075	13,169

Source: Ministry of Education

⁵³ Statistics presented as part of a meeting organised by the Ukraine Refugee Coordination Unit.

⁵⁴ *Stabsstelle Ukraine Flüchtlingskoordination, Tätigkeitsbericht März bis Dezember 2022*, unpublished.

⁵⁵ Tiroler Tageszeitung, 'Ab neuem Schuljahr uneingeschränkte Schulpflicht für ukrainische Kinder', 22 August 2022, available in German at: <https://bit.ly/3KfgU9S>.

⁵⁶ Wiener Zeitung, 'Gekommen um zu bleiben', 22 February 2023, available in German at: <https://bit.ly/3zJI3go>.

So-called transition classes were activated for displaced children.⁵⁷ These were already introduced in 2015/16 and exist to allow those who could not get a school place in the regular class system to access school nevertheless. In the transition classes, the focus is on learning the German language; mathematics, English and physical education are also taught. However, due to a shortage of teachers, there was a backlog in the allocation of school places. The transition classes are also heavily criticised as being segregational.⁵⁸

A challenge is the fact that many Ukrainian children still attend Ukrainian school via online tools in the afternoon. Some of the children are under a lot of stress because they go to school in the morning and follow online Ukrainian lessons in the afternoon. In some cases there have been reports of parents putting a lot of pressure and obliging their children to follow the lessons from Ukraine rather than the lessons in the Austrian schools or both. This has to be understood in the general context and the general waiting dilemma that displaced persons are currently facing. Their willingness to take part in the way of living in Austria depends on for how long the war will last and a sustainable return to Ukraine is not feasible.⁵⁹

Due to the lack of knowledge of German, children have had to repeat classes or were downgraded to a lower school level. This 'demotion' is not motivating and is seen as unfair by children and parents as they were already one or two grades ahead in Ukraine as reports from the Ukrainian telegram groups show.

In general, the special needs of some children are addressed and alternative arrangements are put in place if they cannot enter the regular education system but this depends on the province where the person lives.

However, the law does not provide access to education or vocational training for adults/young people.

Displaced persons from Ukraine are accepted into the universities. They do not have to pay for students' fees.⁶⁰

For Ukrainians over 16 years, there is no compulsory education anymore. Therefore, there are many reports reaching asylkoordination österreich mentioning that institutions deny access to schools when there is no capacity without offering an alternative. Vocational training is possible, but if salary is included it gets more complicated: the employer then needs to apply for a working permit and if the beneficiary is receiving basic care, only € 110,- can be earned without reduction of the basic care support. In some cases, the beneficiaries earned too much which resulted in the whole family losing access to basic care services, NGOs and supporters from civil society report.

As 45 percent of all displaced persons from Ukraine live in Vienna, transportation was not a big issue until the free transportation was cut. Now, transportation costs are generally an obstacle for taking up training and job.⁶¹

⁵⁷ Standard, 'Ukrainische Flüchtlinge: Deutschklassen nicht für alle sinnvoll', 14 April 2022, available in German at: <https://bit.ly/3o23JBH>.

⁵⁸ Tiroler Tageszeitung, 'Tiroler Landessschulrat: Deutschklassen fördern Segregation', 12 April 2018, available in German at: <https://bit.ly/3KpyND7>; Standard, 'AK fordert umfangreiche Reform der Deutschförderklassen', 11 October 2022, available in German at: <https://bit.ly/3mIM6wl>.

⁵⁹ Stabsstelle Ukraine Flüchtlingskoordination, *Tätigkeitsbericht März bis Dezember 2022*, unpublished.

⁶⁰ Federal Ministry of Education, Science and Research, 'Ukrainische Studierende auch im Wintersemester 2023/24 von der Studienbeitragspflicht befreit', available in German at: <https://bit.ly/3KuEZKi>.

⁶¹ Stabsstelle Ukraine Flüchtlingskoordination, *Tätigkeitsbericht März bis Dezember 2022*, unpublished.

F. Social welfare

Beneficiaries of temporary protection do not have access to social welfare.

They are in the **same basic care system as asylum seekers** and are not a target group of social welfare system. Authorities responsible for granting basic care and social welfare are Regional authorities of the provinces. In the area of basic care, the actual implementation and counselling is outsourced to NGOs like Caritas, Volkshilfe etc.

The basic care provided to beneficiaries of temporary protection is linked to a requirement to reside in the province providing it. Contrary to asylum seekers, they choose which province to go to, resulting in an uneven distribution with 45% in Vienna.

Beneficiaries receiving basic care in practice face the following problems, mainly due to unclear rules. As explained above the authorities have little experience with the practice of beneficiaries living privately. Consequently, a number of questions arise: how many generations living together count as one household? Is the basic care to be calculated individually or is the family situation taken into account? Will the basic care be withdrawn if the person refuses to attend German classes? Do retired persons in Ukraine have to bring a proof that they cannot access their pension money in Ukraine and why?

The regulation in the Basic Care Acts of the state and the federal provinces requires a contribution to Basic Care if persons have an income. In practice, there is only an allowance of € 110 plus € 80,- for each family member and the rest is used as contribution towards the reception cost. Also under the regular system, if they have been receiving an income for more than 3 months, Basic Care support should no longer be provided. For beneficiaries of TPD, the rules were modified at the start of 2023: They are allowed to stay in the basic care system even if they earn more than € 110,-. For every earned Euro they are allowed to keep 35 cent, the rest is deduced from the Basic care allowance. There is no official information on the practice of these rather complicated rules yet, but there is an unofficial calculator developed by the community of Ukrainians in Austria.⁶² The basic care departments in the provinces have not all yet started to implement the new rules. The province of Carinthia has already announced that it will not implement them at all.⁶³

Ukrainian nationals registered as displaced persons receiving basic care as of 20.02.2023			
Age group/Gender	Male	Female	Total
Under 7 years	2,757	2,645	5,402
7-14	4,193	4,045	8,238
14-18	2,271	2,353	4,624
18-24	1,135	2,540	3,675
24-60	4,772	19,000	23,272
Over 60	2,409	6,101	8,510
Total	17,537	36,684	53,721

Source: Federal Ministry of Interior, Basic care system (unpublished)

⁶² Asylkoordination österreich, Jenia's very unofficial calculator for the Zuverdienstgrenze v. 2.1, available in Ukrainian at: <https://bit.ly/3oXigzc>.

⁶³ Asylkoordination österreich, Kompetenz Netzwerk Asyl, Ukraine, available at: <https://bit.ly/3nkd8EY>.

Distribution of beneficiaries of temporary protection receiving Basic Care as of 20.02.2023			
Province	Organised accommodation	Private housing	Total
Burgenland	999	900	1,899
Kärnten	232	1,056	1,288
Niederösterreich	3,268	7,030	10,306
Oberösterreich	978	4,086	5,064
Salzburg	1,003	983	1,990
Steiermark	3,301	2,766	6,067
Tirol	1,765	1,417	3,182
Vorarlberg	1,218	450	1,668
Wien	3,223	19,029	22,252
Total	16,004	37,717	53,721

Source: Federal Ministry of Interior, Basic care system (unpublished)

G. Health care

Displaced persons from Ukraine are included in Austrian health insurance via basic care system as soon as they register for temporary question.⁶⁴ This also applies to displaced persons who do not receive basic care services. Health insurance is not limited to emergency medical care.

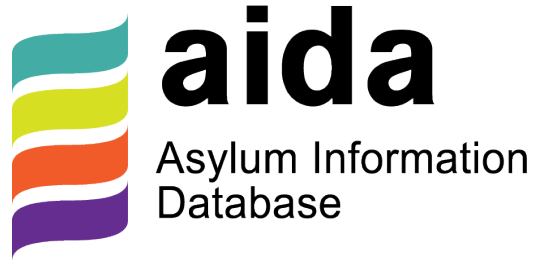
Beneficiaries have access to the same health care as Austrian nationals.

Displaced people from Ukraine do not receive an e-card (health insurance card), but a replacement e-card receipt in paper form. The replacement e-card must be picked up quarterly from a health insurance branch office. Displaced persons who are employed receive the usual plastic e-card in credit card format.

In the first months after February 2022, supporters of displaced persons and NGOs (Diakonie Flüchtlingsdienst, Caritas and Train of hope) reported repeatedly that there were problems with the e-card replacement receipt. Hospitals or doctors were not well informed and asked for an e-card. Occasionally there are still ambiguities today.

A major problem is the lack of consistent language mediation in the medical field. As part of the basic care, costs for language mediation in the medical field are not covered. In justified individual cases, the costs will be covered, but this is not always the case. The hospitals do not feel responsible for organising language mediation, but often require that language mediation be brought along in order to receive treatment. It happens again and again that people are sent away on the grounds that they cannot understand each other. This was an existing problem even before the Ukraine crisis.

⁶⁴ Art 2 (1) (3) GVV.



Belgium



Relevant documents related to temporary protection

Electronic A-card	The A-card is a residence permit that is, amongst others, granted to beneficiaries of international protection. If the applicant receives a refugee status, he/she will receive an electronic identity card, type A, that is valid for 5 years. If he/she is granted subsidiary protection status, he/she receives a residence permit in the form of an A-card for a period of one year. The municipality may then renew it each time for a period of two years.
Annex 15	The annex 15 is a temporary residence permit with a validity of 45 days awaiting the issuing of the A-card. Beneficiaries receive the Annex 15 upon registration, after their address is confirmed by the municipality, they are given the A-card.
Temporary protection certificate	Upon registration at the IBZ registration Centre, beneficiaries with a positive decision on their temporary protection application receive a temporary protection certificate which serves a proof of their right to temporary protection but does not in itself function as a residence permit.

Temporary Protection Procedure

A. General

The Temporary Protection Directive (TPD) was implemented based on the provisions of the Belgian Aliens Act (“*de Vreemdelingenwet*”)⁶⁵ introduced in 2003.⁶⁶ At the time of implementation, temporary protection was not ‘unknown’ to the Belgian Immigration Office, as in the past similar protection had been offered to nationals of former Yugoslavia, Rwandese nationals, Bosnians, and Kosovars.⁶⁷ However, a framework that gave legal status to displaced persons was lacking until the implementation of the Directive. Following the Russian invasion, the Belgian senate agreed on 25 February 2022 that the necessary steps should be taken to temporarily accommodate Ukrainian war refugees.⁶⁸ Following the Council Implementing Decision (EU) 2022/382 of 4 March 2022, a registration centre was set up in Brussels for people with a potential right to temporary protection.⁶⁹ The Belgian Aliens Act provides that temporary protection is applied to the same categories of people who are eligible for temporary protection under the implementation decision.⁷⁰ While this is the case overall, there are slight differences in interpretation and application (see further: Qualification for temporary protection).

Between 10 March 2022 and 28 February 2023, 66,386 persons received a temporary protection certificate in Belgium.⁷¹ This includes 64,865 persons with the Ukrainian nationality, and 1,521 persons holding another nationality.⁷² There are no statistics available on the specific grounds for granting temporary protection, nor on the number of persons present in the country that were displaced but fall beyond the scope of the TPD. The refusal decisions might however provide some insights in this respect: in the same period, 1,208 Ukrainian nationals were rejected for temporary protection. The most common refusal grounds are that the applicant did not prove to have been living in Ukraine before 24 February 2022, or the fact of having a residence permit in another member state (other than temporary protection). For temporary protection applicants without the Ukrainian nationality, the total number of refusal decisions in the same period amounts to 523.⁷³ This includes people who did not provide sufficient proof of family ties with a beneficiary or did not have a permanent residence permit in Ukraine, and if they had provided sufficient proof, those considered to be able to return home in safe and durable conditions.

B. Qualification for temporary protection

The durational scope of temporary protection in Belgium is in line with article 4 §1 of the TPD. Initially, temporary protection is granted for a year, renewable with two periods of six months, after which a new Council decision could extend it for another year. The temporary protection status can either be ended in case the maximum period is reached or at any time if a decision of the Council of the EU ends

⁶⁵ Law of 15 December 1980 regarding the entry, residence, settlement and removal of aliens, available in Dutch and French at: <https://bit.ly/3YaTMyC>

⁶⁶ Law of 18 March 2003 amending the Law of 15 December 1980 regarding the entry, residence, settlement and removal of aliens, available in Dutch and French at: <http://bit.ly/3HkLXzE>

⁶⁷ Chamber of representatives, *Wetsontwerp*, 1 October 2002, p. 4, available in French and Dutch at: <https://bit.ly/3IF11vd>.

⁶⁸ The Senate, *The senate passes a resolution on the Russian invasion in Ukraine*, 25 February 2022, available in Dutch and French at: <http://bit.ly/3KPumms>.

⁶⁹ Fedasil, *Reception of the Ukrainian nationals*, 4 March, 2022, available in English at: <http://bit.ly/3KImDXF>.

⁷⁰ Article 59/27 Aliens Act.

⁷¹ Statbel, *Displaced persons from Ukraine*, available in English at: <https://bit.ly/3ZmG5O4>.

⁷² IBZ, *Temporary protection monthly statistics*, available in Dutch and French at: <https://bit.ly/3y1Kvyc>. The numbers from 2022 (from 10 March to 31 December) are added together with the numbers from January and February (from 1 January until 27 February), see table 2.8 for 2022 and 2.6 for 2023.

⁷³ IBZ, *Temporary protection monthly statistics*, available in Dutch and French at: <https://bit.ly/3y1Kvyc>. The numbers from 2022 (from 10 March to 31 December) are added together with the numbers from January and February (from 1 January until 27 February), see table 3.

temporary protection.⁷⁴ Belgium has equally extended the temporary protection with another year (rather than six months), up to March 2024 (see Residence permit).⁷⁵

In terms of the material scope, the following groups are considered to fall under the scope of temporary protection in Belgium as implemented by the federal authority responsible for handling and deciding on temporary protection applications, the Immigration Office (IBZ):

(1) Ukrainian nationals and their family members who had their principal place of residence before 24 February 2022 in Ukraine;

(2) stateless persons and third country-nationals who enjoyed international protection or an equivalent status in Ukraine before 24 February 2022 and their family members who, before that date, had their main place of residence in Ukraine;

(3) third country nationals who resided in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit and who cannot return to their country in a safe and durable manner.⁷⁶

Contrary to the wording of the Council Implementing Decision, the Immigration Office does not speak of Ukrainian nationals who were 'residing' in Ukraine before 24 February but of those having their 'primary residence' in Ukraine before this date. While it is plausible that this is the case for many who resided in Ukraine before 24 February, this still constitutes a restriction of the scope determined by the Council Decision and raises unanswered questions about what can and cannot be considered as a primary place of residence.

For Ukrainian nationals who left Ukraine before 24 February 2022, the Immigration Office evaluates their case on an individual basis, considering all relevant elements.⁷⁷ They usually receive a decision on the day of registration, unless their case is more complex, in which case it can take up to three days before a decision is made.⁷⁸ There is no clear-cut formula according to which persons of this category receive temporary protection, nor is there much clarity on the reasoning of the Immigration Office. It is known, however, that Belgium follows the recommendations of the European Commission to extend temporary protection to those categories of persons who left Ukraine shortly before 24 February because of work, studies, or family visits (...), in the cases of persons who had a short stay permit in Belgium before 24 February.⁷⁹ The issuing of temporary protection to 140 seasonal workers residing in Belgium before 24 February indicates that this category - in the absence of other elements such as a visa for another Member State or reasons of public order - generally receive temporary protection.⁸⁰ Other persons whose long term residence permit is or was ending after 24 February 2022, such as students, are subject to an individual evaluation by the Immigration Office.

In cases of Ukrainian nationals living in Belgium before 24 February without having registered their residence in the country, the Immigration Office looks at aspects such as the administrative situation of the person in question, how long they have been in Belgium and other elements in the file.⁸¹ Based on an analysis of several such cases, it seems that whether one resided in Belgium before 24 February

⁷⁴ Article 57/30 § 1 Aliens Act

⁷⁵ IBZ, *Procedure*, available at: <https://bit.ly/3IDfIMQ>.

⁷⁶ Website Immigration Office: *Temporary Protection*, available at: <https://bit.ly/3J9SwHo>.

⁷⁷ Myria, *Contact meeting*, 18 May 2022, available in French and Dutch at: <https://bit.ly/3XMDJHv>, 13.

⁷⁸ *Ibid.*, available at <https://bit.ly/3XMDJHv>, 10-11.

⁷⁹ See Agii (agency for integration and citizenship), pt. 2.3.1.1 *Scope of application*, available at: <http://bit.ly/3xZz2in>.

⁸⁰ See Agii, pt. 2.3.1.1 *Scope of application*, available at: <http://bit.ly/3xZz2in>.

⁸¹ Myria, *Contact meeting*, 23 March 2022, available in French and Dutch at: <https://bit.ly/3J3i2wW>, 8.

rather than in another Member State is considered as an essential element that can be advantageous to the applicant.⁸²

Three types of third country nationals are eligible for temporary protection in Belgium:

- (1) people who benefitted from international protection or equivalent national protection in Ukraine whose primary residence was in Ukraine before 24 February 2022;
- (2) people residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit who are not able to return safely and durably to their country of origin;
- (3) people who provide proof of family links with a person enjoying temporary protection.

The decision whether a person can return to their country of origin safely and securely, is taken on a case-by-case basis on the ground of a brief interview and evidence provided by the applicant.⁸³ There is no defined list of countries that are not considered as places where a safe and durable return is possible. To determine whether a return to the country of origin under these conditions is possible, a short interview is conducted within three days' time of the application. The person is expected to present out of their own initiative all the evidence in support of the impossibility to return in a safe and durable manner.⁸⁴ With regards to the possibility of a durable return, IBZ takes - among other things but not exclusively – the following into account: whether the person has accommodation in the country of origin, whether the person has lived there recently,⁸⁵ the years spent there, whether the person has exercised economic activities there in the past, whether the person has studied there, whether the person was able to provide for their living expenses, whether the person has a social network there and whether the person speaks the local language.⁸⁶ In regards to a family with a minor child, IBZ particularly looks at the child's link with the country of origin or the possibility of developing this link, the years the child has spent there and the possibility of learning the culture and language (though the parents).⁸⁷ Finally, it is also considered whether the state of health could prevent them from returning to the country of origin.⁸⁸

In case the Immigration Office decides that the person can return to their country of origin, this decision may be subjected to a non-suspensive appeal to the Council for Alien Law Litigation (CALL). The applicant can also decide to apply for international protection.

The 'family members' definition includes the following persons:

- (1) the spouse or unmarried partner with whom a durable relationship is maintained, according to the definition provided in the Belgian Aliens Act (meaning only registered partnerships are considered equivalent to marriage⁸⁹);

⁸² This reasoning is strengthened by the issuing of a negative decision by IBZ [internal document], 5 August 2022, of someone who left Ukraine 4 months before the 24 February 2022, which she spent in Poland, and who was denied temporary protection upon arrival in Belgium even though there was no element of public order or a visa for another member state.

⁸³ IBZ, *Stateless persons and nationals of third countries*, available in English at: <https://bit.ly/3Zkem0y>.

⁸⁴ Myria, *contact meeting*, 18 May 2022, p. 7-8, available in French and Dutch at: <https://bit.ly/3Z8V8es>.

⁸⁵ IBZ, negative decision [internal document], 25 August 2022

⁸⁶ See: CAL nr. 278.203, 30 September 2022, available [here](#); CAL nr. 278.204, 30 September 2022, available [here](#); CAL nr 277.651, 20 September 2022, not online available.

⁸⁷ CAL nr. 278.204, 30 September 2022, available [here](#).

⁸⁸ IBZ, negative decision [internal document], 25 August 2022

⁸⁹ Article 4, Royal Decree, 7 May 2008, available in French and Dutch at: <http://bit.ly/41AMIU3>, implementing article 40bis §2 Aliens Act. See also Council of Alien Law Litigation (CALL) 14 October 2022, nr. 278 741 which states that in case there is no marriage, a partner relationship can only be proven through a legally registered partnership.

- (2) minor unmarried children, including those of the spouse, regardless of whether they were born within or outside the marriage or are adopted;
- (3) other close relatives who were living with the family at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent at that time.⁹⁰

On some points, it differs from the scope of the Council Implementing Decision. Firstly, while article 2(4) of the Council Implementing Decision requires that family members must have been residing in Ukraine before 24 February, Belgium does not apply this criterion for the family members under article 2(4) (a) and (b) (spouse or durable partner and minor unmarried children). This means that for these categories of family members – whether Ukrainian or third country national – Belgium broadens the scope of application and allows for family reunification also if the family was formed after 24 February.⁹¹ Secondly, while the ‘other close relatives’ mentioned in article 2(4)(c) of the Council Implementing Decision are considered to fall under the scope of the TPD, the Belgian Aliens Act states that Belgium ‘may’ grant a residence permit to this category.⁹² There is a ‘*de facto* appreciation’ in this context, resulting in many ambiguities concerning the application of temporary protection to this category of persons.⁹³ For example: the third country national parents, who thus do not themselves fall under art. 2 (1) (b), are subject to the discretionary margin applied by IBZ. The IBZ only specifies that ‘the decision to grant a residence permit to this ‘other family members category’ will consider the exceptional difficulties they would encounter if the reunification of these family members would not be allowed.’⁹⁴ This is a ‘case-by-case evaluation.’⁹⁵ There are no indications as to how IBZ assesses this dependency link.

Persons with a residence permit (as a student, worker...) in another member state are excluded from temporary protection. The Immigration Office stated that the fact that a person has a visa issued by a European member state could give rise to a refusal decision. While each case is treated individually,⁹⁶ the application of this criterion is rather strict in practice. The CALL however recently annulled an unfavourable decision by the Immigration Office for a person with a short-term visa for study purposes in another member state which was set to expire on short notice. It stated that ‘temporary residence based on a short-term visa cannot be compared to temporary protection’, referring equally the communication from the Commission, which states that people are free to choose the member state where they want to exercise the rights connected to temporary protection.⁹⁷

Those who do not fall under the scope of temporary protection and have no possibility of family reunification (see family reunification), can only seek protection by applying for international protection (apart from other routes such as the combined permit or a student visa). The request for international protection of non-Ukrainian third country nationals is examined. However, the international protection

⁹⁰ Website Immigration Office: *Temporary Protection*, available at: <https://bit.ly/3J9SwHo>.

⁹¹ Article 57/34 Aliens Act does not mention the requirement that the family must have been formed before the date of reference. The draft law (Chamber of representatives, *Wetsontwerp*, 1 October 2002, available in French and Dutch at: <https://bit.ly/3IF11vd>, 27) equally states that Belgium will not limit itself to the hypothesis that the family was already formed in the country of origin and was separated due to the events.

⁹² Article 57/34 § 1 Aliens Act

⁹³ The Cabinet in response to inquiry Caritas regarding the application of ‘other family members’, 22 March 2022. The draft law (Chamber of representatives, *Wetsontwerp*, 1 October 2002, available in French and Dutch at: <https://bit.ly/3IF11vd>, 29) equally makes a clear distinction between ‘members of the core family’ on the one side and ‘other family members’ on the other side.

⁹⁴ Chamber of representatives, *Wetsontwerp*, 1 October 2002, available in French and Dutch at: <https://bit.ly/3IF11vd>, 29-30.

⁹⁵ IBZ in response to inquiry Vluchtelingenwerk on the interpretation of ‘other family members’, 1 December 2022.

⁹⁶ IBZ in response to inquiry Vluchtelingenwerk regarding holders of a visa or residence permit in another member state, 8 June 2022.

⁹⁷ Communication from the Commission on the Operational Guidelines, available at: <http://bit.ly/41wYkC6> as confirmed by the Council of Alien Litigation (RVV) 14 October 2022, nr. 277962, 7.

application of persons with Ukrainian nationality who do not fall under the scope to temporary protection or those who enjoy it are frozen for as long as temporary protection is active on a European level,⁹⁸ irrespective of whether the request for international protection was lodged during or before the activation of temporary protection.⁹⁹ This means that for Ukrainian's who do not fall under the scope of temporary protection, the procedural routers leading to a residence permit are considerably restricted. As However, if they apply for international protection, the fact that their application is not examined, does not restrict their right to reception in a Fedasil reception centre while in procedure.¹⁰⁰ Nonetheless, due to the ongoing reception crisis in Belgium,¹⁰¹ many (primarily single men) persons falling outside the scope of temporary protection will not benefit from reception and the socio-financial support under the regular international protection framework.

C. Access to temporary protection and registration

1. Admission to territory

There have been no reports of problems at the Belgian border for Ukrainian nationals accessing the Belgian territory. People who potentially have the right to temporary protection are expected to present themselves at the registration centre in Brussels, the only place where their eligibility for temporary protection is assessed.¹⁰² Persons arriving at the airport need to have the necessary documents for travel (passport and visa if necessary). They are redirected to the registration centre; in case of need, the police can request support from interpreters for this purpose. The Aliens Act establishes that people who might fall under article 28 of the TPD directive (the exclusion ground) can be detained at the border.¹⁰³ In 2022, there have been 26 denials of entry at the border, since the war in Ukraine, there have been no expulsions to Ukraine.¹⁰⁴

There are equally no problems for Ukrainian nationals with re-accessing the country after a return to Ukraine, regardless of whether they have previously received the temporary protection status. However, for beneficiaries, other rights may be affected. The problems mainly arise in terms of communication with the local municipality about the duration of the departure, a lack of which can seriously affect their right to social benefits, housing, and residence permit (see Movement and mobility).

The general rule is that persons with a residency permit (A-card) or those still within their three months visa-free period with a biometrical passport can always return to Belgium on the basis of their A-card and passport.¹⁰⁵ In case they are away for longer than three months, several conditions should be met to be assured of their right of return: (1) they should notify their municipality, upon which they will receive an annex 18, (2) their A-card should not expire in the period while they are away, (3) within 15 days upon return, they should notify their return to the municipality, (4) they should return within a year.¹⁰⁶

⁹⁸ Article 51/9 Aliens Act. VW. See also CGRA, *Ukraine - state of affairs regarding applications for protection in Belgium*, 17 March 2022, available at <https://bit.ly/3WWEHA4>.

⁹⁹ Chamber of representatives, *Wetsontwerp*, 1 October 2002, available in French and Dutch at: <https://bit.ly/3IF11vd>, 29-30.

¹⁰⁰ Article 6 § 1, Reception Act, available in Dutch and French at: <https://bit.ly/3Ycznc6>.

¹⁰¹ See: ECRE, *Belgium: failure to deal with Persistent Reception Crisis is Attack on the Rule of Law*, January 13 2023, available in English at: <http://bit.ly/3KPIQ6e>; The Brussels times, *Despite 6000 convictions, Belgium still refuses to tackle reception crisis*, 23 January 2023, available in English at: <http://bit.ly/3YadjPq>. IBZ, *Where to submit a request for temporary protection?*, available at: <https://bit.ly/3IDfIMQ>.

¹⁰² Chamber of representatives, *Wetsontwerp*, 1 October 2002, available in French and Dutch at: <https://bit.ly/3IF11vd>. Article 57/32 Aliens Act.

¹⁰³ IBZ, information provided on 4 April 2023.

¹⁰⁴ Article 39 §1, §3 (2) Royal Decree 8 October 1981, available at: <https://bit.ly/408uhA9>.

¹⁰⁵ *Ibid.* Article 39 §1, §2 Royal Decree 8 October 1981.

Third country nationals who think they might be eligible for temporary protection but have no visa-free entry into the Schengen area and try to reach Belgium from another country than the EU member states or Ukraine might have to acquire a visa.¹⁰⁷ For third country nationals who derive their residence permit from a family member with temporary protection, who do not enjoy visa-free entry to Belgium and who are not present in Ukraine or the Schengen area from where they can travel to Belgium, the only option is to apply for family reunification. Under the Belgian Aliens Act, conditions for family reunification with a person enjoying temporary protection is regulated separately from the family reunification directive and are less strict than the 'regular' family reunification scheme (see Family reunification).¹⁰⁸

2. Freedom of movement

Individuals entitled to temporary protection who are not in possession of biometric passport or travel documents have not faced difficulties entering Belgium or attempting to continue to other European countries. The only note to add is that for administrative reasons, moving addresses within the country is not recommended as long as no permanent residence permit is obtained. The municipality conducts a 'check' to see if the person lives at the address reported to the municipality; if a person moved addresses during this time, the process of obtaining a residence permit (A-card) can be prolonged and more complicated. This is because a new annex 15 (temporary residence permit) has to be issued, meaning that the period of 45 days (the maximum validity period of the annex 15) will start running again.

3. Registration under temporary protection

The Immigration Office is the authority responsible for the registration of potential beneficiaries of temporary protection.

Contrary to applications for international protection, there is no specific time limit to apply for temporary protection set by the law.¹⁰⁹ Late applications for temporary protection do not negatively influence the decision. However, potential beneficiaries of temporary protection do not end up in 'irregular stay', they should apply for temporary protection within three months since the date of entry to avoid. If their short stay is ending, they are strongly advised to present themselves at the municipality of their visit to either prolong their short stay or to apply for temporary protection.¹¹⁰

Potential beneficiaries are expected to reach the registration centre (initially Palais 8 at Heizel - Brussels, later moved to Place Victor Horta 40, 1060 Brussels) from Monday to Friday between 8h30 and 16h. They cannot and do not have to make an appointment. In principle, every person who presents themselves is granted access to the registration centre unless it is evident that the person has no connection to Ukraine or temporary protection. Applicants are asked to register their fingerprints and to present identification along with other elements proving that they fall under the scope of temporary protection.¹¹¹ On the day of the application, two interviews are conducted during which they are asked how they arrived in Belgium, on which date they left Ukraine, the reasons for their departure, and which region they are from. Their travel documents are verified to check if they have previously lodged a request for international protection or if they have previously been in Belgium.¹¹² When a temporary protection certificate cannot be issued immediately because an additional examination is considered necessary, the person will be notified of the decision at a later stage. This is usually within a day, or in more complex cases, within three days. This can occur in the following situations: (1) the applicant does not present the necessary documents, (2) the applicant is already known to the migration authorities

¹⁰⁷ Article 6 (1) Schengen Borders Code, Available at: <http://bit.ly/3ZrUpVi>.

¹⁰⁸ Article 57/34 Aliens Act

¹⁰⁹ Article 12 Aliens Act,

¹¹⁰ Immigration Office, *Short Stay*, available at: <https://bit.ly/3RjrmjY>.

¹¹¹ Immigration Office, *Procedure*, available at: <https://bit.ly/3IDfIMQ>.

¹¹² Fedasil in response to inquiry Vluchtelingenwerk regarding the registration procedure, 27 February 2023

and additional analysis on the file is necessary, (3) there are elements of public order or public security, (4) the applicant is a third country national with a permanent residence permit in Ukraine, who states not to be able to return under safe and durable conditions to their country of origin.¹¹³ In these cases, the applicant is given a registration certificate while the Immigration Office examines the file.¹¹⁴

According to the Immigration Office, potential beneficiaries must provide ‘documents that prove you fall under the scope of the temporary protection directive’.¹¹⁵ Ukrainian nationals should provide proof of identity such as their biometric passport and national ID card. Persons with international protection in Ukraine, recognised stateless persons or other third country nationals should have evidence of their identity and statute in Ukraine. As for the family members, in addition to proof of identity, they should provide the proof of a sustainable relationship, which can only be delivered through an original marriage certificate or the proof of having a common child (for which a birth certificate including the name of the third country national-parent or a certified DNA test is needed).¹¹⁶ In this context, the Immigration Office verifies if the marriage still exists at the moment of application.¹¹⁷ For the category of ‘other family members’, proof of having lived together and dependency constitute a critical element in the examination.

Persons with a favourable decision will receive a temporary protection certificate. This certificate is either in French or Dutch. They also receive a document which explains their status and rights as holders of ‘temporary protection’ from IBZ. Persons to whom no decision has been granted yet, receive an attestation of registration as well as an appointment to come and collect their decision on a later moment.¹¹⁸ This attestation of registration does not allow registration at the municipality.

A negative decision is accompanied by information on the procedure to appeal as well as the contact details of the legal desk they can address for legal help. However, this information is usually in French or Dutch and is not very accessible to Ukrainians or third country nationals. They also receive a document briefly explaining the procedure for requesting international protection. Furthermore do they receive documents from the Red cross on a variety of topics (see Information provision and access to NGOs).

Persons who receive a refusal decision may present an appeal for annulment within 30 days.¹¹⁹ They may again present themselves at the registration centre to ask for a review if new evidence could bring them under the scope of temporary protection. NGOs or lawyers may also request a review of an unfavourable decision via e-mail to the Immigration Office.

Practical obstacles and delays in registering applications arose especially in the first period after the activation of temporary protection, as some persons who could not provide proof that they fell under the scope of the temporary protection were denied entry to the registration centre without obtaining the chance to examine their case. Denial of entry – other than a refusal – did not result in a refusal decision or any proof of application, which is problematic in terms of the right to an effective remedy.¹²⁰ Another issue that arose was the delay in the issuing of a decision where the cases were more complex. The decision could take up to several weeks, especially for third country nationals. This was problematic since, without temporary protection, these persons could not enjoy any of the social rights attached to

¹¹³ Myria, *Contact meeting 18 May 2022*, available in French and Dutch at: <https://bit.ly/3Z8V8es>, 10.

¹¹⁴ *Ibid.*

¹¹⁵ IBZ, *Procedure*, available at: <https://bit.ly/3IDfIMQ>.

¹¹⁶ IBZ in response to inquiry Vluchtelingenwerk on the interpretation of ‘family members’, 1 December 2022.

¹¹⁷ Myria, *Contact meeting 18 May 2022*, available in French and Dutch at: <https://bit.ly/3Z8V8es>, 8-9.

¹¹⁸ Before 16 May 2022, the procedure was slightly different: people who did not immediately receive temporary protection received an invitation by e-mail. This method however resulted in people not knowing when and if they would be contacted.

¹¹⁹ Article 39/2 §2 Aliens Act

¹²⁰ Myria, *Migration in numbers and rights*, September 2022, p. 18, available in Dutch at: <https://bit.ly/3Y6mxFT>.

temporary protection. The waiting time is currently significantly reduced (see Qualification of temporary protection).

4. Legal assistance

Potential beneficiaries of Temporary protection might seek legal assistance for a variety of reasons; for example, if they received a refusal decision for temporary protection and they want to understand the decision or appeal it. Even after recognition, situations may arise that lead individuals to seek legal help, especially with regards to their right of social welfare. They might equally seek the help of an NGO, such as Caritas or Vluchtelingenwerk, to help explain them the reason of refusal.

Article 23 of the Belgian Constitution determines that the right to live with dignity implies for every person, *inter alia*, the right to legal assistance. The Aliens Act guarantees free legal assistance by a lawyer to all foreign nationals in procedures included in the Aliens Act under the conditions that apply to Belgian nationals.¹²¹

There are two types of free legal assistance: first line assistance and second line assistance.¹²²

- First line legal assistance

The so-called “first line assistance” is a competence at the regional level and is organised in each judicial district by local Commissions for Legal Assistance, composed of lawyers representing the local bar association and the public centres for social welfare (CPAS / PCSW). There, first legal advice is given by a lawyer, or a person is referred to a more specialised instance, organisation or to “second line assistance”, completely free of charge, regardless of income or financial resources. Besides these lawyers’ initiatives, there are also other public social organisations and NGOs providing this kind of first line legal assistance such as Caritas and Vluchtelingenwerk. Vluchtelingenwerk Vlaanderen has an Infodesk accessible by phone every weekday, through which people can ask any kind of question related to temporary protection or any kind of other question related to their rights in Belgium. Info can be provided in Ukrainian language if needed.¹²³ If the refusal decision is not sufficiently or incorrectly motivated, Vluchtelingenwerk may ask for a review or for clarifications by writing an e-mail to IBZ. This happened more often in the immediate aftermath of the outbreak of war in Ukraine, as national authorities still had to provide comprehensive guidelines on scope of temporary protection and necessary documents to prove entitlement to the status. More recently, poorly or incorrectly motivated refusals are rare, and simply requesting a review is generally not the best strategy in terms of support that can be offered by NGOs. As such, the best option is to often to appeal to the Council for Alien Litigation (CALL) with the aid of a (pro deo) lawyer in the case of a refusal decision. After being recognised temporary protection, individuals might need a legal advice, which is mainly the case for decision on the allocation of social revenue; these cases are also supported through the Infoline of Vluchtelingenwerk.

- Second line legal assistance

“Second line assistance” is organised by the local bar association that exists in every judicial district. Each bar association has a bureau for legal assistance that can appoint a lawyer for (entirely or partially) free second line assistance, the so-called “pro-Deo lawyer”. In practice, this might limit the free choice of a lawyer to a certain extent, but in theory every lawyer can accept to assist someone “pro-Deo” and ask the bureau to be appointed as such, upon the direct request of an asylum seeker. Within this “second line assistance”, a lawyer is appointed to provide substantial legal advice and to assist and represent the person in the asylum procedure. More information about the system of second line legal assistance can be found in the [AIDA report Belgium](#).

¹²¹ Article 90 Aliens Act.

¹²² Article 508/1-508/25 Judicial Code.

¹²³ See: <https://vluchtelingenwerk.be/infolijn>.

5. Information provision and access to NGOs

With regards to the provision of information, the Aliens Act merely states that, when applying for a residence permit, the person enjoying temporary protection shall be given a document, drafted in a language they understand, which sets out the applicable provisions on temporary protection.¹²⁴ To that end, they receive a document which provides information on their status and rights as holders of ‘temporary protection’ from IBZ. As mentioned, a negative decision is accompanied by information on the procedure to appeal, as well as the contact details of the legal desk they can address for legal help. They also receive a document briefly explaining the procedure for requesting international protection.

Aside from the documentation applicants receive from the Immigration Office upon registration, the Red Cross provides them with a document stating that, if they need housing, they can be provided with a reception place in an emergency centre of the Red Cross (‘Ariane’ in Molenbeek, Brussels) or that they may address the request to a municipality of their choice. The need to access reception needs, however, to be expressed on the day of registration and they will only be redirected to Ariane if they have certain vulnerabilities (see housing). They also receive a set of documents from the organisation Pagasa,¹²⁵ providing information on human trafficking indicators and the number of the Infoline of Vluchtelingenwerk Vlaanderen. The information from the Red Cross is provided in Ukrainian. Lastly, when applicants arrive at the registration centre after closure hours or in the weekend, a poster on the door refers to Samusocial, an organisation providing assistance to homeless people.¹²⁶

The NGO Vluchtelingenwerk Vlaanderen has an Infoline¹²⁷ along with the organisations Orbit and – up until April 2023 – Solentra, where (potential) beneficiaries of temporary protection, volunteers, host families, municipalities, lawyers, and other organisations providing aid to displaced persons may call to with any questions they have in relation to temporary protection. This may range from questions on the scope of temporary protection, to the registration procedure, social benefits, school... In the context of this helpdesk, Orbit specializes in information about housing, while Solentra provides psychological help.

In Wallonia and Brussels, a similar Infoline is operated by Caritas, while Ciré maintains a French language information page on the legal position of Ukrainians in Belgium.¹²⁸

On a federal level, a regularly updated information page¹²⁹ on several aspects of temporary protection is provided in English, French, German, Ukrainian, and Russian.

D. Guarantees for vulnerable groups

In exceptional circumstances, where persons cannot autonomously reach the registration centre (for example due to a medical condition), an exception to the obligation to register personally can be granted. An authorisation may be given to a family member who can register the person upon showing a doctor or hospital reference attesting to the impossibility of the person registering. In practice, to avoid misunderstandings, it is advised to inform the Immigration Office of this necessity beforehand.¹³⁰

¹²⁴ Article 57/30 § 1 Aliens Act.

¹²⁵ A Brussels based organisation which informs persons on human trafficking and supports victims of human trafficking.

¹²⁶ Fedasil in response to inquiry Vluchtelingenwerk regarding the registration procedure, 27 February 2023.

¹²⁷ See: <http://bit.ly/3Ud57Od>.

¹²⁸ UKRAINE: informations sur les possibilités d’arrivée, le séjour et le statut juridique en Belgique – CIRÉ asbl (cire.be), available in French at: <https://bit.ly/3KiwMZx>.

¹²⁹ See: <https://info-ukraine.be/en>

¹³⁰ IBZ in response to inquiry Vluchtelingenwerk regarding the condition to physically apply for temporary protection, 16 May 2022

From 10 March 2022 to 3 April 2023, 50,969 persons stated upon registration not to be in need of accessing reception, while 16,563 indicated to need it.¹³¹ This means that roughly only one out of four people fleeing from Ukraine indicated being in need of support for what concerned accommodation upon registration. Of those in need of accommodation, part are given temporary reception at the Ariane centre managed by the Red Cross for the time needed to find a solution at the local level. Roughly 8,352 persons have been referred to Ariane since the beginning of the crisis. This referral depends on whether they are considered as having a vulnerability. In practice, however, vulnerability factors are considered also depending on the number of places available at the emergency centre. Not all persons who indicate a need for reception are thus given reception at Ariane. In practice, people stay in Ariane for weeks or even months, especially when housing must abide by certain conditions tailored to the needs of the person with specific vulnerabilities such as persons with limited mobility.¹³² The average stay in Ariane amounted to 17.4 days in the period between March 2022 and March 2023.

Vulnerabilities are selected on the basis of on-site assessments; visible vulnerabilities, pregnant women, young children, elderly people are the cases that appear to have more chances of being recognised as vulnerable.¹³³ There is no list of what classifies as vulnerable, nor is there a standard questionnaire to identify vulnerabilities. The examination is, according to Fedasil, realised on a case-by-case basis. Persons who are victim of human trafficking or exploitation, are also considered as vulnerable. However, with no transparent screening procedure and limited guidelines on the matter, which generates concerns as to whether non-visible vulnerabilities are properly identified.¹³⁴

After registration, several organisations can help the beneficiaries with a redirection, if needed to a healthcare or elderly facility. In Wallonia, there is, for example, the public agency of Aviq. Persons with vulnerabilities or with a handicap can present themselves at a regional office where the person's overall situation is analysed so they can be redirected to the most appropriate solutions.¹³⁵ In Flanders, the Flemish agency for persons with a handicap (VAPH) plays a similar role in supporting people living with a recognised handicap.

As with regards to persons in need of psychological support, Solentra VZW (an organisation that is specialized in providing psychological help) has a free and accessible telephone helpline where Ukrainians can call to for psychological aid and be assisted in their mother tongue.

Considering unaccompanied minors, the registration procedure is slightly different. Unaccompanied minors have to register at dedicated desks. Just like other beneficiaries of temporary protection, they receive a temporary protection certificate with which they can present themselves to a municipality. Not having a legal guardian or parent may not be used by municipalities as a reason to refuse the issuance of the temporary residence permit (annex 15) and the subsequent residence card.¹³⁶ In total, 21,182 unaccompanied minors were registered in 2022.¹³⁷

A differentiation needs to be made between the situation of minors in the company of adults who are acquaintances or adult family members who do not have the parental authority of a parent or legal guardian, and that of minors who are not accompanied by anyone. If a minor is accompanied, they can be accommodated with the adult person. During the registration process, both the minor and the

¹³¹ Statbel, *Displaced persons from Ukraine*, available in English at: <https://bit.ly/3ZmG5O4>

¹³² Myria, *Contact meeting*, 21 September 2022, available in Dutch at: <https://bit.ly/3m5NaUA>, 50.

¹³³ *Ibid*, 50-51.

¹³⁴ Fedasil in response to inquiry Vluchtelingenwerk regarding the registration procedure, 27 February 2023

¹³⁵ Coordination unit of the Walloon Region for the reception of Ukrainian refugees, *Practical guide for support of Ukrainian refugees*, October 2022, available in French at: <https://bit.ly/3Jrg6js>.

¹³⁶ VVSG, *what happens after registration?*, available in Dutch at: <http://bit.ly/3wEj9NQ>.

¹³⁷ IBZ, numbers provided on 4 April 2023.

accompanier will be asked whether they agree with this arrangement.¹³⁸ The minor will be signalled to the guardianship service (“dienst voogdij” or “tutelles”) so that a legal guardian can be appointed. Since the minor is accompanied, crisis accommodation is not always provided. As for the minors who are not accompanied, the same registration process is applicable. The person is equally signalled to the guardianship service. They are placed in a host family through foster care (“*Pleegzorg Vlaanderen*” in Flanders and “*VZW Mentor Jeunes*” in Wallonia or Brussels).

Local authorities are expected to monitor cases in which friends, acquaintances or a host family hosts an unaccompanied minor. However, when the minor is not placed in a host family but lives with acquaintances, there is no structural follow-up. The Immigration Office should, in such cases, report the minor to the local authorities so that they are aware of the non-accompanied minor¹³⁹; however, in practice it is not clear whether this is done.¹⁴⁰

There is a current shortage of legal guardians who can legally represent unaccompanied minors, resulting in waiting times of sometimes months before a guardian is appointed.¹⁴¹ This can lead to problems such as taking out healthcare insurance,¹⁴² opening a bank account, accessing social benefits.¹⁴³ Minors in the age group of 16-17 are rarely appointed a legal guardian. If the minor, however, has specific vulnerabilities (medical or psychological problems, pregnancy, indications of abuse, human trafficking, etc.) a legal guardian can be appointed with priority.¹⁴⁴

¹³⁸ VVSG, *What happens with the registration of a non-accompanied minor?*, available in Dutch at: <http://bit.ly/3wEj9NQ>.

¹³⁹ Information received orally from “pleegzorg Vlaanderen” (foster care Flanders).

¹⁴⁰ *Ibid*, *notification of non-accompanied minors to the legal guardianship service*

¹⁴¹ Myria, *Contact meeting*, 5 October 2022, p. 50, available in Dutch at: <https://bit.ly/3SDmKpq>.

¹⁴² VVSG, *Social rights: health insurance and disability*, available in Dutch at: <http://bit.ly/3Jpdtij>.

¹⁴³ This problematic has been widely addressed in a letter to the responsible minister from the VVSG along with its Walloon and Brussels partners (ASBL & Brulocalis), 19 May 2022, available in Dutch at: <https://bit.ly/40t0JOj>.

¹⁴⁴ Myria, *Contact meeting*, 5 October 2022, available in Dutch at: <https://bit.ly/3SDmKpq>, 50.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of temporary protection?
The A card has a validity of one year. Currently the A card is prolonged until 24 March 2024¹⁴⁵
2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until the second of February 2023 December 2022?
As of 2 February 2023, 51,828 persons with temporary reception have obtained a residence permit (A-card).

Once in possession of the temporary protection certificate, persons can register their residency in a municipality of their choice, unless they have declared a need for housing, in which case they may receive a place at the emergency reception centre (see guarantees for vulnerable groups). The municipality of their place of residence is responsible for the administrative process of granting the residence permit card.¹⁴⁶ On 2 January 2023, 51,828 persons were given an A-card.¹⁴⁷ The procedure for obtaining a residence permit can vary from municipality to municipality in terms of physical and/or online appointments. Upon registration at the municipality, people receive a temporary residence permit (annex 15). This permit is valid for up to 45 days, opens the right to work, social benefits, education, and allows them to open healthcare insurance, as will be presented in detail in the following sections.¹⁴⁸ The local police conducts a 'check' if the person effectively resides at the given address. Once this is confirmed, the person is asked to present themselves again at the municipality to pick up the residence permit (A-card).¹⁴⁹ The original duration of the residence permit was up to 4 March 2023. From 4 January 2023, people could go at their municipality to prolong their residence permit. This prolongation will last one year, until to the 24 March 2024. The municipality was expected to communicate the possibility of prolongation to TP beneficiaries in their municipality.¹⁵⁰

The time this process takes (from the first appointment with the municipality to obtaining the residence permit) significantly varies depending on the municipality. Where this process took longer than 45 days, the temporary residence permit (annex 15) needed to be renewed. In one case, a case of a person was requested to pay the fee for renewal of annex 15 due to reasons not under their control. The long processing time could cause problems, especially when a person wants to visit family outside of Belgium, as the annex 15 does not allow them to travel if the 90 days out of 180 days they can travel based on their passport already expired.

A primary obstacle in obtaining the A card is finding an address to register residency. At the beginning of the crisis, the Federal Agency in charge of asylum seekers' reception (Fedasil), referred people registering for temporary protection expressing a housing need to the local municipalities (as they had a list of the available places by municipality). Since autumn 2022, referrals from Fedasil to local

¹⁴⁵ Council of the EU Justice and Home Affairs, *Russia's aggression against Ukraine*, 13 October 2022, available in English at: <https://bit.ly/3Yb5wl4>.

¹⁴⁶ Article 12, Aliens Act.

¹⁴⁷ IBZ, information provided on 4 April 2023.

¹⁴⁸ Institute for health and disability insurance (RIZIV), *Circular: right to medical care for displaced persons from Ukraine*, 15 March, 2022, available in Dutch at: <https://bit.ly/3IlpY6J>.

¹⁴⁹ Article 52/2 §2, Royal Decree, 8 October 1981, available in Dutch and French at: <https://bit.ly/408uhA9>.

¹⁵⁰ IBZ, *Circular: temporary protection – renewal A-card*, 16 November 2022, available in Dutch at: <https://bit.ly/3ZrSSi2>.

municipalities were realised only in exceptional cases. The persons who indicates being in need of accommodation and is not considered as part of a vulnerable group (see guarantees for vulnerable groups), is then requested to individually reach out to a municipality of their choice. This means that persons with a reception need who cannot count on friends or family to live with, might encounter serious difficulties in registering their address of residency. This is highly concerning, as this does not allow them to obtain a residence permit and pushes them into irregular stay, regardless of their condition as beneficiaries of temporary protection.¹⁵¹

Other problems or obstacles related to registration that have been signalled appear to constitute isolated situations, rather than consolidated patterns. According to one report, a municipality not registering the person in the register because the documents did not have an apostille, even though it was widely recognised that, considering the circumstances, beneficiaries of temporary protection could not reasonably be expected to obtain them.¹⁵² Moreover, in another case, the municipality demanded the host family (and thus the temporary protection beneficiary) to bring their own interpreter as a condition for registration. As municipalities have access to translation services that do not offer those services to individual persons and considering the difficulty for the latter to find a translator, this cannot be regarded as a reasonable demand.

It is possible for temporary protection holders in Belgium to move to another member state and receive temporary protection there. The rights and social benefits the person enjoyed in Belgium must consequently be terminated. Municipalities are advised to make concrete arrangements for the person's departure during the initial registration.¹⁵³ The person should notify their municipality of the departure so that the person can be removed from the registers, meaning that their A-card will no longer be valid. Through the registration platform on a European level, which was introduced at the end of May 2022, Belgium can exchange relevant information with other member states.¹⁵⁴ If Belgium is informed that a person received temporary protection in another member state, an instruction is sent to the municipality and the residence permit is withdrawn.

2. Access to asylum

There is no restriction to the right to apply for international protection for people who have been granted – or are entitled to temporary protection.¹⁵⁵ However, the examination of the application for international protection of a temporary protection holder is suspended until the temporary protection regime ends at the European level.¹⁵⁶ The same applies to Ukrainian nationals. While the law does not prescribe that the procedure should be suspended for Ukrainian nationals,¹⁵⁷ the CGRS has ‘frozen’ their requests for international protection.¹⁵⁸ The requests of third country nationals who fall outside the scope of temporary protection are not frozen and thus examined accordingly. Due to the ongoing reception crisis, however, access to some of their rights as asylum seekers such as reception cannot be guaranteed (see [AIDA report Belgium on international protection](#)).

¹⁵¹ See for example: The Brussels Times, *Belgium's reception crisis: Ukrainian refugees now also sleeping rough*, 18 November 2022, available at: <http://bit.ly/3KMcyZJ>.

¹⁵² The additions to the circular (IBZ, *Circular regarding the registration of Ukrainians in the registers under the temporary protection statute*, 9 March 2022) states that "Ukrainian civil status certificates, mainly birth certificates, cannot be apostilled/legalized given the circumstances," and that it should be possible "to register a civil status on declaration as already provided for foreigners included in the waiting register", available in Dutch at: <https://bit.ly/3SDXteQ>, 2.

¹⁵³ Communication from the Flemish government support team on Ukraine (VLOT) to the municipalities, 13 September 2022.

¹⁵⁴ Myria, *Contact meeting*, 15 June 2022, available in French and Dutch at: <https://bit.ly/3XMDJHv>, 20.

¹⁵⁵ Article 50 Aliens Act; Article 17 of the Temporary Protection Directive.

¹⁵⁶ Article 51/9 Aliens act, in line with article 17 §2 of the Temporary Protection Directive

¹⁵⁷ Article 51/9 mentions 'persons who enjoy temporary protection' and not specifically 'Ukrainian nationals'

¹⁵⁸ See also CGRS, *Ukraine - state of affairs regarding applications for protection in Belgium*, 17 March 2022, available at <https://bit.ly/3WWEHA4>.

B. Family reunification

A distinction needs to be made between those who have a right to temporary protection as family member,¹⁵⁹ and the persons who do not fall under the scope of temporary protection but can nevertheless apply for family reunification.

Those who are considered as family members under the implementation decision receive temporary protection rather than a residence permit on the basis of 'family reunification'.¹⁶⁰ The question of family reunification does thus not arise for this group. However, it should be noted that the Belgian Aliens Act considers the last category of other close relatives who lived with the family at the time of the invasion and who were completely or mainly dependent on that relative' as a group that 'may' be granted a residence permit,¹⁶¹ thus leaving more discretion to the migration authorities than is technically allowed under the implementation decision. This is equally a group that does not automatically qualify as family members for family reunification, as the recognition of their status as family members is based on an assessment of the dependency links.¹⁶²

The need to apply for family reunification as potential beneficiaries in practice almost exclusively arises where a person cannot apply for temporary protection because they are not capable of obtaining a visa to come to Belgium to apply for temporary protection. This can for example be the case where a third country family member under the scope of temporary protection left Ukraine after 24 February 2022 but has travelled to a third country from where they cannot travel visa free to Belgium. These persons can benefit from a more beneficial family reunification regime, as detailed below.

The second category of persons are those family members who are not, strictly speaking, covered by the scope of temporary protection because the condition of the family being already present and residing in Ukraine before 24 February 2022¹⁶³ is not met. This situation arises if the family was not yet created at the time of the invasion, or if the family member that seeks family reunification was not present in Ukraine before 24 February. To that effect, the Belgian Aliens Act does not mention this criteria of the family being formed already in the country of origin but simply states that a residence permit should be granted to the family member of a person with temporary protection.¹⁶⁴ The Immigration Office does thus allow for family reunification even when the family was formed after the 24 February. This way, certain family members outside the scope of the temporary protection itself can still obtain a right of residence in Belgium of the same duration via family reunification. This, however, only applies to the nuclear family members, meaning the spouse under article 2 (4) (a) and the minor children under article 2 (4) (b) of the council implementing decision, thus again excluding 'other family members'.¹⁶⁵

Although the Commission refers to the Directives regulating family reunification with a third country national or EU citizen,¹⁶⁶ family reunification under temporary protection - regardless of the sponsor's

¹⁵⁹ Article 2 (4) Council implementing Decision establishing the existence of a mass influx of persons displaced from Ukraine, 4 March 2022, available at: <http://bit.ly/3ZuzZuN>.

¹⁶⁰ Article 57/34 §3 Aliens Act.

¹⁶¹ Article 57/34 § 1 Aliens Act.

¹⁶² Article 4 Council Directive 2003/86 on the right to family reunification, 22 September 2003, available in ENG here: <https://bit.ly/3SC8Js6>.

¹⁶³ Article 2 (4) of the Council Implementing Decision.

¹⁶⁴ Art. 57/34 § 1 Aliens Act.

¹⁶⁵ Chamber of representatives, *Wetsontwerp*, 1 October 2002, available in French and Dutch at: <https://bit.ly/3lF11vd>, 28-29.

¹⁶⁶ Communication from the Commission on the Operational Guidelines, available at: <http://bit.ly/41wYkC6>, referencing to family reunification on the ground of Directive 2003/86/EG, 22 September 2003, available at: <https://bit.ly/3SC8Js6> and Directive 2004/38/ EG, 30 April 2004, available at: <http://bit.ly/3F9w4ft>.

nationality - is regulated separately under the Belgian Aliens Act.¹⁶⁷ The applicable article does not lay down any conditions for family reunification, resulting in more favourable conditions in terms of reunification with a beneficiary of temporary protection for persons who cannot apply for temporary protection for the reasons mentioned above. For instance, there is no retribution to be paid, and the person to be reunited is not required to have adequate housing, health care insurance, or sufficient means of existence.¹⁶⁸ This does not alter the fact that there is still the condition of being able to provide proof of the family relationship.¹⁶⁹ In addition, adults have to prove that they do not constitute a danger to public order (or explain why they cannot provide such proof).

Persons abroad who cannot reach Belgium should ask for a visa D based on family reunification at a Belgian consulate or embassy.¹⁷⁰ The question of which embassy is competent arises. For example, a recognised refugee in Ukraine cannot be expected to submit a visa application in their country of origin. In this context, the Immigration Office clarified that an application to a diplomatic post in another country may sometimes be possible. However, the applicant should explain why they wish to submit their application there. It is not entirely clear on which basis this can be done so it is recommended to contact the diplomatic post first.¹⁷¹ Upon arrival in Belgium, these persons are expected to present themselves at the municipality of their place of stay within 8 days.¹⁷²

Family members who reach Belgium through family reunification will receive a residence permit with the same validity period as the residence permit of the person with temporary protection status. It is equally extended under the same conditions.¹⁷³ No provision of the temporary protection directive or the implementing decision excludes potential beneficiaries of temporary protection from enjoying temporary protection if they already have another residence status, as long as they meet the application conditions.¹⁷⁴ The Immigration Office has confirmed that family members with family reunification status can, therefore, effectively apply for temporary protection once they are in Belgium if they fall under the scope of temporary protection.¹⁷⁵ Especially for the family members who fall under the scope of temporary protection but had to apply for a visa D because they were not able to come to Belgium visa free, this can be regarded as a positive development.

C. Movement and mobility

Beneficiaries are not subjected to any territorial restrictions imposed by Belgium in terms of freedom of movement within the Schengen zone. Based on their residence permit and biometric passport, they may travel freely in the Schengen zone for three months within 180 days.¹⁷⁶

There are however some obstacles regarding access to social rights and residence status. In this regard, there are limited national guidelines, and municipalities are left a significant degree of autonomy.

¹⁶⁷ Article 57/34 Aliens Act: IBZ has confirmed that this article is applicable to family reunification with a temporary protection beneficiary, IBZ, *family reunification with a temporary protection beneficiary*, available in French and Dutch at: <https://bit.ly/3wFHNh9>.

¹⁶⁸ See: Agii, *pt. 3.15 Family reunification family members of temporary protection beneficiaries*, available in Dutch at <https://bit.ly/3HLq9Pq>.

¹⁶⁹ Article 10 Aliens Act with application of article 12bis §5 & §6 Aliens Act.

¹⁷⁰ IBZ, *family reunification with a temporary protection beneficiary*, available in French and Dutch at: <https://bit.ly/3wFHNh9>.

¹⁷¹ IBZ in response to Inquiry Myria regarding the application at the diplomatic post and conditions family reunification, 19 October 2022.

¹⁷² Article 12 Aliens Act.

¹⁷³ Article 57/34 §3 Aliens Act.

¹⁷⁴ See also The Commission, *Frequently asked questions on interpreting the Temporary Protection Directive and Council Implementing Decision*, 2022, available at: <https://bit.ly/3RnvY8D>, 5.

¹⁷⁵ IBZ in response to Inquiry Myria regarding the application at the diplomatic post and conditions family reunification, 19 October 2022.

¹⁷⁶ Article 21, Schengenacquis, 22 September 2000, available at: <http://bit.ly/3Y7qVve>.

Most municipalities apply the rule applicable under the law on the right to social integration (“*wet maatschappelijke integratie*”) by analogy. Under this law, beneficiaries may leave the country for 28 days within a year without losing the right to social benefits. However, the municipality should be notified when the time spent abroad is longer than a week.¹⁷⁷ Municipalities might nevertheless apply stricter rules, as they are not subjected to specific obligations within the existing legal framework on temporary protection.

It is concerning that beneficiaries of temporary protection are not always informed of these travel and notification rules, especially since the application thereof might differ depending on the municipality involved. This can equally have implications on the residence status. In the absence of communication to the municipality, there have been cases in which the municipality incorrectly assumed that the person had left the territory indefinitely, while they had, in fact, only left for a relatively short time to evaluate the security situation in their home area in Ukraine. Removal from the register by the municipality however does not mean the person loses temporary protection. This can only be determined through a decision of IBZ, in which case the person also loses their residence status and, consequently, temporary protection status. In the case of a removal from the registers by IBZ because of loss of residence status (and thus temporary protection), the person has to re-apply to the registration centre and go through a new registration process.¹⁷⁸

The obligation to notify the municipality of an absence of a week and to not be absent for 28 days over the course of a year relates to the right to social benefits. Under the Belgian Aliens Act, however, there is in principle no obligation to notify the municipality of absences under three months as this should not affect their residence status.¹⁷⁹ An absence under three months may only affect the social benefits and – if applicable – their place in the reception centre. An issue that emerged in this respect is the fact that municipalities remove persons from the register before this three month period has ended and, upon return, it is not clear whom the person should address to obtain an address and thus be able to access the social rights and benefits connected to temporary protection. This happens mainly where the beneficiary did not notify the municipality of their absence. There has been a case of a municipality not willing to register a person again after the person had left for two months without giving notice.¹⁸⁰ These persons can also not return to the registration centre to express their housing need, as people who already have the temporary protection status are not again given access to the registration centre. To avoid such situations, persons with temporary protection are (and should be) advised to always communicate their travel goals and intentions, including a possible return, clearly to the municipality.

In Flanders, there are no deadlines imposed on municipalities for keeping a reception place available during a person’s absence. Municipalities are merely advised to ‘transparently provide information on the rules regarding housing and payment of social benefits.’¹⁸¹ In Wallonia however, it is clearly indicated that if the stay abroad is less than three months, the accommodation should always be considered as occupied and may thus not be made available for another family.¹⁸²

¹⁷⁷ Article 23 §5 Law on the right to social integration, 26 May 2002, available in Dutch and French at: <https://bit.ly/3WP7Mxg>.

¹⁷⁸ Agii, pt. 2.3.3.3 *Electronic A card and duration of temporary protection*, available at in Dutch at: <http://bit.ly/3xZz2in>; see also The Commission, *Frequently asked questions on interpreting the Temporary Protection Directive and Council Implementing Decision*, 2022, available at: <https://bit.ly/3RnvY8D>, 7; and IBZ, *Circular: temporary protection – renewal A-card*, 16 November 2022, available in Dutch at: <https://bit.ly/3ZrSSi2>.

¹⁷⁹ *Ibid.*, article 39 §2, §3, §6.

¹⁸⁰ This case was reported to the infoline of Vluchtelingenwerk Vlaanderen and confirmed by the municipality

¹⁸¹ Communication from the Flemish government support team on Ukraine (VLOT) to the municipalities, 13 September 2022.

¹⁸² Coordination unit of the Walloon Region for the reception of Ukrainian refugees, *Practical guide for support of Ukrainian refugees*, October 2022, available in French at: <https://bit.ly/3Jrg6js>, 21.

The many insecurities connected to the autonomy that is given to the municipalities and the resulting discrepancy in the approach to absence, may lead to a significant obstacle for temporary protection holders who wish to temporarily leave Belgium.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?
No specific time limit
2. Number of beneficiaries staying in reception centres as of 31 December 2022
On 3 April 2023, 7,392 people resided in the reception centres of Antwerp and Mechelen.¹⁸³ There are no numbers available on the total amount of beneficiaries staying in reception centres.
3. Number of beneficiaries staying in private accommodation as of 31 December 2022
Not available

The provision of accommodation for beneficiaries and the policies set up to that effect are relatively similar between the different regions of the country (Flanders, Brussels, and Wallonia). The information provided in the following section refers mainly to the region of Flanders (which hosts the vast majority of TP beneficiaries). Regardless, cases in which significant differences can be observed in other regions have been highlighted.

Article 13 § 1 of the Temporary Protection Directive states that the member states shall ensure that persons enjoying temporary protection have access to suitable accommodation, or, if necessary, have a right to receive the means to obtain housing. As of February 2023, approximately 59% of the people registered, reside in Flanders, 20% in Wallonia, and 21% in Brussels.¹⁸⁴ Many reception places were created at both the local and federal level to cope with the high number of arrivals from Ukraine. A rough estimate shows that 7,700 extra reception places were created in Flanders and 1,300 in Wallonia.¹⁸⁵ The federal Ariane emergency centre in Brussels currently has a maximum capacity of 450 places for beneficiaries of temporary protection (the total capacity is larger as Ariane also functions as a transit centre for international protection applicants). It should be noted that these numbers reflect the extra places that were created by local authorities in the wake of the crisis, and do thus not include host families or places on the private housing market.

There are different forms of accommodation: emergency accommodation, public reception places (including collective reception centres), and private accommodation (including accommodation with a host family). Each type of accommodation will be addressed more in detail below.

As for emergency accommodation, beneficiaries who indicate a reception need upon registration can, in principle, stay for some nights at the Ariane emergency reception centre organised by Fedasil in Brussels. At the end of June 2022, the Ariane reception centre saw an increase of occupation up to almost 1,200 persons. In this period, the Ariane centre was used solely for temporary protection beneficiaries, a policy that was changed later on and resulted in the capacity for temporary protection beneficiaries being reduced to 450. As a result of this high influx, it was established that only vulnerable persons needing reception can be accommodated until another solution at the local level can be

¹⁸³ Numbers provided by VLOT (Flemish Ukrainian support team).

¹⁸⁴ Numbers provided by VLOT (Flemish Ukrainian support team).

¹⁸⁵ Rough estimate by Fedasil, no definite publication of these numbers is available at the moment of writing.

found.¹⁸⁶ The average stay of persons at Ariane is of 17.5 days since the beginning of the crisis.¹⁸⁷ Other persons are requested to independently contact a municipality of their choice to find an accommodation solution.¹⁸⁸ However, considering the saturation of local reception facilities, the progression to the local level is rather difficult.¹⁸⁹ Local municipalities were requested to centralise information on the available places they can offer, be it in host families, collective reception centres, or other. This information is shared through a common platform 'the housing tool'. Persons can be dispatched from Ariane to the local level based on the places available in this tool. However, the supply of places available on the housing tool is insufficient and the tool is not frequently updated, leading to uncertainty about the actual number of places available.¹⁹⁰

Housing in public places can take many forms. The most common is housing in collective reception centres: these are either places owned by the local municipality or by other actors who made places available, and they are managed either by the local municipality, by the actor itself, or jointly. The main actors involved in the collective reception centres besides the municipality are the Red Cross and the IOM. Two bigger reception centres were set up to accommodate for the influx of displaced persons: one in Antwerp and one in Mechelen. The centres in Antwerp and Mechelen have a capacity of 600 places each (expandable to 1000 in the case of Antwerp).¹⁹¹ Equally, a collective reception centre is set to open between the end of April and the beginning of May in Ghent, providing 600 additional places.¹⁹² Usually, no specific time limit is provided for the stay at the reception centres. The reception facilities must at least provide for a bed in a shared room, with equally the possibility of the sanitary and kitchen spaces being common areas.¹⁹³ The services offered at collective centres may differ, with some offering meals, clothing, and medical support, etc.

To cope with the sudden influx, local authorities can also receive funding to provide other public places to beneficiaries of temporary protection.¹⁹⁴ These places include hotels or B&B's, hostels, youth residence centres, holiday chalets or other touristic residencies, assisted living facilities, or service flats. The places must be the local authority's property or rented out by the local authority. Depending on the type of residence, these places must be available for at least 21 days. However, how often municipalities use this option is unclear.

Lastly, social housing actors can provide for collective centres and housing that can be rented to temporary protection beneficiaries. In addition, (social) rental agencies can use vacant social housing pending demolition, renovation, or sale to provide temporary housing. This can be done either through an intermediate institution or directly by the social housing actor.¹⁹⁵

Beneficiaries can also rent on the private housing market. The feasibility of this highly depends on the financial means of the beneficiary and the benefits they receive. Equally, the temporary character of their statute can negatively affect their chances on the private market.¹⁹⁶ Generally speaking, while the

¹⁸⁶ Myria, *Contact meeting*, 21 September 2022, available in Dutch at: <https://bit.ly/3m5NaUA>, 50.

¹⁸⁷ Communication by the Red Cross, 15 March 2023.

¹⁸⁸ VVSG, *Crisis & durable housing, emergency shelter by Fedasil*, available in Dutch at: <http://bit.ly/3wJSJtS>.

¹⁸⁹ Myria, *Contact meeting*, 19 October 2022, available in French and Dutch at: <https://bit.ly/3DuWmla>, 44; see also VVSG, *Cities and towns are sounding the alarm: 'our reserves have run out'*, 9 October 2022, available in Dutch at: <http://bit.ly/3JB6D9g>.

¹⁹⁰ Myria, *Contact meeting*, 18 May 2022, available in French and Dutch at <https://bit.ly/3XMDJHv>, 40-41.

¹⁹¹ See, The Brussels Times, available in English at: <http://bit.ly/3KBQzVe> and VRT News, available at: <http://bit.ly/40JhgN1>.

¹⁹² Stad Gent, *Emergency centre for Ukrainians*, available in Dutch at: <http://bit.ly/3U8ea2N>.

¹⁹³ Flanders regional government page, *rental for the reception of displaced persons from Ukraine*, available in Dutch at: <http://bit.ly/3J3bS0U>.

¹⁹⁴ Flanders regional government page, *financing*, available in Dutch at: <https://bit.ly/3HhIouh>; Communication from the Flemish government support team on Ukraine (VLOT) to the municipalities, 14 March 2022.

¹⁹⁵ VVSG, *possibilities through social housing organisations*, available in Dutch at: <https://bit.ly/3HK6EXi>.

¹⁹⁶ Obstacles identified by Orbit, specialized in housing for refugees.

requirements concerning the quality of the house are slightly eased,¹⁹⁷ both for landlords and host families, a check is conducted to determine whether the house does not have any severe defects. An inventory or register check can be undertaken to ascertain whether the property has a history of housing quality defects. If based on a previous assessment, there are reasons to believe that there may be quality risks and the house is not in line with existing requirements, a limited screening or full-fledged conformity assessment may be carried out. This can be done by the housing inspector or by an intercommunal agency specialising in conformity assessment.¹⁹⁸ However, beneficiaries of temporary protection who have difficulty finding a reception place may end up in squatted buildings or situations of overcrowding where hygiene, fire safety, and general security norms are not complied with.¹⁹⁹

As for accommodation with a host family, in the beginning stages the reception was mainly focussed on stay in host families. This happened through the ‘temporary living’ (“tijdelijk wonen”) notification which made it possible for host families to host beneficiaries of temporary protection in their house while being legally considered to be separate entities.²⁰⁰ This meant that there was no negative impact on the taxes or the financial benefits of the host family. A campaign was launched and people could indicate they were open to host through the hashtag “#place available” (“#plekvrij”) in Flanders or (“#placedispo”) in Brussels and Wallonia. However, the possibility for host families to sign up and accommodate a family was a rather *ad hoc* one. A framework was lacking so that when progression to another solution was needed, municipalities were confronted with reception needs they had difficulty accommodating for. Ultimately, the local authorities are responsible for the reception of beneficiaries in the sense that they have to take responsibility for re-location of those registered in their municipality.²⁰¹

As per information related to the risks involved in hosting through host families, the approach may differ from municipality to municipality. In Flanders, cities are expected to screen the candidate host families to prevent abuse and exploitation. Municipalities are strongly advised to do this, for example, by demanding the criminal record and checking the accommodation where the beneficiary will be housed on potential security, health, and housing quality issues. In Wallonia, a similar check is conducted to ensure the reception places and the reception adhere to the housing quality requirements. The host family (or person) will have to sign a charter with the municipality by which they commit to welcome and host the person concerning the values of responsibility, solidarity, open-mindedness, and respect.

The reception of beneficiaries is thus regulated at a local level rather than at the federal level, with the exception of the short stay at the transit centre of Ariane in Brussels. This is so because beneficiaries, unlike applicants for international protection, immediately access their rights to social benefits and work, and are thus expected to “find their way”. Since 10 March 2022 until 4 April 2023, 75% of persons who have received temporary protection have indicated during registration not to have a reception need.²⁰² These people find solutions through their network and stay with family and/ or friends. As mentioned, part of the group that *does* indicate a reception need and has vulnerabilities is given temporary reception at Ariane for the time needed to find a solution at the local level. Roughly 8,352 persons have been referred to Ariane since the beginning of the crisis.²⁰³

It is however unclear whether those that indicate not to have a reception need managed to find a durable accommodation solution: having no housing at the reception centre of Ariane in the first days means that Fedasil will not take on the responsibility to refer them to municipalities for accommodation. At the

¹⁹⁷ VVSG, *derogations to the housing rental decree*, available in Dutch at: <https://bit.ly/3XMGC1u>.

¹⁹⁸ *Ibid.*, *Housing Quality*

¹⁹⁹ See, for example; VRTNWS, *350 squatters of vacant office building in Zaventem given until 9 December to vacate premises*, 2 December 2022, available in Dutch at: <http://bit.ly/3JuOM48>.

²⁰⁰ For Wallonia, see: *Proposition of place of residence*, available in French at: <http://bit.ly/3KURzE6>; for Flanders, see IBZ, *Circular regarding the registration of Ukrainians in the registers under the temporary protection statute*, 9 March 2022, available in Dutch at: <https://bit.ly/3JqlxPV>, 3.

²⁰¹ Fedasil, *Fall in arrivals of Ukrainian refugees*, 5 August 2020, available at: <http://bit.ly/3Y9WtA7>.

²⁰² Statbel, *Displaced persons from Ukraine*, available in English at: <https://bit.ly/3ZmG5O4>.

²⁰³ Numbers provided by IBZ

same time, the municipality is not strictly responsible for those who do not yet have a registered address at their place. These people thus risk finding themselves in a ‘responsibility’ gap. This gap is also reflected in the numbers: between the persons who are registered in the Aliens Register and those who have received an A-card (meaning that they have registered at the municipality) 10,000 persons cannot be accounted for.²⁰⁴ A large group thus remain unheard, possibly struggling to find adequate housing. The municipalities, when confronted with someone with a reception need or a need for relocation from the host family, are however expected to undertake several steps to ensure that the person can access housing. If durable housing solutions are not available, nor temporary solutions such as hotels, B&B’s, the municipalities are expected to contact neighbouring municipalities. If this is to no avail, they should contact the Ukrainian support team (VLOT), that would provide support in the search for a reception place.²⁰⁵ Municipalities however do not always make full use of their options to contact neighbouring municipalities or to contact VLOT.

The situation regarding reception is worsened by the lack of social housing solutions. Particular issues are encountered with regards to housing for large families and people with physical disabilities.

Another issue concerns the impossibility of registering during the stay at the Ariane transit centre. As Ariane was initially meant to provide a short-term solution, the extended stay without any means to register has a negative impact on access to social, financial, and work rights.²⁰⁶

E. Employment and education

1. Access to the labour market

Beneficiaries with a residence permit (A-card) or annex 15 can legally work in Belgium.²⁰⁷ They may work both as an employee or a self-employed person. The temporary protection status exempts them from the obligation to obtain a special working permit to exercise activities as self-employed persons.²⁰⁸ In total, 17% of Ukrainians registered as job seekers in Belgium have found a job.²⁰⁹ This is an average of 9% in Brussels (538 persons out of 6,248 registered), 10% in Wallonia (623 persons out of 6,140 registered) and 23% in Flanders (4,016 persons out of 17,471 registered).²¹⁰ These numbers only concern people Ukrainian nationals, rather than persons with the temporary protection status.

The social benefits may (certain exceptions aside) be conditional upon the ‘willingness to work’.²¹¹ Beneficiaries can present themselves with their residence documents to one of the regional offices where they can register as a jobseeker. In Flanders, this is VDAB; in Brussels, Actiris and Wallonia, Forem. There are various measures to facilitate access to the labour market of TP beneficiaries. While employers cannot specify the nationality of people they want to recruit to avoid discrimination, they can use hashtags to indicate that they are open to newly arrived employees in Belgium. In Flanders, this can be done through #werkplek vrij; in Brussels, through # Welcome.²¹² Wallonia has no such hashtag,

²⁰⁴ Communication by IBZ, 15 March.

²⁰⁵ Communication from the Flemish government support team on Ukraine (VLOT) to the municipalities, 27 October 2022.

²⁰⁶ Myria, *Contact meeting*, 21 September 2022, available in Dutch at: <https://bit.ly/3m5NaUA>, 50.

²⁰⁷ Article 10, °6, Royal Decree, 2 September 2018, available in Dutch and French at: <https://bit.ly/3Y9wvqg>.

²⁰⁸ Article 1, °15 Royal Decree, 3 February 2003, available in French and Dutch at: <http://bit.ly/3mj78LC>.

²⁰⁹ This does however not mean that they are all still currently working.

²¹⁰ Measurement from the 1 January 2022 to 31 December 2023. Numbers provided by the VDAB, as calculated by Statbel/KSZ (“*kruispunt databank sociale zekerheid*”).

²¹¹ Article 3 § 5, Law on the right to social integration, 26 May 2002, available in Dutch and French at: <https://bit.ly/3WP7Mxg>; see also Institution on social integration (POD MI), *FAQ on Ukraine*, available in French and Dutch at: <https://bit.ly/3Rh1B3L>, 7.

²¹² Actiris, see: <http://bit.ly/3DrOdEn>.

although employers open to newcomers are encouraged to avoid imposing certain conditions such as language requirements, and use comprehensible, clear language in their vacancies.²¹³

Regarding the labour rights, every worker in Belgium has enjoys the same rights regardless of their right of residence.²¹⁴ Every sector has a minimum wage, and labour must always be remunerated. For questions, doubts or complaints, people can contact the inspection service (“*arbeidsinspectie*”).

Beneficiaries also have the option to follow free integration courses. This includes a course on integration and a course on Dutch. Due to the high demand, this is mainly done through online available info sessions. The beneficiary can apply with his attestation of temporary protection in combination with the A-card or the Annex 15.²¹⁵

2. Access to education

All children between the ages of 5 and 18 residing in Belgium have the right to education, regardless of their residence status.²¹⁶ Temporary protection beneficiaries are obliged to enrol in education 60 days after registration in their municipality, regardless of whether this is distance learning, or enrolment in the Belgian education system through home schooling or physical classes.²¹⁷ Education has no age limit, although compulsory education ends at 18.²¹⁸ On 19 December 2022, 7,257 persons with temporary protection were enrolled in Flemish-speaking schools (Flanders including Flemish speaking schools in Brussels). 44 of them did not have the Ukrainian nationality, while approximately 400 Ukrainians were enrolled without a temporary protection status.²¹⁹

All beneficiaries are entitled to education under the same conditions as nationals, except for the diploma requirements where the degree obtained in a foreign country – contrary to Belgians – may not give direct access to a degree or additional exams or preparation programs may be required.²²⁰ Some rules are more favourable for TP beneficiaries. For example, beneficiaries have the opportunity to, at any moment, file a declaration of home education. Those who prefer distance learning are exempted from the requirement to take exams unlike the Belgian home-schooled children.²²¹ Generally speaking, administrative requirements are eased; this is so regarding the admission requirements to secondary school.²²² Moreover, beneficiaries have access to preparatory classes (“*Okar*” in the Flemish-speaking region, “*DASPA*” in the French-speaking region) for foreign newcomers who speak a different language.²²³

If a child has special needs, the centre for student counselling can redirect the person to a school more adapted to the child’s needs. The procedure for such enrolment is temporarily simplified, not requiring a medical diagnosis.²²⁴ The schools for special needs are mainly for children who, temporarily or

²¹³ Forem, see: <http://bit.ly/3XInk77>.

²¹⁴ Article 4 §1 & article 11, Law establishing sanctions and measures for employers of illegally staying third-country nationals, available in French and Dutch at: <https://bit.ly/3HkixxV>

²¹⁵ See Agii (agency for integration and citizenship), pt. 3.8. *Scope of application*, available at: <http://bit.ly/3xZz2in>.

²¹⁶ GD/2003/03, *The right to education for children without legal residence*, 24 February 2003, available at: <http://bit.ly/3jpxYRb>.

²¹⁷ Article 1 § 7 Law of 29 June 1983 on compulsory education (amended 23 March 2019) available at: <http://bit.ly/3jpxYRb>.

²¹⁸ *Ibid.*, article 1 §1.

²¹⁹ Numbers provided by the Flemish ministry of education, 19 december 2022

²²⁰ Article II.177 Codified Decree on higher education, 11 October 2013, available in Dutch at <http://bit.ly/3JxTwWJ>.

²²¹ Flanders education government page, *Ukraine crisis: lower- and secondary education*, available in Dutch at: <https://bit.ly/3kS0fQS>.

²²² Walloon-Brussels Education unit, *Circular: Ukrainian situation, schooling for children fleeing from conflicts*, p. 7, available in French at: <https://bit.ly/3jiVAX1>.

²²³ Flemish Government Royal Decree, 7 February, available in Dutch at: <http://bit.ly/40et3TR>.

²²⁴ For Flanders, see: <https://bit.ly/3kS0fQS>; for Wallonia, see: <http://bit.ly/3kVpGkC>.

permanently, require special assistance because of: (1) a physical or mental disability, (2) serious emotional or behavioural problems, and (3) severe learning disabilities. With the influx of displaced persons, these schools have extra personnel providing (para)medical, social and psychological support.²²⁵

There are however some obstacles for children under the age of eighteen. First, preparatory classes are saturated, meaning that some beneficiaries are put on waiting lists and – unless home-schooling is a possibility – do not in practice access the education system. Moreover, if a guardian has not been appointed (of which there is equally a shortage), this may cause problems in practice (such as payments and school trips abroad...). The decision to enrol is an act of parental authority that belongs to the parents or guardian. Even if the student would be enrolled anyway, persons with legal custody can sign certain documents, as long as those documents do not affect the right to education and the decisions to be made about it. Foster caregivers can make decisions about parenting in cases of urgent necessity, with notification to the parents.²²⁶

As for those who wish to enrol in higher education, higher education institutions and universities are competent to verify whether the secondary degree obtained abroad can be considered equivalent. Beneficiaries of temporary protection who wish to continue their studies after completing their secondary education must thus individually contact the institution where they want to study. In the absence of a secondary school diploma, an institution may enrol the person for the following reasons: humanitarian, medical, psychological or social. Passing a knowledge and language exam may also be set as a requirement.²²⁷ Some educational degrees, however, require passing mandatory exams as a prerequisite for enrolment (e.g. dentistry, medicine).²²⁸ The enrolment fee is equivalent to the standard fee that Belgian students pay (rather than the fee for third country nationals). Moreover, diploma recognition procedures, as required also for certain jobs, are free for beneficiaries.²²⁹

However, some obstacles remain regarding enrolment in higher education. The language barrier, combined with many courses being in either Dutch or French, constitutes a first obstacle. Moreover, the Ukrainian high school diploma is equivalent to only the second (out of three) cycles of high school education in Belgium, which means that if one wants to continue studying with a Ukrainian secondary education degree and has already passed the age of 18, they must finish the last high school cycle through adult education, while learning one of the local languages. As mentioned, each school can individually grant access based on humanitarian reasons, even when these conditions are not met. For people without the financial means to continue their studies through higher education, welfare centres can support the student financially throughout their education; this is conditional on meeting the commitments agreed upon with the assigned social worker.²³⁰ The willingness of the social welfare centre (responsible for granting financial aid to people with financial needs) to ‘invest’ in these cases varies depending on the municipality. It is highly dependent on the person’s profile.

Lastly, beneficiaries may also enrol in adult education. In relation to vocational training and above-age education beneficiaries, there is an adult education fee exemption for those who enjoy temporary protection. Beneficiaries may take Dutch (in Flanders) and French (in Wallonia) as a second language and other courses offered by the adult education centres. To do so, they must demonstrate their lawful residence in Belgium, for which they can invoke their temporary protection status. For Dutch as a

²²⁵ Flanders education government page, *Ukraine crisis: lower- and secondary education*, available in Dutch at: <https://bit.ly/3kS0fQS>.

²²⁶ Article 387 Quinquies Civil Code, 21 March 1804, available in French and Dutch at: <https://bit.ly/3KJp8ZN>.

²²⁷ Article II.177 Codified Decree on higher education, 11 October 2013, available in Dutch at <http://bit.ly/3JxTwWJ>.

²²⁸ Flanders education government page, *conditions of admission to higher education*, available in Dutch at: <http://bit.ly/3JuRrLa>.

²²⁹ Naric, *information on the recognition of Ukrainian diploma's*, see: <http://bit.ly/3IHuXUW>.

²³⁰ Art. 11 § 2 (a) & art. 52, law on the right to social integration, 26 May 2022.

second language, adults must apply first at the ‘agency for integration and citizenship’ (the whole of Flanders), Atlas (Antwerp) or IN-Ghent. They can orient non-native speakers to the most appropriate course.²³¹

F. Social welfare

The right to social benefits starts from the day of the demand. This means that a person with a temporary protection certificate and an inscription in the register (or proof of an appointment with the municipality) can address himself to the social welfare centre to receive or social revenue or ‘social benefits’. The right to the reception of social benefits will work retroactively to the day of the demand.²³² Each municipality has a ‘social welfare centre’ which operates relatively autonomously (in Flanders “OCMW”, and in Brussels and Wallonia “CPAS”). The social welfare centre of the municipality where the address is registered is responsible for granting social benefits.²³³ Hence, the beneficiary must be a resident in the specific municipality to qualify for social benefits. From March 2022 up until – and including – 23 January, 26,808 temporary protection beneficiaries received social benefits. This includes 5,650 beneficiaries in Brussels, 16,560 in Flanders, and 7,416 in Wallonia.²³⁴

The amount of financial aid given can vary greatly.²³⁵ This is so because under the (“*equivalent leefloon*”) there is no fixed amount, no selected calculation method, and no fixed categories, which results in a high margin of discretion for the social welfare centres and a significant difference between the revenue granted from person to person, and from municipality to municipality. The social welfare centre examines the need for financial assistance and decides within 30 days.²³⁶ The social welfare centre determines what aid is granted based on the established factual situation (housing, forms of support received, cohabitation, etc.).²³⁷

Some issues emerged regarding access to social benefits. A certain lack of clarity has been signalled concerning the amount of the benefits granted and/or the reasons for the refusal or reduction of the revenue. These are often communicated through an official decision only available in Flemish or French. The motivation is often very generic, and not sufficiently individualized to deduct the real reason of refusal/ reduction. A lack of transparency and the extensive margin of discretion accorded to the welfare centre results in incomprehension about the reasons for which a certain amount was or was not granted. Problems may also arise when the person moves from a host family or collective centre to a rental house on the private market (appointed by the municipality or not) and where the benefits received are no longer sufficient to accommodate the new social situation. Beneficiaries are recommended to keep the social welfare centre up to date with their situation so that their social benefits can be adapted in a timely manner. Moreover, have there been cases of social welfare centres not granting the social revenue retroactively starting from the day of demand but only starting from the moment the social investigation is concluded and the amount of income is set.

²³¹ Flanders education government page, *Adult education*, available in Dutch at: Flanders education government page, *Ukraine crisis: lower- and secondary education*, available in Dutch at: <https://bit.ly/3kS0fQS>.

²³² *Ibid.*

²³³ Article 2§ 5 Law on aid granted by public social welfare centres, 2 April 1965, available in French and Dutch at: <https://bit.ly/3mksaK8>.

²³⁴ Note: these numbers are based on the number of total files a person has at the social welfare centre, rather than on the total number of social benefit requests. The average number of persons per file is at 1.7. Statistics provided by the authority on social benefits POD MI, available at: <https://bit.ly/3mkmob5>.

²³⁵ Institution on social integration (POD MI), *FAQ on Ukraine*, available in French and Dutch at: <https://bit.ly/3Rh1B3L>, 5.

²³⁶ Response POD MI on the calculation of the *equivalent leefloon*, 12 August 2022

²³⁷ See VVSG, *Right to Social benefits*, available in Dutch at: <http://bit.ly/41y2kSS>.

Lastly, the beneficiary usually depends on the aid and information their social worker gives. When there is a suspicion that the social worker is not informing the person correctly and transparently, or when there are complaints about the behaviour of the social worker (racist, discriminatory), there is hardly any information given on whom they can address within or outside of the organisation. The decision mentions the possibility of appealing a decision of the social welfare centre, but this is in a language they do not usually understand. People who feel their rights to social benefits are not respected generally have little information on the steps they can undertake or to whom they can address their concerns. Among services available to people in such situations, one can call the Infoline of Vluchtelingenwerk Vlaanderen to try to obtain information from social welfare centres.

G. Health care

Foreigners authorised to reside in Belgium for more than three months are registered as ‘residents’ and consequently have the right to healthcare insurance.²³⁸ Beneficiaries are entitled to the same level of healthcare services as Belgian nationals. Persons ‘visiting’ in short stay, are therefore required to apply for temporary protection if they wish to enjoy medical care beyond urgent medical aid.

Before obtaining resident status, the right to urgent medical support is ensured regardless of whether the person has a residence permit.²³⁹ Urgent medical health care can be provided to those who have fled Ukraine and have not yet acquired the necessary documents. This concerns potential beneficiaries who (1) have not yet undertaken any steps for registration at the registration centre of IBZ but declare that they will do so shortly, those who are on a short stay and merely have a declaration of arrival (annex 3), those who claim that they have been to the registration centre, but have not yet received the temporary protection certificate, and those who have received a certificate of temporary protection but have not yet registered themselves at their municipality.²⁴⁰ The cost of the medical care will, in this case, be covered by the social welfare centre on the condition that they have an ‘attestation of urgent medical needs’ from the attending physician.²⁴¹

Once the healthcare insurance is in order, it works retroactively, going back to the obtainment of the temporary protection certificate or – where this took some more time – to the day of registration at the registration centre. Annex 15, or the A card, allows to take out healthcare insurance. In the absence thereof but with only a temporary protection certificate or proof of registration, the insurance will check if the inscription in the Aliens Register has been realised.

However, there may be some issues related to healthcare access despite enjoying same status as other residents or nationals.²⁴² As with many other aspects, most problems arise where a person cannot register at an address. In such cases, access to healthcare is not only limited to urgent medical healthcare, but access to actors crucial in providing healthcare information may be limited. For those who had an address and have an insurance, but no longer have an address, problems may also arise as there are no clear instructions on possible exceptions. It should be noted, however, that institutions providing insurance have shown some flexibility in this regard.

²³⁸ Article 128 Quinquies §1 Rocal Decree, 3 July 1996, available in French and Dutch at: <https://bit.ly/3EOP1nj>.

²³⁹ Article 5 Royal Decree 5, 12 December 1996, available in French and Dutch at <https://bit.ly/3XU7Tc4>.

²⁴⁰ Institution on social integration (POD MI), *FAQ on Ukraine*, available in French and Dutch at: <https://bit.ly/3Rh1B3L>, 3.

²⁴¹ *Ibid.*

²⁴² Obstacles as identified by Medimmigrant.

Bulgaria



БЪЛГАРСКИ
ХЕЛЗИНСКИ
КОМИТЕТ

Temporary Protection Procedure

A. General

According to national legislation, temporary protection (TP) is granted through a general administrative act (*общ административен акт*). According to the law,²⁴³ these are acts issued by a central authority with an automatic legal effect, which create rights for an indefinite number of persons, defined by common circumstances or characteristic. Under national asylum law,²⁴⁴ the government (Council of Ministers) grants temporary protection, if it is activated by a decision of the EU Council, the latter also determining its duration. Therefore, the government's act to grant temporary protection is group-based, collective and automatic by nature, thus covering all individuals from the specified country with immediate legal effect.

On 10 March 2022, the Bulgarian government adopted Decision No.144,²⁴⁵ granting temporary protection to displaced persons from Ukraine, which entered into force on the date of its publication on 14 March 2022. The decision was given explicitly a retroactive effect to cover all persons displaced from Ukraine from 24 February 2022 onward.

Until 14 March 2022, all Ukrainian refugees who claimed asylum in Bulgaria were still registered as asylum seekers with individual determination procedures and decisions. From 15 March 2022 onward, any Ukrainian refugee who entered the country and stated before the authorities to be in need of protection has to be immediately issued a document,²⁴⁶ certifying their legal status as a person granted a temporary protection in Bulgaria and valid for the duration of the temporary protection regime.²⁴⁷

According to national asylum law,²⁴⁸ TP holders have the right to submit an individual asylum application, besides their temporary protection status. However, the asylum procedure is not open and the application of the TP holder is not examined or decided prior the end of duration of the TP.²⁴⁹

Not only the decision to enact the temporary protection, but all other decisions and measures to enable access to the rights connected to TP status, are of governmental competence; in this respect, the government also holds a coordination role.²⁵⁰ The government is responsible for the adoption of a TP Action Plan, which should also determine the structure of a national task force.²⁵¹ Such provisional action plan²⁵² was adopted in 2011 and amended on 10 March 2022 with the decision of the government which granted the temporary protection to Ukrainian refugees.²⁵³ On the same date the government appointed a national task force group (*оперативна координационна група*) to coordinate the work of six interdepartmental sub-groups, responsible for creating new points for initial reception and registration, securing the transport and accommodation of the Ukrainian refugees as well as their health care, education and employment. The national task force group operated until 1 August 2022 when the Parliament was dissolved as a result of a vote of no confidence and elections were scheduled for October 2022. The caretaker cabinet, appointed on 2 August 2022 did not resume the task force group's activity before 3 October 2022. The new task force group proved *pro forma* and generally inactive for what concerned the provision of support to Ukrainian refugees. This approach was attributed to the fact

²⁴³ Article 65 of Administrative Procedure Code.

²⁴⁴ Article 2(2) LAR.

²⁴⁵ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

²⁴⁶ Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

²⁴⁷ 24 February 2023.

²⁴⁸ Article 68(1), item 2 LAR.

²⁴⁹ Ibid.

²⁵⁰ Article 80(2) LAR.

²⁵¹ Article 81(2) LAR.

²⁵² COM №506 from 7 July 2011, available in Bulgarian at: <https://bit.ly/3CYpZSa>.

²⁵³ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

that the caretaker cabinet was appointed by, and accountable to, president Rumen Radev, known for his anti-refugees²⁵⁴ and pro-Russia²⁵⁵ positions.

The number of the Russian nationals in Bulgaria, who are displaced as a result of the war in Ukraine, is not known. In principle, those who are family members of Ukrainian nationals or who resided on the basis of a valid residence permit in Ukraine prior 24 February 2022 are in general registered under the TP. Some few who on various reasons were denied registration as temporary protection holders could still submit an asylum application and undergo individual assessment and determination under the general asylum procedure. From 24 February to 31 December 2022, a total of 279 Russian nationals submitted asylum applications in Bulgaria outside the TP scheme.²⁵⁶ However, it is not possible to establish how many among them fled from Ukraine as a result of the war and how many were fleeing directly from Russia.

Bulgaria adopted the approach to grant temporary protection to all Ukrainian nationals who sought it, regardless of whether they left Ukraine prior or after 24 February 2022.

As of 31 December 2022, data regarding persons entitled to temporary protection in Bulgaria reflected the following:

Refugees from Ukraine in Bulgaria – overall dynamics ²⁵⁷	
Number of those who entered	997,344
Number of those who remained	49,704
Registered under TP	149,268
➤ children	52,274
➤ unaccompanied children	589
➤ provided government accommodation:	28,195
-in government/municipal centres	9,941
-in private hotels/resort facilities	18,254

In total, 621 third country nationals benefitted from TP in Bulgaria. However, the national system cannot provide data how many of them were granted TP as family members and how many were third country nationals who resided legally in Ukraine prior to 24 February 2022.

Third country nationals under TP	
Algeria	1
Argentina	1
Armenia	50
Azerbaijan	11
Belarus	33
Brazil	1
Canada	7
China	1

²⁵⁴ Dariknews, Дебатът на годината: Радев vs Герджиков, 18 November 2021, available in Bulgarian at: <https://bit.ly/3EHRv7C>.

²⁵⁵ Radio Free Europe, Bulgarian President Didn't Sign Document Backing Ukraine Because Of Wording On NATO Membership, available at: <https://bit.ly/3rXoA8g>.

²⁵⁶ Council of Ministers, Communication exh. N03.07-194/22/05.01.2023.

²⁵⁷ As of 31 December 2022, source: <https://ukraine.gov.bg/>.

Germany	1
Georgia	29
Egypt	2
Hungary	3
Israel	29
India	1
Iran	2
Ireland	2
Jordan	1
Kazakhstan	7
Kyrgyzstan	2
Latvia	6
Lebanon	1
Northern Macedonia	2
Malaysia	1
Morocco	1
Moldova	62
New Zealand	3
Pakistan	1
Palestine	2
Romania	1
Russia	279
Serbia	2
Stateless	2
South Korea	2
Syria	2
The Netherlands	2
Turkmenistan	35
Turkiye	2
United Kingdom	3
United States	21
Uzbekistan	7
Total:	621

Most persons in need of temporary protection were registered in the country between March and May 2022, but a steady increase was registered throughout the year.

Refugees from Ukraine registered under temporary protection in 2022					
As of date:	Total	Men	Women	Accompanied children	Unaccompanied children
31 March	30,777	2,692	15,402	12,562	121
30 April	92,257	8,116	47,068	36,689	384
31 May	112,119	10,967	56,925	43,748	479
30 June	119,037	12,711	60,307	45,523	496
31 July	125,497	14,533	63,225	47,227	512
31 August	132,254	16,737	66,168	48,820	529
30 September	136,601	18,273	68,160	49,618	550
31 October	143,670	19,897	71,688	51,496	589
30 November	146,784	21,098	73,161	51,936	589
31 December	149,268	22,057	74,348	52,274	589

B. Qualification for temporary protection

According to Decision No.144 of the Bulgarian government,²⁵⁸ temporary protection is granted to displaced persons from Ukraine as outlined in the Council Implementing Decision (EU) 2022/382 of 4 March 2022. Temporary protection covers the following categories of beneficiaries:

- Ukrainian nationals residing in Ukraine before 24 February 2022;
- Stateless persons and nationals of third countries other than Ukraine, who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022;
- Family members of the persons referred to in points (a) and (b).

The national arrangement does not envisage any limitations with regards to the date of arrival in Bulgaria; as be it after 24 February 2022 or prior this date. All Ukrainian nationals who approached the authorities and requested protection were registered under the TP regime and issued a document attesting their status as holders of temporary protection in Bulgaria.²⁵⁹

In item 3 of its decision to grant temporary protection, the Bulgarian government included also as TP beneficiaries [quote]:²⁶⁰

- Stateless persons and nationals of third countries, who left Ukraine as a result of the hostilities and entered and remained on the territory of Bulgaria no later than on 31 March 2022.

Therefore, this category of beneficiaries was also granted a TP, but only under the condition of having arrived in Bulgaria before 31 March 2022.

On 30 March 2022, the government adopted an amendment to its TP decision.²⁶¹ While the wording of the amendment gave rise to doubts regarding its interpretation, legal practitioners established it entailed

²⁵⁸ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

²⁵⁹ Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

²⁶⁰ Ibid.

²⁶¹ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

that the deadline for stateless person and third country nationals to register under temporary protection in Bulgaria was extended until 15 April 2022. In July, the Supreme Administrative Court ruled against the amendment based on the interpretation that the provision, as amended, referred to third country nationals and stateless persons who could receive temporary protection until 15 April 2022 without their explicit will and registration.²⁶² First of all, the Court found that establishing a deadline for obtaining temporary protection for third country nationals and stateless persons was contrary to the TP Directive, which does not enable Member States to introduce time limits for temporary protection applicants. Additionally, the Court ruled that it was unlawful to grant temporary protection to third country nationals or stateless persons without their explicit consent, as it might restrict their right to travel to another Member State. The Court underlined that the wording of the amendment lacked clarity as to the scope of persons entitled to temporary protection. For these reasons, the Court revoked the amendment and instructed the government to issue a new act to arrange these issues accordingly. Such decision however was not adopted as meanwhile the government was voted no confidence and disbanded on 1 August 2022.

All family members of Ukrainian nationals or TCN/Stateless persons granted international protection in Ukraine had access to the temporary protection without any limitations in practice. The few cases where local police authorities refused registration as temporary protection holders to family members were attributed to a lack of knowledge on the correct procedures to follow,²⁶³ and resolved either by the issuance of guidelines provided from the National Task Force,²⁶⁴ or by requesting individuals to register at the territorial units of the national asylum authority, the State Agency for Refugees (see 3. Registration under temporary protection).

The definition of family member is outlined in national law under the acts regulating asylum and immigration, but it is broader under the Law on Asylum and Refugees (LAR). According to said law, includes as part of the nuclear family is composed by:

- ❖ Spouses;
- ❖ Children under the age of 18;
- ❖ Cohabitants with whom the status holder has an evidenced stable long-term relationship and their unmarried underage children;

Additionally, it includes:

- ❖ Unmarried children who have come of age, and who are unable to provide for themselves due to grave health conditions;
- ❖ Parents of either one of the spouses who are unable to take care of themselves due to old age or a serious health condition, and who have to share the household of their children;
- ❖ Parents or another adult member of the family who is responsible, by law or custom, for the underage unmarried status holder who has been granted international protection in Bulgaria.

With respect to temporary protection however, in practice both police authorities and the State Agency for Refugees applied the narrower definition of a family member as outlined in the general immigration act, the Law on Foreigners in the Republic of Bulgaria (LARB), namely:

- ❖ Spouses;
- ❖ Children of the foreigner and their spouse, including adopted children, who have not reached the age of 18 and are not married;

²⁶² Supreme administrative court, IV department, case №3789/2022, Decision №6819 from 7 July 2022, available in Bulgarian at: <https://bit.ly/3yNCJIY>.

²⁶³ Council for development of civil society (CPFO) with the National Task Force, weekly meetings during the period between April and June 2022.

²⁶⁴ See at: <https://bit.ly/3MUIN9D> or <https://ukraine.gov.bg/issuance-of-temporary-protection/>.

- ❖ Children, including adopted children, of the foreigner who have not reached the age of 18 and have not entered into a marriage, when they have parental rights and the children are dependent on them;
- ❖ Children, including adopted children, of the spouse who have not reached the age of 18 and are unmarried, when the individual holds parental rights and the children are dependent on them.

All those that, while displaced from Ukraine, do not fall under the adopted national scope of the temporary protection regime are entitled to submit an application for international protection and initiate an individual administrative assessment under the national asylum procedure.

Not only the temporal scope of temporary protection was not extended under the national scheme, but it was wrongfully adopted in the decision of the government, enacting and granting the TP,²⁶⁵ that temporary protection is granted until 24 February 2022 instead of 4 March 2023 as outlined in paragraph 21 of the Council Decision's preamble. This was corrected on 1 February 2023, when the government extended the temporary protection until 4 March 2024.²⁶⁶

C. Access to temporary protection and registration

1. Admission to territory

In March 2022, several individual reports were made by third country nationals who resided in Ukraine on the basis of a student permit, who were not allowed to access the Bulgarian territory or claim temporary protection before the border police. The exact number of these non-admissions is however unavailable.

The Ministry of Foreign Affairs organised regular evacuation transport²⁶⁷ from Ukraine in the beginning of March 2022, accessible not only to Bulgarian nationals, but also to Ukrainian nationals from Bulgarian ethnic origin concentrated in Bessarabia region (the so-called Bess Arabic Bulgarians). Despite this restriction, evacuation centres started listing without discrimination all Ukrainian nationals who applied for evacuation to Bulgaria. The number of these evacuees is also not publicly available.

There are for what concerns people who returned to Ukraine and sought to re-enter Bulgaria, there appears to be no evidence regarding the issuance of refusal of entry or of the existence of any other obstacle to their possibility to re-access the territory. Especially during summer, when military activities reached their lowest level, many displaced persons from Ukraine opted to return for a short or longer period of time in order to obtain documents, visit family, relatives or friends or to take care of other matters, and they later re-entered Bulgaria without experiencing any legal or practical problems.

Based on the EC Communication "Providing operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders" the Border Police issued instructions to the border guards on how to proceed with respect to granting admission to the territory of displaced person fleeing from the war in Ukraine. Although not disclosed to the public, the content of the instructions was easy to deduce based on the information on the access to territory of Ukrainian war refugees, provided on

²⁶⁵ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

²⁶⁶ COM №95 from 1 February 2023, available in Bulgarian at: <https://bit.ly/3rVTT33>.

²⁶⁷ Offnews, МВНР организира редовни автобусни линии за евакуация от Украйна, available in Bulgarian at: <https://bit.ly/3TeA17A>.

the government online portal ukraine.gov.bg,²⁶⁸ as well as through the observation of relevant practices.²⁶⁹ Two main approaches were established with regard to the access to territory.

The first approach, applied along the Northern border with Romania, where the vast majority of the arrivals were registered, was liberal and inclusive, allowing access to all displaced persons from Ukraine from categories designated as falling under the TP regime, still allowed access even when only in possession of:

- ❖ an old format passport without biometric data;
- ❖ an internal ID card;
- ❖ a driving license;
- ❖ a birth certificate – for children up to 14 years;
- ❖ none of these documents, but have other official documents that certify their identity – for example: certificates, passes, diplomas, membership cards, bank cards, employment records, property documents or any other types of photo IDs;
- ❖ no document – exceptionally and after an inspection by Border Police officers. In such cases, however, the person is not registered by the border guards or the other police services as a holder of temporary protection, but instead channelled to the national asylum authority, State Agency for Refugees (SAR) where they are registered as an asylum seeker, so that an individual assessment of their identity and claims under the usual asylum procedure is carried out. If during the assessment it is established that the person is indeed falling under a category covered by TP, the asylum procedure is terminated,²⁷⁰ and the person immediately registered as temporary protection holder and issued the respective document,²⁷¹ certifying their legal status.

The second approach, applied along the Southeastern border with Türkiye, is more restrictive. While Ukrainian nationals who declare to seek protection are still largely admitted to the territory regardless of the type and validity of the documents possessed, third country nationals and stateless persons claiming to be fleeing from Ukraine and to seek protection are refused entry, in case of not holding a valid passport and an entry visa. The lack of visa is however easily overcome as the Consulate in the town Edirne, close to this border is being regularly approached since the beginning of the war in Ukraine to issue an entry visa in expedited proceedings for these and other categories of beneficiaries of temporary protection, the latter – if willing to transit via Bulgaria.

2. Freedom of movement

Both individuals entitled to temporary protection and those already registered and granted protection enjoy full freedom of movement in the country without any conditions or distinctions based on the type of Ukrainian documents they held at the moment of entry.

Same conditions as to entering Bulgaria are applied to Ukrainian refugees if they attempt to leave the country towards Romania in order to return to Ukraine. All displaced persons are allowed to exit even if not in possession of a biometric passport or a passport or any other type of travel document. This practice is based on the information disseminated by the official Ukrainian sources,²⁷² that Romania allowed transit via its territory for a return to Ukraine with any available document.

²⁶⁸ See at: <https://ukraine.gov.bg/>, section On arrival: Entering Bulgaria.

²⁶⁹ Council for development of civil society (CPFO) with the National Task Force, weekly meetings during the period between April and June 2022.

²⁷⁰ State Agency for Refugees, Order № RD05-263 from 8 April 2022 of the Chairperson of the State Agency for Refugees regarding displaced persons from Ukraine, available at: <https://bit.ly/3MHdEVH>.

²⁷¹ Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

²⁷² Ministry of Foreign Affairs of Ukraine, State Border Guards Service, Ministry of Health etc., available in English at: <https://bit.ly/3rZUCAX>.

When attempting to leave the country, however, in order to continue their journey to other EU countries persons displaced from Ukraine are requested by the Border Police to travel either with a biometric passport in order to benefit from their visa-free regime, or to obtain a visa, if their 90 visa-free period has expired or if they hold a non-biometric passport or other type of travel document. This practice is based on the guidelines provided in the EC Communication “Providing operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders”.

3. Registration under temporary protection

From 15 March 2022, just one day after the enactment of the national TP decision on 14 March 2022,²⁷³ the Bulgarian government started to develop a new system for registration for temporary protection of people displaced from Ukraine. Along two of the reception centres of the national asylum authority (SAR) in Sofia (Ovcha Kupel) and Harmanli, the government opted to open numerous police registration points to ensure the registration process is carried out efficiently.

The prioritization of the roll-out was based on the number of displaced people from Ukraine accommodated in different places across the country, as well as on the statistics for the “hot spots” at border-crossing points and railway stations. Priority was firstly given to areas with high concentration of Ukrainian refugee population, such as the two main entry border crossing points at the Romanian border in Russe and Durankulak, the Central Railway Station as well as the cities of Varna, Burgas and Sofia. Later, new locations were made available every day along with the ongoing training of additional police staff and deployment of new equipment to enable the registration and immediate issuance of TP documents. The government portal “Bulgaria for Ukraine” (ukraine.gov.bg), initially created by volunteers from the IT sector, provides an interactive map of all registration points, updated at the beginning of the displacement crisis on a daily basis to reflect the opening of new registration offices for temporary protection.²⁷⁴ As of mid-May 2022, registration offices/points were open in all police stations across the country.

Temporary protection is granted upon an oral request. The process takes from 5 to 15 minutes. The officer in charge of registration has to verify the documents, presented by the person, which prove they qualify as beneficiaries of temporary protection. If the existence of the necessary pre-requisites it is established, temporary protection is provided automatically, and a TP permit is immediately issued and submitted to the applicant.²⁷⁵

People who are not in possession of any identity or other documents attesting their identity, are channelled to the national asylum authority, State Agency for Refugees (SAR) in one of the two designated for TP registration reception centres, namely – Ovcha Kupel in Sofia and the centre in Harmanli. There, the person is registered as an asylum seeker, followed by an individual assessment of their identity and claims undertaken under the rules of the usual asylum procedure. If during this assessment it is established that the person is indeed entitled to TP, the asylum procedure is terminated²⁷⁶ and the person immediately registered as temporary protection holder and issued the respective document,²⁷⁷ certifying their legal status.

The two border crossing points along the Romanian border in Russe and Durankulak, where the vast majority of the Ukrainian refugees enter Bulgaria, are the only one points on the national border

²⁷³ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

²⁷⁴ See at: <https://bit.ly/3MUIN9D> or <https://ukraine.gov.bg/issuance-of-temporary-protection/>.

²⁷⁵ Registration card of a foreigner granted temporary protection in the Republic of Bulgaria, issued on the basis of Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

²⁷⁶ State Agency for Refugees, Order № RD05-263 from 8 April 2022 of the Chairperson of the State Agency for Refugees regarding displaced persons from Ukraine, available at: <https://bit.ly/3MHdEVH>.

²⁷⁷ Registration card of a foreigner granted temporary protection in the Republic of Bulgaria, issued on the basis of Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

equipped with registration offices for temporary protection. All remaining border crossing points, including the one at Sofia's International Airport, do not provide means for applying and registering for temporary protection. In these cases the persons who state to seek TP are allowed to enter the country under the 90 days visa-free regime. The border police refer the arriving displaced persons to the nearest police station inside the country's territory, or to the police station in the place of their destination – as many of the Ukrainian refugees reach Bulgaria with an idea as to where they will settle, at least at the beginning of their stay. This is due to the fact that information about hotels providing free of charge accommodation under the government Humanitarian Aid Programme was available online until October 2022;²⁷⁸ additionally, many displaced people plan to join family member or local relatives,²⁷⁹ which is especially the case for Ukrainian nationals from Bulgarian Bess Arabic origin.

The 90-days visa-free regime is also applied to those who arrive with non-biometric documents. Although they should not be benefitting from the visa-free regime in Bulgaria, they are also allowed to enter and remain without any obstacles, although they are usually instructed to proceed for temporary protection registration as soon as possible.

No specific time limits are established in the law or in practice for making the oral application for temporary protection. Even in the cases in which persons are allowed to enter with non-biometric or national IDs based on their claim to seek protection who do not register for temporary protection, no punishment or other negative consequences are envisaged or applied. On the contrary, if they opt to leave Bulgaria in order to return to Ukraine they are allowed to do it without any obstacles or fines, even when they have exceeded the period of 90 visa-free days.

4. Legal assistance

Since 2013, the Law on Legal Aid provides that asylum seekers should be able to access mandatory legal aid at all stages of the status determination procedure, sponsored under the state budget.²⁸⁰ In practice however, due to lack of funding, such service is provided only to vulnerable persons with specific needs upon their explicit request.²⁸¹ Amendments to the law in 2020 also entrusted to lawyers registered as legal aid providers the representation of unaccompanied asylum seeking and refugee children both during the procedure, and after status recognition. The law does not explicitly establish that legal aid should be provided to any other beneficiaries of international or temporary protection. The National Legal Aid Bureau developed a draft proposal to amend the law in order to include these categories in the scope of the legal aid. The amendments were adopted in December 2022.

The general legal aid system was introduced in Bulgaria in 2005, extending it to court representation in all types of cases beyond its mandatory provision in criminal, child protection and tort disputes. In 2017 the scope of the legal aid was extended²⁸² to include oral consultations at the national help line²⁸³ or in regional legal aid centres. The condition for legal aid to be provided is the applicant lacks means and resources to privately request a lawyer's remunerated services.

Persons displaced from Ukraine could also benefit from the advice and assistance provided by legal NGOs working in the field of asylum, such as the Bulgarian Helsinki Committee (BHC), the Center for

²⁷⁸ The Ministry of Tourism removed the information from its website on 18 October 2022.

²⁷⁹ Bulgarian Helsinki Committee, Hotline for Ukrainian TP holders, operated since 7 March 2022.

²⁸⁰ Article 22(8) Law on Legal Aid.

²⁸¹ §1(17) from Additional Clauses LAR, namely: children, unaccompanied children, disabled, elderly, pregnant, single parents taking care of underage children, victims of trafficking, persons with serious health issues, psychological disorders or persons who suffered torture, rape or other forms of psychological, physical or sexual violence.

²⁸² Articles 30d to 30o Law on Legal Aid, as amended St.G. №13 from 7 February 2017.

²⁸³ National Legal Aid Bureau, tel. 0700 18 250.

legal aid-Voice in Bulgaria (CLA-VIB), the Foundation for Access to Rights (FAR) and Bulgarian Lawyers for Human Rights.

Among them, only the Bulgarian Helsinki Committee provides daily legal counsel in both Sofia and in the registration-and-reception centre in Harmanli, while the rest provide legal aid in fixed reception days or hours, or solely online. Since 8 March 2022, the Helsinki Committee also operates a legal aid hotline for Ukrainian refugees and developed a special section in the website asylum.bg in Ukrainian,²⁸⁴ dedicated to providing information on the rules and conditions of the temporary protection in Bulgaria, as well as the rights and entitlements connected.

Legal information is also provided in the Blue Dots open in several major hotspots (Ruse, Dobrich, Sofia, Burgas and Varna),²⁸⁵ in which the biggest concentration of Ukrainian nationals is registered. The Blue Dots are a joint operation of UNHCR and UNICEF to provide safe spaces and one-stop hubs for protection and essential services, rolled out in countries hosting refugees from Ukraine (see Information provision and access to NGOs).

After the beginning of the war in Ukraine the Centre for Continuing Education of the National Bar organised online trainings on refugee law with a focus on temporary protection, which were attended by more than 490 lawyers from across the country. Among them were also the legal aid lawyers operating the national help line or at the regional legal aid centres. No practical obstacles for persons entitled to temporary protection in accessing legal assistance were reported, as far as know by the author.

5. Information provision and access to NGOs

As previously mentioned, from mid-April to end of May 2022, UNHCR and UNICEF gradually opened Blue Dot services at two main border entry points in Ruse and Durankulak, as well as in the rest of the major hot-spots in Sofia, Varna, Dobrich and Burgas.²⁸⁶ Blue Dots expand the assistance provided by national government and are organized in coordination with state authorities and other partners along key transit routes and destinations to help children and families in need. The services are provided in partnership with local NGOs and representatives from the refugee community. The Blue Dots are safe spaces and one-stop hubs for protection and essential services, rolled out in countries hosting refugees from Ukraine (including Poland, Romania and Moldova) to provide key protection and social services including information, legal counselling, psychological support, identification and referrals for children, women, families, and other people and groups exposed to specific heightened risks as they flee the conflict in Ukraine.

The so-called “Light Blue Dots” with information displayed in posters are located at the two main entry points along the Bulgarian northern border with Romania, Ruse and Durankulak, where the vast majority of the arrivals are registered. The posters provide information in Ukrainian, Russian and English and refer to the available telephone help lines and online resources.

D. Guarantees for vulnerable groups

The registration process is conducted not only in the reception centres of the asylum authority, SAR, but also in all regular police stations across the country, and no real government mechanism to identify vulnerability exists or is implemented. Vulnerability assessments are only carried out in the several Blue

²⁸⁴ See at: <https://bit.ly/3sc2kYi>.

²⁸⁵ UNHCR Bulgaria, Where can you find Blue Dots in Bulgaria?, see at: <https://bit.ly/3CLgBQB>.

²⁸⁶ UNHCR Bulgaria, UNHCR and UNICEF open Blue Dot support hubs for Ukrainian refugees in Bulgaria, 9 May 2022, available at: <https://bit.ly/3eCAxgq>.

Dots, as these are in principle designed to provide legal information and counselling, psychological support, but also identification and referrals for children, women, families, and other vulnerable people and groups. The identification, initial psychological and/or legal counselling and follow-up referrals are the key services provided at the Blue Dots with regard to vulnerable beneficiaries of temporary protection.

In Bulgaria, children under temporary protection constitute a significant part of the Ukrainian refugee population, representing nearly 36% of the total (as of 31 December 2022). Therefore, from the beginning of the war the National Task Forced Group developed and distributed guidelines directed at addressing cases in which²⁸⁷ displaced unaccompanied children are located at a border checkpoint, hotspot, Blue Dot, initial reception points or by staff of the Migration Directorate or the State Agency for Refugees. General and specific activities by the child protection services were defined in detail in the follow-up guidelines to be undertaken with regard to the identified unaccompanied child, including accommodation with a foster parent or family or a child care facility.²⁸⁸

No specific measures or services for persons under temporary protection with mental health problems were envisaged or provided outside the general health care system, which in itself suffers great deficiencies. According to a report from 2014,²⁸⁹ Bulgaria ranked last in Europe in terms of care for the mentally ill among 30 European countries included in the analysis. The report measured the care for people with mental health problems through the Mental Health Integration Index, which covers several indicators, including access to medical care, the protection of human rights, the ability of people with mental health problems to work, live fulfilling family lives, and among other people in general, is there a stigma, etc. No significant changes were registered in recent years, and Bulgaria still failed to undertake any real measures to reform the system for mental health care and introduce new means to support the identification, treatment and deinstitutionalization of individuals with mental health conditions. The most recent Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) report underlined the persistent failure by the Bulgarian authorities to address most of the fundamental shortcomings and to implement the specific recommendations repeatedly made, including those relating the mental health care and treatment.²⁹⁰ The report re-iterated findings from the previously issued CPT's public statement addressing the persistent lack of implementation of long-standing recommendations concerning the situation of persons placed in psychiatric hospitals, including the phenomenon of physical ill-treatment of social care residents and patients with psychiatric disorders with the authorities failing to take necessary measures to eradicate this totally unacceptable practice.²⁹¹

²⁸⁷ National Task Force Group, Guidelines for action in case of an unaccompanied child displaced from Ukraine, located at a border checkpoint, checkpoint (initial reception points), Migration Directorate, Regional Police Department or SAR registration centre / place, available at: <https://bit.ly/3shwYj3>.

²⁸⁸ ukraine.gov.bg, Information on unaccompanied children, available in Bulgarian at: <https://bit.ly/3Z00XKo>.

²⁸⁹ Offnews, Bulgaria last in Europe in terms of care for the mentally ill, available in Bulgarian at: <https://bit.ly/3MO30wq>.

²⁹⁰ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Report to the Bulgarian Government on the periodic visit to Bulgaria carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 1 to 13 October 2021, available at: <https://bit.ly/3liYwEN>.

²⁹¹ Council of Europe, Public statement on Bulgaria, issued on 4 November 2021, available at: <https://bit.ly/3YQEcse>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--|--------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | Valid until 4 March 2024 |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2022? | 149,268 |

The Bulgarian asylum system does not require any additional residence permit to be issued by the immigration police, besides the document attesting having received an international protection status. Hence, the international protection granting act of the asylum authority SAR is sufficient for the protection holder to be able to apply for an identity document that is automatically issued. This arrangement applies also to TP beneficiaries. The decision of the government to grant temporary protection is therefore sufficient for them to be *automatically* issued the respective TP document, if and when they approach a registration office.²⁹²

Temporary protection is granted upon an oral request made in TP registration offices or SAR reception centres (see 3. Registration under temporary protection). The process takes from 5 to 15 minutes. The registration officer has to verify the documents, presented by the person, attesting the existence of the pre-conditions to be recognised as a beneficiary of temporary protection. Once this is established, temporary protection is provided immediately and automatically, and a TP card is directly issued and provided to the person.²⁹³

The TP document is valid until 4 March 2024.

The scope of rights to which the TP holders are entitled are outlined by the LAR²⁹⁴ and apply for the duration of the temporary protection status. The displaced persons who are granted temporary protection have the right to:

- ❖ remain in the country;
- ❖ work and have access to vocational trainings;
- ❖ appropriate accommodation or means of accommodation if necessary;
- ❖ social assistance;
- ❖ health insurance, medical assistance and services under the conditions and procedures applicable to Bulgarian citizens, with the exception of medical assistance provided under Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the EU (amended, St.G.№32/22 enforced on 26 April 2022.);
- ❖ to return freely to their country of origin.

Due to the specific national arrangements on temporary protection, it is granted with a single act of the government, which covers all displaced persons as outlined by the Council's decision, who entered or will enter the country's territory and requested or will request protection. National provisions, which were adopted in 2002, do not establish a procedure for a withdrawal of temporary protection due to a transfer in another Member State, as such transfers were not legally possible at the time of the law's adoption.

²⁹² COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

²⁹³ Registration card of a foreigner granted temporary protection in the Republic of Bulgaria, issued on the basis of Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

²⁹⁴ Article 39(1) LAR.

This is also the reason for which, in practice, every displaced person from Ukraine who accesses the country and claims protection is registered and automatically issued a TP card without any requirement to provide evidence that they have not received protection or are holding a residence permit in another country. After the registration and issuance of the TP card, registration officers record relevant information in the EU common TP data system. Based on this information, if another state had granted a TP and/or issued a residence permit to the individual in question prior the registration in Bulgaria, its respective authorities can initiate withdrawal of the protection or the residence permit.

For those individuals who are granted TP in Bulgaria, but who declared to be willing to transfer to another Member State, the national asylum authority developed a protocol for returning the TP document based on which the status of the individual in the immigration database is altered, passing from TP holder to foreigner residing in the country from this date onward, within the 90-days visa-free regime. A copy of the handover protocol is given to the individual, so it can be used as evidence before the authorities of other Member States that the person is no longer enjoying temporary protection in Bulgaria.

2. Access to asylum

Article 69 of the national asylum law establishes the right for TP holders to submit an individual asylum application.²⁹⁵ However, the asylum procedure is not opened and the application of the TP holder is not examined or decided prior the end of duration of the TP, if such a decision triggering the Temporary Protection Directive is adopted by the EU Council and implemented through a follow-up decision of the national government.²⁹⁶

On 10 March 2022, the national government adopted Decision No.144,²⁹⁷ which granted a temporary protection to all displaced persons from Ukraine who sought asylum in Bulgaria and which entered into force on the date of its publication on 14 March 2022. The decision was given explicitly a retroactive effect to cover all persons displaced from Ukraine from 24 February 2022.

Hence, until 14 March 2022 all Ukrainian refugees who claimed asylum in Bulgaria were still registered as asylum seekers. From 15 March 2022 onwards, any Ukrainian refugee who entered the country and declared to be seeking protection before the authorities has to be immediately issued a document²⁹⁸ certifying their legal status as a person granted a temporary protection in Bulgaria and valid for its duration.²⁹⁹

In this respect, on 8 April 2022, the asylum authority SAR issued an executive order to instruct its staff on how to proceed with the pending individual international protection applications from persons entitled to temporary protection,³⁰⁰ which were opened *after* the publication of the government's Decision No.144.³⁰¹ In essence, the instructions were to discontinue these asylum cases, to immediately issue a TP document to the applicant, and to provide information about the right to re-open the individual asylum procedure after the end of the TP. Throughout 2022, 810 asylum seekers from Ukraine discontinued their open asylum procedures opened prior to the enactment of the TP in Bulgaria on 14 March,³⁰² in order to be able to avail themselves of more favourable conditions in terms of access to immediate documentation, accommodation and food provision, arranged through the HAP Programme.

²⁹⁵ Article 68(1), item 2 LAR.

²⁹⁶ Ibid.

²⁹⁷ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

²⁹⁸ Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

²⁹⁹ 24 February 2023.

³⁰⁰ State Agency for Refugees, Order No.3Д05-263 from 8 April 2022, available at: <https://bit.ly/3MOy6UG>.

³⁰¹ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

³⁰² Source: SAR 2022 statistics.

501 humanitarian status holders, already granted this type of international protection, opted to retain it.³⁰³

B. Family reunification

TP beneficiaries have the right to be reunited with a spouse and their minor and unmarried children, if they also request to benefit from temporary protection in the country, regardless of their nationality. No decision has to be issued beforehand, if family members live in another country; instead, they only have to register as temporary protection holders upon arrival in order to be able to receive their TP card; family members obtain the same scope of rights as the original TP beneficiary.

Extended circle of family members can also enjoy reunification in Bulgaria under the TP scheme. In such case the reunification has to be authorized in a special procedure. The asylum authority can authorize the reunification with other close relatives (as, for example, can be considered the parent of one of the spouses), if it is proved that they lived together as part of the household of a TP beneficiary at the time of the events, which triggered the temporary protection enactment by the EU and provided that in the country of origin they were dependent on the TP beneficiary. The additional difficulties that could arise if they are not reunified with the TP beneficiary, have to be assessed on a case-by-case basis. When the location of the family members is unknown, the SAR has to initiate search and tracing in cooperation with UNHCR, Red Cross and other relevant organizations.

C. Movement and mobility

The beneficiaries of temporary protection enjoy unlimited freedom of movement with the territory of the country, including more liberal approach with regard to their address registration beyond the normal deadlines established by the law.³⁰⁴ The address registration is necessary to access to social assistance, services and support, which are provided depending on the region and municipality in which the applicant resides.

National arrangements provide for an immediate and automatic issuance of a temporary protection document upon registration (see Residence permit). No additional permits or identification documents are needed or requested for the TP beneficiary to be able to enjoy the rights and entitlements within the scope of temporary protection. Following the specific national arrangements of the temporary protection, which is granted to all beneficiaries with a general administrative decision (see General), discontinuation or withdrawal of the TP is not legally possible, unless the latter is implemented on the basis of exclusion (Article 1F) clauses, or a threat to the national security or public order.

Therefore, Ukrainian refugees who have applied and benefit from TP in Bulgaria do not face any legal or practical impediments to re-accessing the country as TP holders, if they have travelled back to Ukraine for shorter or longer period of time, regardless of its the duration. It means that TP status remains active as long as TP regime is valid, regardless of the period of absence from the country.

D. Housing

³⁰³ Ibid.

³⁰⁴ Article 6(1) LARB Regulations – at the border on entry; Article 28(3) LARB in conjunctions with Article 9(2) LARB Regulations – in 3 days after settling in a private accommodation.

Indicators: Housing

- | | |
|---|----------------|
| 1. For how long are temporary protection beneficiaries entitled to stay in reception centres? | Not applicable |
| 2. Number of beneficiaries staying in reception centres as of 12/2022 | Not applicable |
| 3. Number of beneficiaries staying in private accommodation as of 12/2022 | 21,509 |

According to national law, the responsibility to organise the provision of the temporary protection and all related arrangements lies directly with the Bulgarian government, assisted by a special TP task force.³⁰⁵

Initially, after the outbreak of war and the first arrivals of people displaced from Ukraine at the end of February 2022, accommodation for displaced persons was provided privately, mostly by hotels and guest houses, predominantly in the North-Eastern region and along the Black Sea coast, as most were empty off the touristic season. On 10 March 2022, the government adopted a Humanitarian Aid Programme for the displaced persons from Ukraine (HAP Programme),³⁰⁶ which retroactively funded accommodation and food provision for all Ukrainian TP holders hosted in officially licensed resort, hotel and guest-type facilities; the validity of the measure initially extended only until 31 May 2022.³⁰⁷

On 20 May 2022, facing the end of the approved HAP Programme period, the government adopted a decision to relocate TP holders to government or municipal resort facilities until the end of the temporary protection regime. However, the government and municipal agencies were unable to organise fast enough the necessary logistics and in practice only some of the TP holders were relocated to public reception facilities. The relocation was also opposed by the Ukrainian TP holders, due to a lack of information regarding the locations and conditions of new accommodation facilities, as well as whether these new locations would also provide for access to schools, healthcare and social services. Therefore, on 29 July 2022 the government adopted the decision to extend until 30 September 2022 the HAP Programme.³⁰⁸

As previously mentioned, on 1 August 2022 the Bulgarian Parliament was dissolved. The caretaker cabinet, which took over on 2 August was appointed by - and accountable to - President Rumen Radev, known for his anti-refugees³⁰⁹ and pro-Russia³¹⁰ positions. Although the caretaker cabinet initially extended³¹¹ the HAP Programme under the same conditions until 31 October 2022, later it fully abolished it. In its place, the caretaker cabinet adopted a new scheme,³¹² which was met by widespread criticism for having effect only until 15 November 2022. Other major flaws concern the requirement that all TP holders have to be relocated from the hotels to government/municipal resort facilities, which are not only highly unsuitable for this purpose, but also utterly insufficient as capacity; the exclusion from any accommodation arrangements all the newly arriving after 31 October Ukrainian refugees; as well as the refusal to provide from this date onward any nutrition to any of the TP holders - newly arriving or already in Bulgaria, including the vulnerable categories of individuals.

³⁰⁵ Articles 80 – 81 LAR.

³⁰⁶ COM №145 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3H2ra5w>.

³⁰⁷ Ministry of Tourism's unified registration portal for hospitality services, available in Bulgarian at: <https://bit.ly/3FdNp7b>.

³⁰⁸ COM №535 from 29 July 2022.

³⁰⁹ Dariknews, Дебатът на годината: Радев vs Герджиков, 18 November 2021, available in Bulgarian at: <https://bit.ly/3EHRv7C>.

³¹⁰ Radio Free Europe, Bulgarian President Did not Sign Document Backing Ukraine Because of Wording on NATO Membership, available at: <https://bit.ly/3rXoA8g>.

³¹¹ COM №665 from 15 September 2022.

³¹² COM №856 from 31 October 2022.

Following said criticism, on 16 November the caretaker cabinet adopted a new decision which partially reinstated the HAP Programme,³¹³ allowing the TP holders already accommodated in hotels and licensed guest houses to remain there until the end of the temporary protection regime, and allowed for the provision of government-funded accommodation to newly arriving Ukrainian refugees, although only in the government/municipal resort facilities with available places. From 16 November 2022 onwards however, the cabinet established that measures on food assistance to TP beneficiaries would be revoked. None of the following amendments of the HAP Programme changed this situation.

Another highly criticized measure was the decision of the TP Task Force of the caretaker cabinet to dedicate the detention centre of Elhovo, built with EU funding and designed for detention of irregular migrants entering from Turkey, to be used as an initial reception and internal relocation hub for all arrivals from Ukraine that took place after the end of October 2022. This centre consists of containers, man and women have to share common bathrooms with no other services, amenities or utilities and food or healthcare assistance are not provided. On 4 November 2022, a group of 25 newly arrived Ukrainian refugees were accommodated in the Elhovo centre with no food, medical aid, social assistance or information provided.³¹⁴ The group grew to count 31 individuals who, after spending in three weeks without undergoing any identification process or receiving information about their future relocation and more permanent accommodation, opted to leave Bulgaria and seek refuge in Romania. Since then, 104 displaced persons from Ukraine passed through the Elhovo center for an average period of 3 to 10 days.³¹⁵

As of end of March 2023, the situation described remained unchanged.

Reception conditions, provided in reception-and-registration centres of the asylum authority, State Agency for Refugees (SAR) are accessible under the national legal arrangements³¹⁶ only to persons seeking international protection. The beneficiaries of the temporary protection as well as the beneficiaries of the international protection do not have access to them.

Forms of reception conditions

The Humanitarian Aid Programme, adopted and applied until 15 November 2022 envisaged provision of food and accommodation. The types of assistance such as vouchers, different financial allowances have been made accessible by the law³¹⁷ to the TP holders under the rules and conditions of the general social welfare system.

Private accommodation in hosting facilities not licensed for hospitality services was instead not funded by the State at any of the stages of the Humanitarian Aid Programme. This decision was also taken as a preventive measure against eventual exploitation or abuse. The national TP portal ukraine.gov.bg provided information and helplines in case of risks of trafficking or other exploitation as well as some basic advice for their prevention.

³¹³ COM №909 from 16 November 2022.

³¹⁴ Bulgarian Helsinki Committee, Who accommodated Ukrainian refugees in Elhovo detention center?, available in Bulgarian at: <https://bit.ly/3VsIOUu>.

³¹⁵ Source: Elhovo Regional Security Police Directorate, Migration department.

³¹⁶ Article 29 LAR.

³¹⁷ Article 39 (1), item 4 LAR, Article 2(6) Law on Social Assistance.

E. Employment and education

1. Access to the labour market

TP beneficiaries are entitled to equal treatment to nationals with regard to employment with no exceptions.

According to the law,³¹⁸ persons granted temporary protection have the right to work and vocational training. It is sufficient that they have been issued a TP card; no additional permits or certificates are required in order for beneficiaries of temporary protection to be employed, to practice a profession or to carry out an independent commercial or business activity in Bulgaria.

Notwithstanding, as an additional guarantee, the Law on Labour Migration and Labour Mobility was amended in June 2022 (SG 41/03.06.2022). According to the amendment, permission to access the labour market is no longer required for third-country national workers for the period they enjoy temporary protection.

Beneficiaries of temporary protection accommodated at state expense in resort centres and (see Housing) who were employed, have the right to have their accommodation covered by the State for one additional month from the date on which they actually started. At the end of the first month and after receipt of the first salary, working TP beneficiaries have the right to remain in the place of accommodation, if they wish, but they have to start paying the expenses for their accommodation. Their family members however (spouses, children), as well as relatives with whom they are accommodated together in a common room and who are not working, have the right to continue benefiting from the accommodation at state expense.

For the beneficiaries of temporary protection, who are not accommodated at state expense, and who have found and started work, the government adopted additional material incentives. From 6 June 2022, working TP beneficiaries who secured their own accommodation were entitled to financial assistance of BGN 365 monthly for a period of three months, to cover rent and utility costs (electricity, heating, water, Internet access, etc.). The government provided an additional financial incentive for employers who hired displaced persons from Ukraine, which is still in place. If an employer hired a beneficiary of temporary protection, who was already registered at the Labor Bureau as unemployed, the employer would be entitled to receive as assistance a part of the salary to the amount of BGN 710,00 monthly (the national minimum wage) for the period of the subsidized employment, as well as an amount for social and health insurance payable by the employer, which are to be covered by the national budget. These incentives were funded under the EU Solidarity – Human Resources Development Programme.³¹⁹

The respective national agencies (Employment Agency, Agency for Social Assistance, Ministry of Labour and Social Policy) stated to be unable to provide information on the number of temporary protection beneficiaries who accessed the labour market in 2022.³²⁰ The only information available is the number of TP beneficiaries who found employment through governments employment services and schemes, who as of 31 December 2022 were 2,198.

³¹⁸ Article 39(1), item 2 LAR.

³¹⁹ National Employment Agency portal, see at: <https://bit.ly/3OWpixh>.

³²⁰ TP Task Force-NGO meeting, held on 23 November 2022.

2. Access to education

Access to education is guaranteed for TP beneficiaries under the general national legislation.³²¹ In Bulgaria, compulsory education in state and municipal educational institutions - kindergartens and schools - is free of charge and therefore completely accessible to all children. Education is compulsory for all children from 4 to 7 years old (kindergarten) and from 7 to 16 years old (from 1st to 7th grade), regardless of their citizenship or residence permit.

Education in state and municipal schools is also free for children aged 16 to 18 who are Bulgarian citizens, citizens of another EU country, but also children who are citizens of third countries who have a short-term, long-term or permanent residence permit, have been accepted in Bulgaria under acts of the government, an international treaty, or have sought or received asylum or international protection. Although they are not foreigners seeking or granted international protection, persons displaced by the war in Ukraine received temporary protection, introduced in Bulgaria by an act of the government.

Therefore, not only compulsory school education from grades I to VII, but also optional school education from grades VIII to XII is free for children who have received temporary protection until completing secondary education. The right to free education means that no fees are paid for the education and no fees are paid for taking the state matriculation exams or such exams for the acquisition of a professional qualification and secondary special education.

During the second semester of the 2021/2022 school year, namely February-June, kindergartens admitted 84 children with temporary protection whereas 439 pupils with temporary protection were enrolled from I to XI grades. In total, 296 schoolchildren with temporary protection attended additional Bulgarian language courses.

During the second half of the year for the 2022/2023 academic year 512 children enrolled in pre-school groups distributed among 220 kindergartens and 1,226 students in schools distributed among 431 schools.

According to the Ministry of Education,³²² the overall small number of children with temporary protection enrolled in Bulgarian schools and kindergartens is due to the resumption of distance learning organised by the schools in Ukraine, as well as the requirement of the Ministry of Health to unify the immunization calendars between the two countries. Therefore, the two most important obstacles for Ukrainian children to make use of the local education system are the national differences between vaccination schedules³²³ and school curricula. Especially the latter motivated many parents to keep their children enrolled in the largely available and accessible Ukrainian online education forms, in order to avoid any delays in their educational path.

Nearly 20% of the children with temporary protection who enrolled in Bulgarian schools are first-grade students, who in the current 2022/2023 academic year are 224 in total.³²⁴

The Bulgarian school system in general suffers huge deficiencies in providing alternative forms of education to children with special needs.³²⁵ Where such forms were available however, Ukrainian children did not have obstacles to access them.

³²¹ Article 9 Law on Pre-school and School Education (LPSE).

³²² Ministry of Education, exh. N 1104-6 from 5 January 2023.

³²³ Ministry of Health, Mandatory vaccination schedule, available in Bulgarian at: <https://bit.ly/3OT1g6f>.

³²⁴ Ministry of Education, exh. N 1104-6 from 5 January 2023.

³²⁵ UNICEF, Обучение на деца със специални образователни потребности в дигитална среда, published on 18 June 2020, available at: <https://uni.cf/3JJrJlv>.

The law provides for access to education and vocational training for all TP beneficiaries without any conditions or criteria to access it, or limitations based on age.³²⁶

Access to university education was not facilitated for TP beneficiaries. Universities in Bulgaria enjoy academic autonomy guaranteed by law. This means that universities themselves decide the conditions for the admission of students, tuition fees, the organization of the educational process, the certification of teachers and the awarding of an academic degree, as well as all other issues of the management of the specific higher education institution. By law, the only foreigners who have received some kind of protection in Bulgaria, who are equal in rights to Bulgarian citizens, are only foreigners with refugee status. There is no information that any of the local universities has offered scholarship or other incentives to TP beneficiaries.

In general, requirements related to age are not envisaged with respect to vocational trainings. In Bulgaria the language barrier was not a significant obstacle neither for finding employment, nor for vocational training due to the shared Slavic language roots.

Obstacles arose only with respect to medical professions. In order to acquire the right to practice their profession in Bulgaria, doctors or nurses with temporary protection had to take a Bulgarian language exam focused on the professional terminology. Such exams were organized and conducted by the Center for Assessment in Preschool and School Education.³²⁷

F. Social welfare

Access to social welfare system and different types of social assistance available is regulated by the law and is provided to all TP beneficiaries³²⁸ under the same conditions and on the same level as for nationals.³²⁹ It should be noted, however, that the different types of social, but especially financial assistance provided by the Bulgarian social welfare system are scarce.

The national authority responsible for granting social assistance is the Agency for Social Assistance³³⁰ under the Ministry of Labour and Social Policy; the provision of social welfare and assistance is geographically distributed and therefore tied to the requirement that the applicant resides in the municipality where they have submitted the application for assistance. Regarding TP beneficiaries, this requirement was considered fulfilled with they had made an address registration with the police.

In 2022, a total of 50,080 applications for one-time assistance (BGN 375,00) were submitted by temporary protection holders. Out of them, 49,128 applications were granted assistance, positively affecting 85,088 beneficiaries.

The Social Assistance Agency³³¹ does not carry out a vulnerability assessment before the provision of assistance. If a vulnerability or special needs are stated the ASA refers these applicants, including those granted temporary protection, to an appropriate licensed service or care provider based on a preliminary needs assessment.

³²⁶ Article 39(1), item 2 LAR.

³²⁷ Center for Assessment in Preschool and School Education, Exam requirements and schedule, available in Bulgarian at: <https://bit.ly/3H5MEyC>.

³²⁸ Article 39(1), item 3 LAR.

³²⁹ Article 2 (6) Law on Social Assistance.

³³⁰ Агенция за социално подпомагане, available in Bulgarian at: www.asp.government.bg.

³³¹ Agency for Social Assistance, Exh. N 92-00-0358#1 from 5 January 2023.

In 2022, a total of 27 cases was referred by the ASA to specialized service providers (13 cases to different types of crisis centers, 1 case to a social rehabilitation center, 10 cases to community support centers and 3 cases to interim protection facilities).

Additionally, 16 TP holders with disabilities were provided an individual assessment under the requirements of the Disabilities Act; 14 were later granted monthly financial allowance, 2 were granted financial aid to purchase or repair specialized equipment or device and 2 were appointed a personal assistant.

Special protective measures were also applied with respect to the identified unaccompanied children. In total, 155 children with temporary protection were identified as unaccompanied by the ASA offices, and 17 of them referred to different types of protected facilities, namely 2 children to the Central Children's Hospital, 2 children to a crisis center and 13 children appointed caregivers among the accompanying relatives. Among them, 4 children were in 0-13 age group and 13 children in 14-18 age group.

G. Health care

Access to health care for the beneficiaries of temporary protection was initially limited by law to emergency care only. The law was urgently amended in April 2022 to entitle TP beneficiaries the same level of access to health care as nationals.³³²

Therefore, since April 2022 the TP beneficiaries enjoy the same health care as nationals.

In Bulgaria, the health care system provides an extended package of medical services and treatments, guaranteed and paid for through the budget of the National Health Insurance Fund (NHIF). In order to have access to this free of charge health care package, all persons who have reached the age of majority are required to pay a monthly health insurance fee in the amount of 8% of their salary or if unemployed, the national minimum wage, i.e. minimum health care fee of BGN 24,40 monthly. For children under 18 years of age and retired persons, as well as for some other categories, e.g. military personnel, monthly health fees are covered at the state expense.

In May 2022, the government adopted a decree³³³ with which it undertook the obligation to pay the health insurance fee for the entire duration of the temporary protection of certain categories of TP beneficiaries (children below 18 years of age and elderly people, over 65 years of age). For all the remaining TP beneficiaries, i.e. those from 18 to 65 years of age, the government took responsibility for paying their health insurance fees for the first three months of the temporary protection. After these first three months, TP beneficiaries become responsible for the payment of the health insurance fees. If in the meantime they managed to find a job and employment, the employer will have the obligation to cover the monthly health care fee.

The main obstacle for the TP beneficiaries to access health care in Bulgaria was the overall lack of GPs to whose practices to join as a patient.³³⁴

³³² State Gazette No. 32/22 from 26 April 2022, enforced on the same date.

³³³ COM №69 from 5 May 2022, State Gazette No.35 from 10 May 2022, enforced on the same date.

³³⁴ news.bg, „Личните лекари изчезват до 5 години, недостигът е 73%“, published on 22 March 2022, available in Bulgarian at: <https://bit.ly/3lQhByl>; also, National Association of General Practitioners, „Личните лекари в България се топят“, published on 29 January 2023, available in Bulgarian at: <https://bit.ly/40GKhso>.

Cyprus



CYPRUS
REFUGEE
COUNCIL

Temporary Protection Procedure

A. General

Cyprus transposed the Temporary Protection Directive in 2004 into the national Refugee Law³³⁵ through a Decision of the Council of Ministers.³³⁶ The TPD was activated by a decision issued by the Council of Ministers on 22 March 2022.³³⁷

According to the Ministerial Decision, the following categories of persons displaced from Ukraine on 24 February 2022 or later as a result of the military invasion of the Russian armed forces during that period are eligible for temporary protection:

- ❖ Ukrainian nationals, beneficiaries of international protection in Ukraine, and their family members living in Ukraine before 24 February 2022;
- ❖ Stateless persons and non-Ukrainians living in Ukraine before 24 February 2022 with a permanent residence permit, who are unable to return safely to their country of origin;
- ❖ Members of the families of the above-mentioned categories. Family members for the purpose of this provision are considered to be spouses and minor children (under 18) on the condition that the family existed and resided in Ukraine before 24 February 2022. In case of adult children or other family members a separate application should be submitted.

Temporary protection was initially announced to last one year, with the possibility to be extended depending on the situation in Ukraine. At a later stage, temporary protection was extended to the above categories of persons living in Ukraine up to the 1 February 2022.³³⁸

As of 31 December 2022, 13,893 individuals were registered for temporary protection and as of 28 February 2023, 15,338 were registered for temporary protection.

There is no information available on people who may have been displaced - directly or indirectly by the conflict present in the country but beyond the scope of TPD such as Russian nationals.

B. Qualification for temporary protection

Temporary protection is applied to the following groups of persons who have been displaced from Ukraine on 24 February 2022 or later as a result of the military invasion of the Russian armed forces during that period:

- ❖ Ukrainian nationals, beneficiaries of international protection in Ukraine, and their family members living in Ukraine before 24 February 2022;
- ❖ Stateless persons and non-Ukrainians living in Ukraine before 24 February 2022 with a permanent residence permit, who are unable to return safely to their country of origin;
- ❖ Members of the families of the above-mentioned categories. Family members for the purpose of this provision are considered to be spouses and minor children (under 18) on the condition that the family existed and resided in Ukraine before 24 February 2022. In case of adult children or other family members a separate application should be submitted.

³³⁵ Articles 20-20IB, Refugee Law.

³³⁶ Refugees Law 2000 (6(I)/2000), Ο περί Προσφύγων Νόμος του 2000 (6(I)/2000), as amended by <https://bit.ly/3ZfFHA5> Ε.Ε., Παρ.Ι(Ι), Αρ.3918, 5/11/2004.

³³⁷ Decision (No 33/2022) of 22 March 2022 on management of influx of displaced persons from Ukraine, Διαχείριση Εισροών εκτοπισθέντων απο την Ουκρανία. (Decision has not yet been published in the official gazette of the Republic of Cyprus). <https://whoiswho.euaa.europa.eu/Pages/Temporary-protection.aspx>

³³⁸ Excerpt from the Minutes of the Cabinet Meeting Council Date 4/5/2022, available in Greek at: [93.006.pdf \(cm.gov.cy\)](https://cm.gov.cy).

Persons who had reached Cyprus before 24 February 2022 were initially not eligible for temporary protection, however from May 2022, temporary protection was extended to persons who reached Cyprus from 1 February 2022 onwards.³³⁹

Stateless persons and TCNs have been included in the scope of the TPD as well as their families in line with the Council Decision. However, in practice there are no indications that persons from these groups have reached Cyprus, most probably due to obstacles in reaching the island. For example, the location of Cyprus as well as the fact the country is not a member of the Schengen area.

Persons fleeing Ukraine who do not fall under the scope of the temporary protection regime may access the asylum procedures and apply for international protection. The asylum procedure was accessed in 2022 by Ukrainian nationals, specifically 53 persons applied for asylum.³⁴⁰

C. Access to temporary protection and registration

1. Admission to territory

As Cyprus does not have land borders the main entry point of entry for people fleeing Ukraine is via air travel. There are no reports of people fleeing Ukraine being refused entry at the airport. Prior to the activation of the TPD, Ukrainian nationals had access to Cyprus without a visa for a stay of 90 days. Following the activation of the TPD access to territory was facilitated for persons fleeing Ukraine as entry continued to be permitted without visa but for all passports and other documents in accordance with the EU guidelines, including valid biometric and non-biometric passports, irrespective of the date of expiration; expired biometric and non-biometric passports; identification cards issued by the Government of Ukraine; internal passports; temporary Travel Documents issued by the Government of Ukraine; and permanent or temporary residence permits issued by the Government of Ukraine. The above requirements apply to all displaced persons from Ukraine that would like to enter the Republic of Cyprus legally, either by land or by sea. Furthermore, people who have returned to Ukraine and are seeking to re-enter the country are permitted to do so.

2. Freedom of movement

Individuals entitled to temporary protection not holding a biometric passport or biometric travel document do not experience any issue in moving within the country territory. Furthermore, there is no information indicating that they experienced any issues regarding attempts to continue their journey towards other European countries.

3. Registration under temporary protection

The Asylum Service is responsible for registering temporary protection applications. Initially applications could be submitted online via the website of the Asylum Service or in person at the Asylum Service for persons residing in Nicosia or at the district offices of the Aliens and Immigration Unit (AIU) in Larnaka Limassol, Paphos, and Famagusta. From the end of 2022 and onwards, applications can only be registered online or at the Asylum Service in Nicosia.

As Cyprus does not have land borders, the main entry point for persons fleeing Ukraine is via air travel. When persons fleeing Ukraine arrive in Cyprus and express their intention to apply for temporary protection at the airport, they are informed to contact the Asylum Service and/or the AIU of the district they will be residing in. As the majority of persons reaching Cyprus have family members or

³³⁹

Ibid.

³⁴⁰

Official statistics by the Asylum Service.

acquaintances in Cyprus the majority were guided by such persons. There are no specific time limits laid down in law for individuals to make their application.

Applicants are requested to provide the following documents in order to prove they fall under the scope of temporary protection:³⁴¹

- ❖ A copy of their passport (valid or expired) or I.D;
- ❖ A page of their passport with the official stamp showing the date that the person has left Ukraine or the date of arrival to the first country of entry (if available).

Upon registration of the Temporary Protection applicants are provided with a 'Notification', which consists of a letter confirming that they have been registered under Temporary Protection.

Overall, there were no problems reported in practice for temporary protection applicants with regard to the registration of their application, with very few exceptions such as applications being delayed.

Applicants who are refused registration under the temporary protection regime are not informed of the possibility to access appeal procedures, however in such cases an appeal could be submitted under the general rules for all administrative decisions. To date, there is no information of any such cases. Regarding the possibility to submit a subsequent application, it is possible to submit such an application however there is not information on the procedure, criteria or chances of success.

4. Legal assistance

There is no legal assistance provided specifically for persons entitled to temporary protection. The only legal assistance available is that provided to applicants of international protection (see [AIDA Country Report: Cyprus - Regular Procedure: Legal Assistance](#)).

5. Information provision and access to NGOs

According to the Refugee Law,³⁴² the Asylum Service shall provide persons enjoying temporary protection with a document, in a language they understand, in which the provisions of this Law or any other law relating to temporary protection are clearly stated. In practice, there are 2 leaflets available, one for adults and the other for children including unaccompanied and separated children, both with very basic information.³⁴³ Furthermore, the Asylum Service has provided basic information on their website, including links to information leaflets prepared by EUAA in Ukrainian and English.³⁴⁴ A helpline was also set-up for information to be provided, however this was not offered in Ukrainian. No information is provided specifically tailored to the needs of vulnerable individuals. Finally, there are no alternative sources of information other than basic information provided by UNHCR office in Cyprus.³⁴⁵

D. Guarantees for vulnerable groups

There is no identification mechanism or special procedures in place to identify individuals, including unaccompanied children, entitled to temporary protection, who may need specific procedural guarantees because of their vulnerability, before or after their registration as temporary protection beneficiaries. Furthermore, there has been no specific programme introduced to address the needs of individuals fleeing from Ukraine suffering from mental health problems, including torture survivors and traumatised beneficiaries.

³⁴¹ Cyprus Asylum Service, official website, available at: <https://bit.ly/3njLwPG>.

³⁴² Article 20 ΣΤ, Refugee Law

³⁴³ Cyprus Asylum Service, official website, available at: <https://bit.ly/3lsFo7y>.

³⁴⁴ Ibid.

³⁴⁵ UNHCR Cyprus, see: <https://bit.ly/3ZptObf>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of temporary protection?	12,588
2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2022?	149,268
28 February 2023	14,495

According to information provided by the Asylum Service the decision granting Temporary protection is issued on the same day the application is registered by the Asylum Service and a notification is issued.³⁴⁶ Furthermore, the decision covers all the members of the family included in the application. In practice the decision is often issued on the same day or within 2-3 days at the latest. After receiving the notification issued by the Asylum Service, the main applicant and family members included in the same application have 2 working days to visit any district Aliens and Immigration Unit of the Police to submit biometric data, which is necessary for the issuance of a residence permit. Applicants residing in Nicosia can apply for the issuance of a biometric residence permit by visiting the offices of the Civil Registry and Migration Department. Unlike beneficiaries of international protection, an appointment is not required for the submission of biometric data or for the issuance of a residence permit; beneficiaries are instructed to simply visit the Immigration Office of their district.³⁴⁷

The authority responsible for issuing the residence permit is the CRMD. According to the information provided once the submission of biometric data is completed the applicant also receives an ARC number and the residence permit which is issued within 72 hours. In practice the residence permit is issued within 5-7 working days on average. There have been no obstacles noted in practice as long as beneficiaries provide biometric data, otherwise delays occur until such data is provided.

Temporary protection was initially valid until 4 March 2023 and all residence permits regardless of date of issuance are also valid until the above-mentioned date. In view of the decision to extend Temporary Protection until the 4 March 2024, all residence permits have been automatically extended until 4 March 2024.³⁴⁸

Regarding access to rights, according to the Refugee Law,³⁴⁹ rights are not connected to the issuance of the residence permit and indeed in practice the majority of rights (accommodation, health, labour) can be accessed with the Notification issued by the asylum service and prior to the residence permit being issued. In any case, as temporary protection status and the residence permit are granted in a timely manner there have been no issues with regards to accessing rights.

If a TP holder wishes to return to Ukraine or move to another MS, they must express their will to leave Cyprus either directly to the Asylum Service or via email. Then Asylum Service will then inform via email that the TP in Cyprus is cancelled.

³⁴⁶ EUAA, official website, available at: <https://bit.ly/3LMe7Yi>.

³⁴⁷ Ibid.

³⁴⁸ Ministry of Interior, Announcement concerning the extension of the temporary protection status to Ukrainian citizens in Cyprus, available at: <https://bit.ly/3n53hSQ>.

³⁴⁹ Article 20H, Refugee Law.

2. Access to asylum

According to the Refugee Law,³⁵⁰ beneficiaries of temporary protection have a right to apply for international protection at any time. In practice, there is no available information indicating TP holders accessing the asylum procedures. However, considering the extremely large backlog it is expected that such cases would be examined with very long delays.

B. Family reunification

To date, there has been no case reported in which a TP holder needed to apply for family reunification in order to reunite with family members.

C. Movement and mobility

Beneficiaries of temporary protection have freedom of movement only within the areas under the effective control of Republic of Cyprus, with no restrictions within these areas. As is the case for beneficiaries of international protection they do not have the right to reside or visit the areas in the north that are not under the effective control of the RoC.

Once beneficiaries of TP are registered, they have freedom of movement towards other EUMS and can exit Cyprus for 90 days without losing their status. In case they are out of the country for a period that exceeds 90 days their residence permit may be cancelled. However, in practice this is not implemented.³⁵¹ Furthermore, there are no issues for beneficiaries of temporary protection who wished to temporarily return to Ukraine.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?	N/a
2. Number of beneficiaries staying in reception centres as of 12/2022	2,900
3. Number of beneficiaries staying in private accommodation as of 12/2022	N/a

The following forms of accommodation were provided to beneficiaries of temporary protection in the country:

- **21 hotels/apartments hosting refugees.** Nineteen in Famagusta district, one in Agros (Limassol district) and one in Polis Chrysochous (Paphos District).
- **Some 2,900 individuals** are hosted at this moment in state funded accommodation.

In order to provide accommodation to beneficiaries of temporary protection, the Deputy Ministry of Tourism (DMoT)³⁵² has been delegated by the Council of Ministers to establish lease agreements with hotels.³⁵³ The DMoT has contracted private hotels for this purpose and this constitutes the only form of accommodation provided to TP beneficiaries. As of March 2023, a total of 21 hotels and apartments where contracted for this purpose, specifically 19 in Famagusta district, 1 in Agros (Limassol district)

³⁵⁰ Article 20(3)(a), Refugee Law.

³⁵¹ Information provided by Cyprus Refugee Council.

³⁵² Deputy Ministry of Tourism, <https://bit.ly/3TKapk0>.

³⁵³ EUAA, see: <https://bit.ly/40d9sDg>.

and 1 in Polis Chrysochous (Paphos District).³⁵⁴ Such arrangements are not connected in any way to the general reception system and beneficiaries of TP are not entitled to access reception conditions.

There is no limitation on the duration of stay and although availability is limited there have not been significant complaints by beneficiaries on not being able to access such accommodation. These arrangements were initially planned until March 2023 but are expected to be extended. As of March 2023 2900 TP beneficiaries were hosted in hotels or apartments.

Furthermore, in August 2022 the Ministerial Council approved a Rent Subsidy Scheme for displaced persons from Ukraine who are granted temporary protection status and have been accommodated in hotel units.³⁵⁵ However up until March 2023 this had yet to be implemented.³⁵⁶

E. Employment and education

1. Access to the labour market

Beneficiaries of temporary protection have access to the labour market under the same conditions as nationals. There are no specific measures in place to facilitate access to the labour market, however the immediate access to the status and to the labour market under the same conditions as nationals which was widely known among employers facilitated high numbers of TP securing employment.³⁵⁷ Beneficiaries are entitled to equal treatment to nationals with regard to employment with no exception for specific rights. Currently, there is no data available on the number of temporary protection beneficiaries who accessed the labour market.

2. Access to education

The Law provides access to education for child beneficiaries of temporary protection under the same conditions provided to nationals.³⁵⁸ Access to education is limited to under 18 and to state schools. In practice there are no obstacles to accessing school, however there are no preparatory classes available. As in the case of other non-Greek speaking children, additional Greek language classes are provided. In cases of a child beneficiary that is identified to have special needs they will be supported under the same conditions as nationals. To date there is no statistical information available on the number of child beneficiaries of temporary protection who accessed education until 31 December 2022.

Regarding access to higher education the University of Cyprus (UCY), a state university provided 10 scholarships to Ukrainian refugees, whose studies were violently interrupted by the Russian invasion. Specifically the UCY announced that ten scholarships would be awarded, five at undergraduate level and five at postgraduate level, as well as scholarships to attend courses at the Greek Language School of the University of Cyprus. The scholarships cover tuition fees as well as monthly living expenses.³⁵⁹ The Cyprus University of Technology (CUT), also a state university, provided ways to facilitate access to the University either for Ukrainian students to transfer or for Ukrainian high school graduates that have arrived in Cyprus as refugees from Ukraine and wish to study at the Cyprus University of Technology.³⁶⁰ Frederick University, a private university introduced a special-purpose scholarship

³⁵⁵ Ministerial Decision, No.93.493, 'Provision of Financial assistance to displaced persons from Ukraine' available at: <https://bit.ly/3JT9nO2>.

³⁵⁶ Information provided by Cyprus Refugee Council.

³⁵⁷ Information provided by Cyprus Refugee Council under the <https://www.helprefugeeswork.org/> initiative

³⁵⁸ Article 20H (2), Refugee Law.

³⁵⁹ Phileleftheros, "University if Cyprus: Scholarships to refugees from Ukraine" available in Greek at <https://bit.ly/409RKAq>.

³⁶⁰ Cyprus University of Technology, see: <https://bit.ly/3JLmsci>.

scheme for all students whose studies have been affected by the conflicts. The scholarships apply to all undergraduate studies, fully cover the tuition fees of the first year and 50% of fees for subsequent years.³⁶¹

The Law provides for access to education/vocational training for adults.³⁶² In practice, however, no trainings have been organised specifically for beneficiaries of TP.

F. Social welfare

According to the Law, beneficiaries of temporary protection have a right to receive social assistance and livelihood support when they lack sufficient resources.³⁶³ In practice social welfare is not provided to temporary protection beneficiaries under the same conditions and on the same level as for nationals or as legally residing third-country nationals. Instead, they only have access to a one-off financial allowance as follows:

- ❖ A single person (and the main applicant if there is a family) is entitled to €340
- ❖ Every dependent family member above the age of fourteen is entitled €170 and every dependent member below the age of fourteen is entitled to €100
- ❖ Benefits are provided in cash in one or two instalments

Applications are made to the Social Welfare Services which is the responsible authority for granting social assistance. The provision of social welfare is not tied to a requirement to reside in a specific place or region. Furthermore no obstacles have been observed in practice which is probably due to the fact that it is a one-off payment. There is no statistical information available on the number of beneficiaries of temporary protection who accessed social welfare.

In August 2022 the Ministerial Council approved a monthly financial assistance of €102 for early childhood care for children aged up to 4 years and 8 months provided that the parent/guardian is working.³⁶⁴ However, access to this provision did not become available until March 2023.³⁶⁵

G. Health care

According to the Law³⁶⁶ beneficiaries of temporary protection have access to medical care, in case they do not have sufficient resources, which includes at least first aid care and the necessary treatment of diseases. Furthermore, the Law states that they have access to necessary medical or other assistance, as long as they have special needs, in particular unaccompanied minors or persons who have suffered torture, rape or other serious forms of mental, physical or sexual violence.³⁶⁷

In practice TP beneficiaries have not been given access to the same health care as nationals, or as legally residing third-country nationals including beneficiaries of international protection who have access to the National Health System. Instead, medical care is provided under the same conditions as provided to asylum seekers which entails access to the public health system (state hospitals and other state medical services) for care beyond emergency care or essential treatments but does not allow

³⁶¹ Frederick University, see: <https://bit.ly/40d007C>.

³⁶² Article 20H (1)(β), Refugee Law.

³⁶³ Article 20H (1)(δ), Refugee Law.

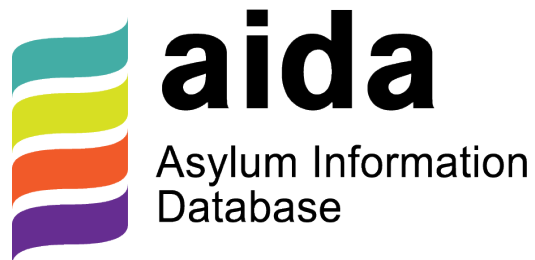
³⁶⁴ Ministerial Decision, No.93.493, 'Provision of Financial assistance to displaced persons from Ukraine' available at: <https://bit.ly/3JT9nO2>.

³⁶⁵ Deputy Ministry of Social Welfare, Application for Financial Support for the Care of Children Displaced from Ukraine up to the Age of 4 Years and 8 Months, available at: <http://bit.ly/3IU9kth>.

³⁶⁶ Article 20H (1)(ε), Refugee Law.

³⁶⁷ Article 20H (1)(σ), Refugee Law.

access to private doctors/professionals and private medical services available on the NHS ([see AIDA Country Report on Cyprus: Health Care](#)). Access is facilitated by presenting the Notification that they are registered as TP holder. There is no available data on the number of beneficiaries of TP who have accessed public health care or any issues or obstacles.



Germany



Temporary Protection Procedure

A. General

The Council Directive 2001/55/EC (Temporary Protection Directive) is formally implemented into the German legal framework in Section 24 of the Residence Act. Section 24 defines the status (para. 1), includes exceptions to the status (para. 2), details the rules on the distribution of protection seekers between the Federal States (para. 3, 4) and includes the rights and obligations of the protection seeker on housing and regarding information on the status (para. 5, 7). Paragraph 6 of Section 24, which originally included conditions on the right to work was repealed in May 2022 due to its non-conformity with Art. 12 of the Temporary Protection Directive.³⁶⁸

Following the EU Council decision on the activation of the Temporary Protection Directive on 7th March 2022, the German Federal Government introduced the “Ukraine-Residence-Transitional Regulation” (*Ukraine-Aufenthalts-Übergangsverordnung*, subsequently cited as *Ukraine-Aufenthalts-VO*) which was prolonged and amended by the regulations from 26th April, 24th August and 28th November 2022.³⁶⁹ The regulation and its successors mainly cover rules on legal entry and stay of Ukrainian nationals and foreigners residing in Ukraine until 24th February 2022. The initial Ukraine-Aufenthalts-VO introduced an exemption to the need for a residence permit and guaranteed legal entry and stay. With the amended regulation of August, as of 1st of September legal stay is only awarded for the first 90 days after arrival, a residence permit is required afterwards. Additionally, in the amended regulation of August, a cessation clause was included following which the legal stay ends once a negative final decision on the application for a residence permit has been issued.

In addition, the Federal Ministry of the Interior circulated several letters and recommendations to the Ministries of the Interior of the Federal States regarding the scope, the procedures and further rights awarded to those seeking and afforded temporary protection fleeing from Ukraine.³⁷⁰ Whereas some Federal States contest the legal nature of these circulations (See Registration under temporary protection), others forwarded the circulation letters to the local central immigration authority (ZAB)³⁷¹ and others included or amended the content in their state decrees. The Federal States which introduced state decrees are for example **Baden-Wuerttemberg** on the distribution of people from Ukraine,³⁷² **Berlin** on the distribution and on the scope of temporary protection,³⁷³ **Lower Saxony** on the distribution, social benefits and scope of temporary protection,³⁷⁴ **Schleswig-Holstein** on the

³⁶⁸ Deutscher Bundestag, *Beschlussempfehlung und Bericht des Ausschusses für Arbeit und Soziales zu dem Gesetzentwurf der Bundesregierung, Drucksache 20/1768*, available in German at: <https://bit.ly/3JmVZTm>, 33.

³⁶⁹ For the currently enforced “Ukraine-Residence-Transitional Regulation” and the previous versions see: buzer.de, *Änderungen an Ukraine-Aufenthalts-Übergangsverordnung (UkraineAufenthÜV)*, available in German at: <https://bit.ly/3Hbvizi>.

³⁷⁰ Overview accessible via Informationsverbund Asyl & Migration, *Informationen zu Schutzsuchenden aus der Ukraine*, lastly updated 16 January 2023, available in German at: <http://bit.ly/3QMRvXY>.

³⁷¹ See e.g. an overview on the forwarded recommendations by Thuringia: Refugee Council Thuringia, *Gesetze, Verordnungen und Erlasse*, available in German at: <https://bit.ly/3iQtcvR>.

³⁷² Ministry of Justice Baden-Wuerttemberg, *Allgemeinverfügung zur landesinternen Verteilung von Vertriebenen aus der Ukraine im Sinne des Durchführungsbeschlusses (EU) 2022/382 des Rates vom 4. März 2022 zur Feststellung des Bestehens eines Massenzustroms von Vertriebenen aus der Ukraine im Sinne des Artikels 5 der Richtlinie 2001/55/EG und zur Einführung eines vorübergehenden Schutzes*, 12 May 2022, available in German at: <https://bit.ly/3XFYAMs>.

³⁷³ Senate Berlin, *Senatsbeschluss vom 05.04.2022 zur Zuweisung von Kriegsflüchtlingen nach Berlin*, 05 April 2022; Senate Berlin, *Berliner Senatsbeschluss vom 16.08.2022 zur Unterstützung von nicht-ukrainischen Drittstaatsangehörigen, die in der Ukraine vor Ausbruch des Krieges studiert haben, infolge des Krieges nach Deutschland geflohen sind und ihr Studium in Berlin fortsetzen möchten*, 16 August 2022, available in German at: <https://bit.ly/3QSeMI7>.

³⁷⁴ For an overview see: Refugee Council of Lower Saxony, *Erlasse und Informationen der Niedersächsischen Landesregierung*, available in German at: <http://bit.ly/3QN7gOC>.

distribution, social benefits and scope of temporary protection.³⁷⁵ The Federal State decrees do vary in detail, as they are adjusted to different Federal States' administrative systems.

On the scope for those eligible to temporary protection, the Federal Government distinguishes in its circulation letters between three groups, namely (1) Ukrainian citizens, persons granted international protection in Ukraine and their family members, (2) non-Ukrainian nationals with permanent residency in Ukraine and (3) non-Ukrainian nationals with a temporary residence in Ukraine.³⁷⁶ The criteria for obtaining temporary protection vary accordingly. Ukraine nationals and international protection holders shall be awarded temporary protection, for the other two groups additional criteria apply (see Qualification for temporary protection).

Concerning the entitlement to social benefits, the legal framework has been reformed comprehensively since the activation of temporary protection. Prior to the legal reforms, applicants as well as beneficiaries of temporary protection were granted social benefits under the Asylum Seeker's Benefits Act.³⁷⁷ As of 1st June 2022 applicants for temporary protection if they fulfil additional criteria (see Qualification for temporary protection), as well as beneficiaries for temporary protection are entitled to Social benefits under the regular Social Code.³⁷⁸ Thereby they receive the same benefits as German nationals regarding unemployment benefits, housing allowances, health care, access to the job market, support measures such as language courses, child and parental benefits, and educational support programs.³⁷⁹ These are higher than those under the Asylum Seeker Benefits Act (see Social welfare). In practice, the implementation of the legal framework concerning applicants for temporary protection is contested, especially if they are third-country nationals (see Qualification for temporary protection).

Besides the legal framework on temporary protection, the German government introduced a special procedure for Jewish Ukrainians. Following Section 23 (2) Residence Act in conjunction with the circulation of the Federal Ministry of Interior,³⁸⁰ Ukrainian nationals, stateless or third-country nationals with a legal residence permit in Ukraine, who are Jewish and were legally staying in Ukraine before 24th February 2022, who speak a certain level of German (A1) and who are welcomed by a local Jewish community³⁸¹ qualify for a residence permit on humanitarian grounds for one year.

³⁷⁵ Ministry of Interior Schleswig-Holstein, published by Refugee Council Schleswig-Holstein, *Zusammengefasste Erlassregelung zur Aufnahme von Kriegsvertriebenen aus der Ukraine*, 17 June 2022, available in German at: <http://bit.ly/3QRGIMw>.

³⁷⁶ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, earliest version 14 March 2022, available in German at: <https://bit.ly/3HbUKoW>, amended by the version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, amended by version of 05 September 2022, available in German at: <https://bit.ly/3IXm4by>.

³⁷⁷ For the social benefits granted under the Asylum Seeker's Benefits Act, see [General Report - Reception Conditions](#).

³⁷⁸ For the amended legal framework see: buzer.de, *Änderungen durch Gesetz zur Regelung eines Sofortzuschlages und einer Einmalzahlung in den sozialen Mindestsicherungssystemen sowie zur Änderung des Finanzausgleichsgesetzes und weiterer Gesetze*, last amended 01 November 2022, available in German at: <http://bit.ly/3WC1vaF>; Federal Ministry of the Interior, *Neuregelungen im Aufenthaltsgesetz zum 01.06.2022 aufgrund des „Gesetzes zur Regelung eines Sofortzuschlages und einer Einmalzahlung in den sozialen Mindestsicherungssystemen sowie zur Änderung des Finanzausgleichsgesetzes und weiterer Gesetze“*, 27 May 2022, available in German at: <https://bit.ly/3wfWU0q>.

³⁷⁹ For an overview see: GGUA, *Sozialrechtliche Rahmenbedingungen mit Aufenthaltserlaubnis nach § 24 AufenthG bzw. nach Antrag auf vorübergehenden Schutz*, 01 September 2022, available in German: <https://bit.ly/3QN3G7r>.

³⁸⁰ Federal Ministry of Interior, *Anordnung des Bundesministeriums des Innern gemäß § 23 Abs. 2 des Aufenthaltsgesetzes über die Aufnahme jüdischer Zuwanderer aus der ehemaligen Sowjetunion mit Ausnahme der Baltischen Staaten*, last amended 18 March 2022, available in German at: <http://bit.ly/3wf18lk>.

³⁸¹ This criterion does not need to be proven by the applicant. Instead, the Central Jewish Welfare Office checks whether the applicant may enter a local Jewish community. Access to the local Jewish community is usually granted if the applicant is of Jewish decent. See: Bundesamt für Migration und Flüchtlinge, *Jüdische Zuwandernde - Guide to the Special Acceptance Procedure Ukraine*, available at: <http://bit.ly/3J1F8Ws>.

Temporary protection statistics End of February 2022 - 2 March 2023

Number of persons registered in the Central Register of Foreigners (<i>Ausländerzentralregister</i> (AZR))	1,072,248
Holders of a residence permit for temporary protection under Section 24 Residence Act	778,799
Persons having received a fictional approval (ie application is currently being assessed)	123,898
Persons having applied for temporary protection but having not yet received fictional approval	127,713
Have not applied for temporary protection and do not possess a residence permit	41,838

Source: Migration Media Service, *Flüchtlinge aus der Ukraine*, last amended 2 March 2023, available in German at: <http://bit.ly/3D0Jvgr>.

Among those registered 96% are of Ukrainian nationality, around 69% percent of the registered persons are female, about 33% are under 18 years old.³⁸² There is no overall breakdown on the different nationalities among the third-country nationals who fled from Ukraine. A request by the Minister of children, youth, family, equality and migration of North Rhine-Westphalia though shows that in North Rhine-Westphalia the biggest group of third-country nationals who fled from Ukraine are of Russian, Moroccan, Nigerian, Azerbaijani and Armenian nationality.³⁸³

B. Qualification for temporary protection

Eligibility for Temporary Protection

Implementing the Council Decision 2022/382, the Federal Government defined in its circulation letters three groups for which temporary protection shall or can be granted.³⁸⁴ While the legal nature of the circulation letters is contested, the applicability of the criteria set out in the Council Decision 2022/382 to these three groups and is not disputed in Germany.

To the first group temporary protection shall be granted without further criteria, this group includes:

- ❖ Ukrainian citizens, who were residing in Ukraine before 24th February 2022
- ❖ Stateless persons and foreign citizens who obtained international protection in Ukraine³⁸⁵

³⁸² *ibid.*

³⁸³ Ministry of children, Youth, Family, Equality, Migration and Integration North Rhine-Westphalia, *Situation der aus der Ukraine nach Nordrhein-Westfalen geflüchteten Drittstaatsangehörigen*, 21 September 2022, available in German at: <https://bit.ly/3HdPf9f>.

³⁸⁴ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, earliest version 14 March 2022, available in German at: <https://bit.ly/3HbUKoW>, amended by the version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, amended by version of 05 September 2022, available in German at: <https://bit.ly/3IXm4by>.

³⁸⁵ International protection meaning under the GFK, subsidiary protection under Directive 2011/95/EU or other national equal protection status, according to Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, earliest version 14 March 2022, available in German at: <https://bit.ly/3HbUKoW>, amended by the version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, amended by version of 05 September 2022, available in German at: <https://bit.ly/3IXm4by>.

❖ Family members of these groups

Family members include the spouse or permanent partner. The permanence of a partnership is determined in the same way as permanent partnership of EU citizens under the German Freedom of Movement Act, implementing the Citizens Rights Directive 2004/38/EC, following which it must be made plausible that the partnership is exclusive and be of such a nature that the partners are willing to support each other financially and emotionally in life. Additionally, family members also include minor children and close relatives who were living within the family before 24th February 2022 and are dependent on the original protection seeker. Dependence requires financial or actual full or at least prevailing dependence. In this last category also children who turned 18 shortly before the application for temporary protection may be included.

Secondly, temporary protection shall also be awarded to foreigners with a permanent residence permit in Ukraine, if the prima facie presumption that they cannot return to their home country is not revoked. This includes cases where a custodian of a minor Ukrainian child is a third country national, and holder of a permanent residence permit in Ukraine. If the prima facie assumption is revoked, the local authorities would then need to assess whether the person can return safely under the criteria set out below. In the case of family members in Germany, family ties constitute a prevailing reason.³⁸⁶

The third group consists of all other persons who were legally residing (more than 90 days) in Ukraine before 24th of February but without permanent residence permit. They may also be awarded temporary protection under additional criteria. They need to prove their legal residence in Ukraine and establish that they cannot return safely to their home country. In defining “safe return” and the procedures to establish whether a person can return safely, the Federal Government relies on the Communication of the Commission from 21st March 2022.³⁸⁷ Accordingly, the procedure to establish whether a person can return safely constitutes a sui generis procedure where factors such as armed conflict, systemic human rights violations, ongoing violence, risk of persecution or inhumane and degrading treatment in the home country need to be evaluated. As set forth in the Communication from the Commission, the Federal government underlines in their circulation letters that not only factors of safety shall be evaluated but also whether the applicants still have special ties to their home country or whether they are rather alienated.³⁸⁸ This criterion of ‘alienation’ or ties to the home country does not exist in the German law for the assessment of ‘safe return’ in the asylum procedure and therefore constitutes a sui generis assessment of ‘safe return’ for applicants for temporary protection. Additionally, the local authorities (Ausländerbehörde der Länder) may use Section 60 para. 5 of the Residence Act as criterion which references the ECHR and paragraph 7, where a concrete threat to life, body or freedom precludes extradition to the home country. Generally, this sui generis procedure needs to be applied individually. However, the Federal Government decided that for people fleeing Ukraine who are of Eritrean, Syrian and Afghan nationality, it is generally established that they cannot return safely to their home countries.

³⁸⁶ Informationsverbund Asyl & Migration, *Fragen und Antworten: Perspektiven für nicht-ukrainische Staatsangehörige, die aus der Ukraine geflüchtet sind*, 3 February 2023, available in German at: <http://bit.ly/40woweP>.

³⁸⁷ European Commission, *Communication from the Commission on Operational guidelines for the implementation of Council implementing Decision 2022/382 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*, 21 June 2022, available at: <http://bit.ly/3CTTQuM>.

³⁸⁸ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, earliest version 14 March 2022, available in German at: <https://bit.ly/3HbUKoW>, amended by the version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, amended by version of 05 September 2022, available in German at: <https://bit.ly/3IXm4by>.

Temporary protection is awarded to the respective groups if they arrived in Germany on the 24th of February or afterwards but is also extended to those who arrived shortly before 24th February 2022 (max. 90 days) for various reasons (e.g. holidays, work, fleeing because of aggravating conflict).³⁸⁹

Additionally, the possibility to apply for temporary protection is extended to those Ukrainians who are already holders of any other residence permit in Germany or where their stay was formerly tolerated (see [General Report – Residence Permit](#)). They may apply for temporary protection in case the former residence permit expires and cannot be prolonged or in cases where the original residence permit or toleration ceases due to other reasons.

Temporary protection is awarded retrospectively from the day of arrival to 4th March 2024, thereby already including the possible prolongations provided for under paragraph 21 of the Council decision of 4th March 2022.³⁹⁰

Other forms of protection available to people who fled Ukraine

In addition to temporary protection under Section 24 Residence Act, people fleeing Ukraine can apply for several other residence permits. First, there is the possibility to apply for asylum following the regular asylum procedure (see [General Report – Regular Procedure](#)). However, NGOs and legal practitioners do not advise to apply for asylum in most cases, due to the restrictions in the freedom of choosing a place to live, restrictions in access to the job market and the length of the procedure (see [General Report – Reception Conditions](#)).

Secondly, people fleeing Ukraine can apply for any other residence permits from within Germany.³⁹¹ Usually applicants need to fulfil undergo a visa procedure before entering Germany, but following Section 3 Ukraine-Aufenthalts-VO people fleeing Ukraine are not only allowed to the territory for the first 90 days but also exempted from this procedure. However, difficulties in obtaining these residence permits stem from (a) possible conflicts with an application for temporary protection and (b) material preconditions of the residence permits.

a. conflicts of applications for temporary protection with other residence permits

Section 19f para 1 no. 2 and para 2 no. 1 entail conflict clauses for several residence permits, following which simultaneous applications for temporary protection and e.g. residence permits for students under Section 16b Residence Act, residence permits for academic qualified workers under Section 18b Residence Act and residence permits for European Voluntary Service under Section 19e Residence Act are mutually exclusive. However, it is contested when these collusion clauses are applicable. Applicants for temporary protection are not per se excluded from applying for other residence permits, if the application for the other residence permit was lodged within the 90 days of legal stay before or without applying for temporary protection. Applicants for temporary protection are also not excluded from applying for other residence permits if they apply for other residence permits after their application for temporary protection has been declined. However, in this case applicants may be required to undergo the visa procedure since their stay is no longer legal following the cessation clause in Section

³⁸⁹ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, earliest version 14 March 2022, available in German at: <https://bit.ly/3HbUKoW>, amended by the version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, amended by version of 05 September 2022, available in German at: <https://bit.ly/3IXm4by>.

³⁹⁰ Ibid.

³⁹¹ E.g. student or vocational training visa Section 16 a, b Residence Act; skilled worker Section 18 a, b Residence Act; humanitarian visa Section 25 Residence Act; family reunification visa Section 27 Residence Act.

2 para. 3 Ukraine-Aufenthalts-VO.³⁹² The conflict clauses may apply in situations where an application for temporary protection has been lodged, is not yet decided upon and an application for one of the other residence permits listed above has been filed subsequently. But even in these cases it has been argued that at least for some of the above listed residence permits the exemption clause shall not apply because it would violate EU law.³⁹³

In sum, applications for other residence permits are in most cases possible before lodging an application or after receiving a negative decision for an application for temporary protection. Even if an application for a residence permit is made parallel to an application for temporary protection it is argued that the applications can be processed at the same time.

b. material preconditions for other residence permits

It may though be difficult for people fleeing Ukraine to fulfil the requirements for residence permits during their 90 days of legal stay in Germany. For most of the residence permits a proof of economic self-reliance is required and a valid passport.³⁹⁴ Additionally, often language certificates are required.³⁹⁵ In cases where people apply for residence permits for work the Federal Employment Agency needs to give their permission.³⁹⁶ This involves for some residence permits the evaluation whether there are German workers who have precedence over foreign workers (*Vorrangprüfung*).

C. Access to temporary protection and registration

1. Admission to territory

Entry conditions

Following the Ukraine-Aufenthalts-VO people fleeing Ukraine are exempted from visa requirements, their entry and stay is legal for the first 90 days of arrival.

Additionally, people fleeing Ukraine are exempted from pass holding requirements. Usually, third country nationals are required to hold a passport or a substitute to enter and stay in Germany.³⁹⁷ This does not apply for those who fall under the scope of Section 24 Residence Act. According to the decree of the Ministry of Interior, not only passports but also Ukrainian-ID cards are regarded as equivalent proof of identity.³⁹⁸ Furthermore, people falling under the scope of Section 24 of the Residence act are generally exempted from passport holding requirements and cannot be punished for not having any identity documents.³⁹⁹ The exemption only applies as long as the acquisition of a passport or equivalent identity card constitutes an unreasonable burden. This exemption of the pass holding requirement is

³⁹² The Ministry of Interior is aware that obliging people to undergo a visa procedure in Ukraine is currently unreasonable and that therefore exceptions to this obligation can be made, see: Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, 13.

³⁹³ It has been argued that the scope of Directive (EU) 2016/801 of 11. May 2016 also includes applicants for temporary protection. For the argumentation see: Informationsverbund Asyl & Migration, *Fragen und Antworten: Perspektiven für nicht-ukrainische Staatsangehörige, die aus der Ukraine geflüchtet sind*, last amended 3 January 2023, available in German at: <http://bit.ly/3ZLYgh6>.

³⁹⁴ Section 5 (1) Residence Act.

³⁹⁵ See e.g. student residence permit Section 16b (5) Residence Act.

³⁹⁶ Section 18 (2) Residence Act.

³⁹⁷ Section 3 (1) Residence Act.

³⁹⁸ Federal Ministry of Interior, *Allgemeinverfügung über die Anerkennung ausländischer Pässe und Passersatzpapiere*, 18 March 2022, available in German at: <https://bit.ly/3kp7pvE>.

³⁹⁹ Federal Ministry of Interior, *Ausländerrechtliches Pass- und Dokumentenwesen*, 18 March 2022, available in German at: <https://bit.ly/3WlHmTl>.

justified by Federal Ministry of Interior with the fact that the situation of people fleeing from Ukraine is comparable to those who flee a natural disaster and are therefore not able to obtain identity documents.⁴⁰⁰

However, those entering Germany without any identity documents may be hindered in practice to enter Germany. The press stated that especially people with allegedly “African decent” have been stopped at the German Polish border if they did not carry their passports or Ukrainian residence permits with them.⁴⁰¹ It has been criticised that the police checks amount to racial profiling since mostly black people are being checked.⁴⁰² The federal police justify the checks, stating that they are necessary to prevent that people who do not fall under the scope of temporary protection do not take advantage of the facilitated entry requirements.⁴⁰³ However, the European Commission against Racism and Intolerance maintains its critique from earlier years, that Germany does not put enough effort in the elimination of racial profiling of the police.⁴⁰⁴

Other measures which facilitate travelling to Germany

The German federal railway company (Deutsche Bahn) provides long distance trains from Poland to Berlin, Dresden, Nuremberg and Munich where people fleeing Ukraine can travel without a ticket. According to the press, in February 2023 around 80 people arrive daily via these trains from Poland.⁴⁰⁵ They solely need to carry a passport or proof of former residence permit from Ukraine. If they want to continue their journey, since the 1st March 2022, people who fled from Ukraine further receive tickets free of charge, which are distributed at Arrival centres.⁴⁰⁶ According to the Deutsche Bahn 550,000 free tickets were distributed between March 2022 and February 2023.⁴⁰⁷

Return to Ukraine and Re-entrance to Germany

Applicants for temporary protection and beneficiaries of temporary protection may return to Ukraine for short stays. Their non-permanent return does not have an influence on their application for temporary protection. Permanent return is assumed if the person is absent for more than six months or if the return is by nature permanent.⁴⁰⁸ The return is assumed to be of permanent nature if third country nationals have *inter alia* resigned from working and housing contracts and if they are taking all their possessions with them.⁴⁰⁹ In October 2022 the party leader of the Christian-Union Friedrich Merz claimed that many Ukrainians were exploiting the social welfare system in Germany through this possibility of travelling back and forth.⁴¹⁰ According to him many Ukrainians travelled to Germany, applied for temporary

⁴⁰⁰ Ibid.

⁴⁰¹ Juan F. Alvarez Moreno, *Bundespolizei bestreitet Rassismussvorwürfe nach Kontrollen von Geflüchteten*, rbb24, 03 March 2022, available in German at: <http://bit.ly/3QSLSYC>.

⁴⁰² Hendrik Lasch, *Dauerkontrolle am Dresdner Bahnhof*, 29 August 2022, available in German at: <http://bit.ly/3D0mpXd>.

⁴⁰³ Federal government, *Response to parliamentary question by The Left*, 20/3753, 28 September 2022, available in German at: <https://bit.ly/3ZKIJiy>.

⁴⁰⁴ European Commission against Racism and Intolerance, *ECRI Conclusions on the implementation of the Recommendations in respect of Germany subject to interim follow-up*, 29 June 2022, available at: <https://bit.ly/3GU3cHQ>.

⁴⁰⁵ Merkur.de, *Deutsche Bahn: 550.000 kostenlose Tickets für Ukraine-Flüchtlinge vergeben*, 21 February 2023, available in German at: <http://bit.ly/3mLvNJg>.

⁴⁰⁶ Deutsche Bahn, *Help for refugees from Ukraine*, available at: <http://bit.ly/3iKFZA3>. The ticket was introduced on the 1st of March and was still available in January 2023.

⁴⁰⁷ Merkur.de, *Deutsche Bahn: 550.000 kostenlose Tickets für Ukraine-Flüchtlinge vergeben*, 21 February 2023, available in German at: <http://bit.ly/3mLvNJg>.

⁴⁰⁸ Section 51 (1 Nr. 6,7) Residence Act.

⁴⁰⁹ Federal Ministry of Internal Affairs, *Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz*, available in German at: <https://bit.ly/3L62MSH>, at 51.1.5.

⁴¹⁰ Herbert Kordes, Lara Straatmann, *Wie Merz Kreml-Propaganda verbreitete*, tagesschau.de 06 October 2022, available in German at: <http://bit.ly/3CZgEsW>.

protection and consequently receive social benefits, even though they are residing in Ukraine.⁴¹¹ No evidence proves these allegations; to the contrary, a study by the Federal Ministry of Interior shows that 42% of interviewed people who fled from Ukraine plan to stay in Germany.⁴¹² According to media investigations, the allegations were based on pro-Russian Social-Media accounts.⁴¹³

2. Freedom of movement

Since people fleeing from Ukraine are exempted from any passport holding requirements, in theory they may move freely within the territory. In order to facilitate mobility to other European countries, the Federal governments instructs the local immigration authorities to award travel documents to Ukrainian nationals where their identity can be established through other means.⁴¹⁴ Third country nationals shall contact the embassies of their home countries in Germany if that is not considered unreasonable.⁴¹⁵ What is considered unreasonable is not conclusively defined or listed in the law but must be determined based on the facts of the individual case.⁴¹⁶ The burden of proof lies with the third country national.⁴¹⁷ However, the German authorities need to inform third country nationals about the extent of proofs third country nationals need to provide and the necessary steps to be taken by third country nationals.⁴¹⁸ Examples for cases where contacting the embassies of their home countries have been considered unreasonable include *inter alia*: possible threats to family members who remained in the home country by authorities of the third country; if the embassy requires declarations of 'repentance' and 'voluntary return' and if the visit to the embassy and the application for a passport exceed the financial means of third country nationals and cannot be covered otherwise.⁴¹⁹

During the assessment of the eligibility criteria for temporary protection, applicants for temporary protection are obliged to reside in the municipality to which they have been allocated.⁴²⁰ Following Section 24 (3) Residence Act applicants are allocated throughout Germany according to the "Königssteiner Schlüssel".⁴²¹ In contrast to the distribution of applicants for international protection, for applicants for temporary protection the place of residence of extended family members is taken into account in the distribution process.⁴²² In order to adequately respond to the amended distribution criteria the Federal Office for Migration and Refugees designed a new platform, through which the distribution of people who fled Ukraine is managed.⁴²³

3. Registration under temporary protection

Registration procedure and responsible authorities

From 1st September 2022 applications for temporary protection need to be made de facto within 90 days of arrival. Within these 90 days people fleeing Ukraine may stay without a residence permit in

⁴¹¹ Ibid.
⁴¹² Federal Ministry of Interior, *Befragung ukrainischer Kriegsflüchtlinge*, 04 April 2022, available in German at: <http://bit.ly/3QT54oV>.
⁴¹³ Herbert Kordes, Lara Straatmann, *Wie Merz Kreml-Propaganda verbreitete*, tagesschau.de 06 October 2022, available in German at: <http://bit.ly/3CZgEsW>.
⁴¹⁴ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, 14 April 2022, available in German at: <https://bit.ly/3QQei5b>.
⁴¹⁵ Ibid.
⁴¹⁶ Federal government, *response to parliamentary request, Drucksache 18/9133*, available in German at: <https://bit.ly/3Yqr909>.
⁴¹⁷ Kerstin Becker, Nadja Sabrowski, *Die Unzumutbarkeit der Passbeschaffung*, Asylmagazin 1-2/2018, at 18f.
⁴¹⁸ Ibid.
⁴¹⁹ Ibid.
⁴²⁰ Section 24 (5) Residence Act
⁴²¹ See [General Report – Asylum Procedure](#).
⁴²² ProAsyl, *Information for refugees from Ukraine*, 4 March 2022, available at: <http://bit.ly/3iL3qct>.
⁴²³ Federal Office for Migration and Refugees, *IT-Fachanwendung: "FREE" im Einsatz*, 01 June 2022, available in German at: <http://bit.ly/3XFeQNJ>.

Germany. Despite the fact that applications may in law be lodged at any time, the 90 days restriction for legal stay without a residence permit in combination with the fact that applications for other residence permits may bar the possibility to apply for temporary protection under Section 24 entail that an application for temporary status needs to be made within these 90 days of arrival. If no application for temporary protection is made within this time period, applicants can however apply for other residence permits e.g. asylum (see [General Report – Residence Permit](#)). In order to receive temporary protection, social benefits and housing, prompt registration and an application is necessary.

The procedure to receive temporary protection in Germany requires registration, the collection of personal data (taking fingerprints, saving in the AZR) and a formal application for temporary protection. These steps may be merged or done in a different order depending on the local administrative proceedings.

a. registration

The responsible authorities for registration are the local immigration authorities. As for asylum seekers (see [General Report – Short overview of the asylum procedure](#)) applicants for temporary protection may generally apply at reception facilities, local immigration authorities and the police at the border and in every city. In for example **Berlin, Hamburg and Munich**, registration is centralised in certain Reception centres.⁴²⁴ Subsequently, applicants are allocated to the responsible state and city under the so called “Königssteiner Schlüssel”.⁴²⁵ E.g. in **Berlin** since 1st June 2022 people arriving need to register first at a welcome centre, where a first decision on their local distribution is taken. Only if the applicants are allocated to Berlin, they can book an appointment with the foreigner’s office (LEA) to apply for Temporary Protection. As proof of registration a “proof of arrival” is issued.

b. collection of fingerprints and personal data

Since 1st June 2022 the collection of fingerprints and personal data (photos and corporal details) in the AZR are mandatory not only for the application process but also as a prerequisite in order to receive social benefits.⁴²⁶ For all applicants above the age of fourteen years the collection of fingerprints is mandatory, for those between six and fourteen years it should be made (i.e., derogation is possible, however there is no further indication as to in which cases), only for those under six years old no fingerprints are taken. Vulnerable applicants may be excluded from the requirement. In these cases the local authority ZAB is required to assess individually if the collection of fingerprints is reasonable and adequate.⁴²⁷

Making the collection of personal data a prerequisite for receiving social benefits has been criticised by civil society organisations and by the press. While the government justifies the amended Section 49 para 4a with security concerns, it has been argued that first personal data is already submitted to the authorities due to the biometric pass requirement. Additionally, civil society organisations fear that the extensive collection of data may reinforce existing prejudices of protection seekers as criminals, since

⁴²⁴ Berlin Administration, Aufenthaltsgewährung zum vorübergehenden Schutz für Geflüchtete aus der Ukraine – Zuweisungsentscheidung, available in German at: <http://bit.ly/3HdOkW9>; Hamburg Administration, FAQ: Informationen für Schutzsuchende aus der Ukraine, last amended 3 January 2023, available in German at: <http://bit.ly/3Wm1Hry>. Munich Administration: Solidarität mit der Ukraine, available at: <http://bit.ly/3ZHXO3g>.

⁴²⁵ See [General Report – Asylum Procedure](#).

⁴²⁶ Section 49 para 4a Residence Act and Section 81 para 7. See also: Federal Ministry of Interior, Registrierung von Kriegsgeflüchteten aus der Ukraine ab dem 1. Juni 2022, 25 April 2022, available in German at: <https://bit.ly/3XI0ZfL>.

⁴²⁷ Ibid.

the collection of data for applicants resembles the collection of data for criminals and for those who illegally crossed the border to Germany.⁴²⁸

c. Application and “Fictional approval”

The application itself can be done online or at the corresponding reception centre or immigration authority after or in parallel to the registration. It is sufficient to claim temporary protection orally in order to enter the application procedure. As people fleeing Ukraine are exempted from visa and passport requirements the lack of a passport is not regarded as an exclusion ground. However, applicants need to substantiate their claim in a reasonable manner and need to present proof of Ukrainian citizenship or proof of legal residence in Ukraine.⁴²⁹ As proof for Ukrainian citizenship, a Ukrainian passport and Ukrainian ID-card (those delivered from 2015 onwards) are accepted. Additionally, the stateless persons travel document, a refugee travel document, travel documents for children and diplomatic passports are accepted.⁴³⁰ If persons lack proof of identity they may be required to obtain a substitute from the Ukrainian embassy or in the case of third country nationals from the embassy of their home country if this is not considered unreasonable.⁴³¹ The local immigration authorities may also exceptionally accept expired identity documents.⁴³²

It has been observed that third country nationals’ access to apply for temporary protection is often hindered and they are instead pressured to apply for asylum. In the beginning the local immigration authorities often interpreted the applications of third country nationals as asylum claims and not as applications for temporary protection. In other cases, applicants have been impeded by the immigration authorities in lodging their application with the justification that they must claim asylum.⁴³³ As such in many cases no access to the procedure under Section 24 of the Residence Act is granted. This practice of the immigration authorities does not follow the recommendations in the circulation letters. And at least the first practice, where an application has been interpreted autonomously by the immigration authorities as an asylum claim, has been condemned by several courts.⁴³⁴

Even if access to the procedure under Section 24 of the Residence act is granted for third country nationals, some ZAB further argue that if parallel applications for temporary protection and international protection are filled, the legal regime of the asylum procedure supersedes the procedure under Section 24 of the Residence act. The legal regime of the asylum procedure is though disadvantageous (on the general procedure see [General Report – Asylum Procedure](#)). The “Fictional approval” which is usually to be granted upon application for temporary protection and grants access to social benefits (see Qualification for temporary protection) may be revoked following Section 55 of the Asylum Act (AsylG). This may induce a Dublin procedure. Additionally, restrictions to the freedom of movement “residence obligation” (*Residenzpflicht*) under Section 47 AsylG and access to the labour market under Section 61 AsylG may be imposed. Whereas applicants may apply and be granted other residence permits while

⁴²⁸ Marie, Frank, *Diskriminierung von Geflüchteten: Schutz und Vorurteil*, taz, 14 May 2022, available in German at: <https://bit.ly/3XcTLKF>; GGUA, *Änderungen ab 1. Juni 2022 für Geflüchtete aus der Ukraine mit Aufenthaltserlaubnis nach § 24 AufenthG oder nach Antrag auf § 24 AufenthG*, 27 May 2022, available in German at: <https://bit.ly/3ZCO7TE>.

⁴²⁹ Federal Ministry of Interior, *Allgemeinverfügung über die Anerkennung ausländischer Pässe und Passersatzpapiere*, 18 March 2022, available in German at: <https://bit.ly/3kp7pvE>.

⁴³⁰ Berlin Administration, *Verfahrenshinweise zur Erfassung von Flüchtlingen aus der Ukraine im Melderegister*, 14 April 2022, available in German at: <https://bit.ly/3J5scil>.

⁴³¹ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, 15.

⁴³² Berlin Administration, *Verfahrenshinweise zur Erfassung von Flüchtlingen aus der Ukraine im Melderegister*, 14 April 2022, available in German at: <https://bit.ly/3J5scil>.

⁴³³ Dorothee Frings, *Sozialleistungen für Geflüchtete aus der Ukraine ab dem 1. Juni 2022*, Asylmagazin 6/22, 206.

⁴³⁴ Higher Administrative Court of Baden-Wuerttemberg, Decision 11 S 1469/22, 02.08.2022, available in German at: <http://bit.ly/3QTdCvS>.

the application for temporary protection is assessed due to fictional approval, no other residence permit may be awarded during an asylum procedure.⁴³⁵ Consequently, for example third country nationals who were formerly studying in Ukraine may not receive a study permit under 16b of the Residence Act even though they were accepted at a German university in the meantime and as such qualify for a study residence permit if they applied for asylum or were pressured into the asylum procedure in parallel to their application for temporary protection. At least for these cases where students are concerned **Berlin, Hamburg, Bremen** and **North Rhine-Westphalia** have decided that third country nationals fleeing Ukraine should generally be awarded a “Fictional approval” and be allowed to work and continue their studies in Germany.⁴³⁶ Another possible disadvantage stems from the differing assessment of ‘safe return’ under the different regimes.

The view that the asylum procedure supersedes the procedure under Section 24 of the Residence is not reflected in the law. Instead, the circulation letters explain that an application for asylum can be made in parallel to the application for temporary protection.⁴³⁷ If temporary protection is granted under Section 24 of the Residence Act, the asylum procedure shall be suspended.⁴³⁸ NGOs and legal practitioners argue that because an application for asylum under Section 13 AsylG requires an individual persecution for one of the persecution grounds, the local ZAB can only refer applicants to the asylum procedure if the applicants explicitly claimed individual persecution. If general protection is claimed by those who fall under the scope of Section 24 of the Residence Act, it is to be understood primarily as a claim for temporary protection under Section 24. Secondly, it is argued that because the grounds for protection under Section 24 Residence Act are overlapping but wider than those under Section 13 AsylG, the asylum procedure cannot supersede the procedure for temporary protection. Under Section 24 the assessment of safe return to the home country includes not only an assessment of risks and the living conditions in the home country but also examine the ties to Ukraine and alienation of the home country.

Once all necessary steps for the application are completed, a “Fictional approval” (*Fiktionsbescheinigung*) shall be granted under Section 81 paragraph 3 of the Residence Act. As to the scope of entitlements under “Fictional approval” the circulation letters instruct to include the annotation “Access to labour market granted” on the “Fictional approval” document, which grants immediate access and unrestricted to the job market. Additionally, a reference to the application for temporary protection under Section 24 of the Residence Act shall be made to facilitate access to integration measures and social benefits.

The legislative framework on social benefits for applicants was amended by the Federal Government in May 2022 (See General). As of 1st June 2022, holders of a “Fictional approval” document on which the reference to Section 24 is made and whose personal data has been registered in the AZR are by law entitled to receive social benefits under the regular Social Code.⁴³⁹

⁴³⁵ Section 10 of the Residence Act.

⁴³⁶ Berlin Senate, *Berliner Senat beschließt vorläufiges Aufenthaltsrecht für nicht-ukrainische Drittstaatsangehörige, die wegen des Krieges in der Ukraine geflohen sind und ihr Studium in Berlin fortsetzen wollen*, press release 16 August 2022, available in German at: <http://bit.ly/3CWw5SP>; Bremen Senate for Interior, Senate for economy and ports: *Studenten aus Drittstaaten aus der Ukraine erhalten eine reelle Perspektive*, press release 17 May 2022, available in German at: <http://bit.ly/3HeWu0I>; Authorities for Interior, Sports, Science, Research, Equality and municipalities, *Welcome to Hamburg*, 19 August 2022, available at: <https://bit.ly/3XHn2wM>; Ministry of Interior, Children, Youth, Family, Equality, Migration and Integration North Rhine-Westphalia, *Verfahren bei nicht-ukrainischen drittstaatsangehörigen Studierenden aus der Ukraine*, 17 October 2022, available in German at: <https://bit.ly/3kjLlGp>.

⁴³⁷ Federal Ministry of the Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, 05 September 2022, available in German at: <https://bit.ly/3IXm4by>, 13.

⁴³⁸ Section 32a AsylG.

⁴³⁹ Federal Ministry of the Interior, *Registrierung von Kriegsgeflüchteten aus der Ukraine ab dem 1. Juni 2022*, 25 May 2022, available in German at: <https://bit.ly/3XEtHla>.

Despite these instructions in the circulation letter and the amended legal framework, in practice the scope of entitlements under “Fictional approval” is contested. In the beginning, some local authorities did not grant “Fictional approval” automatically upon application for temporary protection, which hindered access to social benefits and housing. Recently several courts have confirmed already existing case law that “Fictional approval” is to be granted automatically for applicants for all kinds of protection.⁴⁴⁰ In reaction to these court rulings the local authorities and the Federal States have adapted their practices.⁴⁴¹

Additionally, it has been noted by many non-governmental organisations that for applicants who are non-Ukrainians (group 2 and 3 in categories of applicants, see [Admission to territory](#)) a reference to Section 24 of the Residence Act is not made on the “Fictional approval” document and access to the job market is not granted. Neither the law, nor the circulation letters or the instruction of the Federal Employment Office⁴⁴², who is the responsible authority to grant social benefits, distinguish in the scope of entitlements between the different groups who may qualify for temporary protection. The conflicting interpretations of the authorities and courts on the Federal, state and local level lead to a legal black hole in which applicants for temporary protection who are third country nationals do not receive any social benefits during the application procedure and are not granted access to the job market either.⁴⁴³ Some administrative courts have ruled in favour of the second interpretation,⁴⁴⁴ following which a distinction between the different applicants can be made. They argue that the circulation letters of the Federal government are not legally binding and that there is no legal basis which obliges the ZAB to add a reference to Section 24 or to grant immediate access to the job market. Consequently, the ZAB may decide within a margin of discretion. Some NGOs and advocates argue though that the circulation letter is legally binding because it is to be understood as executive order from the Federal Ministry of Interior (*Bundesministerium des Inneren, und für Heimat (BMI)*).⁴⁴⁵

In sum, despite the extended scope of those eligible for temporary protection (see Qualification for temporary protection) access to the procedure and to the rights awarded during the procedure is in practice often restricted for third country nationals by the ZAB, leading to situations where third country nationals do not receive any social benefits, neither under the Social Code nor under the Asylum Seeker’s Benefits Act and are not allowed to work.

Lastly, according to the ECRE update of November 2022 there have been cases where Ukrainian nationals were refused access to the application procedure for temporary protection in Germany because they had received a registration certificate in Poland.⁴⁴⁶

Appeal procedure

Applicants whose application for temporary protection has been rejected can appeal at the regular local administrative court following Section 42 Code of Administrative Court Procedure (VwGO). In contrast

⁴⁴⁰ Administrative Court of Aachen, Decision 8 L 527/22, 26 August 2022, available in German at: <http://bit.ly/3IUmNdB>; Higher Administrative Court of Baden-Wuerttemberg, Decision 11 S 1467/22, available in German at: <http://bit.ly/3keGGBR>.

⁴⁴¹ Ministry of Justice and Migration Baden-Wuerttemberg, *Geflüchtete aus der Ukraine: weitere Informationen und Hinweise*, 28 September 2022, <https://bit.ly/3HhfhZj>, 6.

⁴⁴² Federal Employment Office, *Fachliche Weisungen „Bearbeitung von Fällen mit Aufenthaltstitel nach § 24 AufenthG oder entsprechender Fiktionsbescheinigung“*, 23 May 2022, available in German at: <https://bit.ly/3iPAP5K>.

⁴⁴³ Dorothee Frings, *Sozialleistungen für Geflüchtete aus der Ukraine ab dem 1. Juni 2022*, Asylmagazin 6/22, 205f.

⁴⁴⁴ Administrative Court of Aachen, Decision 8 L 527/22, 26 August 2022, available in German at: <http://bit.ly/3IUmNdB>; Higher Administrative Court of Baden-Wuerttemberg, Decision 11 S 1467/22, 26 October 2022, available in German at: <http://bit.ly/3keGGBR>.

⁴⁴⁵ Feedback from NGOs obtained at the conference “Netzwerktagung Migrationsrecht”, November 2022.

⁴⁴⁶ European Council for Refugees and Exiles (ECRE), Information Sheet – Measures in response to the arrival of displaced people fleeing the war in Ukraine, November 2022, available at: <https://bit.ly/3kj82qu>, 20.

to the shorter period to appeal in the asylum procedure (see [General Report – Regular procedure Appeal](#)), applicants have one month to appeal.⁴⁴⁷ The appeal has no automatic suspensive effect though.⁴⁴⁸ Consequently, if the 90 days of legal stay under the Ukraine-AufenthaltsVO have been exceeded, a request for interim measures must be filed in order to guarantee that the stay in Germany remains legal.⁴⁴⁹

4. Legal assistance

In general, provisions on free legal assistance for protection seekers are rare in Germany ([General Report – Regular Procedure Legal Assistance](#)). No rules on access to (free) legal assistance exist for applicants for temporary protection. Therefore, there is no centralised system where applicants for temporary protection can seek legal aid.

In practice legal assistance is provided by the various civil society and welfare associations (such as Caritas e.V., Paritaetischer, AWO, PRO ASYL, Refugee Law Clinics) and the regional refugee councils. These organisations usually provide the legal assistance free of charge.

Despite the lack of general rules on the provision of legal assistance, the German authorities do cooperate with civil society organisations. Especially the main welfare associations such as the Caritas e.V., Paritaetischer and AWO are often present in first reception centres. Additionally, the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge, (BAMF)*) provides an online platform where applicants can search for the nearest advice opportunities.⁴⁵⁰ It seems that at least the access to information on where legal advice can be sought is easier for temporary protection seekers, compared to the situation of international protection seekers.

5. Information provision and access to NGOs

According to Section 24 paragraph 7 Residence Act applicants need to be informed about their rights and duties in written and in a language, they are able to understand. No further rules exist which specify in what form information needs to be provided.

In practice, it seems that the German Government is putting effort in publishing and centralising as much information on the situation as possible and in various languages. The German Federal Ministry of Interior has launched a web portal accompanied by an app where information on entry, stay and return, accommodation, health, work and social benefits, integration, mobility, education, family issues and vulnerable groups are gathered.⁴⁵¹ Through the web portal people can apply online for temporary protection. Even regional Ukrainian community telegram channels are listed. The website and the app are available in German, English, Ukrainian and Russian and a version in easy language and sign language is provided.⁴⁵²

Additionally, the Federal Office for Migration and Refugees has published a Q&A section and a video on the first steps in German, English, Russian and Ukrainian on mainly integration and entry issues.⁴⁵³ In cities close to the border and in cities where there are high numbers of arrivals, welcome centres

⁴⁴⁷ Section 74 VwGO.

⁴⁴⁸ Section 84 Residence Act.

⁴⁴⁹ Section 80 paragraph 5 VwGO .

⁴⁵⁰ Bundesamt für Migration und Flüchtlinge, *BAMF Navigation in the Fields of Asylum Procedure and Integration*, available at: <http://bit.ly/3ZOKUQX>; Bundesamt für Migration und Flüchtlinge, *The Germany4Ukraine Informational Guide*, available at: <http://bit.ly/3ZCUeY6>.

⁴⁵¹ Bundesamt für Migration und Flüchtlinge, *The Germany4Ukraine Informational Guide*, available at: <http://bit.ly/3ZCUeY6>.

⁴⁵² Ibid.

⁴⁵³ Bundesamt für Migration und Flüchtlinge, 'Information for refugees from Ukraine', available at: <http://bit.ly/3ZM87DC>.

have been set up directly in train stations. Here people are provided with information, interpretation, snacks and first assistance and in some cases they may already register.⁴⁵⁴ Due to the decreased numbers of arrivals, some of these welcome centres closed in the course of 2022.⁴⁵⁵ It has been criticised though that the available information sur place was often not tailored to the needs of vulnerable individuals.⁴⁵⁶

Alongside the information channels of the state, civil society organisations and refugee councils are active in distributing information. One main source of information is the platform “handbook Germany”.⁴⁵⁷ There is a section specifically tailored to people fleeing Ukraine, made available in Ukrainian, Russian, English and German. Applicants can access official information but also reach out to local communities and explore hidden hints of people who have already established a new life in Germany. Another main provider of information is PRO ASYL. They regularly update a comprehensive information sheet especially focusing on the practical problems in the application process, such as the difficulties for third country nationals mentioned above (See section Qualification for temporary protection).⁴⁵⁸ Information on regional specifics is mostly gathered and published by the refugee councils.⁴⁵⁹ Information for social workers and legal practitioners who assist people flying Ukraine is made available by the network “Informationsverbund Asyl und Migration”.⁴⁶⁰

D. Guarantees for vulnerable groups

Identification of individuals who need specific procedural guarantees

As stated in the AIDA report 2022 on Germany, there is no systematic identification mechanism for individuals with specific needs in place (see [General Report – Identification](#)). The identification of people with specific needs is generally the remit of the Federal States and varies accordingly. Already in March a delegation of the commissioners for people with disabilities from the Federal States and the federal commissioner urged the government to include the identification of disabilities and special needs in the arrival procedure for Ukrainians.⁴⁶¹

The Federal government did though initiate a federal coordination and contact platform (Bundeskontaktstelle für geflüchtete mit Behinderung und Pflegebedürftige), which aims at identifying reception and care needs prior to the flight from Ukraine in order to facilitate quick distribution to the Federal States and to reception centres which comply with the needs identified. As of November 2022, 215 people have been distributed in this manner since May 2022.⁴⁶² Additionally, the Federal platform

⁴⁵⁴ See e.g. Cologne, *Neues Ankunftszenrum am Breslauer Platz eröffnet*, press release 13 March 2022, available in German at: <http://bit.ly/3HgFjvV>;

⁴⁵⁵ See e.g. Diakonie Dresden, *Ukraine-Hilfe am Hauptbahnhof: Diakonie Dresden zieht Bilanz*, 25 July 2022, available in German at: <http://bit.ly/3XGB8hZ>.

⁴⁵⁶ Sonja Smolenski, *Geflüchtete aus Ukraine mit Behinderung: Voller Barrieren*, taz, 06 April 2022, available in German at: <http://bit.ly/3Wf8pzO>.

⁴⁵⁷ Handbook Germany, *Important information on entry and residence for people fleeing Ukraine*, last amended 18 January 2023, available at: <http://bit.ly/3CX5GV0>.

⁴⁵⁸ ProAsyl, *Information for refugees from Ukraine*, last amended 10 January 2023, available at: <https://bit.ly/3iL3qct>.

⁴⁵⁹ See e.g. Refugee Council Berlin, *Antrag auf Aufenthaltserlaubnis beim Berliner Landesamt für Einwanderung LEA*, 08 December 2022, available at: <https://bit.ly/3Xmgwfi>; Refugee Council Bavaria, *Ukraine: Einreise und Schutz in Deutschland*, 20 November 2022, available in German and Ukrainian at: <http://bit.ly/3IXGi57>; Refugee Council Lower-Saxony, *Aktualisierte Informationen für Geflüchtete aus der Ukraine*, available at: <http://bit.ly/3CZ4qk6>.

⁴⁶⁰ Informationsverbund Asyl & Migration, *Informationen zu Schutzsuchenden aus der Ukraine*, last updated 16 January 2023, available in German at: <http://bit.ly/3QMRvXY>.

⁴⁶¹ Federal Government Commissioner for Matters relating to Persons with Disabilities, ‘Ukrainekrise: Appell der Behindertenbeauftragten von Bund und Ländern’, 08 March 2022, available at: <http://bit.ly/3HfncU>.

⁴⁶² Federal Government, *Response to parliamentary question by The Left, 20/4642*, 24 November 2022, available in German at: <https://bit.ly/3IWovSc>.

serves to disseminate information on social welfare and support measures for people with specific needs and to coordinate volunteer run initiatives and state actors which are working with people with specific needs.

The press and the opposition criticise that the platform does not remedy the fact that no systemic identification mechanism exists. Firstly, it has been criticised that those who are already on German territory are not coordinated by the federal platform. Instead, they are remitted to the Federal States' facilities. Berlin acknowledged its responsibility for the identification of persons with special needs. In its decree the city of Berlin intended to establish a transfer zone where in a pre-screening special needs for individuals with mental, physical and care needs shall be identified and the distribution process shall be adopted accordingly.⁴⁶³ Additionally, in the pre-screening procedure persons who identify as LGBTIQ+ and/or show other vulnerabilities shall be allocated only to Federal States where the infrastructure for the special needs regarding guidance and/or care is well developed. It is though not specified which Federal States are deemed to have a good infrastructure. However, Berlin seems to be a best practice example since most Federal States did not introduce screening procedures. According to the press, the dispersion of responsibility between the Federal government and the Federal States often leads to a situation where no information or guidance is accessible for people with specific needs at highly frequented points of arrival.⁴⁶⁴ Additionally, advisory service is mainly run by voluntary initiatives and lacks financial and organisational resources.⁴⁶⁵

Procedure for unaccompanied minors

The procedure for non-accompanied minors who fled Ukraine is the same as for any unaccompanied foreign minor arriving in Germany (see [General Report – Legal representation of unaccompanied children](#)). Following Section 42a Social Code VIII, unaccompanied children are taken into the provisional care of the youth welfare office (Jugendamt). This procedure is also adopted for children who arrived in Germany alone but who have relatives in Germany. In that case, in the stage of 'provisional care taking' the youth welfare office reviews whether the relatives are "suitable" for the caretaking of the child. During the procedure the child may stay with their relatives.⁴⁶⁶ Unaccompanied minors who fled Ukraine have access to the same benefits as German and foreign children legally residing in Germany.⁴⁶⁷

Assistance for victims of torture or traumatised people

From 1st June 2022 people who applied for temporary protection are supposed to have the same access to social welfare and healthcare as Germans. In this regard those who are in need of specialised treatment may access existing psychological, medical and psychiatric services provided for traumatised people and/ or victims of sexualised crimes and war crimes in Germany. A specific hotline where initial counselling is offered and through which other programmes may be contacted was initiated by the Federal Ministry of Family, Seniors, Women and Youth (*Bundesministerium für Familie, Senioren, Frauen und Jugend* (BMFSFJ)).⁴⁶⁸

⁴⁶³ Berlin Senate, *Senat beschließt Verfahren zur Unterstützung für besonders schutzbedürftige Geflüchtete aus der Ukraine*, press release 05 April 2022.

⁴⁶⁴ Sonja Smolenski, *Geflüchtete aus Ukraine mit Behinderung: Voller Barrieren*, taz, 06 April 2022, available in German at: <http://bit.ly/3Wf8pzO>.

⁴⁶⁵ Ibid.

⁴⁶⁶ Federal Ministry of Family Affairs, Senior Citizens, Women and Youth, *Unbegleitet und begleitet nach Deutschland einreisende Kinder und Jugendliche aus der Ukraine in der Kinder- und Jugendhilfe*, 4 April 2022, available in German at: <https://bit.ly/3WqxbNf>.

⁴⁶⁷ Section 6 (2) Social Code VIII.

⁴⁶⁸ Federal Ministry of Family Affairs, Senior Citizens, Women and Youth, *Helpline Ukraine unterstützt geflüchtete Familien bei Sorgen und Problemen*, press release, 06 June 2022, available in German at: <http://bit.ly/3kpt2Mm>.

However, in practice, access to these services varies between Ukrainian nationals and third country nationals who fled Ukraine stemming from the differentiated wording on the Fictional approval. As this is not only the case for mental health services but more general for access to all sorts of social welfare and healthcare, the issues arising in connection with the different references on the “Fictional approvals” are discussed under Registration under temporary protection.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--|----------------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | Until 4 th March 2024 |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 2 March 2023? | 778,799 |

The residence permit under Section 24 Residence Act is to be awarded retrospectively from the day of arrival until the 4th March 2024. Thereby the German government extends the validity date foreseen in the EU Council decision and in operational guidelines. The German government argues that possible prolongations of temporary protection under subsequent EU Council decision shall already be covered by the initial decision on the duration of the residence permit. A response to an Ad-hoc Query on the extension of residence permits for beneficiaries of temporary protection shows however that the permits will be withdrawn if the EU Council does not prolong the Council decision.⁴⁶⁹

The responsible authority for the assessment of the eligibility criteria and for granting the residence permit are the local ZAB.⁴⁷⁰ After all the relevant steps for registration and application have been completed, the local ZAB assesses whether a residence permit will be awarded. If a positive decision is issued by the local authorities, the electronic residence permit will be printed by the Federal Printing Office (*Bundesdruckerei*) in Berlin. According to an anonymous study many local authorities are overburdened due to the high numbers of applications for residence permits from Ukraine and a lack of staff members. While the lack of staff members does not seem to be a new problem, the current high numbers of applicants from Ukraine lead to long waiting times at the local ZAB. There is no specific data on the waiting times for applicants for a residence permit under Section 24 for the approval. In general, some local authorities estimate the waiting times for the processing of requests and applications between six and eight months, others estimate up to twelve months.⁴⁷¹ However, from the high number of beneficiaries of temporary protection among those who arrived in Germany from Ukraine,⁴⁷² it can be deduced that the processing times for applicants for temporary protection do not regularly exceed one year.

The residence permit entitles beneficiaries to the same social benefits as German nationals under the regular Social Code (see Social welfare).

Freedom of movement for temporary protection beneficiaries

Germany generally acknowledges the non-application of Art. 11 of Directive 2001/55/EC thereby awarding freedom of movement for temporary protection beneficiaries. In order to facilitate freedom of movement and to guarantee that beneficiaries do not receive social benefits in several Member States at the same time, the local authorities shall make use of the EU Temporary Protection Directive Platform

⁴⁶⁹ European Migration Network, Ad-Hoc Query on 2022.55, *Extension of certificates/residence permits for beneficiaries of temporary protection*, 4 December 2022, available at: <http://bit.ly/3kUTf62>, 11/12.

⁴⁷⁰ Federal Government, *Zuständigkeit des Bundes und der Länder im Bereich Asyl- und Aufenthaltsrecht - Gesetzgebungskompetenzen und Verwaltungszuständigkeit*, 29 August 2022, available in German at: <https://bit.ly/3CYrlqg>, 5.

⁴⁷¹ Tagesschau, *Ausländerbehörden beklagen Überlastung*, 25 August 2022, available in German at: <http://bit.ly/3ZEO5Lb>.

⁴⁷² Migration Media Service, *Flüchtlinge aus der Ukraine*, last amended 10 January 2023, available in German at: <http://bit.ly/3D0Jvgr>.

(TPD Platform). Since applicants for temporary protection are systematically subject to the collection of personal data and fingerprints in the process of registration (See Registration for temporary protection) these sets of data shall also be used automatically for the TPD Platform upon registration.

In cases where beneficiaries of temporary protection in Germany transfer their permanent residence to another member state, the temporary protection status ceases along with the entitlement to social benefits and the above-mentioned rights.⁴⁷³ The local ZAB is required to confirm that the emigration to another member state is of permanent nature.⁴⁷⁴ There are several factors by which the ZAB may assume a permanent emigration. If a new application for temporary protection is lodged in another member state, the TPD Platform produces a notification received by the BAMF. The BAMF then contacts the responsible ZAB which considers the notification as proof of permanent emigration.⁴⁷⁵ The ZAB then informs the Social Welfare Office and/or the Federal Employment Office to order the cessation of any social benefits. Permanent emigration is further supposed if the person emigrated for more than six months without prior consultation and justification with the ZAB.⁴⁷⁶

Beneficiaries of temporary protection who immigrated from other Member States are entitled to receive temporary protection in Germany. Upon registration in Germany, the local authorities consult the TPD platform.⁴⁷⁷ This serves to guarantee that the other member state ceases their disbursement of social benefits. With the conferral of temporary protection in Germany, the protection holder is entitled to comprehensive social benefits in Germany (see Social welfare).

2. Access to asylum

Beneficiaries for temporary protection may apply for asylum. However, their application is suspended for the time of validity of the residence permit.⁴⁷⁸ If the residence permit under temporary protection expires, former temporary protection holders have one month to show that they want the asylum procedure to continue, otherwise the asylum application is regarded as withdrawn.⁴⁷⁹

B. Family reunification

In Germany family members present on German territory fall under the scope of Section 24 Residence Act and may therefore apply for temporary protection themselves. As such, they do not need to go through a family reunification procedure (see Qualification for temporary protection). Family members thus only need to apply for family reunification if they are currently residing in another member state or in a third country.⁴⁸⁰ The procedure for family reunification of family members of temporary protection holders differs from the family reunification procedure for refugees (see [General Report – Family Reunification](#)) and other foreigners. As for refugees, family reunification is facilitated under the temporary protection regime. Temporary protection beneficiaries neither need to prove that they can

⁴⁷³ Federal Ministry of Interior, *Umgang mit Treffermeldung in der Europäischen Registrierungsplattform im Zusammenhang mit der Fluchtbewegung aus der Ukraine*, 08 August 2022, available in German at: <https://bit.ly/3weUvD4>.

⁴⁷⁴ Section 51 (1) no. 6 Residence Act.

⁴⁷⁵ Federal Ministry of Interior, *Umgang mit Treffermeldung in der Europäischen Registrierungsplattform im Zusammenhang mit der Fluchtbewegung aus der Ukraine*, 08 August 2022, available in German at: <https://bit.ly/3weUvD4>.

⁴⁷⁶ Section 51 (1) no. 7

⁴⁷⁷ Federal Ministry of Interior, *Umgang mit Treffermeldung in der Europäischen Registrierungsplattform im Zusammenhang mit der Fluchtbewegung aus der Ukraine*, 08 August 2022, available in German at: <https://bit.ly/3weUvD4>.

⁴⁷⁸ Section 32a (1) AsylG; Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, 05 September 2022, available in German at: <https://bit.ly/3IXm4by>.

⁴⁷⁹ Section 32a (2) AsylG.

⁴⁸⁰ Section 29 (4) no. 2 Residence Act.

cover the cost of livelihood for their family members, nor that they provide sufficient living space for their family members.⁴⁸¹ Differing from the family reunification procedure for refugees, there is no time limit for the application for family reunification.⁴⁸² For family reunification under the temporary protection framework, it is required that the family ties have been disrupted as a consequence from the war in Ukraine or the flight.⁴⁸³ For those family members who are present in another EU member state, no additional criteria apply. For those family members who are present in a third country, the person needs to be “in need for protection”. Following the considerations in paragraph 14 of the EU Council decision, a family member is deemed to be “in need for protection” if the person fled Ukraine for the same reasons as the temporary protection beneficiary.⁴⁸⁴ Family reunification is generally only connected to family ties and does not vary by nationality.

Persons eligible for family reunification are:

- ❖ Spouse or registered partner
- ❖ Minor unmarried children
- ❖ Minor unmarried children of the spouse or registered partner

Those who successfully went through the family reunification procedure will obtain temporary protection under Section 24 Residence Act as their family sponsor. They are thereby entitled to the same rights and will be awarded a residence permit which is irrespective of the family members status. However, those who received temporary protection following family reunification are not entitled to further family reunification.⁴⁸⁵

Other family members who do not fall under the scope of Section 29 paragraph 4 Residence Act may qualify for family reunification under Section 36 paragraph 2 Residence Act. They need to prove that their non residence with the family members would constitute undue hardship. In these cases, again, no proof of secured livelihood and living space is required.⁴⁸⁶ Their residence permit is then linked to the residence permit of the family member until a minor family member turns 18 or unless the family sponsor dies.⁴⁸⁷

C. Movement and mobility

Beneficiaries of temporary protection generally enjoy freedom of movement within Germany and the EU. They may travel to any destination in Germany and travel to another EU member state for 90 days within 180 days.⁴⁸⁸ Additionally, beneficiaries of temporary protection may also travel to other countries,

⁴⁸¹ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, 05 September 2022, available in German at: <https://bit.ly/3IXm4by>.

⁴⁸² Section 29 (4) Residence Act.

⁴⁸³ Section 29 (4) no. 1; Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, available in German at: <https://bit.ly/3IXm4by>.

⁴⁸⁴ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, 05 September 2022, available in German at: <https://bit.ly/3IXm4by>.

⁴⁸⁵ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, 05 September 2022, available in German at: <https://bit.ly/3IXm4by>. This is based on the considerations in Section 27 and Section 30 (4) Residence Act.

⁴⁸⁶ For minor family members Section 34 Residence Act, for family members above 18 years Section 30 (3) and Section 31 Residence Act.

⁴⁸⁷ Ibid.

⁴⁸⁸ Bundesamt für Migration und Flüchtlinge, *Fragen und Antworten zur Einreise aus der Ukraine und zum Aufenthalt in Deutschland*, 01 December 2022, available at: <http://bit.ly/3wi5mMs>.

including Ukraine.⁴⁸⁹ For travelling outside of the EU temporary protection beneficiaries only need to comply with the visa requirements of the country they want to travel to. This often requires a biometric passport. Due to the facilitated entry conditions in Germany (see Admission to the territory) some of the temporary protection beneficiaries may not have a biometric passport. In these cases, “travel documents for aliens” shall be issued (see [General Report – Travel documents](#)).⁴⁹⁰ In cases where beneficiaries of temporary protection do not possess travel documents and need “travel documents for aliens” problems may though arise from the currently prolonged waiting times for the issuance of documents by the local authorities.⁴⁹¹ Travelling abroad only influences the validity of the residence permit if the absence from Germany exceeds six months or if the absence is deemed to be permanent (see Residence permit).

However, as of 1st June 2022, beneficiaries of temporary protection are generally obliged to reside for three years in the municipality to which they have been allocated in the determination procedure.⁴⁹² According to Section 12a (9) the Federal States have the right to implement regional rules specifying or adopting the legal framework on the restrictions of the place of residence. North Rhine-Westphalia decided to suspend the obligation of the place of residence for temporary protection holders.⁴⁹³ Consequently, temporary protection holders who have been granted a residence permit in North Rhine-Westphalia are free in choosing their place of residence within North Rhine-Westphalia. But if they want to move to another state, temporary protection beneficiaries have to apply for a lift of the restriction of the place to reside at the local authorities.⁴⁹⁴ NGOs have criticised that the suspension of the obligation to live in a specific municipality has been lifted only for beneficiaries of temporary protection and not for beneficiaries of refugee status or subsidiary protection. The “Gemeinnützige Gesellschaft zur Unterstützung Asylsuchender” (GGUA) claims that thereby a two-tier system among residence permits is introduced which hinders integration of those with other residence permits.⁴⁹⁵

D. Housing

Indicators: Housing

- | | |
|---|---------------|
| 1. For how long are temporary protection beneficiaries entitled to stay in reception centres? | No fixed date |
| 2. Number of beneficiaries staying in reception centres | Not available |
| 3. Number of beneficiaries staying in private accommodation as of 12/2022 | Not available |

Temporary protection beneficiaries are not obliged to stay in accommodation centres. They can freely take any housing opportunities on the regular housing market. As beneficiaries of temporary protection are eligible for regular social benefits under the Social Code, they are eligible for the same housing

⁴⁸⁹ Bundesamt für Migration und Flüchtlinge, Fragen und Antworten zur Einreise aus der Ukraine und zum Aufenthalt in Deutschland, 01 December 2022, available at: <http://bit.ly/3wi5mMs>.

⁴⁹⁰ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, 05 September 2022, available in German at: <https://bit.ly/3IXm4by>.

⁴⁹¹ Tagesschau, *Ausländerbehörden beklagen Überlastung*, 25 August 2022, available in German at: <http://bit.ly/3ZEO5Lb>.

⁴⁹² Section 12a (1) Residence Act (last amended 23.5.2022). The obligation to reside already applied for beneficiaries of international protection (see [General Report - Content of International Protection, Freedom of movement](#)), only the scope has been extended to beneficiaries of temporary protection. For former versions of Section 12a (1) Residence Act see: <http://bit.ly/3WfWv8V>.

⁴⁹³ Ministry of Children, Youth, Family Affairs, Equalit, Migration and Integration North Rhine-Westphalia, *Zuweisung nach dem Flüchtlingsaufnahmegesetz (FlüAG)*, 30 August 2022, available in German at: <https://bit.ly/3WqxcAW>.

⁴⁹⁴ Section 12a (5) Residence Act.

⁴⁹⁵ GGUA, *Keine kommunale Wohnsitzauflage in NRW für Geflüchtete aus der Ukraine mit Aufenthaltserlaubnis nach §24 AufenthG*, 26 November 2022, available in German at: <http://bit.ly/3kkaME1>.

allowances as German nationals (see Social welfare). Nevertheless, in practice beneficiaries of temporary protection have access to reception facilities. Access to reception centres and emergency centres is awarded from the moment of arrival until the temporary protection beneficiaries find regular accommodation.⁴⁹⁶ According to a study, published in October 2022, 74% percent of the 11,225 interviewees lived in private accommodation, 17% in hotels and 9% in reception centres.⁴⁹⁷ Since accommodation is organised mainly by the Federal States and municipalities, no conclusive data exist on the reception capacities which are reserved for beneficiaries of temporary protection. Upon request by the “Migration Media Service” (*Mediendienst Integration*), Bavaria responded that they accommodated 29,000 people who fled Ukraine in state owned reception facilities, Hamburg 17,000 and Berlin 3,000, as of November 2022.⁴⁹⁸

Especially in the beginning of the war, many cities did not have enough reception capacities and introduced emergency shelters and rented hotel rooms for Ukrainians. The solutions provided by the Federal States heavily differ. Whereas some Federal States try to avoid mass accommodations, the district government Arnsberg in North Rhine Westphalia focuses on bigger emergency shelters.⁴⁹⁹ Hamburg, as of 5th January 2023 rented rooms in 83 hotels with an overall capacity for 6,876 people.⁵⁰⁰ For those staying in hotels mobile social workers are available for assistance and guidance.⁵⁰¹ In Cologne the municipality rather used public areas such as exhibition grounds and the parking slots of a stadium for emergency shelters. The municipality seems to react according to the demands: the emergency shelters on the exhibition grounds and in the stadium were first used in March where 1,100 places for people from Ukraine were provided on exhibition grounds, 600 next to the stadium.⁵⁰² After the closure of both emergency shelters in summer 2022, in November and December 2022 the same places were used again and the infrastructure of tents and containers had to be rebuilt, this time with less capacities, 480 places next to the stadium,⁵⁰³ 800 on exhibition grounds.⁵⁰⁴ According to the municipality social workers will be on the ground for guidance and assistance.⁵⁰⁵ In emergency shelters sometimes the distribution of food and clothing is centralised but there is no unified system on the available support in reception facilities. Usually the reception facilities are run by one of the main welfare associations such as “Caritas”, “Arbeiterwohlfahrt (AWO)”, “Paritätischer Wohlfahrtsverband” and “Diakonie”.

In addition to the emergency shelters and rented hotels, Germany heavily relies on private accommodations. Amongst the 8,300 people from Ukraine interviewed who are living in private flats, 60% were living alone or with the people they fled with, 15% moved to already in Germany residing

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- ⁴⁹⁶ Bundesamt für Migration und Flüchtlinge, Unterbringung und Wohnraum für Geflüchtete aus der Ukraine, , available at: <http://bit.ly/3K4dW9y>.
- ⁴⁹⁷ Federal Institut for Population Research, *Geflüchtete aus der Ukraine in Deutschland - Flucht, Ankunft und Leben*, December 2022, available in German at: <http://bit.ly/3IZildQ>, 8.
- ⁴⁹⁸ Migration Media Service, *Flüchtlinge aus der Ukraine*, last amended 10 January 2023, available in German at: <http://bit.ly/3D0Jvgr>.
- ⁴⁹⁹ Bezirksregierung Arnsberg, *Ukraine-Krieg, Informationen für Kommunen*, last revised 01.10.2022, available in German at: <http://bit.ly/3ZIMCDr>.
- ⁵⁰⁰ Hamburg, *Interim Facilities – Overview on hotels*, version 05.01.2023, available at: <http://bit.ly/3QMvxEF>.
- ⁵⁰¹ Hamburg, *Foerdern und Wohnen: Geflüchtete aus der Ukraine, FAQs*, 18 January 2023, available at: <http://bit.ly/3HcET9C>.
- ⁵⁰² 24Rhein, *Ukraine-Flüchtlinge in Köln: Zeltstadt am Südstadion wird aufgebaut*, newspaper article, 05.04.2022, available in German at: <http://bit.ly/3GNS9zX>. Kölner Express, *Ukraine W-Lan, Feldbetten, hohe Sicherheit: So sieht die neue Notunterkunft in der Köln-Messe aus*, 15 March 2022, available in German at: <http://bit.ly/3iH8K0B>.
- ⁵⁰³ Rhein24, *Container statt Party-Festzelt: Erneut Unterkunft für Geflüchtete am Südstadion geplant*, newspaper article, 02 November 2022, available in German at: <http://bit.ly/3wbSo2X>.
- ⁵⁰⁴ Rhein24, *Stadt Köln mietet Messehalle für Ukraine-Geflüchtete an*, 29 November 2022, available in German at: <http://bit.ly/3WfEgQQ>.
- ⁵⁰⁵ Municipality of Cologne, *Stadt Köln schafft neue Plätze auf Gelände am Südstadion*, press release, 02 November 2022, available in German at: <http://bit.ly/3ZlqKrU>.

family members or friends and 4% lived with other people.⁵⁰⁶ 16% of the interviewed persons stated that they have been allocated to their current accommodation by the authorities. The study only interviewed persons with Ukrainian nationality, no general statistics on the accommodation scheme for temporary protection holders are available. While there is no uniform organisation of the distribution to private accommodation, the Federal Government refers to and cooperates with the private initiative “#Unterkunft Ukraine”⁵⁰⁷ for housing. A link to the initiative can be found on the Federal website for the assistance of people who fled Ukraine.⁵⁰⁸ Because the organisation of private housing is decentralised no details on profiles of hosts and types of private accommodations are available. Portraits of some hosts have been published by the initiative “#Unterkunft Ukraine”.⁵⁰⁹ Besides private initiatives such as “#Unterkunft Ukraine” and “Warmes Bett”,⁵¹⁰ some Federal States and municipalities directly assist with the placement of people who fled Ukraine with private hosts through their own online portals.⁵¹¹ There is no direct financial compensation by the Federal government or States for hosts of private accommodations. As beneficiaries of temporary protection, as well as applicants are generally entitled to housing allowances, private hosts and beneficiaries of temporary protection or applicants need to negotiate compensation models privately.

While the number of registered suspected cases for human trafficking are below ten,⁵¹² according to the Federal Police and the Federal States’ Police, evidence points to an increase in human trafficking of women and children coming from Ukraine. Especially at the Berlin main station where many people from Ukraine arrive, the Federal Police observed men who offer money for accommodation and sweets to children.⁵¹³ The Federal Police therefore published a leaflet to warn Ukrainian women and children.⁵¹⁴ The Federal government formally acknowledges the risks stemming from private accommodation and extended its funding for projects against human trafficking.⁵¹⁵ A specific project for the prevention of human trafficking of people fleeing Ukraine, funded by the Federal government was set up in August by the association “Federal Coordination Circle against Human Trafficking” (*Bundesweiter Koordinationskreis gegen Menschenhandel e.V.*). In a first report on the new project, the association criticises that no systematic support is available for those accommodated in private households.⁵¹⁶ The association further criticises that the existing concepts and standards for the prevention of violence in public reception facilities are often not adhered to and that therefore there is an increased risk especially for women and children to become victims of violence in public mass reception facilities.⁵¹⁷ The Federal

⁵⁰⁶ Federal Institut for Population Research, *Geflüchtete aus der Ukraine in Deutschland - Flucht, Ankunft und Leben*, December 2022, available in German at: <http://bit.ly/3IzldQ>, 8.

⁵⁰⁷ #Unterkunft Ukraine, available at: <http://bit.ly/3QQRS47>.

⁵⁰⁸ Bundesamt für Migration und Flüchtlinge, *Unterbringung und Wohnraum für Geflüchtete aus der Ukraine*, available at: <http://bit.ly/3K4dW9y>.

⁵⁰⁹ #Unterkunft Ukraine, available at: <http://bit.ly/3QQRS47>.

⁵¹⁰ Warmes Bett, available at: <https://bit.ly/3QND1Hs>.

⁵¹¹ See e.g. Bonn, *Kontaktformular – Ukraine-Krise Aufnahme von Bürger*innen*, available in German at: <https://bit.ly/3XpmDzA>.

⁵¹² Bundesweiter Koordinierungskreis gegen Menschenhandel e.V., *Menschenhandel und Ausbeutung im Kontext des Ukrainekriegs – Eine Untersuchung aus Sicht spezialisierter Fachberatungsstellen zur Situation in Deutschland*, report, 14 December 2022, available in German at: <http://bit.ly/3GOYGus>, 21.

⁵¹³ Rbb24, *Deutschland ist eines der Hauptzielländer des Menschenhandels*, newspaper article, 16 March 2022, available in German at: <http://bit.ly/3ZmkoaP>.

⁵¹⁴ Federal Police, *Schutz vor Menschenhandel und Ausbeutung*, lastly updated 07 April 2022, available at: <http://bit.ly/3WmgZwJ>.

⁵¹⁵ Federal Ministry of Family Affairs, Senior Citizens, Women and Youth, *Geflüchtete Frauen und Kinder aus der Ukraine vor Menschenhandel schützen*, press release, 29 July 2022, available in German at: <http://bit.ly/3Hbruyt>.

⁵¹⁶ Bundesweiter Koordinierungskreis gegen Menschenhandel e.V., *Menschenhandel und Ausbeutung im Kontext des Ukrainekriegs – Eine Untersuchung aus Sicht spezialisierter Fachberatungsstellen zur Situation in Deutschland*, report, 14 December 2022, available in German at: <http://bit.ly/3GOYGus>, 13f.

⁵¹⁷ Ibid, p. 15f.

Commissioner for Antiziganism claims that especially Sinti and Roma faced discrimination in accommodation centres in Germany.⁵¹⁸

There are no reports of cases where beneficiaries of temporary protection have been denied access to reception facilities. However, for applicants for temporary protection, there seems to be a discrepancy between Ukrainian nationals and third country nationals. Alongside the fact that applicants for temporary protection who are third country nationals in some cases do not receive social benefits (see Registration under temporary protection), incidents of expulsions of third country nationals from reception centres have been reported.⁵¹⁹

Similar to what has been reported for international protection beneficiaries (see [General Report – Content of International Protection – Freedom of Movement](#)) problems arise from the fact that in the law beneficiaries of temporary protection are responsible for finding accommodation themselves,⁵²⁰ whereas in practice it is difficult for temporary protection holders to find apartments on their own. Therefore, many temporary protection holders are forced to stay in the reception centres or emergency shelters for longer periods. Additionally, people who were first accommodated in private flats report that they had to move to reception centres after several months, since the private accommodation were only meant as emergency measures and are not suitable for longer periods.⁵²¹ The lack of long-term housing opportunities alongside with the continued high numbers of arrivals from Ukraine lead to a dense situation especially in bigger cities. In Berlin and Hamburg, around 99% percent of the reception capacities were occupied at the end of September 2022.⁵²² In Brandenburg, Mecklenburg-Vorpommern and Lower Saxony 80% are currently occupied.⁵²³ According to the administration of Berlin 10,000 additional places are required, 3,200 shall be built as emergency shelters in tents on the territory of the former airport Berlin-Tegel.⁵²⁴ The local administration of Augsburg claims that nearly all of the 67 accommodation centres are occupied and that the city is considering using sports facilities of local schools as emergency shelters.⁵²⁵ The authorities on the local, state and federal level blame each other for the shortcomings. While the local authorities are by law responsible for the accommodation of applicants for temporary protection,⁵²⁶ they claim that they do not have enough financial and housing resources to fulfil the current need. They therefore ask the Federal States to vacate more housing properties.⁵²⁷ The Federal States in turn urge the Federal government to strengthen their efforts and to take up a coordinating role.⁵²⁸ According to the Minister of North Rhine-Westphalia, the statement of the Federal government that 4,000 federal properties shall be made available for additional

⁵¹⁸ Federal Ministry of Family Affairs, Senior Citizens, Women and Youth, *Antiziganismusbeauftragter fordert diskriminierungsfreien Umgang mit geflüchteten Roma aus der Ukraine*, press release, 29 September 2022, available in German at: <http://bit.ly/3HhD6jH>.

⁵¹⁹ Anna-Elisa Jakob, *Geflüchtete in Obdachlosigkeit geschickt*, Hinz&Kunzt, 16 August 2022, available in German at: <https://bit.ly/3HbYZ3N>.

⁵²⁰ Section 22 Social Code II

⁵²¹ Maria Fischer, *Ukrainer*innen in Privatunterkünften: Immer noch prekäres Wohnen*, taz, 22 September 2022, available in German at: <http://bit.ly/3IYWLpJ>.

⁵²² Silke Mehring, *Leichtbauhallen in Tegel geplant Unterbringung von Ukraine-Flüchtlingen in Berlin wird immer komplizierter*, rbb24, 02 December 2022, available in German at: <http://bit.ly/3wdFPUT>; Migration Media Service, *Flüchtlinge aus der Ukraine*, last amended 10 January 2023, available in German at: <http://bit.ly/3D0Jvgr>.

⁵²³ Migration Media Service, *Flüchtlinge aus der Ukraine*, last amended 10 January 2023, available in German at: <http://bit.ly/3D0Jvgr>.

⁵²⁴ Thomas Frey, *Ukraine-Ankunftszentrum wird um 3200 Plätze erweitert*, Berliner Woche, 06 January 2023, available in German at: <http://bit.ly/3CY9Jjy>.

⁵²⁵ Aichacher Zeitung, *Bald wieder Notunterkünfte in Turnhallen?*, 16 January 2023, available in German at: <http://bit.ly/3z29fH0>.

⁵²⁶ §44 AsylG in conjunction with the different Federal state's Reception laws: e.g. §1 Landesaufnahmegesetz Hesse; §4 Landesaufnahmegesetz Brandenburg; §2 Flüchtlingsaufnahmegesetz North Rhine-Westphalia.

⁵²⁷ The Federal Network of Municipalities (Städtetag) already asked for financial assistance in June and September 2022, see: Deutscher Städtetag, *Städtetag fordert neuen Flüchtlingsgipfel*, press release of 09 June 2022 and 13 September 2022, available in German at: <http://bit.ly/3kvk8gw> and <http://bit.ly/3ZLsgto>.

⁵²⁸ Zeit online, *Länder und Kommunen fordern mehr Abstimmung bei der Aufnahme*, 17 March 2022, available in German at: <http://bit.ly/3WhSbG8>.

accommodation facilities is misleading, since most of these properties are farmland and thus not suitable for quick usage.⁵²⁹ In North Rhine-Westphalia, only 3 out of 39 proposed facilities by the Federal government are suitable for accommodating people.⁵³⁰

E. Employment and education

1. Access to the labour market

Since 1st June 2022 temporary protection beneficiaries have unrestricted access to the labour market. No limitation or further requirements apply for self-employment and for employees. The residence permit for temporary protection must include the annotation that access to the labour market is granted but this is merely of declaratory nature. Temporary protection beneficiaries are consequently treated equally compared to German nationals. They may for example make the same use of general support programmes (e.g. workshops on how to draft applications, search and information portals) or specific support programmes tailored to the needs of foreign workers (e.g. integration courses, vocational trainings). The Federal Employment agency created a website for those who fled Ukraine where all the information on access to labour market and available support programmes is provided in different languages.⁵³¹

In some sectors foreigners, irrespective of the type of residence permit, need to recognise their qualifications in order to work in their former profession. As stated in the general report (see [General Report – Content of International Protection – Access to the labour market](#)), this may constitute a practical hurdle to access the labour market.

There are no official statistics on the labour market available which distinguish between the type of residence status. Available data only distinguishes between different nationalities and is only available until August 2022. Regarding Ukrainian nationals in Germany, the number of those employed rose from 65,450 to 137,150 between February 2022 and August 2022.⁵³² Amongst those, 17,260 are without professional degree, 26,450 with a vocational training degree and 34,180 with an academic background. No data exists for 59,260 employees.⁵³³

2. Access to education

Education for children

Since education is governed by the Federal States, the legal framework slightly differs. In general, children, irrespective of their nationality and residence permit, are entitled and obliged to education from the age of 5-7 years and for a period of at least 9 years. For children who fled from Ukraine, access to education is guaranteed but the timeline differs depending on the Federal State: from the moment of arrival in Berlin, 3 months after arrival in Bavaria and Thuringia, in Baden-Württemberg 6 months after arrival, or from the moment when the child has been allocated to a municipality as in North Rhine-Westphalia.⁵³⁴ Foreign children enter the same school system as German nationals. Children are

⁵²⁹ Deutschlandfunk, NRW-Ministerpräsident Wüst fordert bei Unterbringung mehr Unterstützung vom Bund, 16 January 2023, available in German at: <http://bit.ly/3QPVaUY>.

⁵³⁰ Westfälische Nachrichten, Notunterkünfte in NRW fallen durch - nur drei geeignete Bundes-Immobilien, 04 January 2023, available in German at: <http://bit.ly/3kiPzdG>.

⁵³¹ Federal Employment Office, *Unterstützung für Geflüchtete aus der Ukraine*, available at: <http://bit.ly/3QP4rNb>.

⁵³² Federal Employment Office, *Migration und Arbeitsmarkt*, last updated December 2022, available in German at: <http://bit.ly/3ZPGp8Y>.

⁵³³ Ibid.

⁵³⁴ Deutsches Schulportal, 'Wie Schulen geflüchtete Kinder aus der Ukraine aufnehmen', 11 March 2022, available in German at: <http://bit.ly/3D068Sk>.

obliged to follow elementary school for four years and subsequently attend different forms of High schools.

From 24 February 2022 until 3 March 2023 206,015 children who fled from Ukraine accessed education.⁵³⁵ The data is slightly vague, since no unified definition of who is counted as child exists. For example, Hesse only counts children with Ukrainian nationality.⁵³⁶ Further vagueness stems from the fact that some Federal States only enregister children who attend public schools, while others collect data also from private schools.⁵³⁷

Different programmes exist for foreign children to facilitate their integration in the German school system. In several Federal States “Welcome Classes” or “Preparation classes” exist where the schedule is tailored to the need of children whose mother tongue is not German. In other Federal States children are directly integrated in regular classes and attend German language courses on the side.

In addition to the already existing programmes for foreign children, the German network of ministers of education (Kultusministerkonferenz) acknowledges that there are specific challenges stemming from the increased number of children who fled Ukraine. According to a study published in May 2022 the main challenge stems from the lack of teachers. According to the study 13,500 – 19,400 additional teachers are required to react to the rising number of children who fled Ukraine.⁵³⁸ To address the lack of teachers, a task force of the network of Ministries of education envisages to facilitate the recognition of degrees of Ukrainian teachers and several Federal States have assured that additional money will be provided for the employment of teachers.⁵³⁹

The task force further acknowledges that children coming from Ukraine may be present in Germany only for a limited period depending on how long the war lasts and that currently there are many Ukrainian schools which continue to provide remote classes for their pupils. While unity exists to the point that children may not generally be exempted from the obligation to attend school in Germany, the opinions on how the material provided by Ukrainian schools may be integrated in German classes differ.⁵⁴⁰ The material provided by Ukrainian schools may be used by the teachers in Germany or families may be required to educate their children with the Ukrainian school materials privately. In Saxonia children from the 9th grade have the possibility to be exempted from the obligation to attend school in order to acquire the Ukrainian degrees. They need to apply for the exemption and prove that they attend online classes from Ukrainian schools.⁵⁴¹

Equal access to education for children with special needs is regulated under the Social Code and is guaranteed irrespectively of the residence permit.⁵⁴² The procedure to identify specific needs and the measures introduced to address specific needs vary in the different Federal States. In general support programmes exist for specific needs in relation to emotional and social development, physical and motoric development, learning difficulties, mental disabilities and language barriers. Support programmes may consist of *inter alia* adjusted material and schedules, individual or group-based assistance in class and alternative schooling systems. Despite the intention of the Federal States

⁵³⁵ Kultusministerkonferenz, Geflüchtete Kinder/Jugendliche aus der Ukraine, last available data from week 12-18 December 2022, available in German at: <http://bit.ly/3XKPvZg>.

⁵³⁶ Ibid.

⁵³⁷ Ibid.

⁵³⁸ Institut der deutschen Wirtschaft (IW), *Mögliche Auswirkungen des Krieges in der Ukraine im deutschen Bildungssystem*, 29 May 2022, available in German at: <http://bit.ly/3XKuXJK>.

⁵³⁹ Kultusministerkonferenz, *Beschulung der schutzsuchenden Kinder und Jugendlichen aus der Ukraine im Schuljahr 2022/2023*, 23 June 2022, available in German at: <https://bit.ly/3CZx44H>.

⁵⁴⁰ Deutsches Schulportal, *Wie Schulen geflüchtete Kinder aus der Ukraine aufnehmen*, 11 March 2022, available in German at: <http://bit.ly/3D068Sk>.

⁵⁴¹ Sachsen, Kinder und Schule, press release 01 November 2022, available in German at: <http://bit.ly/3QVRvFs>.

⁵⁴² Section 112 SGB IX.

ministers and the plea by the UNESCO Commission to strengthen efforts for a more inclusionary schooling system, in Germany the quota of children with specific needs who attend specific schools remains high.⁵⁴³

(Higher) Education for young people and adults

The network of Ministries of education intends to facilitate access to education beyond the mandatory 9 years of schooling. In a decree, the ministers recognised that young adults above 16 shall also have access to the regular schooling system.⁵⁴⁴ The ministers further acknowledge that due to the war in 2022 Ukrainian children were not able to pass the final exams which qualify for access to universities and higher education. Therefore, the ministers decided that access to higher education will be provided despite the lack of a diploma, if according to the earlier records the children generally qualify for higher education.⁵⁴⁵

The German Academic Exchange Service (DAAD) together with the Federal Foreign Office initiated a scholarship programme for people who fled Ukraine. The funding will be awarded to different universities where then people who fled Ukraine and want to attend a German university may apply for language and technical support and for full scholarships to obtain a degree (bachelor, master or doctorate).⁵⁴⁶ The funding is to be expected for the years 2023 and 2024 and for now there is no further information available on the exact eligibility criteria.

In addition to the regular educational system the Federal Employment Office in cooperation with the BAMF offers different consulting services including preparatory classes for vocational trainings, integration classes, language courses, support in applications for jobs and educational programs and search platforms for universities and vocational training programs. Since June 2022 these programmes are accessible to temporary protection beneficiaries.⁵⁴⁷

F. Social welfare

From 1 June 2022 temporary protection beneficiaries as well as applicants for temporary protection who have received a fictional approval and have been registered in the AZR have access to social welfare under the Social Code.⁵⁴⁸ Beneficiaries of temporary protection now have access to the same social benefits as German nationals. Prior to the encompassing legal reforms, applicants for, as well as beneficiaries of temporary protection received the same benefits as applicants for international protection under the Asylum Seeker Benefits Act (see [General Report – Forms and levels of material reception conditions](#)).⁵⁴⁹ As the table shows, the basic financial benefits under the Regular Social Code are higher compared to those under the Asylum Seeker Benefits Act.

⁵⁴³ Deutsche UNESCO-Kommission, Empfehlungen Inklusives Bildungssystem, available in German at: <https://bit.ly/3XpUBDT>, 3.

⁵⁴⁴ Kultusministerkonferenz, *Beschulung der schutzsuchenden Kinder und Jugendlichen aus der Ukraine im Schuljahr 2022/2023*, 23 June 2022, available in German at: <https://bit.ly/3CZx44H>.

⁵⁴⁵ Kultusministerkonferenz, *Hochschulzugang mit ukrainischen Bildungsnachweisen*, 05 April 2022, available in German at: <https://bit.ly/3DnTTPN>.

⁵⁴⁶ German Academic Exchange Service (DAAD), 'Future Ukraine - Scholarship Program for Refugees from Ukraine at German Universities', available at: <http://bit.ly/3iJKCdL>.

⁵⁴⁷ Section 7 (1) Social Code II.

⁵⁴⁸ Federal Government, *Gesetz zur Regelung eines Sofortzuschlages und einer Einmalzahlung in den sozialen Mindestsicherungssystemen sowie zur Änderung des Finanzausgleichsgesetzes und weiterer Gesetze*, 23 May 2022, available at: <http://bit.ly/3kvHKSh>.

⁵⁴⁹ Section 1 (3a) Asylum Seekers Benefits Act (old version of 31 May 2022).

Basic benefits for Temporary Protection applicants and beneficiaries							
	Single adult	Single adult in accommodation centre	Adult partners (each)	Member of household 18-24	Member of household 14-17	Member of household 6-13	Member of household 0-5
Regular Social Benefits	€502	-	€451	€402	€420	€348	€318
Total amount of benefits under Asylum Seekers Benefits Act	€410	€369	€369	€328	€364	€304	€278

Sources: Bekanntmachung über die Höhe der Leistungssätze nach § 3a Absatz 4 des Asylbewerberleistungsgesetzes für die Zeit ab 1. Januar 2023, BGBl. I, Nr. 54, 23 December 2022, 2601, available at: <https://bit.ly/3XKNSUP>; and Federal Employment Office, Erhöhte Regelsätze, press release Nr. 60, 28 December 2022, available at: <http://bit.ly/3iXn98T>.

Besides the benefits to secure livelihood listed above, the social benefits under the regular Social Code include *inter alia*:

- ❖ Access to public health insurances
- ❖ Care benefits
- ❖ Access to support programs for facilitation of access to the labour market
- ❖ Access to educational support programs (financial aid and trainings)
- ❖ Child and parental benefits
- ❖ Language and integration classes

In addition to the change of the applicable legal regime for beneficiaries of temporary protection, there have been extensive reforms in the general legal framework on social benefits which consequently also apply for beneficiaries of temporary protection.⁵⁵⁰

As stated in the general report (see [General Report – Social Welfare](#)), the responsible authority for beneficiaries of temporary protection and beneficiaries of International Protection who are unemployed but available for the job market is the Job Centre or Employment Office. For those who are registered as unemployable (due to the reached age of retirement or e.g. disabilities) the Social Welfare Office is responsible. Due to the obligation to reside in the municipality to which the beneficiaries have been allocated (see Movement and mobility), a beneficiary for temporary protection may only receive social benefits by the authority of the allocated municipality.⁵⁵¹

The available statistics on the number of beneficiaries of social benefits do not differentiate on the type of residence permit but by nationality. Thus, the number of those who have accessed social welfare is only available for Ukrainian nationals irrespective of whether they are beneficiaries of temporary

⁵⁵⁰ See [General Report – Content of International Protection](#).

⁵⁵¹ Federal Ministry of the Interior, *Neuregelungen im Aufenthaltsgesetz zum 01.06.2022 aufgrund des „Gesetzes zur Regelung eines Sofortzuschlages und einer Einmalzahlung in den sozialen Mindestsicherungssystemen sowie zur Änderung des Finanzausgleichsgesetzes und weiterer Gesetze“*, 27 May 2022, available in German at: <https://bit.ly/3wfWU0q>.

protection. In December 2022 625,000 Ukrainians received benefits to secure livelihood. 418,000 of those are available for the job market, 207,000 are not employable.⁵⁵²

It has been reported that problems arise especially in connection to the requirement of mandatory registration in the AZR.⁵⁵³ Since the registration in the AZR became mandatory only in June 2022, there are persons who have already received a residence permit for temporary protection and therefore are eligible for social benefits under the Social Code. However, they may not be registered in the AZR because they applied for temporary protection prior to the 1st of June. Registration in the AZR is though a requirement in order to receive social benefits under the Social Code. In order to remedy the lack of registration, a transitional period until October 2022 was introduced, where beneficiaries of temporary protection were able to register.⁵⁵⁴ In the meantime beneficiaries still received benefits under the Asylum Seekers Benefits Act.⁵⁵⁵

Additionally, several NGOs criticise that the legal reforms of June 2022 did not include access to inclusionary measures for people with disabilities. German nationals with disabilities have access to benefits guaranteeing *inter alia* prevention of disabilities or prevention of aggravation, inclusion in the job market and participation in society. The reforms of June 2022 did not explicitly extent the scope of these measures to beneficiaries of temporary protection. As a consequence, confusion exists as to whether inclusionary measures are awarded only by discretion or whether individuals have a right to claim those measures despite the lack of an explicit wording. Usually, foreign nationals only receive those benefits upon discretion of the local authorities. The only ones exempted from this discretion are those foreigners who have a permanent residence permit or a short-term residence permit but are expected to reside permanently in Germany.⁵⁵⁶ In a circulation letter the ministry of labour and social affairs argued that the lack of an explicit regulation is remedied by the fact that temporary protection may be interpreted as a short-term residence permit where permanent residence is assumed and therefore guarantee access to these benefits without discretion.⁵⁵⁷ However, civil society organisations fear that local authorities may disregard the instructions in the circulation letter since the circulation letter may not be regarded as legally binding by some authorities. The legal vagueness might therefore cause lengthy administrative procedures and negative first instance decisions.⁵⁵⁸

G. Health care

Since 1st June 2022 beneficiaries of temporary protection have the same access to health care as German nationals. Accordingly, temporary protection holders who do not receive social benefits may within six months after arrival voluntarily choose a provider of statutory health insurances.⁵⁵⁹ If they do not choose a health insurance provider within the first six months, they will automatically be insured by the job centre.⁵⁶⁰ Beneficiaries of temporary protection who receive social benefits e.g. unemployment

⁵⁵² Federal Employment Office, *Berichterstattung zu den Auswirkungen der Fluchtmigration aus der Ukraine auf den deutschen Arbeitsmarkt und die Grundsicherung für Arbeitsuchende*, December 2022, available in German at: <https://bit.ly/3XJzA72>.

⁵⁵³ Dorothee Frings, *Sozialleistungen für Geflüchtete aus der Ukraine ab dem 1. Juni 2022*, Asylmagazin 6/22, 204.

⁵⁵⁴ Ibid.

⁵⁵⁵ Section 1 (8a) Asylum Seekers Benefits Act (AsylBLG).

⁵⁵⁶ Section 100 (1) Social Code IX.

⁵⁵⁷ Federal Ministry of Labour and Social Affairs, *Informationsschreiben zur Anwendung des §100 Absatz 1 SGB IX bei geflüchteten Menschen mit Behinderungen aus der Ukraine*, 29 April 2022, available at: <https://bit.ly/3CY10jS>.

⁵⁵⁸ Lebenshilfe e.V., *Neue Rechtslage für Geflüchtete aus der Ukraine vergisst Menschen mit Behinderung*, 02 June 2022, available in German at: <http://bit.ly/3J1BU5k>.

⁵⁵⁹ Section 417 (1) Social Code V.

⁵⁶⁰ Section 5 (1) (Nr.13) Social Code V.

benefits, receive health insurance by the job centre or social welfare office which guarantees the same treatment.⁵⁶¹

The treatment provided for under the public health insurance system include *inter alia*:⁵⁶²

- ❖ Treatment for pregnancy and motherhood
- ❖ Prevention of illnesses and their aggravation;
- ❖ In specific circumstances contraception control, sterilisation and abortion
- ❖ Treatment of illnesses
- ❖ Health education and early screening programs

Again, the access to health care is made conditional upon the registration in the 'Central Register of Foreigners' (AZR) (for criticism of this conditionality, see Registration under temporary protection).

Statistics on the access to health care show that overall Ukrainians are satisfied with their health status. Only ten percent of the 11,225 interviewed Ukrainians between August 2022 and October 2022 rate that their health status is bad and half of them state that they need further medical aid.⁵⁶³ However, those who live in public accommodations rate their health status lower than those who live in private accommodations.⁵⁶⁴ Among the 11,225 interviewed Ukrainians, 33% stated that they need support for medical aid.⁵⁶⁵ The available data is though biased since only people with Ukrainian nationality were interviewed and only 76% of the interviewed persons were beneficiaries of temporary protection at the time of the interview.⁵⁶⁶

It has been reported that in practices access to health insurances is sometimes hindered for minor children. The practical obstacle stems from the fact that in many cases the father stayed in Ukraine and is regarded as privately insured. A private insurance of one parent however may provoke an exemption from the family insurance.⁵⁶⁷ The child is exempted from the family insurance if the privately insured parent exceeds a certain level of income.⁵⁶⁸ The income of the privately insured parent must be proven. In the current situation in Ukraine, it is difficult for the remaining parent to prove their income situation. In the reported cases the health insurance provider assumed by the lack of documents that the privately insured parent reached the level of income and applied the exception clause. However, it is argued by civil society organisations that the level of income necessary for the application of the exception clause is usually not reached since even a well-paid job in Ukraine does not reach the level.⁵⁶⁹

Civil society organisations further fear that the same argumentation might be used for temporary protection holders who are over 55 years. Under the German law persons above 55 who become eligible for public health insurance for the first time in Germany are exempted from the public health insurance if they have been privately insured in the last five years. Since the public health insurance in Ukraine is not well equipped many employers grant private insurance for their employees. Civil society organisations warn insurers to not count these insurances as grounds for exceptions. The Federation of Public Health insurance providers has though assured that the exception will not be used for these cases.⁵⁷⁰

⁵⁶¹ Section 5 (1)(Nr.2a) Social Code V or Section 264 (2) Social Code V.

⁵⁶² Chapter III SGB V, overview of the measures see: Section 11 Social Code V.

⁵⁶³ Federal Institut for Population Research, *Geflüchtete aus der Ukraine in Deutschland - Flucht, Ankunft und Leben*, December 2022, available in German at: <http://bit.ly/3IZildQ>, 5.

⁵⁶⁴ Ibid.

⁵⁶⁵ Ibid 12.

⁵⁶⁶ Ibid 7.

⁵⁶⁷ Section 10 (3) Social Code V.

⁵⁶⁸ Section 6 (6) Social Code V.

⁵⁶⁹ GGUA, KV in Deutschland für Geflüchtete aus der Ukraine, 18 May 2022, available in German at: <https://bit.ly/3WoZ8oV>.

⁵⁷⁰ Spitzenverband der Krankenversicherungen (GKV), Krankenversicherungsschutz für Kriegsflüchtlinge aus der Ukraine, 20 May 2022, available in German at: <https://bit.ly/3QRfJjW>.

Spain



Temporary Protection Procedure

A. General

Following the outbreak of war in Ukraine in February 2022, and the EU decision to activate the Temporary Protection Directive, the Spanish Government started to design a more flexible and simple mechanism for providing protection to persons fleeing the country, without the necessity for them to lodge an asylum application.⁵⁷¹ UNHCR supported the authorities in the development of the emergency response to increase reception and support capacity, developing specific recommendations and providing guidance and expertise.⁵⁷² The Government also announced the regularisation of all undocumented Ukrainians living in Spain before the Russian invasion.⁵⁷³

In addition, the OAR temporarily halted the decisions on asylum applications already lodged by Ukrainian applicants, which are prospected to have a negative outcome.⁵⁷⁴ It is important to note that, from 2012 to 2021, Spain has received around 16,000 asylum applications from Ukrainian nationals, and denied at least 14,600 of them; only 9% of the applicants received any form of international protection according to such figures.⁵⁷⁵ On 24 March, the National Court of Madrid granted subsidiary protection to a Ukrainian family, whose application had previously been rejected.⁵⁷⁶

Similarly, the High Court (*Audiencia Nacional*) started to grant subsidiary protection to all those Ukrainians which applied before the outbreak of the war and whose asylum application was denied.⁵⁷⁷

In December 2022, the Supreme Court (*Tribunal Supremo*) granted protection to a Ukrainian family with an expulsion order, and established the criteria that, due to the situation in Ukraine, all Ukrainians living in Spain can automatically invoke the protection from the principle of no refoulement without the necessity to lodge an application for temporary protection.⁵⁷⁸

During 2022, the Asylum Office granted temporary protection to 161,037 persons fleeing from Ukraine.⁵⁷⁹ The permits granted until 16 January 2023 were 163,140. 63% of beneficiaries were women and 37% men; 33% of the total number of beneficiaries were children. The 3 top Autonomous

⁵⁷¹ El Diario, 'El Gobierno alojará de forma expés a los refugiados de Ucrania que lo necesiten sin exigir que antes pidan protección', 5 March 2022, available at: <https://bit.ly/3tAkL9a>.

⁵⁷² Information provided by UNHCR in March 2023.

⁵⁷³ El Diario, 'El Gobierno regularizará a todos los ucranianos que vivían en España sin papeles antes de la invasión rusa', 8 March 2022, available at: <https://bit.ly/3vbKpCy>.

⁵⁷⁴ Europa Press, 'Interior no denegará protección internacional para ucranianos a la espera de activarse el sistema de acogida europeo', 28 February 2022, available at: <https://bit.ly/34udPSl>.

⁵⁷⁵ Newtral, 'España ha denegado la protección internacional a más de 14.600 ucranianos en los últimos 10 años', 11 March 2022, available at: <https://bit.ly/3qK8yyb>.

⁵⁷⁶ Audiencia Nacional. Sala de lo Contencioso, Madrid, SAN 478/2022, 24 February 2022, available at: <https://bit.ly/3LkdO3n>.

⁵⁷⁷ ECRE, 'Information Sheet – Measures in response to the arrival of displaced people fleeing the war in Ukraine', 31 May 2022, available at: <https://bit.ly/3j1aguz>; TF Extranjería, 'La Audiencia Nacional sigue concediendo protección subsidiaria a los ucranianos/as que tenían las denegaciones de protección internacional recurridas', 2 april 2022, available at: <https://bit.ly/3h4865b>.

⁵⁷⁸ El Economista, 'El Supremo otorga protección temporal a los ucranianos afectados por la guerra', 4 January 2023, available at: <https://bit.ly/3H83knb>; The Objective, 'El Supremo fija doctrina: hay que dar asilo automático a los ucranianos que residen en España', 24 January 2023, available at: <https://bit.ly/3XtCvkt>; Cadena Ser, 'El Supremo concede la orden de protección a una familia ucraniana y anula su deportación', 24 January 2023, available at: <https://bit.ly/3wuBFrQ>; Tribunal Supremo. Sala de lo Contencioso, STS 4822/2022, 21 December 2022, available at: <https://bit.ly/3lWkZ3r>.

⁵⁷⁹ Ministry of Interior, 'La Oficina de Asilo y Refugio registra 118.842 solicitudes de protección internacional en 2022, máximo histórico desde su creación', 12 January 2023, available at: <https://bit.ly/3Hyut4t>.

Communities where the vast majority of TP permits were issued are the **Comunitat Valenciana** (43,542), **Cataluña** (37,271) and **Comunidad de Madrid** (23,256).⁵⁸⁰

In occasion of the 2022 World Refugee Day, Amnesty International denounced the double standard policy of the Spanish Government, welcoming and guaranteeing access to protection for the Ukrainian refugees on one side, and creating obstacles in the access to the territory and to protection for refugees fleeing from other wars and persecution, such as persons coming from Syria or Africa.⁵⁸¹

On February 2023, the NGO *CEAR* called the EU and its Member States to use the TP directive as a rule and not as an exception, and to use it also to protect people fleeing other conflicts, such as Syrians.⁵⁸² It also called to apply the TP directive to Syrian refugees affected by the earthquake that occurred during the same month.⁵⁸³

B. Qualification for temporary protection

On 9 March, the Government adopted two orders extending the temporary protection (TP) to Ukrainian nationals, persons and stateless persons legally residing in Ukraine, Ukrainians staying (regularly or irregularly) in Spain before 24 February 2022, and their family members, and detailing the procedure to grant such status.⁵⁸⁴ According to such orders, the decision granting temporary protection is adopted by the OAR in 24 hours from the lodging of the application.

In June 2022, the UNHCR and NGOs expressed concerns for the challenges that third country nationals residing in Ukraine were facing in accessing and especially in obtaining TP, as the police did not allow them to apply for TP.⁵⁸⁵ UNHCR and NGOs managing the Emergency and Referral Centres (CREADE, which were specifically created for the reception of persons fleeing Ukraine) informed about hundreds of persons from different countries (i.e. Nigeria, Morocco, Algeria, etc.) being in such a situation, including cases of mixed couples (i.e. Russian spouses).⁵⁸⁶ In October 2022, the General Commissariat on Foreigners and Borders issued a legal paper establishing the procedure and criteria for access to TP by third country nationals who fled Ukraine. It establishes that third country nationals coming from one of the following 17 countries (Afghanistan, Armenia, Azerbaijan, Belorussia, Burkina Faso, Georgia, Kazakhstan, Kirgizstan, Mali, Moldavia, Central African Republic, Russia, Syria, Tajikistan, Turkmenistan, Uzbekistan, Yemen) with permanent residence in Ukraine, are not obliged to prove the impossibility to return to their origin country in safe and durable conditions. Thus, they are entitled to access TP just providing their passport and permanent residence permit. For those third country nationals coming from one of the mentioned 17 countries who held a temporary residence

⁵⁸⁰ Ministerio del Interior, 'Resoluciones de Protección Temporal. Datos acumulados 11 de marzo a 16 de enero de 2023', available at: <https://bit.ly/3XxeGZ9>.

⁵⁸¹ Amnistía Internacional, 'España: El conflicto de Ucrania visibiliza el doble rasero a la hora de proteger las personas refugiadas', 16 June 2022, available at: <https://bit.ly/3Jbhh6w>.

⁵⁸² La Vanguardia, 'CEAR pide a la UE que la protección concedida a los ucranianos sea normal y "no la excepción"', 23 February 2023, available at: <https://bit.ly/41Cv6Sc>.

⁵⁸³ La Vanguardia, 'CEAR pide que los refugiados sirios afectados por los terremotos accedan a la protección temporal', 10 February 2023, available at: <https://bit.ly/41EpTt9>.

⁵⁸⁴ Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, 'Orden PCM/170/2022, de 9 de marzo, por la que se publica el Acuerdo del Consejo de Ministros de 8 de marzo de 2022, por el que se amplía la protección temporal otorgada en virtud de la Decisión de Ejecución (UE) 2022/382 del Consejo de 4 de marzo de 2022 a personas afectadas por el conflicto de Ucrania que puedan encontrar refugio en España', 9 March 2022, available at: <https://bit.ly/3tJHzET>; Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, 'Orden PCM/169/2022, de 9 de marzo, por la que se desarrolla el procedimiento para el reconocimiento de la protección temporal a personas afectadas por el conflicto en Ucrania', 9 March 2022, available at: <https://bit.ly/3uxftf9>.

⁵⁸⁵ Information provided by Accem in March 2023.

⁵⁸⁶ El Diario, 'Interior impide a cientos de extranjeros que huyen de Ucrania pedir la protección temporal que se les prometió', 16 June 2022, available at: <https://bit.ly/3WwLgZy>.

permit in Ukraine or those coming for other countries than those 17, have also to prove the impossibility to return to their country of origin in safe and durable conditions.

C. Access to temporary protection and registration

1. Admission to territory

Persons fleeing from Ukraine did not face any significant challenge in accessing Spain. Biometric passport as well as other documents certifying their identity (i.e. birth certificate) are considered sufficient to access the territory.⁵⁸⁷

2. Freedom of movement

Individuals entitled to temporary protection did not face any challenge in moving across the Spanish territory, independently of the documentation they held.

3. Registration under temporary protection

Regarding the registration of applications, the Government has foreseen the possibility of apply for temporary protection both directly at the CREADE and in designated police stations.

4. Legal assistance

For legal assistance in the context of temporary protection, the same rules valid for asylum seekers are in force (See [AIDA Country Report on Spain - 2022 Update](#)).

5. Information provision and access to NGOs

Different initiatives have been promoted since the beginning of the war, aiming at informing persons fleeing Ukraine on their rights and the access to services. The Spanish Bar Association committed to provide legal guidance to Ukrainian through the specialised roll on migration and asylum of the different bar associations.⁵⁸⁸ The NGO CEAR published guidelines on asylum for those fleeing the conflict in Ukraine, available both in Ukrainian and Spanish.⁵⁸⁹ Similarly, the Bar Association of Madrid published a guide in Spanish, English and Ukrainian providing information to persons fleeing Ukraine.⁵⁹⁰ The Minister of Interior published a document (also in different languages including Ukrainian) to inform on temporary protection, on who can apply for it and where, the rights deriving from the protection granted, etc.⁵⁹¹ The Psychological Association of Madrid published some information videos for the psychological support to persons affected by the conflict in Ukraine.⁵⁹² The Spanish Network of Legal Clinics drafted a guidance containing practical information on the access to temporary protection, as well as on access to health assistance, education and employment in different Autonomous

⁵⁸⁷ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Soy ucraniano, ¿Qué papeles necesito para entrar en España?', 7 June 2022, available at: <https://bit.ly/43KWsxI>.

⁵⁸⁸ El Derecho, 'La Abogacía Española ofrecerá apoyo legal en España a los refugiados ucranianos', 1 March 2022, available at: <https://bit.ly/3hXJqPz>.

⁵⁸⁹ CEAR, 'Guía asilo personas afectadas por guerra ucrania', 1 March 2022, available at: <https://bit.ly/3HVg0e0>.

⁵⁹⁰ Ilustre Colegio de Abogados de Madrid (ICAM), 'El Colegio de Abogados de Madrid publica una guía para ciudadanos que huyen del conflicto armado de Ucrania', 15 March 2022, available at: <https://bit.ly/3wlnINC>.

⁵⁹¹ Ministerio del Interior, 'UCRANIA - Protección Temporal', 2022, available at: <https://bit.ly/43Mr3Eg>.

⁵⁹² Colegio Oficial de la Psicología de Madrid, 'El colegio elabora videos divulgativos para el apoyo psicológico a personas afectadas por el conflicto bélico en Ucrania', 30 March 2022, available at: <https://bit.ly/3tr7gd8>.

Communities.⁵⁹³ UNHCR and the Platform for Childhood published child-friendly information materials for children fleeing Ukraine.⁵⁹⁴

In July 2022, the company 'Alliance Vending' launched the campaign *#CaféPorLaPaz* (*Coffee for Peace*) together with UNHCR, Save the Children and CEAR, aimed at supporting persons fleeing from Ukraine by collecting donations.⁵⁹⁵

In December 2022, UNHCR, together with its goodwill ambassador Jesús Vázquez and the TV channels of *Mediaset España*, launched a campaign to raise awareness on the situation of persons fleeing Ukraine and the arrival of winter, and to ask support to the Spanish population.⁵⁹⁶

D. Guarantees for vulnerable groups

NGOs managing reception facilities coordinated with specialised police units to identify victims and testimonies of the war crimes committed by Russia, with the aim of collecting relevant information on the issue. At the end of May 2022, a specific procedure was put in place at the CREADE of Madrid, to detect such cases and refer them to the police, who carry out the interview with the victims and testimonies to gather and formalise their declarations.⁵⁹⁷ The Spanish Bar Association also created a specific format so that lawyers can collect evidence.⁵⁹⁸

Following the call to arms by the Russian President, in November 2022 around 200 Russian draft evaders reached Spain to seek protection.⁵⁹⁹ No information on the treatment of such cases is available at the time of writing. In any case, such individuals would have the possibility to access international protection.

In order to prevent and identify the cases of trafficking among the persons fleeing Ukraine, specific protocols and guidelines have been adopted within the CREADE. Besides, staff in such centers as well as in other reception facilities was trained on the matter. In addition, the Public Prosecutor office started to convene periodic meetings at the national level among different stakeholders (i.e. NGOs managing the CREADE, UNHCR, the MISSM, NGOs assisting trafficked persons, the National Police and the Civil Guard), with the aim of coordinating actions and activities, following-up on possible trafficking cases, fostering trainings, etc.

In November 2022, the Parliament approved a legal amendment on an aggravating circumstance to the crime of trafficking in human beings, establishing an increase of the punishment up to 12 years for those who traffic persons fleeing armed conflicts and humanitarian disasters.⁶⁰⁰ The aggravating

⁵⁹³ Red Española de Clínicas Jurídicas, 'Guía de trámites y recursos para la población desplazada por la guerra en ucrania', March 2022, available at: <https://bit.ly/3vblHIW>.

⁵⁹⁴ Acnur, Plataforma de Infancia, 'August 2022, available at: <https://bit.ly/3VcgBQM>.

⁵⁹⁵ Europa Press, 'Alliance Vending lanza #CaféPorLaPaz junto a ACNUR, CEAR y Save The Children para ayudar a Ucrania', 15 July 2022, available at: <https://bit.ly/3vcdiyA>.

⁵⁹⁶ Mediaset, '12 Meses lanza, junto a ACNUR y Jesús Vázquez, una campaña de ayuda y sensibilización sobre los refugiados de Ucrania y su situación extrema por el frío', 1 December 2022, available at: <https://bit.ly/3J4S25W>.

⁵⁹⁷ Information provided by Accem on February 2023.

⁵⁹⁸ Consejo General de la Abogacía Española, 'La Abogacía activa un formulario para recoger pruebas de crímenes de guerra cometidos por Rusia', 25 May 2022, available at: <https://bit.ly/3ZSly3E>.

⁵⁹⁹ Yahoo Noticias, 'Huir de Putin a España: más de 200 desertores rusos llegan en busca de protección', 21 November 2022, available at: <https://yhoo.it/3WvgdNS>.

⁶⁰⁰ 20 Minutos, 'Agravante trata: El Congreso aprueba por unanimidad castigar con hasta 12 años de cárcel la trata de mujeres que huyan de una guerra', 3 November 2022, available at: <https://bit.ly/3WDyOrh>; The Objective, 'El BOE publica la nueva ley que endurece las penas por traficar con víctimas de conflictos', 21 December 2022, available at: <https://bit.ly/3R1FjmB>.

circumstance was initially proposed just to protect persons fleeing the war in Ukraine, but then was extended to all persons fleeing wars and humanitarian disasters.

In relation to children fleeing the conflict, there was a rapid issuance of recommendations directed at regional authorities, to avoid differences in treatment and definitions for their reception and protection. Recommendations regarding the protection of children and adolescents displaced by the conflict in Ukraine were issued by the Ministry of Social Rights and Agenda 2030 who is competent for the coordination of regional minors' protection systems. The priorities have been to ensure child friendly spaces, to avoid the separation of families and of children who have relatives or foster families, and to follow up the location of minors in order to guarantee their return to their places of origin when possible.⁶⁰¹

Recommendations were also drafted by the Minor Prosecutor's Office, aiming at unifying the criteria for action of the different prosecutors at regional level for the protection of unaccompanied and separated children were adopted. In the case of Ukrainian children, no systematic separation was carried out and great attention was paid to the way in which prosecutors were registering children as unaccompanied or separated. In the case of Ukrainian children, the national prosecutor asked to register them within the UAMS' police register and mark them as "at risk", so that minors protection services could make a follow up and give them the official "care" (*guarda*, which is different from guardianship although is a form of responsibility of the minor). It should be considered that prior to the Ukrainian conflict, some Autonomous Communities in Spain still separated children travelling with adults who were not in possession of proof of guardianship or documentation, until DNA tests were carried out. This was the case in Melilla, and also occurred in the Canary Islands.⁶⁰²

The Platform for Childhood (*Plataforma de Infancia*) published information in the format of questions and answers, in which it provides with useful information on different aspects, i.e., on foster care, on how to speak with children about the conflict, etc.⁶⁰³ Similarly, UNICEF published a set of guidelines on how to support children from Ukraine.⁶⁰⁴

In May 2022, the organization 'Aldeas Infantiles SOS' published guidelines on how to foster the integration of refugee children from Ukraine, providing orientation on the psychological effects of conflicts on children and on how to support children who fled the war.⁶⁰⁵

In 2022, Accem implemented two projects with a private foundation aiming at providing 3 Ukrainian interpreters for persons with disabilities and for persons with mental health needs who fled the war in Ukraine.

Save the Children has welcomed the extraordinary measures that were taken to ensure protection of children and families fleeing from Ukraine and asked for best practices to be extended to other migrant and refugee children, and to ensure lessons learnt from the management of the inflow of persons displaced from Ukraine can be taken and strengthened for the protection of all migrant and refugee children.⁶⁰⁶

⁶⁰¹ Information provided by Save the Children in March 2023.

⁶⁰² *Ibidem*.

⁶⁰³ Plataforma de Infancia, 'UCRANIA - Preguntas y Respuestas sobre la infancia y el conflicto armado', 2022, available at: <https://bit.ly/3J8v1rz>.

⁶⁰⁴ UNICEF, 'Cómo ayudar a los niños y las niñas de ucrania 10 cuestiones relevantes', 2022, available at: <https://bit.ly/3ZB0tLb>.

⁶⁰⁵ Aldeas Infantiles SOS, 'Guía para favorecer la integración de niños y niñas refugiados de la guerra de Ucrania', May 2022, available at: <https://bit.ly/3JwCqrT>.

⁶⁰⁶ Save the Children, 'Safe for Some: Europe's selective welcome to children on the move', March 2023, available at: <https://bit.ly/3TuOv3S>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--|------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | 2 years |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2022? | 157,180 ⁶⁰⁷ |

According to the two orders adopted by the Spanish Government in March 2022,⁶⁰⁸ temporary protection, as well as the residence and work permit granted, will be automatically renewed for 1 year after 1 year since the granting of the temporary protection. In practice, Spain issues residence and work permits directly for the duration of 2 years.⁶⁰⁹

2. Access to asylum

No major issues were registered regarding access to asylum of temporary protection beneficiaries, who can present an asylum application while maintaining their TP status. No clear plan has been designed, for the moment, for the period in which it will be necessary to transition out of temporary protection.

B. Family reunification

Upon request, temporary protection will be granted also to family members as long as the family relation was already existing in the country of origin. Family members are considered as follows: spouse or unmarried partner; unmarried minor children or those of the partner, whether born inside or outside of a marriage or adopted; other close relatives who lived together as part of the family unit at the beginning of the armed conflict, depending totally or mainly on them.⁶¹⁰ As far as known by the author, no cases of family reunification have been registered so far. All Ukrainians that are fleeing the country can reach easily Spain and apply for TP.

C. Movement and mobility

Beneficiaries of TP have the right of free movement and residence in Spain, and they are entitled to receive travel documents if they are not in possession of a valid passport or a travel document and

⁶⁰⁷ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Ukrainians citizens in Spain with valid residence documents. Monthly series 31 December 2021-31December 2022', available at: <https://tabsoft.co/3WtIsfP>.

⁶⁰⁸ Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, 'Orden PCM/170/2022, de 9 de marzo, por la que se publica el Acuerdo del Consejo de Ministros de 8 de marzo de 2022, por el que se amplía la protección temporal otorgada en virtud de la Decisión de Ejecución (UE) 2022/382 del Consejo de 4 de marzo de 2022 a personas afectadas por el conflicto de Ucrania que puedan encontrar refugio en España', 9 March 2022, available at: <https://bit.ly/3tJHzET>; Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, 'Orden PCM/169/2022, de 9 de marzo, por la que se desarrolla el procedimiento para el reconocimiento de la protección temporal a personas afectadas por el conflicto en Ucrania', 9 March 2022, available at: <https://bit.ly/3uxftf9>.

⁶⁰⁹ UNHCR, 'UNHCR- The implementation of the temporary protection directive - six months on', 17 October 2022, available at: <https://bit.ly/3J7Xsgk>.

⁶¹⁰ EUAA, 'Information on temporary protection in Spain', June 2022, available in English at: <https://bit.ly/3HujfO4>.

justify their need to travel outside Spain.⁶¹¹ As far as known by the author, in practice there are no beneficiaries of TP who applied for a travel document so far, also because Ukrainian embassy/consulates are renewing passports when needed.

D. Housing

Indicators: Housing

- | | |
|---|----------------------------------|
| 1. For how long are temporary protection beneficiaries entitled to stay in reception centres? | 18 months, extensible to 24 |
| 2. For how long are temporary protection beneficiaries entitled to stay in CREADE? | 52 days (at the time of writing) |
| 3. Number of beneficiaries staying in reception centres as of 12/2022 | Not available |
| 4. Number of beneficiaries staying in private accommodation as of 12/2022 | Not available |

Following the outbreak of the war, the Spanish Government started to elaborate a plan to provide for and speed up the reception of persons fleeing from Ukraine,⁶¹² and announced the creation of around 6,000 new reception places in collaboration with Autonomous Communities and Municipalities.⁶¹³

To address reception needs, at the beginning of March 2022 the Minister of Inclusion, Social Security and Migration adopted a Reception Plan,⁶¹⁴ and provided for the creation of four Emergency and Referral Centres (CREADE), managed by NGOs. One of them is located in Madrid, offers 400 places and is managed by the NGO Accem.⁶¹⁵ Other two facilities located in Barcelona and Alicante are managed by the Spanish Red Cross, while the fourth is managed by the NGO CEAR in Málaga.⁶¹⁶ Such centres provide for the emergency and temporary reception of those persons who do not have sufficient resources. In principle, persons are accommodated in such centres for few days, and then they are referred to the reception facilities within the asylum reception system (mainly managed by NGOs) across the Spanish territory.

Such centres give access to different rights and services, such as: accommodation and maintenance; financial support; schooling and language of Spanish; psychosocial support; job assistance which includes vocational trainings, job guidance, homologation of educational degrees; health assistance; legal support; validation of the driving licence for 1 year; free telephone coverage (roaming).⁶¹⁷

UNHCR has a permanent presence at the four CREADE to support the dissemination of information on international and temporary protection procedures, the identification and referral of persons with specific needs, and protection training for Government and NGO staff working in the centres.⁶¹⁸

⁶¹¹ EUAA, 'Information on temporary protection in Spain', June 2022, available in English at: <https://bit.ly/3HujfO4>; Ministerio del Interior, 'Información sobre Protección Temporal – Ucrania', March 2022, available at: <https://bit.ly/3YdovLa>.

⁶¹² El Diario, 'Interior ultima un mecanismo "rápido y sencillo" para dar papeles a los refugiados por la invasión rusa', 5 March 2022, available at: <https://bit.ly/3pOBIfb>.

⁶¹³ Diario de Sevilla, 'España espera disponer de más de 6.000 plazas de acogida para refugiados ucranianos', 7 March 2022, available at: <https://bit.ly/35INf8X>.

⁶¹⁴ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Plan de acogida para personas desplazadas procedentes de Ucrania', 15 March 2022, available at: <https://bit.ly/3DbePJt>.

⁶¹⁵ El Diario, 'Así es el primer centro de España creado para recibir a los refugiados de Ucrania', 10 March 2022, available at: <https://bit.ly/3NuvcnS>.

⁶¹⁶ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Inclusión coordinará un programa de acogimiento familiar y contará con cuatro centros de recepción para ucranianos', 15 March 2022, available at: <https://bit.ly/3wMPe7h>.

⁶¹⁷ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Centros de Recepción, Atención y Derivación para desplazados ucranianos', 23 June 2022, available at: <https://bit.ly/3wqlllp>.

⁶¹⁸ Information provided by UNHCR in March 2023.

In order to support translation and interpretation at the four CREADE, UNHCR implemented a project for the provision of 4 interpreters speaking Ukrainian, Russian and English. The service was initially provided by the interpretation agency VOZE, and since November 2022 until the time of writing is provided by the organization Accem.⁶¹⁹

Due to certain conflictual situations occurred between Ukrainian nationals and Russian nationals with residence in Ukraine while accommodated together, preventive measures are adopted according the circumstances, and the coexistence among the two groups is avoided.

Since September 2022, it has been established that CREADE could accommodate also asylum seekers, also in line with the call made by different stakeholders.⁶²⁰ Despite that, such centres have been in practice used to accommodate only Ukrainians and third countries nationals with permanent residence in Ukraine. Third country nationals are accommodated in such facilities as long as their TP application is under examination and in case of positive decision. If their TP applications is denied, they have to leave the CREADE.

Following the outbreak of the war, the reception asylum system's capacity was increased by the MISSM, and beneficiaries of TP can be also accommodated in those facilities across all the Spanish territory. Beneficiaries of TP can be referred from the CREADE to the facilities within the asylum system i.e. in case of shortage of places in the CREADE, to respond to concrete vulnerabilities thanks to specialised facilities and services, if the beneficiaries have friend or familiar networks in other provinces, etc.

It is worth to note that beneficiaries of TP are entitled to the same rights and the same reception conditions as asylum seekers. On April 2022, the Minister of Inclusion, Social Security and Migration adopted an instruction on the management of the reception system of international protection and temporary protection, establishing exceptional measures for the assistance to persons displaced from Ukraine.⁶²¹

In February 2023, media informed that the Minister of Inclusion, Social Security and Migration hid the suicide committed while in reception by a Moroccan man who was legally residing in Ukraine and was waiting for the decision on the TP application.⁶²²

A foster care program has also been developed by the Minister of Inclusion, Social Security and Migration, together with the Foundation 'La Caixa', in collaboration with NGOs within the asylum system, the network of foster care families, and the Municipal Social Services.⁶²³ The foster care has a minimum duration of 6 months, and can be extended up to 12 months prior consent.

⁶¹⁹ Information provided by the UNHCR in March 2023.

⁶²⁰ La Vanguardia, 'CEAR pide que centros de acogida a ucranianos atiendan a todos los migrantes', 16 September 2022, available at: <https://bit.ly/3IlowkN>.

⁶²¹ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Instrucción de la Dirección General de gestión del sistema de acogida de protección internacional y temporal, de 8 de abril de 2022, por la que se adoptan medidas de carácter extraordinario para la atención a personas desplazadas desde Ucrania', 8 April 2022, available at: <https://bit.ly/3JJyWIX>

⁶²² Público, 'El Ministerio de Migraciones oculta el suicidio de un joven refugiado en un centro de acogida para ucranianos en Madrid', 28 February 2023, available at: <https://bit.ly/3mjRZKk>.

⁶²³ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Plan de acogida para personas desplazadas procedentes de Ucrania', 15 March 2022, available at: <https://bit.ly/3DbePJt>; Ministerio de Inclusión, Seguridad Social y Migraciones, 'Soy ciudadano español y quiero acoger a una persona desplazada de Ucrania', 7 June 2022, available at: <https://bit.ly/3SAdCBT>.

In addition, on July 2022 the Council of Ministers adopted a Royal Decree establishing the direct granting of funding to 20 NGOs for the reception of and assistance to asylum seekers and applicants of temporary protection, with a budget of almost 392 million Euros.⁶²⁴

The challenges that beneficiaries of temporary protection face in Spain - similar to those faced by all asylum seekers and beneficiaries of international protection - have been highlighted, especially in relation to the access to reception conditions due to the lack of available places, and consequent situations of asylum seekers and temporary protection holders living on the streets.⁶²⁵

On February 2023, the organisation CEAR denounced the serious problems that Ukrainian refugees are facing in finding a house to rent in Spain.⁶²⁶

E. Employment and education

1. Access to the labour market

Beneficiaries of TP are entitled to work in Spain at the same conditions and rights of Spanish workers. They are also entitled to access vocational trainings.⁶²⁷

According to available data, 13,695 Ukrainians with TP were employed by 31 December 2022.⁶²⁸

The organisation Accem started a collaboration with the Adecco Foundation through a project named 'Sponsorship of Ukrainian Families' (*Apadrinamiento Familias Ucrainianas*), aimed at developing complementary actions to Accem's employment plan through labour intermediation, to foster an effective attention to Ukrainian refugees.⁶²⁹

2. Access to education

The Minister of Education created a dedicated webpage containing information on the access to education for displaced Ukrainians, available also in Ukrainian.⁶³⁰

In addition, in May 2022 the Ministry of Education started to hire 200 Ukrainian Language Assistants, with the aim of supporting regional authorities in fostering the inclusion of Ukrainian children in schools.⁶³¹

An unprecedented Contingency Plan for guaranteeing access to schooling of displaced Ukrainian students was adopted by Ministry of Education, with the aim of coordinating the measures at regional level for fostering children education inclusion and uniform criteria across all the Spanish territory, and to

⁶²⁴ La Vanguardia, 'Aprobados más de 390 millones de euros para entidades que apoyen a los refugiados de Ucrania', 19 July 2022, available at: <https://bit.ly/3XzbcFq>.

⁶²⁵ María José Castaño Reyero, Investigadora Doctora del Instituto Universitario de Estudios sobre Migraciones – Universidad Pontificia Comillas, Madrid, 'Ucrania: un año entre acogida y protección temporal', 24 February 2023, available at: <https://bit.ly/3FjpKlu>.

⁶²⁶ La Vanguardia, 'CEAR alerta del "grave problema" de los refugiados ucranianos "para conseguir vivienda"', 24 February 2023, available at: <https://bit.ly/3xZCnhF>.

⁶²⁷ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Formación profesional y solicitud de empleo para desplazados de Ucrania', available at: <https://bit.ly/3WCdCle>.

⁶²⁸ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Ukrainians citizens in Spain with valid residence documents. Montly series 31 december 2021-31december 2022', available at: <https://tabsoft.co/3WtIsfP>.

⁶²⁹ Information provided by Accem in March 2023.

⁶³⁰ Ministerio de Educación y Formación profesional, 'Atención educativa a desplazados ucranianos', <https://bit.ly/3wtsBmY>.

⁶³¹ Ministerio de Educación, 'Se convocan 200 plazas para auxiliares de lengua ucraniana', 8 April 2022, available at: <https://bit.ly/3WxnYD8>.

facilitate access to available European funding.⁶³² This unique plan, never adopted before, foresees a set of measures, such as, i.e., the immediate enrollment of students in compulsory stages in educational centers by levels, cycles or educational stages; the increase in the number of language-immersion classes per small group (10 students) provided for those who do not know the language; the provision of extraordinary quotas for the necessary teaching staff, including support and reception staff (guidance, therapeutic pedagogy, socio-community intervention, etc.); the provision of subsidies for humanitarian reasons to NGOs and other non-profit entities with the capacity to hire Ukrainian or Ukrainian-speaking personnel, for the attention, especially linguistic and socio-affective, of school minors; the extraordinary provision of calls for financial support to guarantee canteen services, transport, books and complementary activities, to school students from the conflict in Ukraine; the design of options to facilitate the continuity of the studies they are pursuing in Ukraine or the start of new ones, at a post-compulsory level.

In addition, the Asylum Language Learning Service signed an agreement with the Instituto Cervantes and the Spanish Red Cross to support the process of socio-cultural integration of people arriving from Ukraine through free Spanish language courses for foreigners.

F. Social welfare

In August 2022, the Government adopted a Royal Decree providing for the transfer of 80 million Euros to the Autonomous Communities, with the aim of providing a monthly financial support of 400 Euros during a period of 6 months to beneficiaries of temporary protection.⁶³³ The measure aims at supporting those beneficiaries who have not sufficient resources, and are not receiving assistance nor accommodated within the international protection reception system.

In March 2023, the Office for Equal Opportunities and Inclusion Policies of the Autonomous Community of **Valencia** allocated 12.73 million Euros for granting direct support to refugees from Ukraine who are residing in the Comunitat Valenciana and do not have sufficient resources.⁶³⁴

G. Health care

Persons fleeing from Ukraine have access to the health national system in the same conditions as the rest of the population. In March 2022 the Minister of Health published guidelines on how to act with refugees from Ukraine, i.e. in relation to COVID-19, as well as to other diseases to which Ukrainians may be vulnerable (i.e. poliomyelitis, measles).⁶³⁵

⁶³² Information provided by Save the Children in March 2023.

⁶³³ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Real decreto 673/2022, de 1 de agosto, por el que se regula la concesión directa de subvenciones a las comunidades autónomas para financiar la prestación de una ayuda económica directa a las personas beneficiarias del régimen de protección temporal afectadas por el conflicto en Ucrania que carezcan de recursos económicos suficientes', 2 August 2022, available at: <https://bit.ly/3R1OUtn>; Newtral, 'El Gobierno aprueba una ayuda mensual de 400 euros a refugiados de Ucrania durante un máximo de 6 meses', 2 August 2022, available at: <https://bit.ly/3iWVips>.

⁶³⁴ Valencia Plaza, 'Igualdad destina 12,73 millones en ayudas directas a refugiados de Ucrania sin recursos suficientes', 15 March 2023, available at: <https://bit.ly/3LqT5hL>.

⁶³⁵ Ministerio de Sanidad, 'Guía de actuación ante la llegada de personas refugiadas desde ucrania', 21 March 2022, available at: <https://bit.ly/400dhMg>.

France



Temporary Protection Procedure

A. General

Council Directive 2001/55/EC of 20 July 2001⁶³⁶ was transposed into French law in articles L581-1 and seq. and R581-1 and seq. of the CESEDA. These articles were created by Government Ordinance in 2004 and have largely been left untouched since.

Council Implementing Decision (EU) 2022/382 of 4 March 2022 on the existence of a mass influx of displaced persons from Ukraine (hereafter Council Implementing Decision)⁶³⁷ established a situation of mass influx, making it possible to activate temporary protection and allowed States to broaden the categories of persons eligible to temporary protection in their country. The French Asylum and Immigration Code refers to potential Council of the EU decisions to define the scope of application of TPD.⁶³⁸ Regarding the 2022 activation of TPD, the scope of temporary protection and the related rights were established by an inter-ministerial instruction of 10 March 2022.⁶³⁹ Further instruments specified rights with regard to work, housing, etc.

Main legislative acts relevant to temporary protection

Title (EN)	Original Title (FR)	Web Link
Code of Entry and Residence of Foreigners and of the Right to Asylum	Code de l'entrée et du séjour des étrangers et du droit d'asile (CESEDA)	https://bit.ly/3LCTSw4 (FR)
As amended by: Ordinance n°2004-1248 of 24 November 2004 regarding the legislative section of the CESEDA	Ordonnance n°2004-1248 du 24 novembre 2004 relative à la partie législative du CESEDA	https://bit.ly/3JV0MLV (FR)

Main implementing administrative guidelines and regulations relevant to temporary protection

Title (EN)	Original Title (FR)	Web Link
Instruction regarding the implementation of the Council of the EU decision of 4 March 2022, taken under article 5 of Directive 2001/55/CE of the Council of 20 July 2001	Instruction relative à la mise en œuvre de la décision du Conseil de l'Union européenne du 4 mars 2022, prise en application de l'article 5 de la directive 2001/55/CE du Conseil du 20 juillet 2001	https://bit.ly/3n3OCHB (FR)
Circular of 22 March 2022 on how to welcome university student beneficiaries of temporary protection displaced from Ukraine	Circulaire du 22 mars 2022 portant sur l'accueil des étudiants déplacés d'Ukraine bénéficiaires de la protection temporaire	https://bit.ly/3TsRwlv (FR)
Circular of 5 July 2022 on how to welcome third country national	Circulaire du 5 juillet 2022, accueil des étudiants ressortissants de pays tiers	https://bit.ly/3UtxmIE (FR)

⁶³⁶ 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 [2001] OJ L 212/12, available at: <http://bit.ly/409uJhu>.

⁶³⁷ 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 [2022] OJ L 71/1, available at: <https://bit.ly/3EztVsR>.

⁶³⁸ Article L581-2 Ceseda.

⁶³⁹ Minister of Interior and others, *Instruction regarding the implementation of the Council of the EU decision of 4 March 2022, taken under article 5 of Directive 2001/55/CE of the Council of 20 July 2001*, Instruction NOR INTV2208085J, 10 March 2022, available at: <https://bit.ly/3n3OCHB> (hereafter Instruction on TPD).

university students displaced from Ukraine after 24 February 2022 and present in France	présents en France et déplacés d'Ukraine après le 24 février 2022	
Decree No 2022-468 of 1 April 2022 regarding the right to work of beneficiaries of subsidiary protection	Décret n° 2022-468 du 1er avril 2022 relatif au droit au travail des bénéficiaires d'une protection temporaire	https://bit.ly/3Jz5OfA (FR)
Bylaw of 27 April 2022 regarding the required supporting documents for beneficiaries of subsidiary protection to pursue self-employed activities	Arrêté du 27 avril 2022 relatif aux pièces justificatives exigées pour l'exercice d'une activité non salariée par les bénéficiaires de la protection temporaire	https://bit.ly/3YXGVA4 (FR)
Decree No 2022-726 of 28 April 2022 regarding language instruction for beneficiaries of temporary protection	Décret n°2022-726 du 28 avril 2022 relatif à la formation linguistique des bénéficiaires d'une protection temporaire	https://bit.ly/403Er4B (FR)
Bylaw of 3 May 2022 regarding language instruction for beneficiaries of temporary protection	Arrêté du 3 mai 2022 relatif à la formation linguistique des bénéficiaires d'une protection temporaire	https://bit.ly/3yT5Ee2 (FR)
Instruction on access to housing and accommodation for persons displaced from Ukraine benefitting from temporary protection	Instruction sur l'accès à l'hébergement et au logement des personnes déplacées d'Ukraine bénéficiaires de la protection temporaire	https://bit.ly/3mZBL9f (FR)
Circular on the situation of minors coming from Ukraine	Circulaire sur la situation des mineurs en provenance d'Ukraine	https://bit.ly/3n7zKYS (FR)
Instruction on division of responsibility for the situation of minors coming from Ukraine	Instruction sur la prise en charge de la situation des mineurs en provenance d'Ukraine	https://bit.ly/3lwrrFm (FR)
Decree No 2022-1441 of 17 November 2022 establishing an exceptional support measure for natural persons who have sheltered in accommodation or housing, one or more natural persons benefiting from temporary protection under Articles L. 581-1 et seq. of the Code of Entry and Residence of Foreigners and the right of asylum	Décret n° 2022-1441 du 17 novembre 2022 instituant une mesure exceptionnelle de soutien aux personnes physiques ayant mis à l'abri dans un hébergement ou dans un logement, une ou plusieurs personnes physiques bénéficiaires de la protection temporaire au titre des articles L. 581-1 et suivants du code de l'entrée et du séjour des étrangers et du droit d'asile	https://bit.ly/3z1YnbY (FR)

Currently, are eligible to temporary protection in France:

- ❖ Ukrainian nationals residing in Ukraine who left Ukraine on or after 24th February 2022;
- ❖ Ukrainian nationals temporarily present in a Member State on 24th February 2022 and who able to establish that their permanent residence was in Ukraine on that date;
- ❖ Beneficiaries of international protection or equivalent national protection and recognised stateless persons residing in Ukraine and having left the country on or after that date;
- ❖ Third country nationals and stateless persons who are long-term residents of Ukraine if they are unable to return to their country of origin in safe and sustainable conditions.

- ❖ Family members of the four categories above, without it being required that they demonstrate an impossibility to return to their country in safe and sustainable conditions.

According to the media⁶⁴⁰ and to the organisations hosting such people, hundreds of students mainly from African countries arrived from Ukraine without being eligible to protection.

Data on arrivals of Russian nationals is not available. However, numbers on asylum applications by Russians rose after the beginning of the war.⁶⁴¹

- ❖ In January and February 2022, respectively 85 and 80 asylum applications were filed by Russian nationals;
- ❖ Between March and September 2022, between 155 and 200 applications were filed each month by Russian nationals;
- ❖ Between October 2022 and January 2023, applications per month further rose from 370 in October to 440 in January 2023, which is a 418% increase compared to January 2022.

According to a parliamentary report, requests between April and August contained grounds for requesting protection related to military issues (conscientious objection, desertion, etc.).⁶⁴²

According to the French border police, nearly 65,358 displaced persons were registered at the borders between 24th February and 1st December 2022, 98% of whom were Ukrainian nationals. Arrivals mainly occurred in Alpes Maritimes, Grand Est, Île de France and Auvergne Rhône Alpes.⁶⁴³ **Apart from this (partial, given the numbers of residence permits mentioned infra) number, there are no available statistics on the number of individuals potentially entitled to temporary protection present in France.**

Numbers on persons having accessed temporary protection in France vary depending on the actor putting them forward, rendering them difficult to understand. It should be noted that temporary residence permits are not delivered to children, only adults.

- ❖ According to Eurostat,⁶⁴⁴ in December 2022 68,430 beneficiaries of temporary protection (including 49,845 women, i.e. 71.7%) were registered by French authorities, but this figure seems to exclude children.
- ❖ According to the French office on integration and immigration (OFII), which is responsible for the distribution of the financial allowance, 81,885 beneficiaries of temporary protection benefitted from the dedicated financial assistance at the end of December 2022, and 82,809 in January 2023.⁶⁴⁵
- ❖ The ministry of Interior stated that 87,928 Ukrainian's first demand were made between the 10th March 2022 and 30th January 2023⁶⁴⁶.
- ❖ However, without justifying the number, the French secretary of State for citizenship, an entity attached to the ministry of Interior, declared in February 2023 that at the time of her statement

⁶⁴⁰ Infomigrants, 'En France, une année de lutte pour les étudiants étrangers qui ont fui l'Ukraine', 24 February 2023, available in French at: <https://bit.ly/3LtkqzV>.

⁶⁴¹ Eurostat, 'Asylum applicants by type of applicant, citizenship, age and sex - monthly data', database consulted 20 March 2023, available at: <https://bit.ly/3IzbsX7>.

⁶⁴² Assemblée Nationale, *Rapport fait au nom de la commission des finances, de l'économie générale et du contrôle budgétaire sur le projet de loi de finances pour 2023 (n°273) – annexe 28*, 6 October 2022, available in French at: <http://bit.ly/3FJWC7h>.

⁶⁴³ Ministry of Interior, 'Foire aux questions : accueil des réfugiés ukrainiens', available in French at: <https://bit.ly/3LESuZl>.

⁶⁴⁴ Eurostat, 'Beneficiaries of temporary protection at the end of the month by citizenship, age and sex – monthly data', database consulted 20 March 2023, available at: <https://bit.ly/402poYE>.

⁶⁴⁵ OFII, Publication on Twitter, 2 March 2023, available in French at: <https://bit.ly/3JDeeCP>.

⁶⁴⁶ Ministère de l'intérieur, *Conflit en Ukraine : bilan d'un an d'engagement du ministère – chiffres clés*, available in French at: <https://bit.ly/3yYBtCo>

'115,000 Ukrainians, 80% of which are women [...] benefit from accommodation and an allowance in France'.⁶⁴⁷

- ❖ According to the Court of Auditors, in a report published in February 2023, France had rather in total, since the start of the war end of February, welcomed a cumulated total of 115,000 persons, mainly women and children.⁶⁴⁸ The report further specifies that 'end of December 2022, there were 86,000 active residence permits and 45,000 allowances were paid'⁶⁴⁹ (one allowance is paid per household). Over 19,000 children benefitting from temporary protection were enrolled in school for the 2022-2023 year.⁶⁵⁰
- ❖ Lastly, in its 2022 preliminary statistics, the Government mentions 65,833 active temporary protection residence permits held by Ukrainians at the end of 2022.⁶⁵¹ It however mentions that 86,285 adults were recognised as beneficiaries of temporary protection throughout 2022 in its response to the Court of Auditors report.⁶⁵²

No breakdown by basis of entitlement (Ukrainian national, family member, etc) is available.

B. Qualification for temporary protection

French law on temporary protection refers to potential Council of the EU decisions to define the scope of application.⁶⁵³ However, the law⁶⁵⁴ also says that the state defines the categories of people eligible to temporary protection, and potentially adds other categories, in a decree to be taken by the Ministry of interior. This procedure was not followed and an instruction (administrative act in principle of a lower legal value, however it can under certain conditions be challenged in court) was taken instead. For this situation, and according to the instruction of 10 March 2022⁶⁵⁵, French state did not extend the benefit of the protection to other categories. Therefore, the scope of persons eligible for temporary protection in the context of the war in Ukraine was defined both by the Council of the EU decision of 4 March 2022 and by this instruction addressed to regional and departmental prefects, which specifies the modalities for implementing temporary protection at the national level. The EU framework lays down a minimum set of rules that Member States are obliged to apply, while allowing them to notably broaden the scope of application.

The Council Implementing Decision confers the benefit of temporary protection on:⁶⁵⁶

- ❖ Ukrainian nationals residing in Ukraine who left Ukraine on or after 24th February 2022;
- ❖ Beneficiaries of international protection or equivalent national protection and recognised stateless persons residing in Ukraine and having left the country on or after that date;
- ❖ Family members of the persons referred to in the two previous points.

The Council Implementing Decision also requested that States confer either temporary protection or adequate national protection on third country nationals and stateless persons who are long-term

⁶⁴⁷ France télévision, 'Guerre en Ukraine : "115 000 Ukrainiens bénéficient d'un hébergement et d'une allocation" en France, indique la secrétaire d'Etat chargée de la Citoyenneté', 24 February 2023, available in French at : <https://bit.ly/3TqFIA6>.

⁶⁴⁸ Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022*, February 2023, available in French at : <https://bit.ly/3LwwKiD>, 7.

⁶⁴⁹ Ibid, 11.

⁶⁵⁰ Ibid, 23-24.

⁶⁵¹ Ministry of Interior, *Communiqué de presse : les chiffres 2022 (publication annuelle parue le 26 janvier 2023)*, available in French at : <https://bit.ly/3z2ampW>.

⁶⁵² Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022 – Réponse des administrations, organismes et personnes concernés*, February 2023, available in French at : <http://bit.ly/3K1bwZa>, 4.

⁶⁵³ Article L581-2 Ceseda.

⁶⁵⁴ Articles R581-18 and L581-7 Ceseda.

⁶⁵⁵ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available at: <https://bit.ly/3n3OCHB>.

⁶⁵⁶ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available at: <https://bit.ly/3n3OCHB>, 1-2.

residents of Ukraine (permanent residence permit), if they are unable to return to their country of origin in safe and sustainable conditions. France granted these persons temporary protection.⁶⁵⁷

In addition to these persons, the French national framework further extended temporary protection to two categories of persons:⁶⁵⁸

- ❖ Ukrainian nationals temporarily present in a Member State on 24th February 2022 and who able to establish that their permanent residence was in Ukraine on that date;
- ❖ Family members also of the two categories above, without it being required that they demonstrate an impossibility to return to their country in safe and sustainable conditions.

Like in the Council Implementing Decision, the notion of family members only applies to family relationships already existing in Ukraine before 24 February 2022 and only applies to:

- ❖ The spouse;
- ❖ The unmarried partner in a stable relationship;
- ❖ The unmarried minor children of the eligible person or of their spouse, whether or not they were born out of wedlock or adopted;
- ❖ Other close relatives who lived within the family before 24 February 2022 and who were entirely or mainly dependent on the eligible person.

The instruction of 10 March explicitly lists several categories of persons not eligible to temporary protection:

- ❖ Ukrainian nationals with a soon-to-expire residence permit in France, who should signal themselves to prefectures in order to have their individual situation assessed.
- ❖ Third country nationals who are able to return to their country of origin in safe and sustainable conditions: however, prefects are invited to examine their right to residence in France on other bases.
- ❖ Persons who were asylum seekers in Ukraine as of 24 February 2023 should be channelled into an asylum procedure in France.

The instruction also highlights the exclusion clause contained in French law:⁶⁵⁹ persons regarding whom there is serious or concordant proof making it credible that they have committed a crime against peace, a war crime, a crime against humanity, actions contrary to the purposes and principles of the United Nations; or a serious common law crime outside of French territory before being recognised as a beneficiary of temporary protection can be excluded from temporary protection. The same goes for persons whose presence in France constitutes a threat to public order, public safety or state security.

People who arrived in France before 24 February are not eligible for temporary protection, with the exception of those who were temporarily present in a member state or an associated state before 24 February and can prove that they had their residence in Ukraine on that date. For Ukrainians residing in France before 24 February, they can apply for asylum (see Access to asylum)⁶⁶⁰ or apply for a residence permit on other grounds, such as for work, family – Ukrainian nationals married to French nationals are entitled to a residence permit and ultimately receive a 10-year residence permit – or studies, as student residence permits have been granted to certain Ukrainian nationals.

Regarding international protection, according to Ministry of Interior preliminary statistics, at the end of 2022 there were 702 Ukrainian beneficiaries of international protection in France, but it is not specified when they received such protection and it should be noted that the examination of appeals by Ukrainians before the CNDA were partly suspended in the first part 2022 to let the Court adopt and

⁶⁵⁷ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available at: <https://bit.ly/3n3OCHB>, 2.

⁶⁵⁸ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available at: <https://bit.ly/3n3OCHB>, 2.

⁶⁵⁹ Article L581-5 Ceseda.

⁶⁶⁰ CNDA, 'La situation de violence résultant du conflit armé actuel justifie l'octroi de la protection subsidiaire', 16 février 2023, available in French at : <https://bit.ly/3TEbNo0>.

adjust its position.⁶⁶¹ However, in 4 decisions from 30 December 2022, the CNDA granted asylum to Ukrainians plaintiffs, due to situation of indiscriminate violence of exceptional intensity in certain identified regions.⁶⁶² From February until December 2022, the Ministry states that 2,187 asylum applications by Ukrainian nationals were registered.⁶⁶³

About third-country nationals, temporary protection is granted to beneficiaries of international or equivalent national protection in Ukraine or recognised stateless persons in Ukraine who left the country as a result of the conflict, as well as persons with permanent residence permits in Ukraine, who cannot return to their countries of origin in safe and durable conditions.

However, this inability to return is not further defined and is assessed on a case-by-case basis by the prefectures, normally through an interview with applicant,⁶⁶⁴ which raises fears of unequal treatment of situations from one department to another. In the opinion of the French Coordination for the Right of Asylum, this concept should not be restricted solely to risks to life and liberty, but should also take into account whether or not it is possible to lead a "*normal existence*", including the possibility of working or studying.⁶⁶⁵ According to the Instruction on TPD, prefectures should contact the General Directorate of Foreigners in France (DGEF), who may in turn rely on expertise from OFPRA, the asylum authority, regarding country of origin information. In such a case, persons should be given a 1-month temporary permit while these investigations are conducted.⁶⁶⁶

Judicial attempts to extend the scope of temporary protection notably to third country nationals without a permanent residence permit in Ukraine have failed including before the Council of State.⁶⁶⁷

Other third-country nationals are invited to have their situation examined by prefects for other residence permits or to apply for asylum,⁶⁶⁸ procedure under which they can benefit from refugee status or subsidiary protection. Regarding the application of the Dublin procedure, a few cases were observed, and no exception of the European procedure were made.

Third-country nationals, especially students, that were in Ukraine before 24 February and then fled to France, faced particular difficulties. They were initially invited to return to their native country and received orders to leave French territory (OQTF). However in July, the French authorities invited French universities to allow the remaining students still present in France to enrol and continue their studies in France, under the condition that they provide proof of registration in a university in Ukraine and of them leaving Ukraine after 24 February. The circular states that the majority of third country national university students who fled Ukraine to France were repatriated to their countries of origin, where solutions for them to continue their studies there were provided.⁶⁶⁹

⁶⁶¹ Observation by Forum Réfugiés, January 2023

⁶⁶² Communiqué de la CNDA, 'UKRAINE, la CNDA accorde l'asile à des ressortissants ukrainiens', 30 décembre 2022, available in French at : <https://bit.ly/3KG1rBi>

⁶⁶³ Ministry of Interior, *Communiqué de presse : les chiffres 2022 (publication annuelle parue le 26 janvier 2023)*, available in French at : <https://bit.ly/3z2ampW>.

⁶⁶⁴ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available in French at: <https://bit.ly/3n3OCHB>, 2.

⁶⁶⁵ Forum réfugiés, '*Protection temporaire pour l'Ukraine : encore des efforts pour être à la hauteur des enjeux*', 18 March 2022, available in French at: <http://bit.ly/3FKoXKE>.

⁶⁶⁶ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available in French at: <https://bit.ly/3n3OCHB>, 2.

⁶⁶⁷ Council of State, No. 465363 and 465365, 27 December 2022, available in French at: <https://bit.ly/42B2QQo> and <https://bit.ly/3Z3C9B2>; see also at the first instance level : <http://bit.ly/3TB9AJY>.

⁶⁶⁸ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available in French at: <https://bit.ly/3n3OCHB>, 2.

⁶⁶⁹ Ministry of Higher Education and Research, *Circulaire du 5 juillet 2022, accueil des étudiants ressortissants de pays tiers présents en France et déplacés d'Ukraine après le 24 février 2022*, available in French at : bit.ly/40vhS8K.

According to the CNDA's 2022 activity report, the Court took 118 decisions on appeal regarding Ukrainian nationals asking for international protection. After examination, 24 decisions granted international protection (6 recognised refugee status, and 18 subsidiary protection).⁶⁷⁰

French law provides that the temporary residence permit is renewed as long as temporary protection remains in place.⁶⁷¹ However, despite the fact that EU law foresees temporary protection as a 1-year renewable protection for maximum 3 years (something that is reflected in French law),⁶⁷² French legislation restricted the temporal scope of temporary protection in that the residence permit only lasts for and thus must be renewed every six months⁶⁷³ (not in line with European framework), for a maximum period of three years.

C. Access to temporary protection and registration

1. Admission to territory

There are no reports of refusals of entry at the French border. There were however reports of a pushback in March 2022 by the British authorities at the border in Calais of at least 136 Ukrainian nationals wishing to travel to the United Kingdom.⁶⁷⁴

In order to be able to return to the Schengen area, it is preferable that the provisional residence permit still be valid when a person returns from a visit to Ukraine. Temporary trips to Ukraine have no impact on the status of beneficiaries of temporary protection. However, there is no harmonisation in terms of the duration of such trips. Prefectures usually mention that beneficiaries should return to France before the expiration of their provisional residence permit. Only the prefecture of Aude specifies that the return must not exceed 3 months for every 6-month period.⁶⁷⁵

2. Freedom of movement

Ukrainians may move freely within Europe when they benefit from temporary protection. There have been no reports of persons not holding a biometric travel document experiences issues in moving either within France or attempting to continue their journey onwards. There have only been issues of persons denied entry into the United Kingdom when they have not requested a visa first.⁶⁷⁶

3. Registration under temporary protection

Upon arrival anywhere in France, persons displaced from Ukraine must go to the "Ukraine" one-stop shop, set up within each prefecture, to be issued a temporary residence permit marked "temporary protection". In some large cities such as Lyon,⁶⁷⁷ Strasbourg,⁶⁷⁸ the presentation before the prefecture must be preceded by a visit to an association in charge of making appointments before the Prefecture. This first Reception desk (usually the same one as for asylum seekers, a SPADA) is a place for them to put together their application file and take the necessary identity photos.

⁶⁷⁰ CNDA, *Rapport d'activité 2022*, available in French at : <https://bit.ly/40OuyrM>, 76.

⁶⁷¹ Article L581-3 Ceseda.

⁶⁷² Article L581-3 Ceseda.

⁶⁷³ Article R581-4 Ceseda.

⁶⁷⁴ Francebleu, '517 Ukrainiens sont arrivés à Calais pour rejoindre le Royaume-Uni, la moitié a été refoulée à la frontière', 6 March 2022, available in French at : <http://bit.ly/3z1Ttf4>.

⁶⁷⁵ Préfecture de L'Aude, *Information à destination des ressortissants ukrainiens*, available in French at : <http://bit.ly/3z56rsE>.

⁶⁷⁶ Ibid.

⁶⁷⁷ Rhône Prefecture, 'UKRAINE : Protection temporaire des ressortissants ukrainiens (FR)', last updated 6 March 2023, available in French at: <http://bit.ly/40bqz8h>.

⁶⁷⁸ Bas-Rhin Prefecture, 'Crise ukrainienne – Dispositif de protection temporaire', last updated 22 December 2022, available in French at: <http://bit.ly/3K3CCPz>.

The person must go to the Prefecture of their place of residence. They must have the documents justifying the situation and be accompanied by their family members, including the children. After all the documents have been verified and the application approved, the Prefecture delivers a temporary residence permit to the adults (Autorisation provisoire de séjour – APS). Then, the person or family unit is directed to the French Office for Immigration and Integration (OFII) that oversees accommodation and distributing the financial allowance.

Persons fleeing Ukraine are allowed one free train ticket to the destination of their choice in France and to neighbouring countries, as well as a free return ticket to Ukraine.⁶⁷⁹ Thus, people expressing their intention to apply for temporary protection at the border were informed of this possibility. In many train stations, “Ukraine” information points were set up by the Red Cross to ensure immediate assistance and inform persons about the procedure for temporary protection.⁶⁸⁰

There is no time limit laid down in law for individuals to make a temporary protection application.

In addition to a form that must be completed,⁶⁸¹ the person applying for temporary protection must put forward the following evidence:⁶⁸²

- ❖ For Ukrainians nationals residing in Ukraine before 24 February 2022:
 - Proof of nationality: passport, ID card (both may be expired by less than 2 years to be considered as evidence), consular statement, birth certificate.
 - For people who left Ukraine on or after 24 February, they must be able to prove that this left at or after this date, ideally through the stamp attesting of their entry into the Schengen space, or any other document proving their presence in Ukraine until that date and subsequent movement.
 - For people who were temporarily outside of Ukraine on 24 February 2022, proof of the trip and prior residence.
- ❖ For beneficiaries of international or equivalent national protection and recognised stateless persons:
 - Proof of identity: ID card, passport, or any other proof of identity (name, date of birth, etc).
 - Proof of their status in Ukraine: decision recognising protection, or residence permit as a refugee, beneficiary of subsidiary protection, stateless person.
 - Proof of leaving Ukraine on or after 24 February: same as above.
- ❖ For family members:
 - Proof of identity.
 - Proof of the family link: for unmarried partners, the relationship must be established by sufficient circumstantial evidence such as common children, proof of living together in Ukraine, etc.
 - Proof of leaving Ukraine on or after 24 February 2022.

A check is carried out by the authorities to find out if the person has committed a crime.

Persons who did not have a passport stamp from their entry into Schengen had to present further evidence of their lives in Ukraine before and after 24/02/2022 to obtain an APS. In practice, Ukrainians with a visa or residence permit in any other country are also denied temporary protection in France.⁶⁸³ Lastly, persons without a passport and who only have the internal Ukrainian passport (movement

⁶⁷⁹ SNCF, ‘Free rail travel for displaced persons from Ukraine’, available at: <https://bit.ly/42CQyXN>.

⁶⁸⁰ French Red Cross, ‘Urgence Ukraine : Les gares de Paris sur le parcours de l’exode’, 17 March 2022, available in French at : <http://bit.ly/3ng38MF>; France Bleu, ‘La Croix-Rouge de Toulouse installe un stand à la gare Matabiau pour accueillir les réfugiés ukrainiens’, 14 March 2022, available in French at : <http://bit.ly/3LESYiK>.

⁶⁸¹ Available in French here: <https://bit.ly/3ziViol>.

⁶⁸² Available in French here: <https://bit.ly/3FJPjwe>.

⁶⁸³ Practice-based observation by Forum Réfugiés, January 2023.

document in Ukraine) were asked by prefectures to go to the Ukrainian embassy to receive a consular attestation that proves that they are indeed Ukrainian. Costs of travel, procedure to fulfil these requirements are borne by the applicants, or by the NGOs hosting them such as Forum Réfugiés.

Usually, the application is accepted on the day it is registered so no temporary documentation is needed. When complementary elements are requested, it may take several days between application and registration: in this situation, no documentation is provided to the applicant.

Once their application is accepted, beneficiaries of temporary protection receive an APS, which is a half-page paper document, rather than a plastic card as it is for 1-year residence permits, with their identity information, picture and the prefecture stamp and signature. This document mentions that they have a right to stay in France for the six months covered by the residence permit and that they are allowed to work in France.

Temporary protection registration is done by all 96 prefectures in mainland France, and so it is not possible to have an accurate picture of the practice in all of them. Nevertheless, Forum Réfugiés is not aware of any systematic problems and the procedure seems to work well in some prefectures.

Applicants may challenge a denial of registration in the same conditions as for any registration for a residence permit. Thus, applicants can file a free of charge *ex gratia* administrative appeal with the local prefect directly and after that they can challenge the refusal of registration at administrative court but the proof is sometimes difficult to provide. Plaintiffs can also contact the Défenseur des droits (national Ombudsman). However, before approaching the Ombudsman, they must have filed all the necessary procedures to the prefecture (e.g. the *ex gratia* appeal) and/or to the Minister of the Interior.⁶⁸⁴

4. Legal assistance

There is no legal assistance at first instance foreseen in legislation. for persons entitled to temporary protection. The support available is that of NGOs such as *Forum Réfugiés*, *France Terre d'Asile* or *Coallia*, mostly in major cities, provided by NGOs usually involved in the field of asylum. If they are in a judicial procedure (appeal against denied registration for instance), only a lawyer is competent for legal assistance. In such case they may benefit from State subsidised legal aid, based on income.

5. Information provision and access to NGOs

The law⁶⁸⁵ provides that as soon as the request for temporary protection is introduced, the beneficiary is to receive a document with all the information about how temporary protection works. This is complied with in practice. Moreover, the prefects are invited to “facilitate the information and orientation of the persons concerned towards the relevant reception and administrative care arrangements”.⁶⁸⁶

Information provided is not specifically tailored to the needs of vulnerable applicants.

The Ministry of Interior has put together short flyers about temporary protection available in French, English, Ukrainian and Russian.⁶⁸⁷ Digital tools have also been deployed to enable displaced persons to find general information in Ukrainian on settling in France. For instance, a regularly updated welcome booklet⁶⁸⁸ for displaced persons from Ukraine has also been produced by the Ministry of Interior and

⁶⁸⁴ Service Public, ‘Que faire en cas de difficulté lors d’une demande de séjour ?’, available in French at : <http://bit.ly/417Apln>.

⁶⁸⁵ Article R581-3 *Ceseda*.

⁶⁸⁶ *Idem*

⁶⁸⁷ Ministry of Interior, *Information Ukraine*, 15 march 2022, available at: <https://bit.ly/3ZbEzh9>.

⁶⁸⁸ Ministry of Interior, *Livret d’accueil en France pour les déplacés d’Ukraine*, available in French and Ukrainian at: <https://bit.ly/40ovy56>.

has been widely communicated both in State services such as prefectures and within local authorities.⁶⁸⁹

On 4 March 2022, the Inter-Ministerial Delegation for the Reception and Integration of Refugees launched a 'For Ukraine' platform, aimed at Ukrainians but also French citizens, organisations, local authorities and companies.⁶⁹⁰ This platform presents administrative information in French and Ukrainian, registers all volunteer offers (translation, interpretation, citizen accommodation), lists mobilisation initiatives from certain local authorities and collects job offers. The first assessment of this platform is very positive since as of September 1, 2022 more than 3.5 million pages of this site had been viewed; about 40,000 proposals for citizen accommodation had been collected; 17,000 job offers had been submitted by more than 600 companies; 5,800 citizens volunteered.⁶⁹¹

The authorities do not provide any particular information at border-crossing points on how to apply for temporary protection.

D. Guarantees for vulnerable groups

There is no specific identification mechanism in place to systematically identify persons in need of specific procedural guarantees, before or after registration as temporary protection beneficiaries. However, one may signal to the prefecture that a person has specific needs in terms of accommodation or support due to disability or loss of autonomy because of age.⁶⁹²

In practice, there is no specific identification but for independent housing orientations, vulnerable people are prioritised.⁶⁹³

No special procedure was introduced or adapted specifically to the needs of non-accompanied minors entitled to temporary protection. They are protected under the general child protection system as any other unaccompanied children.⁶⁹⁴ Specific documents⁶⁹⁵ were shared within the administration notably to alert on risks of trafficking and establish procedures of each scenario, such as an unaccompanied child on their way to reuniting with their family in another EU Member State.⁶⁹⁶

French authorities deployed numerous emergency units providing psychological help⁶⁹⁷ as soon as the first Ukrainian nationals fleeing the war arrived. These units are available all over mainland France and are attached to the emergency services of each department. Ukrainian nationals can also rely on programmes available to all populations.

A circular of 22 March 2022 on the reception of displaced students from Ukraine benefiting from temporary protection provides that students may consult psychologists from University Health Services and that, in case of capacity need, especially in terms of psychologists speaking English, a further 160

⁶⁸⁹ Assemblée Nationale, *Rapport fait au nom de la commission des finances, de l'économie générale et du contrôle budgétaire sur le projet de loi de finances pour 2023 (n°273)*, 6 October 2022, available in French at: <https://bit.ly/3K1gaGD>, 20.

⁶⁹⁰ <https://parrainage.refugies.info/>

⁶⁹¹ Assemblée Nationale, *Rapport fait au nom de la commission des finances, de l'économie générale et du contrôle budgétaire sur le projet de loi de finances pour 2023 (n°273) – annexe 28*, 6 October 2022, available in French at: <http://bit.ly/3FJWC7h>.

⁶⁹² Ministry of Interior, *Livret d'accueil en France pour les déplacés d'Ukraine*, available in French and Ukrainian at: <https://bit.ly/40ovy56>.

⁶⁹³ Practice based observation by Forum Réfugiés, Janvier 2023.

⁶⁹⁴ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available at: <https://bit.ly/3n3OCHB>, 5.

⁶⁹⁵ Government, 'La Dihal et ses partenaires se mobilisent pour prévenir les risques de traite à l'égard des personnes déplacées d'Ukraine', last modified 18 October 2022, available in French at: <http://bit.ly/41layNa>.

⁶⁹⁶ Ministry of Justice, *Circulaire situation des mineurs en provenance d'Ukraine*, 1 April 2022, available in French at: <https://bit.ly/3n7zKYS>; Ministry of Justice and others, *Instruction prise en charge de la situation des mineurs en provenance d'Ukraine*, 7 April 2022, available in French at: <https://bit.ly/3lwrrFm>.

⁶⁹⁷ Ministry of health and solidarity, *Note d'information – cellule d'urgence médico-psychologique (CUMP)*, 14 mars 2022, available in French at: <https://bit.ly/42Fu34x>

English-speaking psychologists are available for online consultation and specialised university services should help students in accessing these resources.⁶⁹⁸

⁶⁹⁸ Ministry for Higher Education, Research and Innovation, *Circulaire du 22 mars 2022 portant sur l'accueil des étudiants déplacés d'Ukraine bénéficiaires de la protection temporaire*, 22 March 2022, available in French at: <https://bit.ly/3TsRwlV>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--|-----------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | 6 months |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December year? | 86 000 ⁶⁹⁹ |

France decided to deliver temporary residence certificates, valid each time for six months,⁷⁰⁰ contrary to other countries which deliver one-year certificates, in line with the timeframe for renewal of TPD at the EU level. This provisional residence permit will be renewed automatically every 6 months for as long as temporary protection is maintained at the EU level.⁷⁰¹ The duration of the temporary residence permit may be limited to the period remaining until the end of temporary protection at the EU level.⁷⁰²

The issuance of temporary protection and the ensuing temporary residence certificate is the prerogative of each department (96 prefectures in mainland France), so the procedure for granting the residence permit varies based on their internal organisation.

Some major cities (Paris, Lyon, Nice, Strasbourg) implemented multi-operator sites in which displaced persons can, in the same place, carry out administrative procedures (first administrative checks to ensure eligibility to temporary protection and deliver appointments to the prefecture, or in some cities the persons could obtain the temporary residence permit and the opening of their rights to the asylum seeker's allowance directly in the centre), social procedures (access to social security), medical procedures (the Red Cross was regularly present for immediate health checks including trauma, and the OFII organised vaccination sessions against covid in these places), receive assistance for initial emergency shelter and the satisfaction of other needs (e.g. provision of clothing). Despite some ad hoc difficulties, these centres have proved their effectiveness.⁷⁰³

In the Rhône department, from April to July 2022 everything was done in the same place: this meant the APS could be delivered in one day. Since July, it is first necessary to go to the SPADA (initial reception service for asylum seekers) to prepare the application, after which the appointment before the Prefecture is given, for the application to be approved and the residence permit, etc to be delivered. The appointments at the prefecture take place the same week, so the entire procedure takes about 1 week maximum. A negative decision can be appealed in the same manner as a refusal to register the application, see [Registration under temporary protection](#).

The permit is valid for 6 months and is renewed upon request. To renew their APS, temporary protection beneficiaries must have an appointment in their local prefecture between 3 weeks and 3 days before the expiration date of their previous APS. During this appointment, beneficiaries must present a civil status certificate and proof of nationality, a proof of address from less than 3 months, any document that will prove an evolution of their situation (such as a work contract for instance) and their previous

⁶⁹⁹ Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022*, February 2023, available in French at : <http://bit.ly/3K1bwZa>, 10.

⁷⁰⁰ Article R581-4 Ceseda.

⁷⁰¹ Articles L581-3 and R581-4 Ceseda.

⁷⁰² Article R581-4 Ceseda.

⁷⁰³ Assemblée Nationale, *Rapport fait au nom de la commission des finances, de l'économie générale et du contrôle budgétaire sur le projet de loi de finances pour 2023 (n°273) – annexe 28*, 6 October 2022, available in French at: <http://bit.ly/3FJWC7h>.

APS. Then, they can retrieve the new one. If they fail to renew in time, they risk having their social rights at least temporarily interrupted.⁷⁰⁴

According to information provided in Parliament, of the 39,952 temporary residence permits delivered between 1st March and 12th April 2022, 34,164 were renewed 6 months later, i.e. over 85%.⁷⁰⁵

Several rights are connected to the temporary residence permit:

- ❖ Beneficiaries of temporary protection (BTPs) benefit from the allowance for asylum seekers (ADA),⁷⁰⁶ awarded on a means-tested basis by OFII following the issuance of the APS, provided that they are of legal age and receive resources below the amount of the RSA. For Ukrainian BTPs, the ADA's amount was exceptionally raised by an additional 7,40€/day : for asylum seekers this additional amount is only provided when the applicant has no accommodation solution but here it was extended to all BTPs even when they are accommodated. For instance, the basic amount for a household with two adults would be 897,82€ per month, without the raise; a household with one adult and two children receives 1,281€ per month⁷⁰⁷. It is distributed through a payment card (money cannot be withdrawn with it). (for detailed information see [General report – Forms and level of material reception conditions](#)). However, since November 2022, the raise is granted only if BTPs pay for their accommodation, and no longer to those benefitting from a free of charge form of accommodation, such as free private hosting.
- ❖ BTPs are granted immediate access to public healthcare, through universal health protection, without being subjected to a 3 month waiting period (as asylum seekers are).
- ❖ BTPs are also entitled to receive certain measures of social welfare, such as housing allowances (APL).
- ❖ All BTPs must be able to benefit from language training to learn French,⁷⁰⁸ which could be done through existing common law programmes for the integration of refugees. The modalities of practical implementation were clarified by a decree published 3rd May 2022. It states that the training will be provided by a dedicated organisation, designated by the OFII in the context of a procurement procedure. A first assessment of this measure was made during the examination of the budget law for 2023. From March to September 2022, 1,226 formations were opened while 5,500 were expected and prepared. The OFII's general director explains this low result by the fact that a lot of Ukrainian refugees are women with children. The problem may be related to the lack of child-care solutions. Another reason could be psychological. Learning French could mean for BTPs that they won't return to Ukraine.
- ❖ BTPs are allowed to work as soon as they obtain their temporary residence permit. Their right to work is specifically stated on the permit.
- ❖ Beneficiaries of temporary protection may travel on regional trains (TER and intercity) free of charge in the period between receiving their temporary residence permit and filing an application for State financial assistance (RSA, see Social Welfare). Once they receive RSA, they benefit from solidarity pricing, which may amount to free or very reduced travel depending on the region.⁷⁰⁹
- ❖ A BTP's driving licence is valid in France if the person benefits from temporary protection. However, the foreign license must be always be accompanied by an official translation into French.⁷¹⁰

⁷⁰⁴ Ministry of Interior, 'Information Ukraine : vous souhaitez solliciter le renouvellement de votre document de séjour, délivré au titre de la protection temporaire', available in French at: <https://bit.ly/40wsK5Y>.

⁷⁰⁵ Assemblée Nationale, *Rapport fait au nom de la commission des finances, de l'économie générale et du contrôle budgétaire sur le projet de loi de finances pour 2023 (n°273)*, 6 October 2022, available in French at : <https://bit.ly/3K1gaGD>.

⁷⁰⁶ Articles L581-9 and D581-7 Ceseda.

⁷⁰⁷ Service public, *En quoi consiste l'Allocation pour demandeur d'asile (Ada) ?* available in French at : <http://bit.ly/3JKReBP>.

⁷⁰⁸ Article R581-4-1 Ceseda.

⁷⁰⁹ SNCF, 'Free rail travel for displaced persons from Ukraine', available at: <https://bit.ly/42CQyXN>.

⁷¹⁰ Article 3 of Bylaw of 12 January 2012, available in French at: <https://bit.ly/3Z9h1JC>.

- ❖ Like all persons in France, BTPs are allowed to open a bank account and transfer funds to it. A specific guide was developed to help them in this regard.⁷¹¹
- ❖ BTPs also benefit from the right to family reunification with their family members who are not yet present in the territory of the European Union or who benefit from temporary protection in another Member State.

Access to accommodation:

As beneficiaries of temporary protection are not covered by the asylum system, the instruction of 10 March 2022 specifies that they will not be accommodated within the national reception system for asylum seekers.

Accommodation for BTPs that do not have an independent solution can take several forms. First, they can be housed by operators specialising in the reception of asylum seekers or social emergencies (accommodation centres, opening of specific accommodation places) financed by State's authorities. This system is complemented by citizen hosting, many offers having been identified on a dedicated Internet platform.

If the applicant transfers to another EU member state, they must inform French authorities. The modalities depend of the prefecture. In practice, Forum Réfugiés is not aware of the use of such procedure.

To the best of knowledge of the author, there have not been any reports of persons being refused access to temporary protection in France after having already applied for it in another EU member country.

The APS obtained in France will then expire and consequently the benefit of the rights too. It should be noted that, for the moment, there is no real harmonisation of the procedure. For instance, the Orne's department prefecture states that if the BTP wants to leave France permanently, they must return their APS and Ada's card at the prefecture⁷¹². Consequently, the absence of APS might have an impact on the BTP's freedom of circulation in the Schengen area.

2. Access to asylum

The existing legal framework provides the possibility for BTPs to exercise their fundamental right to seek asylum at the same time.⁷¹³ In that case, BTPs still benefit from the temporary protection regime while their application is being examined and, if international protection is not granted, they retain the benefit of temporary protection for as long as it remains in force. If they are protected at the end of an asylum (refugee status or subsidiary protection), it is this status takes over from that of temporary protection.⁷¹⁴

Like with the CNDA, it seems that the processing of applications by Ukrainian nationals was, at first, suspended at OFPRA level, mainly for the same reason.⁷¹⁵ Then, a few judgments by CNDA occurred end of 2022 – early 2023, all concerning applicants who were not eligible for temporary protection.

Regarding the CNDA's position on protection, the decisions taken end of 2022/early 2023 state that:

- ❖ The Court examines both refugee status and, if it finds the case does not meet the requirements, subsidiary protection. Regarding the latter, the situation is not uniform across the

⁷¹¹ Interministerial delegation for the reception and integration of refugees, *Livret d'information à destination des personnes bénéficiaires de la protection temporaire: L'ouverture d'un compte bancaire*, last updated 14 April 2022, available in French at: <https://bit.ly/3ndeZuK>.

⁷¹² Prefecture de l'Orne, 'Instructions relatives aux retours en Ukraine des bénéficiaires de la protection temporaire', available in French at : <http://bit.ly/416sJpO>

⁷¹³ Article L581-4 Ceseda; Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available at: <https://bit.ly/3n3OCHB>.

⁷¹⁴ Article L581-4 Ceseda.

⁷¹⁵ Practice-based observation by Forum-Réfugiés.

country and thus the court's caselaw may vary oblast by oblast. However, the internal flight alternative is not to be examined and used against applicants given the indiscriminate violence due to the war.

- ❖ In decisions from 30 December 2022, the Court determined that the situation in the oblasts of Donetsk, Louhansk, Zaporijia, Kharkiv was to be characterised as indiscriminate violence of exceptional gravity, assessment according to which subsidiary protection was to be granted to all persons originating from the oblasts.⁷¹⁶
- ❖ Regarding the oblasts of Odessa,⁷¹⁷ Khmelnytskyi, Vinnytsia, Volhynie,⁷¹⁸ Jytomyr, Poltava, Soumy et Tchernihiv,⁷¹⁹ the Court determined that there was indiscriminate violence but not to a level that would lead to concluding that all persons returning there are at high risk of threats to their life or person. Thus, persons have to demonstrate that individual factors put them at particular risk of threats to their life or person. Individual factors considered sufficient by the Court include isolation with no possibility of receiving familial assistance, age, health conditions.

Out of the 12 decisions published by the Court (decisions by the Court are in principle not published, this only happens by exception, through a press release), the court granted subsidiary protection in 8 decisions are rejected the case in the 4 remaining decisions. The Court did not find grounds to grant refugee status in any of the cases. All these cases concerned Ukrainian nationals not eligible to temporary protection, having arrived in France prior to 24 February 2023.

B. Family reunification

BTPs can ask the authorities to be joined by their family members currently living in another EUMS under temporary protection, or by a family member outside of the EU territory.⁷²⁰ When the family member is the partner (married or not) or children, the authorities accept to protect them in France if the family agrees but the law specify that the State accept “depending on respective reception capacities of the Member State concerned”.⁷²¹ When other members of family are involved, authorities accept depending on reception capacities and emergency.

C. Movement and mobility

BTPs are in principle not limited as to their freedom of movement within the State.

In accordance with the EU directive on temporary protection, BTPs also enjoy freedom of movement towards other EU Member States, under the same conditions as a European citizen. To the best of knowledge of the author, there have been no issues in this regard.

To the best of knowledge of the author, BTPs who wished to temporarily return to Ukraine did not experience any issues.

⁷¹⁶ CNDA, 30 December 2022, Nos. 21060196, 21063903 et 22002736, 21048216, 22001393, press release and cases available in French at: <http://bit.ly/3JvGbwk>.

⁷¹⁷ CNDA, 6 January 2023, No 21041482, press release and case available at: <http://bit.ly/3JvGbwk>.

⁷¹⁸ CNDA, 31 January 2023, Nos 21050761, 21056916, 21064954, 22009685, 22009721, press release and decisions available at: <https://bit.ly/3KuhGQt>.

⁷¹⁹ CNDA, 8 March 2023, Nos 21016856, 21057060, 22007730, 22006590, press release and decisions available at: <http://bit.ly/3GBQZbv>.

⁷²⁰ Article R.581-8 to R.581-12 Ceseda.

⁷²¹ Article R.581-8 Ceseda.

D. Housing

Indicators: Housing

- | | |
|---|---|
| 1. For how long are temporary protection beneficiaries entitled to stay in reception centres? | No time limit until access to private housing |
| 2. Number of beneficiaries staying in reception centres as of 12/22 | Not available |
| 3. Number of beneficiaries staying in private accommodation as of 12/22 | 27,000 ⁷²² |

Upon arrival, Ukrainian nationals are welcomed in an emergency reception site usually for a period of one to two nights. Depending on personal situations, including the composition of the household, capacity in the territory and following various assessments by social workers about the wishes of the family and material conditions provided, a referral to accommodation is made for a period of several weeks / months, before benefiting from more permanent housing. Depending on availability, it is possible to be accommodated in another city, another department, or another region than that of the place of arrival in France if BTPs wants to.⁷²³

Three steps are planned by the authorities:

- ❖ Step 1: Emergency reception on arrival.
 - Accommodation of one to two nights upon arrival in France, including for people in transit, near the main points of arrival (train stations, airports...).
 - Type of accommodation: hotel, gymnasium, conference centre etc.
 - Emergency humanitarian care.
- ❖ Step 2: Ad hoc accommodation of beneficiaries of temporary protection
 - Transitional accommodation, up to several months, time period during which orientation towards adapted housing is assessed and prepared.
 - Type of accommodation: collective accommodation (holiday centre for example).
 - Social support by an association, within the framework of an agreement with the State.
- ❖ Step 3: Access to more permanent housing
 - Housing for a minimum period of three months, in order to allow BTPs to integrate into their new environment.
 - Priority is given to independent housing. Accommodation with private citizens, in a supervised form, can be mobilised as a supplement.
 - Rental intermediation by associations under agreement is also a possibility, in social housing as well as in general private housing. The owner signs a lease with an association, which then subleases the accommodation to the BTP household.⁷²⁴
 - Social support by an association.

In practice, this scheme is applied.

BTPs do not benefit from the accommodation solutions contained in the DNA (national reception system for asylum seekers).⁷²⁵ Solutions have been found outside of the DNA.

The Ukraine welcome centres themselves and prefectures in departments where there are no (or no longer) reception centres are responsible for the provision of reception to BTPs. Coordination between

⁷²² Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022, February 2023*, available in French at : <https://bit.ly/3LwwKiD>, 18.

⁷²³ Ministry of Interior, *Livret d'accueil en France pour les déplacés d'Ukraine*, available in French and Ukrainian at: <https://bit.ly/40ovy56>.

⁷²⁴ Ministry of Interior, 'Foire aux questions : accueil des réfugiés ukrainiens', available in French at: <https://bit.ly/3LESuZl>.

⁷²⁵ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available at: <https://bit.ly/3n3OCHB>.

the various actors involved in housing and accommodation (associations, local authorities, companies managing subsidised State housing, etc) is carried out by the prefect of the department. Moreover, through an external operator, the prefect of the department assesses and makes use of proposed housing solutions and private hosting, and channels BTP households towards the available options, in cooperation with the relevant associations.⁷²⁶

87,000 places in reception centres have been created, of which nearly 60,000 remained active at the end of 2022.⁷²⁷

To avoid using the DNA, an instruction of 22 March 2022⁷²⁸ identified ad hoc accommodation and housing schemes. The State thus set up a reception and support system specifically dedicated to the persons displaced from Ukraine. This collective accommodation park (holiday centres, hotels, etc.), financed in 2022, is now made up of approximately 20,000 places. In addition, there are about 13,000 places available in so-called "citizen" accommodation. These reception capacities are entrusted for management purposes to associations approved by the State, based on specifications defining the obligations that must be respected. Regarding collective accommodation, State services have endeavoured to carry out "loosening" actions in order to partially correct the unequal distribution of displaced Ukrainians within the territory.

The distribution of displaced persons by type of accommodation or housing is monitored by the Interministerial Delegation for Accommodation and Access to Housing (DIHAL). At the end of February 2023, the French Prime Minister Elisabeth Borne highlighted that 40% of BTPs currently in France are accommodated by their own means, independently from state housing facilities. The other 60% are divided in three housing solutions. About 27,000 BTP had access to independent housing, 18 000 are in a collective housing solution and around 12,000 benefits from citizen housing.⁷²⁹

The Court of Auditors also specified that at the end of December 2022, 4 250 social housing units were used (mainly vacant housing or empty housing due to rehabilitation operations) allowing more than 13 400 people to find somewhere to live. Further, 4 280 private housing units have been made available, slightly more than half of them by private owners.⁷³⁰

There have been no issues of BTP not being able to access reception conditions, either by law or in practice.

When Ukrainian nationals arrive, NGOs assist refugees regarding their administrative procedures but also provide first needs items (hygiene kits, catering or food aid, clothing, childcare equipment).⁷³¹ When they obtain their status as BTP, multiple rights and conditions are provided. First, they have access to a financial allowance the amount of which is based on their household, meaning that they are considered as independent regarding their daily needs (food, clothes etc.). They also benefit from complete health insurance coverage. Regarding accommodation, BTPs will first be sent to collective accommodation for a period of 1 or 2 months. Then, they should have access to private accommodation or, if necessary, citizen accommodation. Private accommodation can be social housing or private rental

⁷²⁶ Ministry of Interior, 'Foire aux questions : accueil des réfugiés ukrainiens', available in French at: <https://bit.ly/3LESuZl>.

⁷²⁷ Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022, February 2023*, available in French at : <https://bit.ly/3LwwKiD>, 7.

⁷²⁸ Ministry of Interior, Circulaire Accès à l'hébergement et au logement des personnes déplacées d'Ukraine bénéficiaires de la protection temporaire, 22 March 2022, available in French at: <https://bit.ly/3mZBL9f>.

⁷²⁹ Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022, February 2023*, available in French at : <https://bit.ly/3LwwKiD>, 20.

⁷³⁰ Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022, February 2023*, available in French at : <https://bit.ly/3LwwKiD>.

⁷³¹ Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022, February 2023*, available in French at : <https://bit.ly/3LwwKiD>, 20.

accommodation. In the second case, BTPs can have access to financial assistance for housing (APL).⁷³² Also, numerous BTPs have found private housing solutions outside of state measures.⁷³³

Private hosting

Private hosting is quantitatively very important in accommodation for displaced persons from Ukraine. Thus, more than half of BTPs are not accommodated in a system supervised by the State. The State has partially supervised this development by approving, through associations, 4,000 citizen accommodation solutions to ensure the adequateness and quality of reception conditions and to provide useful support to host families. Some of those housing solutions are supervised by a contract that involves three parties: the host, the BTPs and the referring association. The accommodation's modalities are detailed in the terms, and the association will stay in contact with the household to assist them, or in case of any trouble. At the beginning of September 2022, 14,000 displaced persons from Ukraine were hosted in approved citizen housing; an undetermined number are accommodated elsewhere.⁷³⁴

In November 2022, the State decided to provide financial support to individuals having accommodated, free of charge and for a minimum period of 90 days, beneficiaries of temporary protection, provided that these individuals justify this reception through an association financed for this purpose by the State or, where appropriate, through a local authority or a local public institution, competent in matters of social action, via its representative. The State offers individuals EUR 450 for the first 90 days of cumulative accommodation and then EUR 5 per day for the following days of accommodation, ie EUR 150 per month. Applications are open until 30 April 2023.⁷³⁵

To participate in citizen housing, hosts must complete an application in order to provide clear information about their identity and their accommodation. If their application is chosen, an association will confirm that the conditions are available for welcoming a BTP. The association plays an important role in citizen housing. They provide a safety legal framework, and they are the main reference point in case of disagreements between parties.

In January 2023, an evaluation of the implementation and execution of the national action plan against human trafficking⁷³⁶ was made public. One of the measures was to raise awareness among migrant populations of the risks of exploitation. The committee considers that it was “partially executed”. On this point, the evaluation mentions that the warning documentation made for migrants was only accessible in French, until displaced persons from Ukraine arrived in France. All the necessary documentation was then translated into Ukrainian, English or Russian, making the prevention easier.

To the best of knowledge of the author, BTPs who benefited from a private accommodation model did not experience any issues.

⁷³² Government, ‘Pour l’Ukraine’, available in French at : <http://bit.ly/3JUNvli>.

⁷³³ Observation de Forum Réfugiés, Janvier 2023.

⁷³⁴ Assemblée Nationale, *Rapport fait au nom de la commission des finances, de l’économie générale et du contrôle budgétaire sur le projet de loi de finances pour 2023 (n°273) – annexe 28*, 6 October 2022, available in French at: <http://bit.ly/3FJWC7h>.

⁷³⁵ Decree No 2022-1441 of 17 November 2022 establishing an exceptional support measure for natural persons who have sheltered in accommodation or housing, one or more natural persons benefiting from temporary protection under Articles L. 581-1 et seq. of the Code of Entry and Residence of Foreigners and the right of asylum, available in French at: <https://bit.ly/3z1YnbY>.

⁷³⁶ National consultative commission on human rights, *Evaluation de la mise en œuvre du plan d’action national contre la traite des êtres humains (2019-2021)*, available in French at : <https://bit.ly/3ZuhEhh>.

E. Employment and education

1. Access to the labour market

Initially, BTPs were only authorised to ask for work permit but not immediately able to work due to the legal framework on the residence permit for BPT in France but it has been modified by a decree of the 1st of April 2022:⁷³⁷ this section of the law on temporary protection was modified and requesting a specific authorisation to work is no longer necessary. The temporary residence permit mentions the person's immediate right to access to labour market.⁷³⁸

Legislation regarding independent professions was also amended⁷³⁹ in order to allow beneficiaries of temporary protection to apply for registration in the trade register (*registre des métiers*) as well as apply for registration in the Trade and Companies Register (*registre du commerce et des sociétés*) in order to exercise an independent profession.

To facilitate access to the labour market, Pôle emploi (the Employment Office) has developed an online questionnaire (in [French](#) and [Ukrainian](#)), in order to identify the wishes, diplomas, skills and professional experiences of persons with temporary protection. Depending on the assessment, Pôle emploi can provide support for the job search. For those under 25, la mission locale⁷⁴⁰ can offer socio-professional support.

French law⁷⁴¹ provides that working as a civil servant is mainly reserved to French nationals, subject to exceptions. Nowadays, work in the public service is more open to individuals who don't have French nationality. The remaining restriction concerns positions that are inextricably interlinked with "state sovereignty" i.e. defense, taxes, police, diplomacy etc. With the exception of these specific topics, beneficiaries are equal to nationals for all employment matters.

At the end of 2022, 11,916 BTPs were registered with Pôle Emploi, including 2,820 who indicated that they were following training as of February 2023. Between March and December 2022, 12,893 Ukrainian nationals (it may include individuals arrived before the conflict) were employed in France for at least an hour per month. The major sector of employment is in catering and accommodation (27%).⁷⁴²

2. Access to education

According to the Education Code, all children between the ages of 3 and 16, regardless of legal status, must have guaranteed access to education⁷⁴³. Schooling between 3 and 16 is an obligation and not simply a right. Children between the ages of 16 and 18 must be able to access training⁷⁴⁴. They then have access to higher education.

Children of persons benefiting from temporary protection have access to the education system on the same basis as all minors present on the national territory. A specific leaflet was prepared by the Government in French and Ukrainian to explain the French education system to displaced persons from Ukraine.⁷⁴⁵

⁷³⁷ Decree of 1st of April, available in French at : <https://bit.ly/3ZuhEhh>

⁷³⁸ Article R581-4 Céseda; article L5221-2 Labour Code.

⁷³⁹ Bylaw of 27 April 2022 regarding the required supporting documents for beneficiaries of subsidiary protection to pursue self-employed activities, available in French at: <https://bit.ly/3YXGVA4>.

⁷⁴⁰ For further information see: <http://bit.ly/3JGOrJS>.

⁷⁴¹ Article L321-1 of public service code.

⁷⁴² Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022, February 2023*, available in French at : <https://bit.ly/3LwwKiD>, 28.

⁷⁴³ Article L131-1 of the Education code.

⁷⁴⁴ Law n°2019-791 of the 26th July 2019, Article 15.

⁷⁴⁵ Ministry of Education and Youth, 'Accueil et scolarisation des enfants ukrainiens', available in French at: <http://bit.ly/3K3FEmY>.

As of 31 March 2022, 6,873 students arriving from Ukraine had been enrolled in the French education system since 24 February 2022, including 43% in primary schools and 30% in secondary schools.⁷⁴⁶ As of 27th May 2022, 17,677 students displaced from Ukraine were registered in a French school, including 18% in preschool, 39% in primary school, 33% in secondary schools and 10% in high schools. The 3 major academies where Ukrainians students are registered are Nice (1,515), Versailles (1,291) and Grenoble (1,182).⁷⁴⁷ Nearly 19,236 Ukrainian students were enrolled in French schools as of December 1, 2022. 55% of these students were attending kindergarten and elementary schools.⁷⁴⁸

UP2A⁷⁴⁹ (Unité pédagogique pour élèves allophones arrivants / pedagogical unit for incoming allophone students) are specific classes to support allophone children. Where this exists (these do not exist uniformly across the country), children can benefit from this specialised programme for children who do not speak French. In these programmes, children spend half of their time in UPE2A French classes, and the other half in their respective class level. This system covers elementary, middle and high school. Children in kindergarten only attend regular classes.

If a child has special needs, a request can be made to the MDPH (Departmental House for Disabled Persons) in case of disability. The average delay for examination of a request is 4 months.⁷⁵⁰ After recognition of a disability by the MDPH, accommodation can be decided and implemented.

In any case, schools have been very accommodating regarding the reception of Ukrainian children. For example, students may follow both online school from Ukraine and in person school in France. A child with a disability can be accommodated in the regular education system with specific provisions; there also exist specialised educational facilities if proposed accommodation is the regular education system is not sufficient.

For children beyond the age of 16 however, there have been issues in practice when they do not want to go to high school, especially if they had already stopped their schooling in Ukraine. Prefectures refuse to issue them temporary residence permits (APS) as they are minors,⁷⁵¹ however they need these to access vocational training in practice, as such programmes require the right to work.

There are no specific measures for Ukrainian child who might need alternative solution to the regular education system, however they may access all programmes regarding children's special needs in schools.⁷⁵²

⁷⁴⁶ Ministry of Education and Youth, '[Archive] Accueil des enfants ukrainiens à l'école: point de situation au 1er avril 2022', available in French at: <http://bit.ly/3lCTtiw>.

⁷⁴⁷ Ministry of Education and Youth, 'accueil des enfants ukrainiens à l'école : point de situation au 27 mai 2022', available in French at: <http://bit.ly/3zmHnh2>.

⁷⁴⁸ Ministry of Interior, 'Foire aux questions : accueil des réfugiés ukrainiens', available in French at: <https://bit.ly/3LESuZl>.

⁷⁴⁹ Ministry of Education and Youth, 'La scolarisation des élèves allophones nouvellement arrivés et des enfants issus de familles itinérantes et de voyageurs', available in French at: <http://bit.ly/3LL2lrH>.

⁷⁵⁰ Government, 'MDPH : diminution de la durée de traitement des dossiers', 21 October 2022, available in French at : <http://bit.ly/3nSXmRo>.

⁷⁵¹ Indeed, French law only foresees residence permits for adults, whether for beneficiaries of international protection, beneficiaries of temporary protection, or other third country nationals. For temporary protection, see article R581-1 CESEDA, which only invites persons over the age of 18 years old to go to the Prefecture to request a residence permit.

⁷⁵² Mon parcours handicap.gouv, *Ecole et handicap : les aménagements possibles*, available in French at : <http://bit.ly/3nNSFrP>

Higher education

Regarding access to higher education, the circular of 22 March 2022⁷⁵³ clarified the modalities of reception of displaced students from Ukraine benefiting from temporary protection. A special system was put in place to support applications from students arriving during the academic year, as well as provisions for their integration into more traditional curricula for the 2022-2023.

After initially inviting third country national university students to return to their native country and taking orders to leave French territory (OQTF) against them, in July the French authorities invited French universities to allow the remaining students still present in France to enrol and continue their studies in France, under certain conditions (see Qualification for temporary protection).⁷⁵⁴

Thus, as a first step and pending the start of the new academic year in September 2022, the main priority was to include students immediately after arrival, in particular through FLE (French as Foreign Language) training, cultural activities, an adapted specialised teaching by degree speciality intended to prepare them for a university course in France.

All requests to enter higher education for displaced persons from Ukraine are centralised by Campus France through an email address in order to allow for follow-up and support of these students, and to facilitate their orientation and support by academic institutions.

The person is asked to describe their situation in a form and is informed that *'requests will be brought to the attention of institutions that have expressed their willingness to welcome via a networking platform. Institutions will then contact students.'*

People who would benefit from enrolment into a higher education institution may be accommodated in public student accommodation available through the Crous (within the limits of existing capacities) and in Île-de-France by the CIUP (International Student Housing Centre of Paris) depending on available places. They are also able to benefit from housing allocations, APL.

A specific emergency aid of up to EUR 500 may also be requested from the CROUS. The latter is paid after a simplified social assessment by the social services. It is also understood that students benefiting from temporary protection are entitled to access State scholarships based on social criteria, subject to compliance with the conditions applicable to all students, and also (whether or not they benefit from State scholarships, contrary to other students) benefit from €1 meals in university cafeterias. The circular also specifies that institutions will be able to mobilize the CVEC (financial contribution from students claimed at registration, used for campus life) to contribute to a financial or material aid. If necessary, the students concerned can contact University Health Services to access psychologists.

Lastly, the circular clarifies the modalities of the PAUSE programme for Ukrainian researchers specifically. The PAUSE programme aims at allowing researchers from countries where they are unable to work freely and are forced into exile to be hosted in French higher education, research and cultural institutions.⁷⁵⁵ This programme also benefits a researcher's family.

⁷⁵³ Ministry for Higher Education, Research and Innovation, *Circulaire du 22 mars 2022 portant sur l'accueil des étudiants déplacés d'Ukraine bénéficiaires de la protection temporaire*, 22 March 2022, available in French at: <https://bit.ly/3TsRwlv>.

⁷⁵⁴ Ministry of Higher Education and Research, *Circulaire du 5 juillet 2022, accueil des étudiants ressortissants de pays tiers présents en France et déplacés d'Ukraine après le 24 février 2022*, available in French at: bit.ly/40vhS8K.

⁷⁵⁵ For further information see: <https://bit.ly/3JDZR11>.

In a February report, the French Audit office indicate that 1 266 Ukrainian students were registered in French university at this moment, and the ministry of higher education added that 240 researchers are under the program PAUSE⁷⁵⁶.

In practice, BTPs face great difficulties in pursuing higher education due to language level, need for transcripts to enter university, etc. (see [General Report – Access to Education](#)).

F. Social welfare

According to the TPD and to the instruction on TPD of 10 March 2022, BTP's enjoy access to some branches of social welfare. They mainly have access to a free healthcare financial housing help (APL), and allowances based on their family situation.

If third-country nationals are legally residing in France (including BTPs), conditions of access to social welfare are the same as nationals. This is the application of the fundamental principle of equality of treatment.

Housing and health benefits are granted by respectively the French benefit office (CAF) and the health care insurance fund (CPAM).

Social security institutions are reachable in every French department,⁷⁵⁷ and there is no limit to mobility within the country thus there is no need for beneficiaries to live in a specific place to access social welfare.

Presently, there have been no issues reported of BTPs not being able to access social assistance, either by law or in practice.

The Court of Auditors estimated that the total financial cost of the state's expenses and social welfare expenses for the displacement from Ukraine in 2022 will amount around € 634 M. This includes € 25 M for health care and € 15 M for the family branches of social welfare.⁷⁵⁸

To the best of knowledge of the author, the exact number of BTPs who benefit from social welfare is not available.

G. Health care

Once they have received their temporary residence permit, beneficiaries of temporary protection enjoy the same rights as nationals with regard to healthcare and are not subject to the three-month waiting period imposed upon asylum seekers. They have access to all the healthcare system thanks to access to public universal health protection (PUMA) and a one-year right to the public health mutual (CSS, Complémentaire Santé Solidaire).⁷⁵⁹ These two systems combined allow for full coverage of their health costs.

Public health insurance ensures the coverage of all care necessary to one's health, so appointments with general practitioners, dental surgeons, midwives as well as prescription medication and laboratory analyses. Public health Insurance covers health expenses related to glasses, dental prostheses,

⁷⁵⁶ Minister for higher education, 'Etudiants, enseignants-chercheurs ukrainiens : point sur les aides', available in French at : <http://bit.ly/416rmd>.

⁷⁵⁷ For further information see: <http://bit.ly/415oYB2>

⁷⁵⁸ Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022, February 2023*, available in French at : <https://bit.ly/3LwwKiD>, 9 and 29.

⁷⁵⁹ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available in French at: <https://bit.ly/3n3OCHB>, 5.

hearing aids, other medical devices and allows persons to benefit from medical and psychological support.⁷⁶⁰

Before obtaining their temporary residence permit, for urgent or non-urgent hospital care, displaced persons from Ukraine are advised to go to the nearest hospital with an identity document.⁷⁶¹

Several documents were produced by the health authorities both in Ukrainian and French, to facilitate information dissemination,⁷⁶² including a comprehensive 100-page guide.⁷⁶³

In most of the cases, BTPs do have an effective access to health care. However, it has been reported that some beneficiaries have trouble obtaining a social security card (carte vitale). The main reported cause is paperwork's issues or missing administrative papers (e.g. birth certificate) that appear necessary in this procedure.⁷⁶⁴

Associations offers appointment were BTPs can be redirected to the proper services if they have issues. For instance, between the 4th May and 5th October 2022, France Terre d'Asile received 1,367 households, resulting in 62 orientations to the mental health plan "Santé/Psy" and 140 individual supports regarding health care.⁷⁶⁵

To the best of knowledge of the author, BTPs who benefited from health care did not experience any major issues.

⁷⁶⁰ Ministry of Interior, 'Foire aux questions : accueil des réfugiés ukrainiens', available in French at: <https://bit.ly/3LESuZl>.

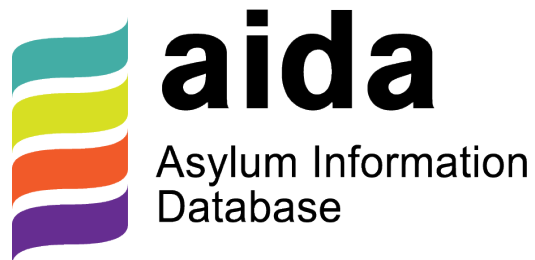
⁷⁶¹ Ministry of Interior, *Livret d'accueil en France pour les déplacés d'Ukraine*, available in French and Ukrainian at: <https://bit.ly/40ovy56>.

⁷⁶² Regional Health Agency Nouvelle Aquitaine, 'Solidarité avec l'Ukraine – Fiches Santé et COVID (en français, en anglais et en ukrainien)', 24 March 2022, available in French, English and Ukrainian at: <http://bit.ly/3LSBgIq>.

⁷⁶³ Santé publique France, *Livret de santé bilingue Français/Ukrainien*, last updated 22 March 2023, available at: <https://bit.ly/3FMADfl>.

⁷⁶⁴ Based on perusal of the national healthcare authority's help forum, available here: <http://bit.ly/40YrjOB>.

⁷⁶⁵ Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022, February 2023*, available in French at : <https://bit.ly/3LwwKiD>, 20.



Greece



Official data and information on beneficiaries of temporary protection and on the implementation of the law on temporary protection in Greece are very limited. Thus, comments made on practice and implementation of the law on temporary protection are based on GCR's experience and exchanges with other relevant NGOs in the field.

Temporary Protection Procedure

A. General

The Temporary Protection Directive was introduced in the national legal framework by presidential decree (80/200614/4/2006). The decree was abolished by law (Article 148 of Law 4939/22 Ratification of the Code of Legislation on the reception, international protection of third country nationals and stateless persons and temporary protection in the event of a mass influx of displaced foreigners). The temporary protection procedure is described in the same law (Part 6, Articles 119 – 146).

Temporary Protection was activated in accordance with Council Implementing Decision (EU) 2022/382 (04/03/2022); it concerns legal residents who were living in Ukraine before 24 February 2022 and includes Ukrainian nationals, third-country nationals who were stateless persons, beneficiaries of international protection or who had equivalent national protection in Ukraine before 24 February 2022, as well as the family members of the categories of persons mentioned above.

Temporary Protection was activated by Ministerial Decision (172172/2022 28/03/2022)

There were not significant numbers of people who were displaced - directly or indirectly - by the war present in the country but beyond the scope of TPD. 118 non-Ukrainian third country nationals were granted TP, among which 101 Russians.

There is no available data on the number of individuals who were potentially entitled to temporary protection present in Greece in 2022, although reports put the figure at around 80,000 people.⁷⁶⁶ Official date and information on beneficiaries of temporary protection has been very limited. The last official data on arrivals was given to UNHCR in August 2022.

The EUAA carried out 14,986 registrations for temporary protection in Greece in 2022.⁷⁶⁷

In 2022 21,532 people were granted temporary protection (including 21,314 Ukrainians).

B. Qualification for temporary protection

In Greece temporary protection applies to Ukrainian nationals, as well as stateless persons and beneficiaries of international protection or of an equivalent national protection in Ukraine, and the family members of the categories of persons mentioned above.

People from the above categories who had arrived in Greece from 26 November 2021 onwards were eligible for temporary protection. The Ministerial Decision (MD) in Greece copied the Council Decision without adding or removing any categories of displaced persons.

⁷⁶⁶ ΕΘΝΟΣ, 'Περισσότερους από 75.000 Ουκρανούς φιλοξένησε η Ελλάδα - Πώς αντιμετωπίσαμε την κρίση' 24 February 2023, available in Greek at: <https://bit.ly/45NoB16>.

⁷⁶⁷ Information provided by the EUAA, 28 February 2023.

According to the MD family members are:

- ❖ the spouse of a person eligible for temporary protection or the person with whom they live in a free union within the framework of a stable relationship duly proven,
- ❖ the minor unmarried children of a person eligible for temporary protection or of their spouse, without distinction as to whether they were born within or outside marriage or adopted,
- ❖ other close relatives who were living together as part of the family unit at the time of the circumstances surrounding the mass influx and who are wholly or mainly dependent on a person eligible for temporary protection.

The initial MD granted temporary protection for 12 months.

C. Access to temporary protection and registration

1. Admission to territory

There were no reports of people fleeing from Ukraine refused entry at the border, including for people who returned to Ukraine and sought to re-enter Greece.

2. Freedom of movement

There were no known issues for individuals entitled to temporary protection not holding a biometric passport or biometric travel document in moving within the country's territory or while attempting to continue their journey towards other European countries.

3. Registration under temporary protection

The Asylum Service is responsible for registering applications for temporary protection. Five Regional Offices are available for the temporary protection procedure (Attica (2), Thessaloniki, Crete, Patras). Applicants have to include the following in their application: e-mail address, personal details, the type and number of identification document, level of education, the field of professional activity, any need for housing, the collection point of the allocated Temporary Protection Beneficiary card.

Filling in the application can be done online (migration.gov.gr) and then an appointment is booked for one of the Asylum Regional Offices.

The application has to be submitted within 90 days of arrival (Schengen Visa rules) but there are no consequences in case of non-compliance, according to the Ministry of Migration guidelines.

Passports (biometrical and non-biometrical), residence permits and asylum cards can all be used to prove that a person falls under the scope of temporary protection.

The Ministry of Migration provides beneficiaries of temporary protection with a Temporary Protection Beneficiary card (within 90 days).

In practice delays are observed due to the lack of staff but these are not significant.

4. Legal assistance

There is no specific legal assistance foreseen for beneficiaries of temporary protection.

5. Information provision and access to NGOs

According to the law (article 125) written ‘information is to be provided in a language understandable to them’ (whether that be online, flyers etc). The information is provided by the Ministry of Migration mainly online in Ukrainian. NGOs, migrant and refugee communities also provide information (info sessions, online, flyers etc). Information is provided at border-crossing points on how to apply for temporary protection but interpretation is a challenge.

D. Guarantees for vulnerable groups

There were no specific procedures for the identification of vulnerability in Greece and no procedure was introduced or adapted to the needs of non-accompanied minors entitled to temporary protection.

There was no specific programme to address the needs of individuals fleeing from Ukraine suffering from mental health problems, including torture survivors. In practice some NGOs provided assistance.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--|-----------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | 12 months |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2022? | 21,532 |

After registration, the regional Asylum Offices deliver a Temporary Protection Beneficiary card within 90 days. The initial Ministerial Decision (3/2022) included protection for a 12-month period, renewable if necessary (by ministerial decision).

Beneficiaries of temporary protection have access to the labour market and healthcare in accordance with Directive 2001/55.

There can be only one application request. If someone requests temporary protection in another EU Member State, their request in Greece is automatically cancelled.

2. Access to asylum

Beneficiaries of temporary protection can also apply for international protection whenever they wish, without having their temporary protection residence permit withdrawn.

B. Family reunification

There are no specific provisions on family reunification for beneficiaries of temporary protection in Greece.

According to article 131 (Preserving family unity) of the law 4939/22 'in cases of families which existed in the country of origin and were separated due to the circumstances of the mass influx, they shall be considered as part of the family of the resident:

(a) the spouse of the resident, the minor unmarried children of the resident or his/her spouse, without distinction as to whether they were born in or out of wedlock or by adoption.

(b) Other first and second-degree relatives by blood or marriage who were living together as part of the family at the time of the events leading to the mass influx and who were fully or mainly supported by the resident at that time.

In cases where the separated family members of the first subparagraph of the previous paragraph enjoy temporary protection in another EU Member State, the Asylum Service of the Ministry of Immigration and Asylum shall take the necessary steps towards the competent authority of the state concerned to achieve family unity of these persons with the persons residing in Greece, after taking into account the wishes of the aforementioned family members.

The Service referred to in the previous paragraph shall take the same actions as above for the achievement of family unity of persons residing in Greece with the separated members of the family referred to in paragraph a' of Para. 1, who are not residing in another EU Member State and who are in need of protection.

The family unity may also be achieved for the family members of other first and second degree relatives by blood or marriage who were living together as part of the family at the time of the events leading to the mass influx and who were fully or mainly supported by the resident at that time, taking into account the adverse consequences that may arise for the family members if reunification does not take place.

The choice of the Member State of the European Union in which family reunification is to take place shall also take into account the provisions of Articles 141 and 142 (Law 4939/2022)

Family members who enter the country in the context of maintaining family unity shall be granted a residence permit in accordance with the provisions of para. 1 of Article 124. The transfer of family members of the resident to the territory of another EU Member State for the purpose of maintaining family unity entails the withdrawal of residence permits issued by the Greek authorities, as well as the termination of the obligations of our country with regard to the temporary protection of these persons.

For the implementation of the provisions on family unity, Greece cooperates with the competent international organisations, where necessary.

C. Movement and mobility

Beneficiaries of temporary protection are free to move within the State in Greece and have freedom of movement towards other EU Member States once registered.

D. Housing

Indicators: Housing

- | | |
|---|------------------------|
| 1. For how long are temporary protection beneficiaries entitled to stay in reception centres? | There is no time limit |
| 2. Number of beneficiaries staying in reception centres as of 12/22 | No data provided |
| 3. Number of beneficiaries staying in private accommodation as of 12/22 | No data provided |

The main forms of accommodation provided to beneficiaries of temporary protection is in reception centres. As of July 2022 housing was also provided through the HELIOS project (implemented by IOM Greece in collaboration with the Ministry of Migration and Asylum), aimed to support the successful integration of beneficiaries of international protection and temporary protection in Greece, by offering accommodation support, Greek language courses and employability support.

According to Article 129 of Law 4939/22 on shelter centres, social assistance, medical care:

1. Persons enjoying temporary protection reside in special accommodation centres operated under the care and responsibility of the Ministry of Immigration and Asylum.
2. The persons accommodated under the preceding paragraph shall be provided with the necessary medical care, including the necessary treatment of illnesses, first aid and at least one medical examination.
3. In case the aforementioned guests in the accommodation centres do not have sufficient resources for their maintenance, the Ministry of Immigration and Asylum shall provide them with food, clothing and any other possible social assistance.
4. Cases of persons with special needs, such as infants, elderly persons, unaccompanied minors, sick persons, injured persons, as well as persons who have been subjected to torture, rape or

other serious forms of mental, physical or sexual violence, shall be treated as a matter of priority.

5. Where persons enjoying temporary protection are engaged in gainful or independent activity, their capacity to contribute to their needs shall be taken into account when determining the level of assistance provided.

Beneficiaries of temporary protection are entitled to stay in reception centres for as long as they benefit from temporary protection.

There is no data on the number of places in reception dedicated to temporary protection beneficiaries.

The state offers accommodation in special reception facilities (camps) or through the HELIOS integration project. Beneficiaries can apply to access the HELIOS integration project. In practice many are not willing to stay in camps.

Beneficiaries of temporary protection living in private accommodation stay with relatives, friends, compatriots in apartments etc. There are no specific safeguards in place for those living in private accommodation.

E. Employment and education

1. Access to the labour market

According to Article 128 of Law 4939/22 the following applies on employment and vocational training:

‘1. A residence permit issued to a person enjoying temporary protection shall also have the status of a work permit valid for the county in which his/her residence has been established throughout the period of temporary protection. This work permit shall confer the right to engage in an economic activity as an employed or self-employed person, in accordance with the provisions in force, as well as the right to participate in adult education, vocational training or work experience programmes. The above rights shall be exercised provided that the posts are not filled by EU citizens or citizens of States bound by the Agreement on the European Economic Area, as well as by legally resident citizens of third countries who are in receipt of unemployment benefits.

2. The legislation in force concerning remuneration, access to social security schemes, and the conditions or special conditions relating to employment or self-employment shall also apply to persons enjoying temporary protection.’

There are, however, no specific measures in place to facilitate access to the labour market for temporary protection beneficiaries and to date there is no data on the numbers of beneficiaries who had accessed the labour market by the end of 2022.

2. Access to education

Going to school is mandatory for children aged six to fifteen years old. According to Article 130 of Law 4939/22 on education: ‘Beneficiaries of temporary protection who are under 18 years of age shall be granted the right of access to public schools in which reception classes or tutorial classes are in operation or are planned to be in operation.’

Temporary protection beneficiaries are entitled to education under the same conditions as nationals.

There is no data on the number of child beneficiaries of temporary protection who had accessed the

education system by the end of 2022.

The language barrier is an important challenge. Accommodation in camps also poses an issue as camps are remote without appropriate options for commuting and so access to school is problematic. The HELIOS project requires beneficiaries to rent apartments on their own. Sometimes schools are not close and this is also an issue.

It has been pointed out that in some cases small school units are unable to accommodate all children because of lack of capacity. The phenomenon of schools being reluctant to accommodate refugee children does not apply with children from Ukraine.

There are only limited places in specific areas for children with special needs.

According to Article 128 of the law 4939/22 on employment and vocational training:

1. 'A residence permit issued to a person enjoying temporary protection shall also have the status of a work permit valid for the county in which his/her residence has been established throughout the period of temporary protection. This work permit shall confer the right to engage in an economic activity as an employed or self-employed person, in accordance with the provisions in force, as well as the right to participate in adult education, vocational training or work experience programmes. The above rights shall be exercised provided that the posts are not filled by EU citizens or citizens of States bound by the Agreement on the European Economic Area, as well as by legally resident citizens of third countries who are in receipt of unemployment benefits.
2. The legislation in force concerning remuneration, access to social security schemes, and the conditions or special conditions relating to employment or self-employment shall also apply to persons enjoying temporary protection.'

It is not possible to access the higher educational system except after passing the national exam, which takes place once a year.

Language barriers and the distance of the accommodation facilities may also be a challenge to accessing vocational training but there is no data in order to have a definitive conclusion.

F. Social welfare

Social welfare is provided for beneficiaries of temporary protection (article 129 of Law 4939/2022). For example, in case beneficiaries in the accommodation centres do not have sufficient resources for their maintenance, the Ministry of Immigration and Asylum shall provide them with food, clothing and any other possible social assistance.

The conditions for social welfare are the same but they are provided at a lower level.

The Ministry of Migration and Asylum coordinates social assistance and it is not tied to a requirement to reside in any specific place or region. However, if beneficiaries do not stay in the designated special facilities, they do not benefit from the ministry's practical assistance.

There is no data on the number of beneficiaries of temporary protection who had accessed different forms of social welfare by 31 December 2022.

G. Health care

According to Article 129 (paragraph 2) of Law 4939/22: 'Temporary protection beneficiaries shall be provided with necessary medical care, including any necessary treatment of illnesses, first aid and at least one medical examination.'

Thus, they are not entitled to the same health care as nationals, or as legally residing third-country nationals.

Language is a practical obstacle, as are staff availability and the limited capacity of the health system.

Croatia



Temporary Protection Procedure

A. General

Following the Council's 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, on 7 March 2022, the Croatian Government adopted the Decision on the Introduction of Temporary Protection in the Republic of Croatia for Displaced Persons from Ukraine (hereinafter: Government's Decision).⁷⁶⁸

Pursuant to the Decision, Croatia shall grant temporary protection to the citizens of Ukraine and members of their families:

- a) residing in Ukraine on 24 February 2022 and who left Ukraine since 24 February 2022;
- b) stateless persons and third country nationals who were under international or equivalent national protection in Ukraine on 24 February 2022 and members of their families who were granted residence in Ukraine on 24 February 2022 and who left Ukraine since 24 February 2022;
- c) third country nationals who had a valid permanent stay in Ukraine on 24 February 2022 in accordance with Ukrainian regulations and who cannot return to their country or region of origin in safe and permanent conditions and who left Ukraine since 24 February 2022.

Regarding those who had fled Ukraine before 24 February 2022, temporary protection shall also be granted to the displaced citizens of Ukraine and members of their families who left Ukraine immediately before 24 February 2022 due to the security situation and cannot return to the country because of the armed conflict. According to the official statement of the Ministry of Interior,⁷⁶⁹ 'immediately before' is to be considered as starting from 1 January 2022. There is no data available on cases of people directly or indirectly displaced as a result of the conflict not falling under temporary protection. According to the official statistics of the Ministry of Interior on the number of applicants for international protection in 2022 by nationality, nationals of the Russian Federation resulted in the second most numerous group of applicants for international protection in the Republic of Croatia, with 2,064 applications submitted. It might be assumed that this number is high due to the outbreak of conflict on the territory of Ukraine, as the number of applications submitted by Russian citizens in 2021 was only 8. However, there is no data available on the reasons for seeking international protection for Russian nationals.

The only official data available on persons entitled to temporary protection in the country only enumerates the number of persons displaced from Ukraine who entered the territory of the Republic of Croatia from 25 February to 31 December 2022. The data displayed does not indicate the citizenship, nor the current status of persons displaced from Ukraine. Data is available on the *Croatia for Ukraine* web-page and shows that, in the previously mentioned time period, a total of 22,407 displaced persons from Ukraine entered the Republic of Croatia, of which 11,162 (49.8%) were women, 3,802 (16.9%) were men, and 7,443 (33.3%) were children.⁷⁷⁰

On the other hand, Eurostat data⁷⁷¹ shows the following numbers: 19,275 persons displaced from Ukraine have been registered for temporary protection in the Republic of Croatia until 31 December 2022, while the number at the end of January 2023 was 19,390.

⁷⁶⁸ Croatian Government, Decision on the Introduction of Temporary Protection in the Republic of Croatia for Displaced Persons from Ukraine, available in Croatian at: <https://bit.ly/37yIO2c>.

⁷⁶⁹ Information provided by Ministry of Interior on 10 November 2022.

⁷⁷⁰ Ministry of Interior: <https://bit.ly/3MOFgZm>.

⁷⁷¹ Eurostat, Temporary protection for persons fleeing Ukraine - monthly statistics, available at: <http://bit.ly/3z1ScEU>.

However, in first few months of 2023, for the purposes of writing the national report on the system of international protection in Croatia, CLC received statistical data from UNHCR Croatia, which had been prepared by the competent ministries and related to persons under temporary protection.

According to data sent by the Ministry of Interior,⁷⁷² 19,885 applications for temporary protection were submitted until 31 December 2022, while a total of 19,440 applications were approved.⁷⁷³ On the other hand, 28 applications were rejected and 25 were dismissed, while there were 401 suspensions⁷⁷⁴ and 371 applications in process on 31 December 2022. However, the sum of approved, dismissed, denied, suspended applications and those still in process on 31 December does not correlate to the total number of submitted applications in 2022 as mentioned by the Ministry of Interior in the report.⁷⁷⁵ Furthermore, there were no cases of exclusion from temporary protection, nor cancelation of temporary protection due to the voluntary return to Ukraine.

Further figures provided related to the gender of persons granted temporary protection; of the 19,249 persons who were granted temporary protection until 31 December 2022, 50.6% (9,745) were women, 15.4% (2,962) men and 34% (6,542) minors.⁷⁷⁶ In addition, Ministry of Interior stated that 161 minors were not accompanied by an adult, while 632 minors were not accompanied by their parents. On the other hand, the Ministry of Labour, Pension System, Family and Social Policy's statistical data shows that the total number of unaccompanied or separated minors who came to Croatia without their parents or legal guardian in 2022 was 413.⁷⁷⁷

According to statistical data from the Ministry of Interior, the overview of the number of persons under temporary protection in Croatia by category was as follows. 18,172 citizens of Ukraine, 741 citizens of Ukraine who left Ukraine before 24 February 2022, 211 family members of Ukrainian citizens, 42 family members of Ukrainian citizens who left Ukraine before 24 February 2022, 63 third-country nationals with permanent residence in Ukraine, 3 third-country nationals under international protection in Ukraine, 2 family members of a third-country national under international protection in Ukraine, 10 minor children, 4 others, 1 refugee (humanitarian reasons).

B. Qualification for temporary protection

Pursuant to the Government's Decision, Croatia shall grant temporary protection to the citizens of Ukraine and members of their families:

- a) residing in Ukraine on 24 February 2022 and who left Ukraine since 24 February 2022;
- b) stateless persons and third country nationals who were under international or equivalent national protection in Ukraine on 24 February 2022 and members of their families who were

⁷⁷² Croatian Law Centre, *The Croatian Asylum System in 2022- National Report*. The report was prepared as part of the project "Legal Assistance and Capacity Building for Access to Territory and Asylum in Croatia", with financial support of the UNHCR Croatia: available in English at: <https://bit.ly/434T7RL>

⁷⁷³ While in another part of the Ministry of Interior's report another number of approved applications in 2022 was mentioned – 19,249.

⁷⁷⁴ According to the Ministry of Interior 's data this includes persons who submitted an application, but subsequently withdrew it, whether they themselves requested regulation of residence based on the Aliens Act, or they went to another member state and they regulated residence there; also persons who, after submitting an application did not report to the competent police station for delivery of the ID; or were not found at the address of residence that they indicated.

⁷⁷⁵ The mentioned sum is 20,265, while Ministry of Interior stated that the total number of submitted applications is 19,885.

⁷⁷⁶ Here the Ministry of Interior report states that 19,249 persons were granted with temporary protection, i.e. the number of approved applications is lower than the number mentioned earlier in the same report – 19,440.

⁷⁷⁷ Letter from the Ministry of Labour, Pension System, Family and Social Policy dated 6 March 2023, received by the UNHCR on 29 March 2023, internal documentation of the Croatian Law Centre.

granted residence in Ukraine on 24 February 2022 and who left Ukraine since 24 February 2022;

- c) third country nationals who had a valid permanent stay in Ukraine on 24 February 2022 in accordance with Ukrainian regulations and who cannot return to their country or region of origin in safe and permanent conditions and who left Ukraine since 24 February 2022.

Furthermore, temporary protection shall also be granted to the displaced citizens of Ukraine and members of their families who left Ukraine immediately before 24 February 2022 due to the security situation and cannot return to Ukraine due to the armed conflict.

'Immediately before' is to be considered as starting from 1 January 2022, according to the official statement of the Ministry of Interior.⁷⁷⁸ Persons who left Ukraine before that date are referred to regulate their status in accordance with the possibilities provided in the Aliens Act⁷⁷⁹ or Act on International and Temporary Protection.⁷⁸⁰ Among these possibilities, as suggested also by the Ministry of Interior,⁷⁸¹ one can benefit from a short-term residence permit regulated in Article 55 of the Aliens Act (up to 90 days within the period of 180 days), during which a person can find work and then apply for a stay and work permit (temporary residence for the purposes of work) regulated in Article 88 of the Aliens Act once they find an employment. If a person cannot find a job or does not meet the conditions for a temporary residence permit for any of the purposes prescribed by the Aliens Act (e.g. digital nomad, studying, other purposes, etc.), they can apply for a temporary residence for humanitarian reasons.

Furthermore, persons displaced from Ukraine can regulate their stay based on the Act on International and Temporary Protection, by expressing their intention to submit an application for international protection. As can be inferred from the above, for some categories of persons displaced from Ukraine the temporal scope of temporary protection was broadened, as was the case for Ukrainian citizens and their family members. Further categories of persons entitled to temporary protection are stateless persons and third country nationals who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022 and members of their family, a category which falls under the scope prescribed by the TPD.

The Croatian government decided to broaden the scope of the temporary protection by accepting the option provided for in Article 2 Paragraph 2 of the TPD, *i.e.* by including third country nationals who had valid legal permanent residence in Ukraine on 24 February 2022 and cannot return to their country or region of origin in safe and permanent conditions to the circle of persons entitled to temporary protection in Croatia. However, family members of these persons are not falling under the scope of temporary protection.

The Government's Decision accepted the definition of a family member from the Council's decision. However, the only category the government omitted from the definition are minor children of a spouse of a person who is entitled to temporary protection according to aforementioned conditions. According to the Government's Decision, the following persons shall be considered to be part of a family of Ukrainian citizen, stateless person or third country national (with international or equivalent national protection status in Ukraine) who shall be granted with temporary protection according to the Government's Decision:

- ❖ the spouse or the common-law partner;
- ❖ their minor children, regardless of whether they were born in a married or common law partnership or adopted;

⁷⁷⁸ Information provided by the Ministry of Interior on 10 November 2022.

⁷⁷⁹ Government of the Republic of Croatia: Aliens Act (Official Gazette no. 133/20., 114/22., 151/22).

⁷⁸⁰ Government of the Republic of Croatia: Act on International and Temporary Protection (Official Gazette no. 70/15, 127/17).

⁷⁸¹ Official statement received from the Ministry of Interior on 16 March 2023.

- ❖ other close relatives who lived in a joint household at the time when the circumstances related to the displacement of persons from Ukraine arose, and who at that time were completely or mostly dependent on these persons.

Persons considered to be family members will be granted temporary protection and they will be provided with access to all rights arising from temporary protection status in accordance with the provisions of the Act on International and Temporary Protection.

The only condition set out for mentioned family members to be entitled to temporary protection is that they resided in Ukraine on 24 February or 'immediately before' and left Ukraine since 1 January 2022 due to the aggression. No other conditions, such as Ukrainian nationality or permanent residence, are required.

Stateless persons and third country nationals who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022 and members of their family who left Ukraine since 24 February 2022 are under the scope of the temporary protection, alongside family members of Ukrainian citizens, while family members of persons granted with permanent residence in Ukraine are not falling under the scope of the temporary protection in Croatia.

If a person who is theoretically entitled to temporary protection, left Ukraine since 1 January or 24 February 2022 because of the war of aggression, but had already obtained regulated status on another basis in Croatia, they will not be eligible for temporary protection. For example, if Ukrainian citizen who obtained a work and residency permit in Croatia in 2021 went for holidays in Ukraine in the beginning of February 2022 and needed to leave the country due to the outbreak of the aggression, they would not be allowed to submit application for temporary protection.⁷⁸²

C. Access to temporary protection and registration

1. Admission to territory

Persons who declare to the border police at the border crossing of the Republic of Croatia that they are displaced persons from Ukraine may enter Croatia regardless of whether they have a travel document for crossing the state border or not.⁷⁸³

No reports were recorded of people fleeing from Ukraine being refused entry at the Croatian border by the time of writing this report, including third country nationals.

Similarly, no evidence of refusal of entry or other difficulties for people who have returned to Ukraine and are seeking to re-enter the country has emerged. However, during the activity of legal counselling in the collective accommodation centres throughout the country, Croatian Law Centre lawyers collected testimonies of persons under temporary protection who experienced warnings of border police or police administration not to leave Croatia for more than a certain period of time, which varied from the border crossing to border crossing or police administration. In one occasion, persons who went back to Ukraine for a short term were advised not to leave Croatia for more than 30 days due to the risk of losing the status of a person under temporary protection, while in another occasion a person was advised not to leave the country for more than 25 days. In another case, a temporary protection beneficiary experienced inconvenience when re-entering Croatia, in the form of an exhaustive questioning by the border police about the reasons for absence from the country and how long did the absence last. The

⁷⁸² The case was received within the activity of legal counselling in Croatian Law Centre, while the same was confirmed by the official statement of the Ministry of Interior received on 16 March 2023.

⁷⁸³ The Government of the Republic of Croatia, web page *Croatia for Ukraine*: <https://bit.ly/43tnJ09>.

said person was away for a week to visit relatives in Poland and eventually was allowed to re-enter the country. Uneven practices and interpretations of the provisions of the law and other regulations by the Ministry of Interior and police officers have been observed as a problem in the exercise of the right to temporary protection.

Croatia was guided by the guidelines of the European Commission Communication "Providing operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders" regarding the entry of persons displaced from Ukraine, as well as regarding the entry of their personal belongings, valuables and pets.

Displaced persons from Ukraine are allowed to bring in personal belongings and are exempt from customs duties (and Value Added Tax) and with simplified customs formalities. In the case of the import of cash or gold, customs officials will act respecting the special circumstances, and when importing cash or gold with a value of EUR 10,000 or more, persons are obliged to report the above by submitting an partial declaration of resources or by means of a personal statement (with information about the holder of the cash, contact and the amount of cash). However, the possibility of applying the standard procedure and filling in all the necessary forms is provided if the need is determined based on the risk analysis carried out by the competent authorities.⁷⁸⁴

The Ministry of Agriculture made a decision⁷⁸⁵ that enabled the non-commercial movement of pets accompanied by their owners to the territory of the Republic of Croatia. Dog owners are instructed to fill out the pet import application form and submit the information to the competent authority, followed by a visit of a veterinary inspector who will determine the necessary measures that should be carried out in relation to the identification of the dog with a microchip, vaccination against rabies and mandatory records.⁷⁸⁶

2. Freedom of movement

There have been no reports of restriction of movement within the country for persons displaced from Ukraine, no matter whether they held the biometric travel document or any other travel document. However, there is a legal obligation for persons who plan to stay within the territory of Croatia – instead of just transiting through the country – to regulate their stay by submitting an application for short term residence. The same applies to those who do not want to apply for temporary protection immediately as they enter Croatia.

3. Registration under temporary protection

The Ministry of Interior is the authority responsible for registering the temporary protection application. Persons displaced from Ukraine may submit their application for temporary protection at the competent police station or police administration according to their place of residence or submit an online application for temporary protection through the *Croatia4Ukraine* e-platform.⁷⁸⁷ People accommodated in collective accommodation centres do not need to go to the police station or in front of the police administration; instead they can submit their temporary protection application in these facilities to Ministry of Interior's officers, or officers of police administration/stations⁷⁸⁸ who are visiting collective accommodation centres in case of an increased number of persons arriving to the centres (which was especially the case in spring 2022).

⁷⁸⁴ The Government of the Republic of Croatia, web page *Croatia for Ukraine*: <https://bit.ly/43tnJ09>.

⁷⁸⁵ Ministry of Agriculture, Order on measures for acceptance of non-commercial relocation of pets accompanied by their owners displaced from Ukraine, available in Croatian at the following link: <https://bit.ly/43wSKjK>.

⁷⁸⁶ The Government of the Republic of Croatia, web page *Croatia for Ukraine*: <https://bit.ly/43tnJ09>.

⁷⁸⁷ Available in English, Croatian and Ukrainian at the following link: <https://bit.ly/3Z83Eti>.

⁷⁸⁸ The Government of the Republic of Croatia, web page *Croatia for Ukraine*: <https://bit.ly/43tnJ09>.

If a person expresses their intention to apply for temporary protection in Croatia at the border and they do not have organised accommodation in Croatia, they are instructed to go to the reception centres for displaced persons located in two locations: Sports hall South 2 in Osijek and City Sports Hall in Gospić. At the beginning, three reception centres were opened for displaced persons but the centre in Varaždin shut down in the meantime. The stay in reception centres is short-term, usually up to 48 hours. After that time, people are offered permanent accommodation in collective centres. In the reception centres, there are employees of the Civil Protection, the Ministry of Interior and the Croatian Red Cross. The Croatian Red Cross uses a form to register the persons who have arrived in order to secure psychosocial support, humanitarian aid and due to the needs of the Search Service. If a displaced person has secured accommodation in Croatia with friends, relatives or similar, they are referred to go to the police station responsible for the place of their residence in order to apply for temporary protection.

According to an official statement from the Ministry of Interior,⁷⁸⁹ each case is approached individually and is checked to ensure the person meets the criteria determined by the Governments's Decision and the Implementing Decision of the Council (EU) 2022/382 of 4 March 2022. This includes checking the data contained in the application, statements of the applicant, attached documents, and the information collected from the Ministry of Interior's records and other available data.

Those who have submitted application through the e-platform are informed by e-mail of the date when they should come to the competent police administration or station according to their place of residence and which documents they need to bring in order to be able to proceed with the creation of the identity card.

Furthermore, the Ministry stated in the aforementioned official statement that the identity card of an alien under temporary protection is issued no later than the day after the application is submitted, unless it is necessary to submit additional documentation or to carry out certain additional checks (e.g. through the records of the Ministry of Interior, the records of the Schengen Information System (SIS) for the purpose of banning entry, etc.).

Altogether 22,279 identity cards were issued by Ministry of Interior to 18,764 persons, while on 31 December 2022, 18,548 identity cards were valid.⁷⁹⁰

According to the Ministry of Interior, when a person who is not qualified for temporary protection insists on submitting an application for temporary protection, the reasons why they do not meet the conditions for approval of the application for temporary protection are explained to them, and they are referred to the possibility of regulating their status in accordance with the Aliens Act, on which no formal decision is made.⁷⁹¹ If the status cannot be regulated on the basis of the Aliens Act, a person may be referred to the possibility of expressing the intention to submit an application for international protection in accordance with the provisions of the Act on International and Temporary Protection. If, despite this, the person still insists on submitting the application, the application for temporary protection is accepted. Since there are no conditions for starting the procedure, the request is rejected in accordance with Article 41 (2) of the Act on General Administrative Procedure.⁷⁹² If an application for temporary protection is submitted by a person who is not provided for as a category of displaced persons for temporary protection by the decision of the Government of the Republic of Croatia from paragraph 4 of this article (78), the Ministry of Interior will issue a decision rejecting the application through the police

⁷⁸⁹ Information provided by the Ministry of Interior on 13 December 2022.

⁷⁹⁰ Croatian Law Centre, *The Croatian Asylum System in 2022- National Report*. The report was prepared as part of the project "Legal Assistance and Capacity Building for Access to Territory and Asylum in Croatia", with financial support of the UNHCR Croatia: available in English at: <https://bit.ly/434T7RL>

⁷⁹¹ *Ibid.*

⁷⁹² Act on General Administrative Procedure (OG 47/09, 110/21).

department or police station. No appeal is allowed against the rejection decision, but an administrative dispute can be initiated within eight days from the date of delivery of the decision.⁷⁹³

The identity card of an alien under temporary protection is a bilingual document (in Croatian and English), it is considered as a residence permit in the Republic of Croatia and confirms the status of an alien under temporary protection. The card is issued by the police department, that is, the police station responsible for the place of residence of the person under temporary protection, or the officials of the Ministry of Interior, that is, police departments or stations in collective accommodation facilities. In the event of a change of residential address, a person must register/deregister their residential address within 2 days of the change of residence and obtain a new identity card of an alien under temporary protection.



*Photo of the identity card of an alien under temporary protection.*⁷⁹⁴

Displaced persons from Ukraine who have temporary protection in the Republic of Croatia will automatically have their temporary protection extended until 4 March 2024. Displaced persons from Ukraine under temporary protection in the Republic of Croatia should personally come to the police department/police station according to their place of residence in order to certify the extension of the validity of the identity card of a foreigner under temporary protection, from 15 February 2023 to 30 April 2023. The extension will be recorded in the existing identity card of the alien under temporary protection, so it is not necessary to submit a request for the extension of temporary protection. Based on the recorded number of persons displaced from Ukraine with the status of aliens under temporary protection, each police department/station will organise the extension of ID cards in its territory. People who apply for a card extension after 30 April 2023 will not lose their temporary protection status and will continue to have the rights and obligations arising from the status.⁷⁹⁵

There are no specific time limits laid down in law for individuals to make their application, but every foreigner entering Croatia and planning to stay for more than just crossing the country should apply for a short term residence which allows them to stay within the EEA for 90 days in the period of 180 days. On the other hand, in one occasion a person who reached Croatian Law Centre within activity of free legal counselling stated that he applied for a short term residence first and then three weeks later wanted to apply for temporary protection, but was denied and advised to leave the EU and come back

⁷⁹³ Article 78, paragraph 5 of the LITP.

⁷⁹⁴ The Government of the Republic of Croatia, web page *Croatia for Ukraine*: <https://bit.ly/43tnJ09>.

⁷⁹⁵ Ibid.

straight to the police station and apply for temporary protection. Only when he did according to the instructions he was able to submit and obtain temporary protection.

To prove their identity, a person displaced from Ukraine who falls under the scope of temporary protection can attach a copy of any documents on which their personal data is visible, such as an identity card issued by Ukrainian authorities, passport, residence permit, birth certificate, residence card, etc., preferably, a document with a photograph. If a person does not have such documents, they are still allowed to submit an application. In the application form a person is required to enter personal data that will serve the Ministry of the Interior for further checks and identification, while with their signature, the person guarantees that the information filled in in the application is complete and true. More precisely, item 28 of the application form contains two final statements which have to be signed by the applicant in order for the application to proceed. They state as follows:

“Final statement:

- a. I would like to be granted temporary protection in the Republic of Croatia, and I hereby confirm that all the information provided in items 1-27 is complete and true. I am aware that my application may be refused if the information provided is misrepresented, incomplete or incorrect.
- b. By signing this statement, I consent to the use of my personal and other data provided in this form by the Ministry of the Interior as the personal data controller for the purpose of data processing in the procedure for granting temporary protection. I consent to having my data disclosed to other state administration authorities for the purpose of exercising the rights arising from temporary protection. I understand that I have the right to withdraw my consent and request the suspension of further processing of my personal data. I am also aware of my right to request the correction of my data and of the consequences of denying my consent.”

Furthermore, regarding the documentation to be submitted by a family member of a citizen of Ukraine, see [Qualification for Temporary protection](#).

Residence is proved by attaching a certificate of residence permit issued by Ukrainian authorities (polycarbonate card for temporary or permanent residence, sticker - visa). In the absence of the above-mentioned documents, all other documents from which it can be concluded that the person resided in Ukraine can be taken into account, including the declaration of the applicants.

For the purposes of proving family ties and common-law union - birth certificate or certificate of registered civil partnership or common-law union shall be submitted. In the absence of the aforementioned documents, all other documents from which it can be concluded that there is a family relationship, common-law union, formal/informal life partnership or that the respective persons lived at the same address, including the declaration of the parties, are taken into account. A common-law union should have the characteristics of a stable relationship, which Croatian national legislation treats in a manner comparable to married partners.⁷⁹⁶ In order to be able to determine the stated circumstances, it is necessary to submit appropriate documents issued by Ukrainian authorities, including certificates that can be issued by the diplomatic mission of Ukraine in the Republic of Croatia (in the absence of other evidence than the statements of the parties, some other evidence can be accepted that shows that they lived at the same address). For other close relatives – family ties and dependency are proven by residence documents, extracts from registers or any other document issued by Ukrainian authorities, proof of payment of care, etc.

⁷⁹⁶ Pursuant to Article 11 of the Family Law (OG 103/15, 98/19), the effects of common-law union are applied to the life union of an unmarried woman and an unmarried man that lasts at least three years, and shorter if a child is born together, or if it was continued by marriage.

Even though the Ministry of Interior stated⁷⁹⁷ that persons displaced from Ukraine are issued with a certificate of the submitted application after submitting an application for temporary protection, which states the date and time when they need to come to receive the identity card, information obtained from the beneficiaries suggests the opposite - that they are not issued with such a certificate upon submitting the application.

No practical obstacles to register their application or delays in registering or issuing documents have been recorded for persons who applied for the temporary protection in Croatia. However, certain obstacles were experienced by those who already had registered temporary protection status in another EU member state prior to the move and submission of an application for temporary protection in Croatia. Those persons were instructed by the police officials to bring the confirmation of deregistration of temporary protection from an EU country where they have enjoyed their rights as a person under temporary protection in order to be able to apply for temporary protection in Croatia.⁷⁹⁸ Such instructions of police officers are in contradiction with the official position of the Ministry of Interior, which reads as follows: "Article 79, paragraph 5 of the Act on International and Temporary Protection ("Official Gazette" No. 70/15 and 127/17) prescribes the methods of termination of the temporary protection: expiry of the longest term or Decision of the Council of the EU. Therefore, it is the practice in the Republic of Croatia that a displaced person is not required to deregister his residence in another Member State where they have already obtained temporary protection, before they are granted temporary protection in the Republic of Croatia. Namely, each Member State, including the Republic of Croatia, decides at its discretion how to resolve the application for temporary protection of a displaced person, considering that person already enjoys the status of an alien under temporary protection in another EU member state. Only after the issuance of the identity card of an alien under temporary protection, the person is advised to inform the competent authority of the Member State that granted them temporary protection that they have subsequently been granted temporary protection in the Republic of Croatia (for example, they can provide them with a copy of the Croatian identity card of an alien under temporary protection)."⁷⁹⁹ Some of the mentioned persons who turned to the Croatian Law Centre with a request for help in the mentioned situation managed to obtain temporary protection through persistent efforts to exercise their rights, while others were forced to return to the country where they were initially granted temporary protection due to a persistent refusal by Croatian police officers to accept their application. This is therefore one of the indicators of unequal practices of treatment and interpretation of the institute by police administrations/stations in Croatia.

4. Legal assistance

People under temporary protection are granted access to free legal aid based on the Act on Free Legal Aid⁸⁰⁰ if they meet the conditions set by law. The conditions for exercising the right to free legal aid depend on the type of aid requested, *i.e.* primary or secondary legal aid. Primary legal assistance can be provided in any legal matter at the request of a person under temporary protection:

- a) if they do not have sufficient knowledge and ability to exercise their right
- b) if legal aid is not provided to them on the basis of special regulations
- c) if the submitted request is not obviously unfounded and
- d) if their financial circumstances are such that the payment of professional legal assistance could jeopardise their maintenance and the maintenance of household members.⁸⁰¹

The procedure for obtaining primary legal aid is initiated by directly addressing the provider of primary legal aid.⁸⁰²

⁷⁹⁷ Information provided by the Ministry of Interior on 20 April 2023.

⁷⁹⁸ The cases were recorded within the activity of legal counselling in the Croatian Law Centre.

⁷⁹⁹ Information provided by the Ministry of Interior on 18 April 2023.

⁸⁰⁰ Act on Free Legal Aid (OG 143/13., 98/19.).

⁸⁰¹ Ibid. Article 10.

⁸⁰² Ibid. Article 11.

Secondary legal aid can be granted:

- (a) if it is a more complex procedure
- (b) if the applicant does not have the ability to represent himself
- (c) if the material circumstances of the applicant are such that the payment of the necessary professional legal assistance could jeopardise the maintenance of the applicant and household members,
- (d) if it is not a pending litigation
- (e) if in the last six months from the date of submission of the application, the applicant's application was not rejected due to the intentional provision of incorrect data and
- (f) if the applicant is not provided with legal aid on the basis of special regulations.⁸⁰³ The procedure for approving secondary legal aid is initiated by submitting a request to the competent administrative body.⁸⁰⁴

Although the Mol has taken numerous measures to inform displaced persons about their rights and obligations, primarily by launching the website *Croatia for Ukraine*⁸⁰⁵, which contains very detailed instructions and information about the rights and obligations of displaced persons, how to exercise them, which competent authorities to contact in given situation and where to find help in case of need, many temporary protection beneficiaries are not sufficiently familiar with their right to free legal aid and the ways to obtain it. An additional problem in exercising the right to free legal aid is the difficulty to secure an interpreter who would participate in meetings with an authorised legal aid provider.

Main providers of legal assistance for temporary protection beneficiaries in Croatia are Croatian Bar Association and a few non-governmental organisations, Croatian Law Centre, Jesuit Refugee Service, Centre for Peace Studies and Centre for Missing and Abused Children. Legal assistance is provided by the mentioned organisations mostly via email or telephone, thus covering the entire territory of Croatia. The provision of legal assistance in the organisation's office is available to those beneficiaries who are able to travel to meet them there, while the Croatian Law Center conducts visits to collective accommodation facilities throughout Croatia, organises group info sessions on rights and obligations for people housed in private accommodation and online info sessions. The Croatian Law Centre established a special telephone line for persons displaced from Ukraine so the legal assistance can be provided via social networks (WhatsApp, Viber, Telegram) as well.

5. Information provision and access to NGOs

According to the Act on International and Temporary Protection, the Ministry of Interior is obliged to inform the temporary protection beneficiaries, in writing and as soon as possible, about their rights and obligations in a language that they can reasonably be expected to understand and in which they can communicate.⁸⁰⁶

Although recent amendments⁸⁰⁷ to the Act on International and Temporary Protection stipulate that in the event when it is not possible to provide the information to the applicants for international protection in writing due to legitimate reasons or in the case applicant is illiterate, information can be provided orally in a language that the applicant is assumed to understand and in which they can communicate, the same is not prescribed for persons under temporary protection.

In practice, persons displaced from Ukraine who found themselves at the Croatian border are handed a leaflet containing some general information on Croatia and reception of displaced persons. The leaflet

⁸⁰³ Ibid. Article 13 paragraph 1.

⁸⁰⁴ Ibid. Article 16 paragraph 1.

⁸⁰⁵ See: <https://bit.ly/3MOFgZm>.

⁸⁰⁶ Article 91 of the LITP.

⁸⁰⁷ Act on International and Temporary Protection (OG 70/15, 127/17, 33/23), entered into force on 1 April 2023.

is written in Croatian and Ukrainian language and contains following information: general information about Croatia, that passports and visas are not required to enter Croatia, that if they do not have secured accommodation, they should go to one of the three reception centres where they will receive all the necessary information and be referred in more permanent accommodation, while in case they have secured accommodation to contact the Croatian Red Cross to get all the necessary information and to contact the Ministry of Interior to register their stay and submit an application. The leaflet also lists the contacts and addresses of all reception centres, Croatian Red Cross offices in Croatia, Embassy of Ukraine and consulates of Ukraine in Croatia, Ukrainian Community in Croatia and Ministry of Interior. Interpreters for Ukrainian language were present in reception centres (especially in the spring of 2022) or were available on demand so that the information is provided to displaced persons on time.

In addition, officials of the Civil Protection, Ministry of Interior, the Croatian Employment Service, the Croatian Social Work Service, the Croatian Red Cross and representatives of UNHCR Croatia, UNICEF Croatia and non-governmental organisations representatives visited persons displaced from Ukraine which were accommodated in collective accommodation centres and other housing facilities where the mentioned persons were placed (e.g. Community Service Centres) and provided them with information on their rights and obligations or to assist them in submitting the applications for exercising their rights. The above services were provided with the assistance of interpreters for Ukrainian language.

For the purpose of informing persons displaced from Ukraine and all other persons who wish to provide assistance to displaced persons, in March 2022, Ministry of Interior launched the website *Croatia for Ukraine* where information on arrival in the Republic of Croatia, reception, accommodation options, submission of applications for temporary protection, rights and obligations and how to exercise them, competent authorities and their contacts, practical advice in specific life situations and to whom contact in case of specific need can be found. Information on the current number of people displaced from Ukraine who are in Croatia, how many are accommodated in individual and how many in collective accommodation, the proportion of men, women and children, as well as statistical indicators for 2022 are available at the mentioned website as well. In addition to the above, all important regulations and decisions regulating the system of reception and care for persons under temporary protection, a form of the application for temporary protection, a table of mobilized accommodation capacities and instructions for people who want to help the displaced persons are also included. The website is available in Croatian and Ukrainian language.

Many non-governmental organisations conducted activities focused on providing information to the persons displaced from Ukraine, as well as state institutions.

Croatian Law Centre provided information on the rights and obligations in collective accommodation facilities, by organising info sessions for persons accommodated in private housing, via email or phone and in office. Three videos⁸⁰⁸ on the specific rights and obligations of temporary protection beneficiaries were made and shared on social media. Dkolektiv organised Ukrainian Social Club where thematic seminars on different rights were held.⁸⁰⁹

The Centre for Missing and Exploited Children⁸¹⁰ established the Info-corner which aimed to inform displaced persons under temporary protection about their status rights and where they can take some educational materials, they organised mobile info teams which conducted visits in order to inform persons about their rights and obligations and they launched the website *Heart for Ukraine*⁸¹¹, which is available in Croatian and Ukrainian, and where all the information related to legal protection, social,

⁸⁰⁸ Videos were made by CLC for the World Refugee Day 2022, see: <https://bit.ly/3B1xDtI>; <https://bit.ly/3pgQfTA>; <https://bit.ly/3LI1SKP>.

⁸⁰⁹ Information provided by the Dkolektiv, 21 December 2022.

⁸¹⁰ Information provided by the Centre for Missing and Exploited Children, 24 February 2023.

⁸¹¹ Centre for Missing and Exploited Children, web page Heart for Ukraine, available at: <https://bit.ly/43LfmWV>.

healthcare and employment system can be found. Also, the page is regularly filled with relevant information related to free content available in the area of Osijek-Baranja County, free shows and workshops organized for displaced persons.

Medecins du Monde - Belgique⁸¹² started a MED Info Center where information is provided about the right to health care and about the functioning of the public healthcare system in Croatia to temporary protection beneficiaries.

SVOJA,⁸¹³ association founded by Ukrainian refugee women held some info sessions on employment possibilities in Croatia in cooperation with other NGOs, while Plavi ured provided some information on starting a business and taxes in Croatia.

Croatian Employment Service and Social Welfare Centre provided information (available in a form of leaflet as well)⁸¹⁴ on the right to work and rights from social welfare system, employment opportunities, as well as the services of the Croatian Employment Service and Social Welfare Centre, while mobile teams consisting of representatives of both Services visited reception and collective centers to provide the aforementioned information to the beneficiaries. Special emails were established and all the forms were translated into the Ukrainian language in order to facilitate the procedures of finding employment and applying for social welfare services.

D. Guarantees for vulnerable groups

The Act on International and Temporary Protection has introduced special procedural and reception guarantees for international protection applicants, but did not extend the application of the relevant provisions to persons under temporary protection. At the moment, there is no further detailed guidance prescribed by the law or by-laws on how to identify vulnerable groups.

According to the Ministry of Interior,⁸¹⁵ when accommodating persons gender, age, position of vulnerable groups as well as applicants with special reception needs and family integrity are taken into account.

In the case of special accommodation needs for people over 65 years of age or people with disabilities, there is the possibility of accommodation in a suitable social welfare institution. In this way, 42 people were placed in social welfare institutions - 20 disabled people who move with the help of wheelchairs were placed in the Stančić Rehabilitation Centre, 15 persons with disabilities were placed in the Community Service Centre in Ozalj, and 7 people in the Rehabilitation Centre Zagreb.⁸¹⁶ The application for accommodation is submitted to the social worker on duty at the collective accommodation centre or the Social Welfare Centre (now Social Work Service)⁸¹⁷. People who are placed in a social welfare institution have provided transportation and can exercise the right to a personal assistant in cooperation with associations. In practice, it has been shown that transportation services in some centres have been reduced and that there are difficulties in finding personal assistants due to the general lack of labor in Croatia.

In practice, early identification of the vulnerability is conducted in reception centres for those persons who have no place to stay and it is done by medical personnel conducting medical checks upon arrival to the reception centres, Croatian Red Cross employees, as well as Civil Protection officials and social

⁸¹² Information provided by the Medecins du Monde - Belgique, 14 February 2023.

⁸¹³ Information provided by the SVOJA, 14 February 2023.

⁸¹⁴ Croatian Employment Services and Social Welfare Centre, leaflet *Employment and social welfare for Ukrainian citizens*, available at: <https://bit.ly/3NvTdgX>.

⁸¹⁵ Ministry of Interior, webpage *Croatia for Ukraine*, available at: <https://bit.ly/3p0S5rx>.

⁸¹⁶ Available at: <https://bit.ly/44IfuX>.

⁸¹⁷ The Act on Amendments to the Law on Social Welfare (OG 46/22).

workers as part of mobile teams who visit beneficiaries upon them being accommodated in collective centres. Given the nature of some vulnerabilities, they are less likely to be identified within the aforementioned procedures. Only if additional psychosocial assessment is conducted, such vulnerability could be detected.

Vulnerable groups initially had the right to appropriate medical and other assistance at the expense of the Republic of Croatia, but with law amendments⁸¹⁸ they gained the right to health care to the extent of a person covered by compulsory insurance, which covers the right to orthopedic aids, medicines from the basic and supplementary list of medicines and specialist-advisory health care.

Activities of providing psychosocial support are being organised by non-governmental organisations Modus, Rehabilitation Centre for Stress and Trauma, Medecins du Monde – Belgique, Jesuit Refugee Service, association Something more (for unaccompanied children accommodated in Sv. Nedelja)⁸¹⁹ and by the City of Zagreb (mobile team and hotline).⁸²⁰

Medecins du Monde carried out psychosocial support and mental health support activities in the MED-info center, where they were able to detect persons who had experienced gender-based violence or other acts of violence, in which case they were referred to the appropriate services.

Individual and group mental health and psychosocial support was provided to the children and primary carers to help them deal with issues such as stress and anxiety related to the situation in Ukraine and family members who are still there.⁸²¹

In cooperation with UNICEF Croatia, the Modus Center implemented the project “Ensuring Mental Health and Psychosocial Support to children and caregivers from Ukraine in Croatia”, within the framework of which psychological counseling activities for children and parents, group psychosocial support programs for refugee children in primary and secondary schools were carried out, group programs of psychosocial support for refugee children in collective accommodations and group programs of psychosocial support for refugee parents in collective accommodations. Likewise, online trainings were conducted for teachers and professional associates in schools where group programs of psychosocial support for refugee children are implemented, the aim of which was to raise awareness in the context of the specifics of working with pupils who have been refugees, the integration of new pupils into the already existing school environment and children's collective and prepare existing classes for the arrival and acceptance of new pupils.⁸²²

Rehabilitation Centre for Stress and Trauma, organization specialized in psychological and psychosocial support for people experiencing traumatic stress as a consequence of war and forced migration, offered counseling through an activity of Short-term Solution Focused support groups and other forms of group psychological support but also creative and recreational activities, as well as individual counseling for persons displaced from Ukraine accommodated in Zagreb and Zagreb County area.⁸²³

Even though the Protocol on the treatment of unaccompanied children was adopted in 2018, the procedure which is being followed for unaccompanied children displaced from Ukraine differs from the procedure prescribed in the respective Protocol. Adults accompanying an unaccompanied child (in case they are not their parents or legal guardians) are required to sign a statement in which, under criminal

⁸¹⁸ The Act on Amendments to the Law on Compulsory Health Insurance and Health Care of Foreigners in the Republic of Croatia (OG 80/13, 15/18, 26/21, 46/22).

⁸¹⁹ On the suggestion of the Ombudsman for Children, Report on the work of the Ombudsman for Children for 2022, available at: <https://bit.ly/3p3LZXu>.

⁸²⁰ Available at: <https://bit.ly/3LgTa5W>.

⁸²¹ Information provided by Medecins du Monde - Belgique, 14 February 2023.

⁸²² Information provided by the Modus, 9 January 2023.

⁸²³ Information provided by the Rehabilitation Centre for Stress and Trauma, 18 January 2023, available at: <https://bit.ly/3LlatCZ>.

liability, they undertake the obligation to take care of the child. In the statement itself, it is stated whether the respective person is related to the child or not, *i.e.* what kind of connection exist between them. The statement is submitted to the Centre for Social Welfare or given to the Centre's official present in the reception or collective center, and the adult is subsequently checked by an employee of the Centre and in case positive decision is made, they are appointed as a special guardian of the respective child.

The Ombudsman for Children was not able to receive the exact number of unaccompanied children displaced from Ukraine, even upon repeated requests directed to the competent Ministry.⁸²⁴ However, unaccompanied children are located in the Hotel Zagreb in Split, in the High School Student Dormitory in Zadar and in Sv. Nedelja in the facilities organised by the association Little more.

The Croatian Association of the Deaf and Hard of Hearing together with the European Union of the Deaf and other European national associations of the deaf have made accessible videos on temporary protection for deaf and hard of hearing people, users of sign language.⁸²⁵ The link to the videos is available on the *Croatia for Ukraine* web-page.

⁸²⁴ Ombudsman for Children, the Report on the Work of Ombudsman for Children for 2022, available at: <https://bit.ly/3LwBVhg>.

⁸²⁵ See: <https://bit.ly/3Vmd2cy>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of temporary protection?

Pursuant to the Councils' Directive 2001/55/EC⁸²⁶ and the Act on International and Temporary Protection,⁸²⁷ persons under temporary protection have the right of residence for the entire duration of temporary protection, and for this purpose, a document or other equivalent evidence is issued.

An identity card of an alien under temporary protection is issued for a period of one year, and may be extended in accordance with the aforementioned provisions concerning the duration of the temporary protection.⁸²⁸

2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December year?

Not available

The body competent to decide on the issuance of an identity card of an alien under temporary protection is the Ministry of Interior. The application for temporary protection can be submitted at a police station personally or via online form, translated into English and Ukrainian.⁸²⁹ Once temporary protection has been granted, the corresponding identity card is issued.

The identity card is issued the day after the application is submitted, unless it is necessary to present additional documentation or to carry out certain additional checks (e.g. through the records of the Ministry of Interior, the records of the Schengen Information System (SIS) for the purpose of banning entry).⁸³⁰ Furthermore, the identity card can only be issued personally to the person who submitted the application.

Given what previously mentioned, the identity card was initially issued for a time period of one year (until 4 March 2023), and a person under temporary protection had residence permit for the duration of that period. After the Council decision on the extension of TPD, the Ministry of Interior prolonged the duration of the temporary protection until 4 March 2024.⁸³¹ According to the instructions of the Ministry, persons displaced from Ukraine who have been granted with temporary protection status in the Republic of Croatia should personally reach a police department or police station according to their place of residence in order to certify the extension of the validity of the identity card, from 15 February to 30 April 2023. The extension will be recorded in the existing identity card, and it is not necessary to submit a request for the extension of temporary protection.

Persons who do not extend their identity cards until 30 April, will not lose their status of temporary protection. Furthermore, some individuals are not required to render themselves to a police department/station in person; namely, that applies to children under 16 years of age (the parent/guardian provides the child's identity card for certification) and to persons with special needs with limited or no mobility (a family member or a competent person from the institution where these persons are accommodated, can extend their identity card by providing the statement of the relationship

⁸²⁶ Article 8 (1) Council Directive 2001/55/EC.

⁸²⁷ Article 84 Act on International and Temporary Protection.

⁸²⁸ Article 4 (1) Council Directive 2001/55/EC; Article 79 (1).

⁸²⁹ Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/4100oRw>.

⁸³⁰ Information provided by the Ministry of Interior on 13 December 2022.

⁸³¹ Information provided by the Ministry of Interior on 2 February 2023.

with the person and evidence of the inability of the person to come, e.g. documentation on placement in a special institution).⁸³²

Persons under temporary protection have the right of residence on the territory of Republic of Croatia, and the identity card they are entitled to is considered as a residence permit; the right to work without a stay and work permit or certificate of employment registration; the right to health care (they have the same rights as persons who are insured within compulsory health insurance); basic means for life and housing; primary and secondary education; family reunification; information on rights and obligations. All the aforementioned rights are exercised by presenting the identity card of an alien under temporary protection.⁸³³

In cases in which a TP holder wishes to transfer to another EU Member State (hereinafter: MS), the provision of the Communication of the European Commission on operational guidelines for the implementation of Councils' Implementing Decision 2022/382 on establishing the existence of a mass influx of displaced persons from Ukraine in the sense of Directive 2001/55/EC⁸³⁴ is applied. The provision establishes that, if a person granted temporary protection subsequently moves to another MS where it obtains a second residence permit under temporary protection, the first issued residence permit expires and must be withdrawn, together with the rights arising from it.⁸³⁵

Therefore, the practice in the Republic of Croatia, in accordance with the instructions of the Ministry of the Interior, is that displaced persons are not required to de-register their stay in another EU MS in which they have already been granted with temporary protection status, before it is granted to them in the Republic of Croatia. Namely, each MS, including the Republic of Croatia, decides at its discretion how to resolve the application for temporary protection of a displaced person, considering that person already has granted status in another EU MS. Only after the issuance of the identity card of an alien under temporary protection, persons are advised to inform the competent authority of the former MS that they have subsequently been granted temporary protection in the Republic of Croatia (e.g. they can provide them with a copy of the Croatian identity card of an alien under temporary protection).⁸³⁶

A displaced person from Ukraine can have and exercise rights that come with the temporary protection status only in one MS. If a person under temporary protection moves to another MS where they apply again for temporary protection, and receives the identity card of an alien under temporary protection, the first identity card expires and must be withdrawn, as well as the rights arising from it. Upon arrival in another MS, a TP holder should do inform the competent authorities that they have been granted with temporary protection status in another MS, and the relevant MS should, upon issuing the permit, inform the MS that the person has left (in this case the Republic of Croatia), in order to withdraw the first issued residence permit and the rights arising from it.⁸³⁷

2. Access to asylum

According to the provisions of the Act on International and Temporary Protection, a TP holder has the right to lodge an application for international protection. Furthermore, the examination of an application of international protection may be completed by the Ministry of Interior after the end of temporary protection.⁸³⁸ This does not exclude the possibility that an asylum application presented by a person entitled to temporary protection might be examined while the TPD regime still applies.

⁸³² Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/41WVuGe>.

⁸³³ Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/3HtlYa4>.

⁸³⁴ Article 5 Council Directive 2001/55/EC.

⁸³⁵ Article 15 (6) and Article 26 (4) Council Directive 2001/55/EC.

⁸³⁶ Information provided by the Ministry of Interior on 13 December 2022.

⁸³⁷ Information provided by the Ministry of Interior on 17 May 2022.

⁸³⁸ Article 92 Act on International and Temporary Protection.

However, a temporary protection beneficiary who submits an application for international protection during the duration of temporary protection cannot access the rights of an asylum seeker while temporary protection lasts.⁸³⁹

Examination of an application for international protection is a more complex procedure that includes more procedural steps, and it takes longer. Being granted temporary protection does not necessarily mean that international protection will also be granted, as it depends on the individual and personal situation of each individual applicant.⁸⁴⁰

B. Family reunification

According to the provisions of the Act on International and Temporary Protection, a request for family reunification can be lodged by a person under temporary protection or members of their family who wish to come to the Republic of Croatia. A TP holder who resides in the Republic of Croatia has to give a statement of consent for family reunification with a particular person.⁸⁴¹ Furthermore, in cases where family members enjoy temporary protection in different EUMS, when reuniting the family, the interest of the family shall be taken into consideration.⁸⁴²

Furthermore, in accordance with the declaration of the Ministry of the Interior, in the procedures of family reunification, family members who wish to be reunited with a temporary protection beneficiary must meet all the conditions prescribed by the decision of the Government of the Republic of Croatia⁸⁴³ on the introduction of temporary protection. This means that, if a family member did not reside in Ukraine on 24 January 2022 or "immediately before" as interpreted by the Ministry of Interior, the person would not have a legal right to family reunification in accordance with the Act on International and Temporary Protection⁸⁴⁴ or in accordance with the provisions of the Aliens Act.⁸⁴⁵

Such a provision in the Aliens Act is in accordance with the Council's Directive 2003/86/EC, which stipulates that the provisions do not apply when the sponsor is authorised to reside in a MS on the basis of temporary protection or requests for a residence permit on that basis and is awaiting a decision about the status.⁸⁴⁶

Pursuant to the Decision of the Government of the Republic of Croatia of 7 March 2022,⁸⁴⁷ a family member is considered to be: spouse/common-law partner, minor children, regardless of whether they were born in a marriage or common-law union or were adopted, and other former relatives who lived in the same household at the time of occurrence of circumstances related to the displacement of persons from Ukraine, which at that time were completely or mainly dependent on these persons.⁸⁴⁸

The provisions contained in the Act on International and Temporary Protection do not request family members who wish to be reunited with beneficiaries of temporary protection to fulfill specific requirements in terms of material conditions.

⁸³⁹ Article 83 (3) Act on International and Temporary Protection.

⁸⁴⁰ Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/41WVuGe>.

⁸⁴¹ Information provided by the Ministry of Interior on 20 April 2023.

⁸⁴² Article 89 (1) and (3) Act on International and Temporary Protection.

⁸⁴³ Croatian Government: Decision on the Introduction of Temporary Protection in the Republic of Croatia for Displaced Persons from Ukraine, available in Croatian at: <https://bit.ly/37yIO2c>.

⁸⁴⁴ Article 89 Act on International and Temporary Protection.

⁸⁴⁵ Article 63 (1) Aliens Act.

⁸⁴⁶ Article 3 (2) Council Directive 2003/86/EC.

⁸⁴⁷ Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/3AN0gKu>.

⁸⁴⁸ Information provided by the Ministry of Interior on 20 December 2022.

Family members of Ukrainian citizens who wish to be reunited must submit proof of identification and citizenship, proof of residence, proof of family ties and common-law union, and in the case of close relatives, documentation proving the existence of that relationship.⁸⁴⁹

After submitting the application and documents required for family reunification, and after the documents are verified, an identity card of an alien under temporary protection is issued for the person reunited with the TP holder.

Temporary protection shall be granted to a family member who is reunited with a TP holder.⁸⁵⁰ Furthermore, persons who have been granted temporary protection on this basis will have access to all the rights provided to persons under temporary protection status,⁸⁵¹ according to the Decision of the Government of the Republic of Croatia from 7 March 2022.⁸⁵²

C. Movement and mobility

TP holders have freedom to move on the Croatian territory, but in the event of a change of residence, just like applicants for international protection, they are obliged to inform the Ministry of Interior within two days.⁸⁵³

Ukrainian citizens granted temporary protection and holding biometric passports, have the right to move freely within the Schengen area for a period of 90 days within a period of 180 days, after they are allowed to enter the area.

If Ukrainian TP holders do not possess a biometric travel document, they can contact the diplomatic mission of the MS to which they wish to travel in order to inquire about the possibilities of traveling there, and the possible issuance of a travel document. Additionally, they can travel to third countries in accordance with the conditions for entering and staying in those countries.⁸⁵⁴

General information received from the Ministry of Interior is that Ukrainian citizens who have been granted temporary protection in the Republic of Croatia and have returned to Ukraine will be allowed to return upon presentation of the identity card and a valid Ukrainian travel document, as long as the absence was temporary and for justified reasons. Additionally, TP holders are obliged to notify the competent police station/administration that they are returning to Ukraine, how long they will be staying in Ukraine and state the reason for their departure (this can be done in person or by email).⁸⁵⁵

Persons granted temporary protection are free to return to Ukraine at any time if they feel they have the conditions for a safe return. Temporary protection in Croatia is not an obstacle for returning to Ukraine, however, if a person has been granted temporary protection, the competent police department/station must be notified.⁸⁵⁶

However, the experiences of persons under temporary protection who went to Ukraine for a short-time period are different. Experiences differ between the police stations, some persons were instructed that

⁸⁴⁹ Information provided by the Ministry of Interior on 20 December 2022.

⁸⁵⁰ Article 89 (2) Act on International and Temporary Protection.

⁸⁵¹ Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/3AN0gKu>.

⁸⁵² Croatian Government: Decision on the Introduction of Temporary Protection in the Republic of Croatia for Displaced Persons from Ukraine, available in Croatian at: <https://bit.ly/37yIO2c>.

⁸⁵³ Article 52 (3) Act on International and Temporary Protection.

⁸⁵⁴ Information provided by the Ministry of Interior on 11 May 2022.

⁸⁵⁵ Information provided by the Ministry of Interior on 18 January 2023.

⁸⁵⁶ Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/3HtlYa4>.

they do not have to report their departure, some that they can leave for 25 days, and some that they can leave for only 14 days.⁸⁵⁷

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?
The stay in this type of accommodation is short-term, usually up to 48 hours. In practice, persons remain for approximately twelve hours.⁸⁵⁸
2. Number of beneficiaries staying in reception centres as of 28/02/2023.
The total capacity of reception centres accommodations is 200 persons, and in collective accommodations there is capacity for 2,969 persons. Current occupancy is 52%. On 31 January 2022, a total of 1,552 people were accommodated in collective accommodations.⁸⁵⁹
3. Number of beneficiaries staying in private accommodation as of 17/02/2023
According to the statistical data on the web page of the Ministry of Interior, Croatia for Ukraine, on 17 April 2023, a total of 20,855 persons were accommodated at private accommodation.⁸⁶⁰ According to data from the Ministry of Interior,⁸⁶¹ 2,824 persons were accommodated in individual housing units in accordance with the public call for submission of offers by owners of housing units for the housing care of displaced persons from Ukraine in individual housing.⁸⁶²

Three types of accommodations are foreseen for TP beneficiaries: reception centres, collective accommodation and individual and/or private accommodation. Reception centres for TP holders are not the same as centres for applicants for international protection. These are special centres intended exclusively for people displaced from Ukraine. At the beginning of the displacement crisis, there were three centres in three different cities (Varaždin, Osijek and Gospić), and for these purposes cities sports halls were mobilized.

Due to the significant number of arrivals, persons were initially first placed in reception centres and after the initial registration they were further transferred to other forms of accommodation (collective or individual).

Given that the number of arrivals gradually decreased, one reception centre (the one in Gospić) was closed. The amendment did not affect the exercise of the rights of persons to short-term accommodation in the facilities provided for this purpose, nor the access to connected rights. Accommodation is still provided in the other two reception centers, which remain open at the time of writing.

The Directorate of Civil Protection, which is part of the Ministry of Interior, police officers and the Croatian Red Cross are responsible for the provision of reception to beneficiaries of temporary protection.⁸⁶³

⁸⁵⁷ The cases were recorded within the activity of legal counselling of the Croatianin Croatian Law Centre.

⁸⁵⁸ Information provided by Civil protection on 14 March 2023.

⁸⁵⁹ Information provided by Civil protection on 14 March 2023.

⁸⁶⁰ The Government of the Republic of Croatia web-page, Croatia for Ukraine: <https://bit.ly/3oYp3J9>.

⁸⁶¹ Croatian Law Centre, *The Croatian Asylum System in 2022- National Report*. The report was prepared as part of the project "Legal Assistance and Capacity Building for Access to Territory and Asylum in Croatia", with financial support of the UNHCR Croatia: available in English at: <https://bit.ly/434T7RL>

⁸⁶² Public call for the submission of offers by owners of housing units for housing care for displaced persons from Ukraine in individual accommodation from 22 April 202 (OG 37/22), available at: <https://bit.ly/3PrMfuc>.

⁸⁶³ Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/44ibpR9>.

Many touristic facilities (hostels, hotels, apartments, etc.) have, in agreement with the Directorate of Civil Protection, participated in public tenders with the purpose of accommodating persons under temporary protection, with monetary compensation for such service provided by national authorities. This type of accommodation falls under the category of collective accommodation as it is under the supervision of the Civil Protection, which coordinates it.

At a parliamentary hearing held on 23 March 2022, the Government of the Republic of Croatia adopted a decision on financing costs of housing for persons displaced from Ukraine in individual accommodation.⁸⁶⁴

Throughout field work and visits to reception centres intended for the short-term accommodation of persons displaced from Ukraine, no problems were recorded in relation to access to and exercise of rights. On the other hand, on several occasions, complaints were received from TP holders in relation to the consideration of closing two collective accommodations (one in Đurđevac and one in Zagreb) and their transfer to other accommodation. Only one collective centre was closed, the one in Zagreb, and this accommodation at the beginning of the crisis was mobilised as a reception centre, and was later turned into a collective accommodation. After the closure of the centre, TP holders were moved to other collective accommodations. Based on such decision, TP holders did not lose their right to being hosted in collective accommodation, but the locations changed. As some had already started their integration process in the local context in which they were initially placed (e.g. found employment, children started kindergarten or school etc.) such a decision was not welcomed and caused dissatisfaction among some TP holders.⁸⁶⁵

Regarding reception conditions, they may differ depending on the type of accommodation. In reception centres, persons displaced from Ukraine are provided with sleeping spaces, food, internet, psychosocial and health support. In collective housing, people are provided with accommodation, food and internet. Persons who are accommodated in individual/private accommodation can also exercise the rights under the scope of temporary protection, but they must refer to the competent institutions, as do persons who are in other types of accommodation (reception centres and collective accommodations), if the exercise of said rights is not immediately possible.

In accommodation facilities (reception centres and collective accommodations), the Red Cross recorded the arrivals of persons who fled Ukraine (those who wanted to be registered), distributed humanitarian aid and provided psychosocial support.⁸⁶⁶

In the plenary held on 23 March 2022, the Government adopted the decision to finance the costs of providing housing for persons displaced from Ukraine in individual accommodation, as discussed below. Furthermore, a certain number of Ukrainians found accommodation independently, which they financed at their own expense, or stayed with family members, acquaintances or relatives.

In accordance with the decision on financing the cost of providing housing for temporary protection beneficiaries, the state is covering the costs of using the residential units for the owners who have ceded them to persons from Ukraine.⁸⁶⁷ The costs are paid to the owner of the residential unit on the basis of the rental agreement concluded with the Ministry of the Interior, Directorate of Civil Protection. Moreover, the stated amount includes the costs of renting the residential unit and the cost of utilities. The highest amount of the cost of using the residential unit is HRK 3,600.00 per month (converted into euros: EUR 477.80). The procedure is carried in a way that the person who owns such unit that they

⁸⁶⁴ Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/3p1tcMp>.

⁸⁶⁵ Information gathered through the activity of legal counselling of the Croatian Law Centre.

⁸⁶⁶ Information provided by the Croatian Employment Service on 18 January 2023.

⁸⁶⁷ Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/3p1tcMp>.

wants to assign for use, fills out the application form,⁸⁶⁸ and after that, an inspection of the housing unit is arranged with the Civil protection headquarters in the municipality/city where the person is located. If it meets the prescribed conditions, the headquarters issues a certificate to that effect and after the confirmation has been obtained, the owner of the housing unit submits complete documentation to the Directorate of Civil Protection (application form, confirmation from headquarters and proof of ownership). The last step is signing the contract and housing the family.

In order to prevent the exploitation of people in private accommodation, validation is conducted in regard to unit conditions by the Directorate of Civil Protection for those landlords who used financial support from the Government.⁸⁶⁹ In relation to persons who found accommodation on their own, the aforementioned mentioned types of validation is not carried out and certain issues were registered, among which some were linked to inadequacy of living spaces, rent prices increasing without prior agreement which let to persons leaving their accommodation due to the inability to pay the new price.

E. Employment and education

1. Access to the labour market

The Croatian Employment Service carried out activities related to the employment of persons under temporary protection through two phases - field work and institutional support. The first phase referred to the period of immediate entry of persons displaced from Ukraine to the Republic of Croatia, before the activation of temporary protection. In that period, a mobile team of employment advisers and social workers visited reception centres where persons displaced from Ukraine were accommodated. The second phase began at the moment when the status of approval of temporary protection was resolved and when persons were enabled to register in the records of the Croatian Employment Service and institutional support in seeking employment began.⁸⁷⁰

The Croatian Employment Service created leaflets in Ukrainian listing all the services it provides. A website with information related to the possibility of work, employment and support and application forms were translated into Ukrainian was also created. Additionally, a protocol was drafted and counsellors were trained to provide assistance to persons displaced from Ukraine, measures of active employment policy were agreed and adjusted, employers were invited to cooperation, etc. Furthermore, the Service joined the pilot project "EU Talent Pool",⁸⁷¹ which was initiated by the European Commission, and whose purpose is to map and identify the skills and abilities of persons displaced from Ukraine with the purpose of easier finding employers in the EU.⁸⁷²

Employment counsellors provide assistance during the job search process and information about the rights of unemployed persons, such as: registration in the unemployment register of the Service, support in defining the work potential and job search plan, as well as occupations for which the counsellor will mediate on the labour market, workshops for active search jobs, information about jobs, funding of education to acquire the competencies needed on the labour market, inclusion in active employment policy measures, learning the Croatian language, etc.⁸⁷³

⁸⁶⁸ The Ministry of Interior, Directorate of Civil Protection web page, available at: <https://bit.ly/3Vv6TLe>.

⁸⁶⁹ Ministry of Interior, Official web page of Directorate of Civil Protection, web page: Ministry of Interior, available at: <https://bit.ly/3Hv1KNt>.

⁸⁷⁰ Information provided by the Croatian Employment Service on 12 January 2023.

⁸⁷¹ European Commission web page: <https://bit.ly/3HrbSqw>.

⁸⁷² Information provided by the Croatian Employment Service on 12 January 2023.

⁸⁷³ Croatian Employment Service web page: <https://bit.ly/40WzIB2>.

In accordance with the Labour Market Act, TP holders have the right to be registered in the unemployment register and are equal to Croatian citizens in terms of their rights and obligations.⁸⁷⁴

In the period from 1 January to 31 December 2022, 901 persons under the scope of temporary protection were employed through the Croatian Employment Service, of which 743 were women. In the same period, individual consultations were conducted with a total of 1,604 persons who have been granted with status of temporary protection. Likewise, consultations for the purpose of revising the professional plan were conducted with a total of 2,153 people in the same period. The measures of the active employment policy aimed to the overall more successful and faster integration into the labour market, in 2022, included 171 persons under temporary protection. As of 31 December, 633 persons were registered in the unemployment register by the Service, of which 515 were women. Most Ukrainian citizens are employed in catering and tourist activities, sales, production activities and administration.⁸⁷⁵

2. Access to education

According to the Act on International and Temporary Protection a TP holder has the right to access elementary and secondary education and to additional „requalification“ under the same conditions as Croatian citizens.⁸⁷⁶ The same right is also established under the provisions of the Act on Education in Primary and Secondary Schools.⁸⁷⁷

In the Croatian system, “requalification” includes two possibilities: pre-qualification - a pedagogical and professional activity by which people, already qualified in a profession, are trained for other professions through accelerated educational pathways (courses, lectures, exercises). The other type is “additional qualification”, as this includes the acquisition of new knowledge and skills within the same profession. According to data published on a news portal on 29 September 2022, provided by the Ministry of Science and Education, 1,570 children displaced from Ukraine were enrolled in the education system, and textbooks and educational materials were financed from the state budget. Of the total number of children, 1,325 were enrolled in the primary school system, while only 245 were enrolled in the secondary school system.⁸⁷⁸

The Ministry of Science and Education reported that in 2022 total of 154 children in 39 settlements were enrolled in pre-school institutions, 1,295 pupils in primary school system and 260 in secondary school system, while 49 persons under temporary protection were enrolled in Croatian universities.⁸⁷⁹ The Ministry further reported that persons under temporary protection are not entitled to scholarships.

Every child who has been granted with temporary protection status in the Republic of Croatia, and who is included in the education system in primary or secondary education, must be ensured: participation in preparatory classes of Croatian language without testing, simultaneous involvement in educational work of class (according to possibilities and abilities) and issuance of final grades and certificates.

Students attend preparatory classes for the Croatian language in the school where they are enrolled. The school that conducts preparatory classes is obliged to request the consent of the Ministry of Science and Education for holding these classes, whose duration is of 70 hours.⁸⁸⁰ If the student has not met the minimum requirements, the school committee can grant them 70 additional hours.

⁸⁷⁴ Article 14 (1) Labour Market Act.

⁸⁷⁵ Information provided by Croatian Employment Service on 12 January 2023.

⁸⁷⁶ Article 88 Act on International and Temporary Protection.

⁸⁷⁷ Article 45 and 46 of the Act on Education in Primary and Secondary Schools.

⁸⁷⁸ News portal Srednja.hr, article published on 29 September 2022, available at: <https://bit.ly/3p0XizB>.

⁸⁷⁹ Croatian Law Centre, *The Croatian Asylum System in 2022- National Report*. The report was prepared as part of the project “Legal Assistance and Capacity Building for Access to Territory and Asylum in Croatia”, with financial support of the UNHCR Croatia: available in English at: <https://bit.ly/434T7RL>

⁸⁸⁰ Article 43 Act on Education in Elementary and Secondary Schools.

If the student is not in possess documentation on previous education or based on the available documentation it is not possible to prove previous education, they are enrolled in the suitable class based on the parent's statement. Furthermore, if the student has reached the age of fifteen and has not completed primary school, the administrative department for education of the county/City of Zagreb can organize primary school education for them according to the adult education program.⁸⁸¹

On the basis of the Act on Education in Primary and Secondary Schools, before regular enrollment in the first year of primary school, the expert committee determines the child's psychophysical condition. The psychophysical condition is confirmed for the purpose of early enrollment, postponement or temporary exemption from enrollment in the first grade of primary school or in the case if the schooling has already begun.⁸⁸² The procedure is regulated on the basis of the Ordinance on the procedure for determining the psychophysical condition of a child, a student and the composition of professional commissions, and the Ordinance governs and establishes an appropriate program for the education of students with developmental disabilities in primary and secondary schools.⁸⁸³

As mentioned before, in accordance with the Act on International and Temporary Protection, TP holders among other rights have access to additional requalification's under the same conditions as Croatian citizens.

Students from Ukraine who are planning their arrival in the Republic of Croatia and are interested in continuing their studies must first contact their alma mater university in Ukraine to check whether they have previous cooperation with universities in Croatia. In the event that contact with the university in Ukraine is impossible, it is necessary to directly contact a university in Croatia that corresponds to their area of interest and the studies they have previously attended. There is also the Study in Croatia initiative, coordinated by the Ministry of Science and Education of the Republic of Croatia and the Agency for Mobility and European Union Programs.⁸⁸⁴ To continue studying in Croatia, there is also the possibility of using one of the student exchange programs (Erasmus+, CEEPUS, Bilateral Academic Mobility Program), which include studying without paying tuition fees with monthly financial support. The amount of financial support depends on the mobility program. Students who come through Erasmus+, CEEPUS and the Bilateral Academic Mobility Program are provided with subsidised student meals in student canteens and accommodation in a student dormitory in accordance with available places.⁸⁸⁵

F. Social welfare

According to the provision of the Social Welfare Act, benefits and services within the social welfare system can be granted to persons under temporary protection.⁸⁸⁶

Persons under temporary protection are considered equal to citizens of the Republic of Croatia in terms of exercising the aforementioned rights; in order to exercise them, all conditions prescribed by the Act must be met.

Social welfare activities are performed by social welfare institutions, local and regional self-government units, i.e. the City of Zagreb, associations, religious communities, other legal entities, craftsmen and other physical persons who perform social welfare activities, under the conditions and in the manner

⁸⁸¹ Ministry of Science and Education web page: <https://bit.ly/41W4fAy>.

⁸⁸² Article 20 of the Act on Education in Elementary and Secondary Schools.

⁸⁸³ Article 2 of the Ordinance on the procedure for determining the psychophysical condition of a child, a student and the composition of professional commissions

⁸⁸⁴ Study in Croatia web page, available at: <https://bit.ly/3npjpPF>.

⁸⁸⁵ The Ministry of Interior web page, Croatia for Ukraine, available at: <https://bit.ly/3LsJ6qm>.

⁸⁸⁶ Article 19 (2) of the Social Welfare Act.

prescribed by the Act. All the activities within the social welfare system are carried under the Ministry of Labour, Pension System, Family and Social Policy.⁸⁸⁷

The enjoyment of rights within the social welfare system is not determined by the beneficiary's place of residence. The Social Welfare Act prescribes provisions on territorial and *ratio materiae* jurisdiction that depend on the types of services that a person requests. Considering the territorial structure and centralization of the state itself, it is certainly easier to obtain some services in the area of the City of Zagreb than in smaller municipalities and settlements, but in general, all rights from the social welfare system are not territorially limited.

A certain number of complaints from TP holders⁸⁸⁸ were recorded in relation to the problem of exercising the right to one-time financial allowance prescribed by the Social Welfare Act.⁸⁸⁹ Among the main issues recorded, there were the long wait for the decision on the approval of allowance and the differences in practice between social welfare centers in different parts of the Republic of Croatia (e.g. some centers paid the whole allowance at one time, while some centers paid it in monthly annuities). Another problem was related to the fact that after persons submitted a request for an allowance a second time, given that in accordance with the aforementioned Act, the request can be submitted once per calendar year, that is, their requests were rejected. This is related to the fact that the allowance is granted to cover extraordinary expenses incurred due to current life circumstances, and given that these persons had accommodation and food provided, the Social Welfare centers did not consider such requests justified in some cases.⁸⁹⁰

Statistical information on the number of beneficiaries of temporary protection who accessed different forms of social welfare since the start of the temporary protection regime is not publicly available.

As regards the rights deriving from having access to the social welfare system, the Ministry of Labour, Pension System, Family and Social Policy reported⁸⁹¹ that the Regional Offices of the Croatian Social Work Service recognized 6,001 one-time financial allowances, 154 guaranteed minimum allowances, 14 personal disability allowances, 9 assistance and care allowances. Furthermore, they reported that 31 persons with disabilities and 7 accompanying persons are accommodated in social welfare institutions.

G. Health care

Pursuant to the Act on the Health Care of Foreigners, TP holders exercises the right to access health care services in health institutions and with private practice health workers in the public health service network to the same extent as an insured Croatian citizen within compulsory health insurance, and that is the case also for their family members.⁸⁹² When exercising the aforementioned rights, TP holders have to present their identity card.

TP holders have the right to be treated for acute conditions and chronic diseases by family medicine doctor, paediatrician, gynaecologist and emergency dental services. Furthermore, they have the right to vaccination, testing and treatment against the disease COVID-19, as well as the right to vaccination

⁸⁸⁷ Article 17 of the Social Welfare Act.

⁸⁸⁸ The cases were recorded within the activity of legal counselling in the Croatian Law Centre.

⁸⁸⁹ Article of the Social Welfare Act

⁸⁹⁰ Article 45 and 46 of the Social Welfare Act.

⁸⁹¹ Croatian Law Centre, *The Croatian Asylum System in 2022- National Report*. The report was prepared as part of the project "Legal Assistance and Capacity Building for Access to Territory and Asylum in Croatia", with financial support of the UNHCR Croatia: available in English at: <https://bit.ly/434T7RL>

⁸⁹² Article 21 (1) Act on the Health Care of Foreigners.

against other infectious diseases. In the event that the doctor assesses that there is a need, TP holders will be referred to a specialist examination or hospital treatment.⁸⁹³

The right to health care includes: primary health care, specialist-council health care, hospital health care, the right to medicines that are determined by the basic and supplementary list of medicines of the Croatian Health Insurance Fund (hereinafter: CHIF), dental aids that are determined by the basic and additional list of dental aids of the CHIF, orthopaedic and other aids that are determined by the basic and additional list of orthopaedic and other aids of the CHIF.⁸⁹⁴

As previously mentioned, TP holders have the same rights as the persons who are insured under the compulsory health insurance, even though they are not officially insured. Only if TP holders are employed in the Republic of Croatia by a Croatian employer or if they enter the system of compulsory health insurance on some other basis, apart from the right to health care, they are entitled to monetary benefits and the possibility of concluding a supplementary health insurance policy, and if persons do not have supplementary health insurance, they are personally responsible for participating in the costs of health care.

At the very start of the temporary protection regime, there were problems with the translation of medical documentation, and volunteers of the Community of Ukrainians in Croatia helped TP holders by translating the documentation.

Later, the insufficient number of family medicine doctors and the fact that doctors refuse to accept them as patients due to overcrowding emerged as a growing issue. The situation in the health care system and the shortage of doctors affects not only persons displaced from Ukraine, but also Croatian citizens. In general, the situation within the health care system is not sustainable, and on this occasion, on 18 March, a protest was held by five medical associations, pointing to the bad conditions and general state of health care services in the country.⁸⁹⁵

⁸⁹³ Ministry of Health web page: <https://bit.ly/40W20vB>.

⁸⁹⁴ Ministry of Health web page: <https://bit.ly/40W20vB>.

⁸⁹⁵ News portal Index, 18 March 2023, available at: <https://bit.ly/3LLfupB>.

Hungary



HUNGARIAN
HELSINKI
COMMITTEE

Temporary Protection Procedure

A. General

The Hungarian Asylum Act regulates two forms of temporary protection which vary as to their geographical scope of application.⁸⁹⁶

- ❖ The form under point a) Section 19(1) transposes the provisions of EU Directive 2001/55/EC⁸⁹⁷ (Temporary Protection Directive, TPD) into Hungarian law. For its application, the Council of the EU should declare that, on grounds of a massive influx of third-country nationals, temporary protection must be granted to a predefined scope of eligible persons in EU Member States.
- ❖ Temporary protection under point b) of Section 19(1) of the Asylum Act is independent from the TPD and exists only under Hungarian law and as such, it is to be applied only in Hungary. This 'national' type of temporary protection is also invoked in case of mass influx of displaced persons, if they fled their country due to an armed conflict, civil war or other internal armed conflicts, or due to general, systematic and frequent violation of human rights – such as torture, cruel, inhuman and degrading treatment. The cases when this latter form of protection has to be applied and the scope of eligible persons are laid down by a government decree. The provisions of the TPD may not be invoked in this case, only the provisions of the national Asylum Act may be relied upon.

On 24 February 2022 at 10:00 PM in the evening, Government Decree 56/2022 (II.24.) came into effect, invoking point b) of Section 19(1) of the Asylum Act. The Hungarian Government, being the first in Europe, decided to grant temporary protection to everyone regardless of their nationality, who had a legal basis to stay in Ukraine and fled the country to Hungary. The national protection provided thereby was applicable until 7 March 2022. Since 8 March 2022, Government Decree No. 86/2022. (III. 7.) (TP Decree) is applicable. The TP Decree, transposing the provisions of the Council Implementing Decision,⁸⁹⁸ activated temporary protection under point a) of Section 19(1) of the Asylum Act, under which the TPD becomes applicable in Hungary. The former government decree accorded a more extensive protection than the rules promulgated in the TP Decree, because it allowed non-Ukrainian third-country nationals fleeing from and legally residing in Ukraine to apply for temporary protection. However, that is no longer possible under the TP Decree currently in force (see Qualification for Temporary Protection). What is more, the latter TP Decree states that in those procedures which started under the former decree but had not yet concluded when the TP decree came into effect, the provisions of the current TP Decree are applicable. In practice this retroactive effect only concerned the determination of those applications, which had been lodged by third-country nationals.⁸⁹⁹

The rights and obligations of the applicant, beneficiary and asylum authority, relative to temporary protection, are set out in the Asylum Act and Asylum Decree in line with the TPD. After enacting the TP Decree, the Hungarian government issued a series of further decrees and set a more detailed framework for accommodation, employment, education, information and supply for people eligible for temporary protection in Hungary. The provisions of these laws either set out a more detailed 'executive' regulation to those promulgated in the Asylum Act and Decree or diverge from their provisions.

⁸⁹⁶ Section 19 a.)-b.) of Act LXXX of 2007 on Asylum.

⁸⁹⁷ 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 [2001] OJ L 212/12, available at: <http://bit.ly/409uJhu>.

⁸⁹⁸ 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 [2022] OJ L 71/1, available at: <http://bit.ly/3UhQQja>.

⁸⁹⁹ Section 12 of TP Decree.

On the most essential applicable laws in force concerning temporary protection in Hungary, see the following table:

Title (EN)	Original Title (HU)	Web Link
Act LXXX of 2007 on Asylum (Asylum Act)	2007. évi LXXX. törvény a menedékjogról	https://bit.ly/3RgsYea (HU)
Government Decree No.301/2007 (XI. 9.) on the implementation of Act LXXX of 2007 on asylum (Asylum Decree)	301/2007. (XI. 9.) Korm. rendelet a menedékjogról szóló 2007. évi LXXX. törvény végrehajtásáról	https://bit.ly/3fUA0DK (HU)
Government Decree No. 86/2022. (III. 7.) on rules applicable in state of danger and related to persons recognized as eligible for temporary protection, and on derogations from the rules of: Act CVI of 2011 on public employment, on the amendment of acts related to public employment and of other acts (TP Decree)	86/2022. (III. 7.) Korm. rendelet az ideiglenes védelemre jogosultként elismert személyekkel kapcsolatos veszélyhelyzeti szabályokról, továbbá a közfoglalkoztatásról és a közfoglalkoztatáshoz kapcsolódó, valamint egyéb törvények módosításáról szóló 2011. évi CVI. törvény szabályainak eltérő alkalmazásáról	http://bit.ly/3JyzV8u (HU) Unofficial EN translation by the HHC: https://bit.ly/3XLoHSs
Government Decree No. 95/2022 (10.III.) on the performance of the humanitarian tasks of the Budapest and county defence committees	95/2022. (III. 10.) Korm. rendelet a megyei, fővárosi védelmi bizottságok humanitárius feladatai ellátásáról	http://bit.ly/3ReZD3Z (HU)
Government Decree No. 96/2022 (10.III.) on the support of the employment of persons with Ukrainian nationality who have arrived from the territory of Ukraine	96/2022. (III. 10.) Korm. rendelet az Ukrajna területéről érkezett, ukrán állampolgársággal rendelkező személyek munkavállalásának támogatásáról	http://bit.ly/3Ycx6hP (HU)
Government Decree No. 104/2022 (12.III.) on the support of providing accommodation to persons arriving with respect to a humanitarian disaster in a neighbouring country during the state of danger, and on other related (financial support for entities offering accommodation to Ukrainians)	104/2022. (III. 12.) Korm. rendelet a veszélyhelyzet ideje alatt a szomszédos országban fennálló humanitárius katasztrófára tekintettel érkező személyek elhelyezésének támogatásáról és az azzal kapcsolatos egyéb intézkedésekről	http://bit.ly/3Y9mpMY (HU)
Government Decree No. 106/2022 (12.III.) on certain rules related to the employment of and benefits to persons recognized as beneficiary of temporary protection and on the amendment of Government Decree 301/2007. (XI. 9.) on the implementation of act LXXX of 2007 on Asylum, with respect to a humanitarian disaster in a	106/2022 (III. 12.) Korm. rendelet a veszélyhelyzet ideje alatt szomszédos országban fennálló humanitárius katasztrófára tekintettel, az ideiglenes védelemre jogosultként elismert személyek foglalkoztatásával és juttatásaival kapcsolatos egyes szabályokról, valamint a menedékjogról szóló 2007. évi LXXX. törvény	http://bit.ly/3HH9Anz (HU)

neighbouring country during the state of danger	végrehajtásáról szóló 301/2007. (XI. 9.) Korm. rendelet módosításáról.	
Government Decree No. 147/2022 (14.IV.) on the provision of childcare services to accompanied children who have arrived from the territory of Ukraine, with respect to the state of danger	147/2022 (IV. 14.) Korm. rendelet a veszélyhelyzetre tekintettel az Ukrajna területéről kíséreléssel érkezett gyermekek gyermekfelügyelettel történő ellátásáról	http://bit.ly/3RfICb0 (HU)
Government Decree No. 171/2022 (29.IV.) on certain issues of data processing relevant to health care services, related to the Ukrainian crisis	171/2022. (IV. 29.) Korm. rendelet az ukrán válsággal összefüggő egyes, az egészségügyi ellátást érintő adatkezelési kérdésekről	http://bit.ly/3Juqqr0 (HU)
Government Decree No. 172/2022 (29.IV.) on the support of the employment of persons with Ukrainian nationality	172/2022. (IV. 29.) Korm. rendelet az ukrán állampolgársággal rendelkező személyek foglalkoztatásának támogatásáról	http://bit.ly/40hHer9 (HU)
Government Decree No. 173/2022 (29.IV.) on the support of the employment of persons with Ukrainian nationality by certain public financed bodies	173/2022. (IV. 29.) Korm. rendelet Az ukrán állampolgársággal rendelkező személyek egyes költségvetési szerveknél való foglalkoztatásának támogatásáról	http://bit.ly/3wFj8sR (HU)

There are no official statistics available regarding the number of those who were displaced directly or indirectly by the conflict present in Ukraine but that do not come under the scope of TPD in Hungary, however two groups are worth mentioning in this context.

A possibly significant number of Hungarian-Ukrainian dual citizens residing in Ukraine fled to Hungary as a result of the war. For reasons of historical specificity, around 150,000 ethnic Hungarians live in the **Zakarpattia** Oblast region in Ukraine, close to the Hungarian border.⁹⁰⁰ Although there is no official data as to the number of those who hold both Hungarian and Ukrainian citizenship within the group of ethnic Hungarians, according to the 2015 data of the Hungarian Central Statistical Office, 88,339 persons were living in Ukraine with Hungarian citizenship,⁹⁰¹ and it might be assumed that most of them belong to the Hungarian minority. Naturally, after 24 February 2022, dual citizens and Hungarian-speaking Ukrainians also started to flee to Hungary, primarily from the **Zakarpattia** region. These people, however, did not fall under the Asylum Act and temporary protection scheme due to their Hungarian citizenship. At the same time, most of them could not enjoy all the rights to which Hungarian citizens are entitled, since most of those rights are tied to Hungarian social security status and registered address. Therefore, the TP Decree activating the application of the TPD and Council Decision introduced a special provision concerning dual citizens by stating that all benefits and advantages that are granted to a temporary protection beneficiary are to be granted to Hungarian citizens who had a permanent residence in Ukraine and arrived from Ukraine on or after 24 February 2022, unless they are granted more favourable treatment by virtue of their Hungarian citizenship.⁹⁰²

⁹⁰⁰ Krisztina Lajosi, 'Disinformation, Digital Nationalism and the Hungarian Minority in Ukraine', 25 April 2022, available at: <http://bit.ly/3YfJxcC>.

⁹⁰¹ Hungarian Central Statistical Office, *New Hungarian Citizens. Changes following the introduction of simplified naturalisation procedure (Új magyar állampolgárok. Változások az egyszerűsített honosítási eljárás bevezetése után)*, 2017, available at: <https://bit.ly/3Yn6hHB>.

⁹⁰² Section 8 of TP Decree.

This means in practice that dual citizens may access reception conditions in the same manner as temporary protection beneficiaries (see Residence Permit).

Although the number may be lower than that of dual citizens, a group of indirectly displaced people that fall outside of the scope of TPD but that must be highlighted is that of Russian nationals staying in Hungary without (more permanent) legal basis who, having strong anti-war sentiments or fearing military conscription and/or the negative consequences of the newly adopted anti-LGBTQ law, do not want to return to Russia, but have no permanent basis to stay in Hungary either. The HHC provided legal assistance to 4 such Russian nationals in 2022. These clients generally wish to claim asylum, but currently it is not possible to submit an asylum application directly in Hungary, only if it is preceded by the so-called embassy procedure initiated at the Hungarian embassy in Ukraine or Serbia (see [General Report – Embassy Procedure](#)). At the time of writing, no such asylum procedures have been initiated with the help of HHC.

There is no data available as to how many individuals potentially entitled to temporary protection are present in Hungary. The only somewhat relevant data in that regard is the number of individuals entering from Ukraine to Hungary and the number of Ukrainian citizens entering from Romania to Hungary in 2022.⁹⁰³ According to this, 2,302,366 individuals entered Hungary from Ukraine throughout 2022. This number was 1,832,060 in the previous year. From the Romanian border part 592,373 Ukrainian nationals entered Hungary in 2022.⁹⁰⁴

As regards applicants and beneficiaries, there were:

- ❖ 28,908 temporary protection beneficiaries on 31 December 2022.
- ❖ 1,083 pending temporary protection applications on 31 December 2022.
- ❖ 33,273 individuals registered for temporary protection until 31 December 2022.⁹⁰⁵
- ❖ Among those, 923 individuals who registered for temporary protection but because of the procedure and for the applicability of non-refoulement received tolerated status instead of temporary protection status.⁹⁰⁶

B. Qualification for temporary protection

Currently, in line with the Council Implementing Decision, the TP Decree provides that the following persons may apply for temporary protection:

- a. Ukrainian nationals residing in the territory of Ukraine before 24 February 2022;
- b. stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection (for example, having a refugee status) or equivalent national protection in Ukraine before 24 February 2022; and
- c. family members of persons referred to in points a) and b).

The following persons shall be considered as family members: spouses, minor children, and other close relatives who lived together as part of the family before 24 February, and who were wholly or mainly dependent on a person referred to in point a) or b) at the time.

In practice, the Hungarian asylum authority also grants temporary protection to the unmarried partner living in a stable relationship with a person referred to in point a) or b), and to third-country nationals who are the parents of minors referred to in point a) or b).⁹⁰⁷

⁹⁰³ Data from the Hungarian Central Statistical Office: <http://bit.ly/3K1PTbd>.

⁹⁰⁴ Ibid.

⁹⁰⁵ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

⁹⁰⁶ Ibid.

⁹⁰⁷ Practice-based observation by the Hungarian Helsinki Committee, April 2023.

The Asylum Act, in line with the TPD, also sets out the grounds of exclusion from temporary protection. No temporary protection shall be granted when there are reasonable grounds to believe that the person had committed:

- a. a crime against peace, a war crime or a crime against humanity as defined in international instruments;
- b. a serious, non-political criminal act outside the territory of Hungary prior to the submission of the application for recognition as a beneficiary of temporary protection;
- c. a crime contrary to the purposes and principles of the United Nations.

Moreover, no temporary protection shall be granted to persons whose stay in the territory of Hungary violates the interest of national security and/or

- a. in whose case a court established by a final and binding judgement that they had committed an intentional criminal offence punishable by imprisonment for five or more years;
- b. who are sentenced by a final and binding judgement of a court to imprisonment for having committed a criminal offence as recidivists, multiple recidivists or violent multiple recidivists;
- c. who are sentenced by a final and binding judgement of a court to imprisonment of a term of three years or more for having committed a criminal offence against life, physical integrity, and health, a criminal offence endangering health, a criminal offence against human freedom, a criminal offence against the freedom of sexual life and sexual morality, a criminal offence against public peace, a criminal offence against public safety, or a criminal offence against the order of public administration.⁹⁰⁸

The Constitution Protection Office and the National Counterterrorism Centre are the competent expert authorities to determine whether the stay of the applicant in the territory of Hungary presents a threat to national security.⁹⁰⁹

Although the Commission strongly encouraged member states to extend TP to those who fled before 24 February 2022, the Hungarian Government decided not to do so regarding those, who would otherwise belong under the personal scope of the TP Decree, but reached the country before the said date. Depending whether or not these individuals arrived in the country either shortly or a long time before 24 February 2022, and have no legal basis to stay (e.g. application for or extension of residence permit for a defined purpose) they may be subjected to the following procedures:

Firstly, if the person arrived in Hungary shortly before 24 February (1-3 weeks), temporary protection applications can be submitted, despite the fact that based on the TP Decree, the applicant is not eligible for the protection status. According to the experience of HHC lawyers, the authority registers these applications and conducts the TP procedure, but as a result, the application is rejected in an official decision. Nonetheless, the asylum authority, acting under the Asylum Act and Asylum Decree, also holds in these cases that *non-refoulement* is applicable and that the applicant cannot be sent back to their country of origin (Ukraine). Consequently, the asylum authority grants tolerated stay/exile status to these applicants.⁹¹⁰ For the duration of the procedure, the applicant is issued with a humanitarian residence permit granting the right to stay and reside in the territory of the country. The same permit, valid for a year, is granted to those who are granted tolerated status.⁹¹¹ After a year, the status is reviewed by the asylum authority.⁹¹²

⁹⁰⁸ Section 21(1) of the Asylum Act.

⁹⁰⁹ Point a) of Section 2/A. of Government Decree 301/2007. (XI. 9.) on the implementation of Act LXXX of 2007 on Asylum (Asylum Impl. Decree).

⁹¹⁰ Sections 25/A-25/B of Asylum Act.

⁹¹¹ Section 29 (1) b.) of Act II of 2007 on the Entry and Stay of Third-Country Nationals.

⁹¹² Section 25/B (2) Asylum Act.

Tolerated status ensures much less rights than the temporary protection status or any international protection status. Persons with tolerated status shall be entitled to:

- ❖ pre-school and are obliged to participate in public education,⁹¹³
- ❖ be a private entrepreneur,⁹¹⁴
- ❖ be employed, but only after obtaining a work permit,⁹¹⁵
- ❖ in case they are not insured under the social security scheme, to treatments by a general practitioner, to emergency care, to mandatory vaccinations and to certain epidemics related health care services.⁹¹⁶

However, if the person arrived in Hungary long before 24 February 2022 and stays without any legal basis, an aliens policing procedure aiming at the person's expulsion might be initiated either ex officio by the aliens policing authority or by the person's own initiative, if the person presents themselves before the authority. In this case, the aliens policing authority would conduct a procedure in which they have an obligation to assess whether *non-refoulement* applies. In case of persons fleeing Ukraine, the aliens policing authority would likely perceive that the principle of *non-refoulement* may be applicable and the person in question may be granted tolerated stay / exile status⁹¹⁷ (see above). This procedure is likely to be conducted not only regarding those who would otherwise be eligible for temporary protection, but arrived in Hungary long before 24 February 2022, but also for all third country nationals not covered by the personal scope of the TP Decree, but are unable to return to their countries of origin in a safe and durable manner, regardless of the time of their arrival in the country. The situation is as such because the Transitional Act precludes applying for asylum without going through the embassy procedure.

The HHC in its information request sent to the NDGAP asked whether, beside a rejection of a temporary protection application and/or asserting the non-applicability of *refoulement*, anyone who applied for temporary protection was issued with an expulsion order. The NDGAP stated in its answer that no temporary protection applicant was expelled throughout 2022 as a result of a temporary protection procedure.⁹¹⁸

Persons recognised as stateless in Ukraine – without having benefited from international or equivalent protection in Ukraine prior to 24 February 2022, as the unfortunate wording of the Council Decision and TP Decree perhaps suggest – are covered by the TP Decree and are eligible for temporary protection according to the communication of the asylum authority.⁹¹⁹ The personal scope of the TP Decree was not broadened to cover additional categories of displaced persons however.

Moreover, the Hungarian implementation of the Council Implementing Decision poses some compliance issues in that regard. Although the Council Implementing Decision requires Member States to provide temporary protection or adequate protection to those stateless persons and third-country nationals, who were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit and are unable to return to their country of origin in a safe and durable manner, the TP Decree states that “it does not apply the Council Decision” with regard to that group of people. According to the TP Decree, the aliens policing authority shall proceed in line with the general rules in the cases of these individuals.⁹²⁰ This ‘general’ procedure can either mean a residence permit procedure or an aliens policing procedure aiming at the person's expulsion but may result in granting

⁹¹³ Section 92(1) a.) of the Public Education Act.

⁹¹⁴ Section 3(1) d.) of the Private Entrepreneurs Act.

⁹¹⁵ Sections 3-6 of Gov. Decree 445/2013. (XI. 28.).

⁹¹⁶ Section 44 (3)-(4) of the Asylum Decree.

⁹¹⁷ Sections 52-52/A of Act II of 2007 on the Entry and Stay of Third-Country Nationals.

⁹¹⁸ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

⁹¹⁹ NDGAP, ‘Tájékoztató az Ukrajnából menekülő ukrán állampolgárok részére’, available in Hungarian at: <https://bit.ly/40iWO5W>.

⁹²⁰ Section 2 (2)-(3) of Government Decree No. 86/2022. (III. 7.) (TP Decree).

tolerated status, as explained in the previous paragraph.⁹²¹ Neither the residence permit procedure, for which the applicant has to fulfil a long list of conditions (e.g. proven income, health-insurance etc.) nor tolerated stay may qualify as ‘adequate protection’ within the meaning of Council Implementing Decision.⁹²² Those third-country nationals who were residing in Ukraine but would be able to return to their countries of origin in a safe and durable manner are likely expelled as a result of an alien policing procedure, should they not be able to obtain a residence permit for a specific purpose.

For the duration of the aliens policing procedure persons are provided with a temporary residence document by the aliens policing authority valid for 1 to 3 months. The rules related to the temporary residence document are laid down in the TCN Act.⁹²³ The temporary residence document, with which does not come any right apart from being able to stay in the country for the time of the procedure, may be extended by a maximum of three additional months at a time, if the person in question is able to prove that travel arrangements to their country of origin are underway or that they made efforts to regularise their stay in Hungary on the long term (such as proceeding with a visa application to another country or a correspondence with a Hungarian University proving that the person wished to obtain a residence permit for a studying purpose). Temporary residence documents are also provided to third-country nationals fleeing Ukraine by the police upon border crossing. The aliens policing authority can later extend these as explained earlier.

In the long term, the regularisation of the residence of non-Ukrainian nationals arriving from Ukraine could be possible only by applying for one of the residence permits set out by the TCN Act (for example, permit for the purpose of studies, employment, family reunification, etc.) if the appropriate legal basis is available to the applicant (for example, he or she is admitted to a university, has a job-offer, etc.) and if they fulfil a long list of conditions (e.g. verifying place of accommodation, means of subsistence, health insurance). Applications for such residence permits must be submitted, as a general rule, at the embassies of Hungary. Accordingly, applicants must explicitly request, via submitting a leniency request, that the authorities allow the submission of the application within the territory of Hungary, providing specific reasons. Unfortunately, the HHC’s experience shows that the mere fact that someone is in the territory of Hungary due to the war situation in Ukraine is not considered by the alien policing authority as an acceptable basis for the leniency request – as opposed to the information material on the authority’s website addressed to non-Ukrainian nationals.⁹²⁴

As explained in the previous paragraphs, the Hungarian implementation of the EU TP scheme is rather restrictive in terms of eligibility for protection. Apart from Ukrainian nationals, beneficiaries of international protection or stateless persons recognised in Ukraine and their family members, no other groups can access temporary protection. Although it follows from the TPD, the Council Implementing Decision and the Commission’s operational guidelines that in case third-country nationals are unable to return to their country of origin but are not eligible for temporary protection must be able to access the general asylum procedure, Hungarian law precludes the submission of asylum applications in Hungary, unless the procedure is initiated in **Serbia** or **Ukraine**, by submitting a so-called statement of intent declaration at the Hungarian embassies.⁹²⁵ This regulation, in addition to being in breach of international law and European Union law related to persons entitled to international protection in

⁹²¹ These procedures are regulated by Act II of 2007 on the Entry and Stay of Third-Country Nationals.

⁹²² Adequate protection as defined in the Commission’s document: European Commission, *Communication from the Commission on Operational guidelines for the implementation of Council implementing Decision 2022/382 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* [2022] OJ C 1261/1, available at: <https://bit.ly/3la6JCs>.

⁹²³ Section 30 of TCN Act.

⁹²⁴ NDGAP, ‘Tájékoztató az Ukrajnából menekülő nem ukrán állampolgárok részére és a fegyveres konfliktus kitörését megelőzően Magyarországra érkezett ukrán állampolgárok részére’, available in Hungarian at: <https://bit.ly/3Hq6ymh>.

⁹²⁵ Chapter 84 of Act LVIII of 2020 on the transitional rules related to the termination of the state of danger and on the epidemic preparedness (Transitional Act).

several aspects, has posed serious difficulties within the context of the Ukrainian crisis as well (Access to Asylum). Third-country nationals arriving from Ukraine either do not know that they should initiate an asylum procedure already at the Hungarian Embassy in **Kyiv** before coming to Hungary, or do not hold the necessary visa to travel to **Serbia**, and therefore, are not in a position to submit a statement of intent at the Belgrade embassy. Even if these individuals have well-founded asylum claims, the 'best' they can get is a tolerated status as a result of an alien policing procedure (see above, same section).

The HHC in its information request sent to the NDGAP asked how many third-country nationals fleeing Ukraine to Hungary and issued with a temporary residence document applied for asylum in Hungary, The NDGAP stated that they do not have data in that regard.⁹²⁶

The available forms of protection, residence statuses and their compliance with the EU TP scheme are summarised here:

Groups fleeing Ukraine	Protections / Residence status	Is it compliant with the EU TP scheme?
<ul style="list-style-type: none"> - Ukrainian nationals, - Recognised stateless persons and beneficiaries of international protection, - their family members within the council Decision + their partners in a stable relationship, parents of Ukrainian minor <p>if arrived on or after 24/02/2022</p>	Temporary protection granted in asylum procedure	Yes
<ul style="list-style-type: none"> - Ukrainian nationals, - Recognised stateless persons and beneficiaries of international protection, - their family members within the council Decision + their partners in a stable relationship, parents of Ukrainian minor <p>if arrived before 24/02/2022</p>	Tolerated status or residence permit granted as a result of an alien policing procedure	Yes
TCNs legally residing in Ukraine on a permanent basis if they cannot return to their country of origin in a safe and durable manner	Tolerated status or residence permit granted as a result of an alien policing procedure	No, as neither TP nor adequate protection provided.

⁹²⁶ Information received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

TCNs legally residing in Ukraine on a short-term basis if they cannot return to their country of origin in a safe and durable manner	Tolerated status or residence permit granted as a result of an alien policing procedure	Yes
All TCNs who are able to return to their country of origin in a safe and durable manner	No protection, are channelled to the alien policing procedure (result: expulsion or if applied and conditions fulfilled – residence permit)	Yes

All residence permits issued in 2022 were valid until 4 March 2023. As the EU temporary protection was extended, 58/2023 Government Decree (II.28) also declared the prolongation of the Hungarian TP cards' validity until 4 March 2024.

C. Access to temporary protection and registration

1. Admission to territory

There are no reports or testimonies in 2022 suggesting that anyone fleeing Ukraine was refused entry at the Ukrainian-Hungarian border crossing points in 2022. Ukrainians without biometric passports or other travel or identification documents, as well as third-country nationals without travel documents, and even those against whom an entry ban concerning Hungary or the EU was issued were all granted entry to Hungary after 24 February 2022.

However, the HHC received some alarming information from volunteers working in the border area in April and March 2022, that Roma people were not allowed to disembark trains coming from Ukraine and arriving at Záhony railway station (Záhony is a town close to the Ukrainian border in Hungary). The HHC conducted regular monitoring visits in the border area throughout 2022 providing first-hand assistance to people fleeing Ukraine, but did not meet any Roma person who could substantiate this claim. The HHC recorded a case in May 2022 in **Záhony**, when a group of Roma people from Ukraine were allowed to disembark the train, but were told then at the registration point by the Hungarian authorities that they either had to stay at the designated place or had to return to Ukraine. They were not allowed to move further to Budapest unless they could prove that they had an address to stay in Hungary. On another occasion, also in May 2022, the HHC recorded the testimony of a security guard at the Záhony railway station indicating that Roma people were prohibited by Ukrainian officials from boarding the train going to **Záhony** at the train station in **Chop, Ukraine**. IOM staff, who were present at the railway station that time, confirmed this allegation to the HHC monitors.

The situation of persons fleeing Ukraine but trying to enter the Schengen area via Hungary at Romanian-Hungarian border-crossing points, however, was not as clear-cut. The HHC received information on multiple occasions between 24 February 2022 and August 2022, that Ukrainians without biometric passports or third-country nationals, even holding a Ukrainian residence permit, were not allowed to enter Hungary. This practice was, nonetheless, rare and not consistent. In the second half of 2022, no NGOs contributing to this report received such information.

It seems that border-control measures at the borders have been strengthened since January 2023. Terre Des Hommes Hungary received information via informal, non-state channels that in some instances only those who have biometric passports are allowed to leave Ukraine by the Ukrainian border

police.⁹²⁷ On 23 January 2023 staff members of the HHC monitoring the border area received disturbing information with regard to a Turkish citizen who tried to enter Hungary with his Ukrainian wife and child but was refused entry by the border guards. An official decision of refusal of entry was also made by the border police, referring to the fact that the said individual did not hold the necessary visa to enter. The next day the HHC staff members attended a coordination meeting organised by locally present actors in **Záhony**, where the representative of the Hungarian Defence Forces informed attendees that, by instruction of the Hungarian National Police Headquarters, border guards would more thoroughly check whether the person intending to cross the border stayed in Ukraine in a lawful manner prior to 24 February 2022. The next day the HHC attorney was present at the local border police station of Záhony where he witnessed that two third-country nationals, an Iranian and a Nigerian student, were refused entry in a formal decision. One of the students had a valid residence permit in Ukraine, the other student's residence permit had expired. In both of their cases the decisions stated that they did not hold the necessary visa. The acting border police officer informed the HHC attorney that the police contacted the asylum authority to obtain *non-refoulement* opinions concerning the said third-country nationals. The decision otherwise made no reference to their Ukrainian residence status. The border police later withdrew the decision and the HHC attorney was informed that the said nationals were allowed to enter Hungary. The same day seven Indian nationals were allowed to enter Hungary without their IDs having been thoroughly checked. On 25 January, a Ukrainian lawyer reached out to the HHC, stating that the entry of 4 Pakistani nationals into Hungary was denied. According to the lawyer's information, formal entry-refusal decisions were again issued with reference to the fact that the individuals did not hold a valid visa to enter Hungary. The Pakistani nationals' stay in Ukraine was, however, illegal. Throughout February 2022, the HHC registered further cases where the entry of third-country nationals, legally or illegally staying in Ukraine, was denied by the Hungarian border police at **Záhony**. This practice affected family members of Ukrainian nationals too, who would otherwise be entitled to temporary protection. IOM has also suggested that 'certain patterns that have emerged strictly based on observation and second-hand information indicate the denial of entry for TCNs based on whether they had previously exited Ukraine or not, with TCNs exiting for a second or third time the country, not being allowed to do so again and sent back. In addition, cases with Temporary Protection status in EU countries, other than Hungary, have also been denied entry into the country.'⁹²⁸

These cases might indicate that a worrisome and inconsistent practice concerning the entry of third-country nationals to Hungary is evolving. The HHC reached out to the Hungarian National Police Headquarters by sending them a freedom of information request in which the HHC inquired about the existence of an internal policy or law according to which entry at the border is decided. The National Police Headquarter in its answer received by the HHC on 27 March 2023 asserts that will be granted entry:

- ❖ those who comply with Article 6 of the Schengen Border Code (SBC), in other words, who have the necessary and valid travel documents (e.g. visa, passport);
- ❖ in the absence of fulfilling the requirements of Article 6 of SBC, those are not under the effect of an entry ban issued
 - for national security reasons,
 - issued by any other Schengen member state,
 - with public order or public security reference.

Those with an entry ban issued as defined here are denied entry and are returned.

- ❖ In the absence of fulfilling the requirements of Article 6 of SBC, those third-country nationals who did not enter Ukraine after 24 February 2022.

The Police Headquarter also stated in its answer that that if need for asylum or temporary protection is indicated when crossing the border, 'when assessing refoulement, this need has to be indicated to the NDGAP'. The Police furthermore stated that 'if non-refoulement applies, the person is to be transferred

⁹²⁷ Information received from Terre Des Hommes Hungary on 28 January 2023.

⁹²⁸ Information received from the IOM by the HHC on 14 February 2022.

to the **Nyírbátor** collection point and further procedure is then to be conducted by the NDGAP'. 'Outcome is uncertain as the NDGAP' – and not the border police – 'decides if the status is granted or the person is returned to Ukraine'. The letter furthermore asserted that 'if non- refoulement does not apply, then the person claiming must be directed to the Kiev Embassy of Hungary'.

In 2022 no information was received as to any difficulties relating to re-entering Hungary for those who returned to Ukraine and decided to come back.

Access to the territory of Hungary was generally facilitated at border crossing points in 2022, with the occasional exceptions listed above. In line with the Commission Communication providing operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders,⁹²⁹ the application of entry bans/SIS alerts on prohibition of entry and stay in the EU has been suspended on the Ukrainian-Hungarian border and people could enter without adequate travel documents in 2022. Although the said EC guideline encourages Member States to issue an arrival declaration and/or (provisional) travel documents to those not having valid travel documents, Hungary did not follow this practice. According to the Hungarian Act on Asylum, however, beneficiaries of temporary protection are entitled to request a single exit and entry document, if they do not hold a valid travel document issued by their country of origin.⁹³⁰

2. Freedom of movement

Ukrainian nationals with biometric passports are not issued with any kind of additional residence documents by the authorities upon their entry to Hungary. Ukrainians without biometric passports and third-country nationals are, however, provided with a temporary residence document valid for 1-3 months, until their residence status is otherwise settled or until they leave the country. The aliens policing authority (the National Directorate-General of Aliens Policing, hereinafter: NDGAP) upon the person's arrival issues this document on humanitarian grounds,⁹³¹ but in the early phase of the crisis this document was also issued by the police at border crossing points and registration points (set up close to the border with the specific purpose of registering people from Ukraine who did not hold a biometric passport).

Third-country nationals were sometimes also issued with a decision of a designated place to stay (normally with a geographical scope of a county) by the aliens policing authority in 2022, together with their temporary residence document. The authority was inconsistent in this practice and also the legal basis of these decisions was ambiguous. In several cases the aliens policing authority issued these types of decisions if the third-country national in question was already subjected to an alien policing procedure, which is a circumstance justifying the issuance of such decision.⁹³²

Furthermore, as Hungary did not follow the EC's recommendations⁹³³ indicating that if there is no biometric passport but the person is entitled to temporary protection and wants to move to another Member State other than the first Member State, then a Member State might issue 15-day Schengen visa, persons wishing to travel further normally turned to the consulates of the targeted Member States and requested visas there. Third-country nationals not entitled for temporary protection generally did

⁹²⁹ Commission Communication Providing operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders 2022/C 104 I/01 [2022] OJ C 104I/1, available at: <http://bit.ly/3UhOm4g>.

⁹³⁰ Section 22(1) b.) of Asylum Act.

⁹³¹ Section 30 (1) f.) and j.) of TCN Act.

⁹³² Section 62 (1) h.) of TCN Act.

⁹³³ Communication from the Commission on Operational guidelines for the implementation of Council implementing Decision 2022/382 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 (2022/C 126 I/01).

the same, especially in cases when they wanted to reach EU countries where the personal scope of temporary protection was broader and covered third-country nationals too.

3. Registration under temporary protection

The application for temporary protection has to be submitted to the asylum authority (NDGAP)⁹³⁴ in an official application form. The application may be submitted at any asylum client services of regional offices⁹³⁵ of the authority. In **Budapest**, it is to be lodged at 60 Budafoki Street, 11th District. Case-officers at the client services provide applicants with the application form. In addition, it is possible for applicants to give their personal identification data necessary for the submission of the application in advance by using the website⁹³⁶ or mobile application⁹³⁷ of the NDGAP for that purpose.⁹³⁸ That possibility only exists to accelerate the procedure and does not exempt the applicant from the obligation to appear in person before the authority, which, in this case, may be fulfilled not only by showing up at the mentioned offices of NDGAP, but also at any government client service point (“Kormányablak”).⁹³⁹

It must be demonstrated upon submitting the application that the applicant falls within the personal scope of the Council Implementing Decision/TP Decree. In line with the EC communication, this might be done usually by presenting a passport, a personal identity card, any other document appropriate for the certification of personal identity, or, especially for family members, by an extract from the birth or marriage certificate substantiating family relationship. As per the practice of asylum authority, unmarried partners of persons eligible for temporary protection may also be granted temporary protection. Partners have to evidence the relationship by submitting photos, email, sms, other correspondence with the temporary protection-eligible partner. If the applicant holds valid travel or ID documents, the submission of the application is quite fast, without the case-officer asking additional questions. The law also provides that the applicant is only to be heard if it is absolutely necessary for further clarification.⁹⁴⁰ This is the case, for instance, when the applicant lacks any document sufficient for personal identification, as then the applicant might have to answer some additional questions or submit other evidence substantiating their identity. There are no documents that are not accepted in the course of making the application.

If, at the time of submitting the application, the applicant has no accommodation, that fact may be noted on the application form. In such cases, the asylum authority contacts the competent authorities (Disaster Relief) so that they may provide accommodation to the applicant. If the applicant has accommodation, the address must be given on the data sheet, and in case their accommodation changes during the procedure, the authority must be duly notified thereof.

The asylum authority does not adopt a separate decision about the recognition of temporary protection. The authority only records the recognition itself and notifies the applicant by handing over or posting the temporary protection document.⁹⁴¹ According to the experience of HHC lawyers providing legal assistance to applicants, however, it is sometimes problematic that the authority fails to notify the persons whose application for temporary protection is rejected. Rejected applicants are informed that their attempt was unsuccessful only if they contact the authority in person to request information about the assessment of their application.

⁹³⁴ Section 32/D (1)-(2) of Asylum Act.

⁹³⁵ The regional offices of the NDGAP are listed at NDGAP, ‘Területi szervek illetékességi területe és címjegyzéke’, available in Hungarian at: <https://bit.ly/3jBn7Uj>.

⁹³⁶ The NDGAP website to submit applications is available here: <http://bit.ly/3KwxwM2>.

⁹³⁷ The NDGAP mobile application is available here: <https://bit.ly/3jBn7Uj>.

⁹³⁸ Sections 2-3 of Government Decree 170/2022 (IV.28).

⁹³⁹ (1)-(2b) of Section 5/A (1)-(2b) of Government Decree 86/2022. (III. 7.).

⁹⁴⁰ Section 4 (2) of TP Decree.

⁹⁴¹ Section 5/A (3) of Government Decree 86/2022. (III. 7.).

The asylum authority has 45 days to conduct the procedure.⁹⁴² The time-limit set for the procedure of the expert authority (see Qualification for temporary protection) shall be 10 days, therefore, the maximum duration of the procedure is 55 days. If the expert authority does not notify the asylum authority of its decision within 10 days, its consent is considered as given.⁹⁴³

Following the submission of the temporary protection application, applicants receive a so-called humanitarian residence permit for the duration of the procedure.⁹⁴⁴ The permit certifies their entitlement to the services available for them during the temporary protection procedure (see [Residence Permit](#)). If the humanitarian residence permit expires before receiving the temporary protection document following the recognition, the extension of validity may be requested at the closest regional office of the NDGAP asylum-client service.

Following recognition as a beneficiary of temporary protection, a document is issued to the beneficiary for the purposes of personal identification and certification of the right to residence (temporary protection card). The authority sends/delivers a letter along with the temporary protection card notifying the beneficiary that the card does not entitle its holder to travel and that the subsistence allowance – the only financial support provided to beneficiaries by the state – can be requested after receiving the card. If, following the issuance of that document, the place of residence of the beneficiary of temporary protection changes, the authority must be duly notified thereof.⁹⁴⁵

There are no formally introduced measures to refer people arriving to the border to the responsible authority. After 24 February 2022, five registration points were set up in the border area in **Váradosnamény, Tarpa, Mándok, Fehérgyarmat** and **Aranyosapáti**, where the police⁹⁴⁶ and the officials of the asylum authority were present, issuing temporary residence documents. Eligible persons could also apply for temporary protection there and the asylum authority provided them with a humanitarian residence permit.⁹⁴⁷

By 16 March 2022, only 3 registration points were in operation, in **Cigánd, Fehérgyarmat** and **Záhony**. Except for those meeting the regular entry requirements (biometric passports in case of Ukrainian citizens, valid visa in case of non-Ukrainian third-country citizens), registration was compulsory. At the same time, the registration procedure remained extremely slow. At registration points people needed to wait 4 to 8 hours, in some cases 10+ hours. The HHC received reports that while waiting for registration, people did not have access to food, water, or even toilets. Reports also suggested that there was a shortage of interpreters at registration points and the authorities could not communicate with those being registered.⁹⁴⁸

In the HHC's experience, lodging temporary protection applications at registration points was only a short-lived possibility, as a few weeks after 24 February, only temporary residence documents were issued there, but temporary protection procedures could no longer be started there. From around April, applying for temporary protection was only possible at the asylum client services of regional NDGAP offices. If, upon border crossing, anyone indicated their intention to apply for temporary protection, they were likely told by the border police that they could do so by going to one of these asylum client services. However, the lack of information provision at border crossing points (e.g. no information leaflets) posed one of the greatest issues regarding access to temporary protection in the first half of the crisis: it occurred frequently that people fleeing Ukraine were not provided with any information by the police upon border crossing, regardless of having expressed their intention to apply for temporary protection.

⁹⁴² Section 77 (3) of the Asylum Act.

⁹⁴³ Paragraphs (2)-(3) of Section 4/A. of Government Decree 86/2022. (III. 7.).

⁹⁴⁴ Section 29(1) c.) of the TCN Act and Section 6 (1) b.) of the Asylum Decree.

⁹⁴⁵ Section 22(1) a.) of the Asylum Act.

⁹⁴⁶ Border guards were integrated into the Police as of 1 January 2008.

⁹⁴⁷ Communication of the website of the NDGAP: <https://bit.ly/3Yc339H>.

⁹⁴⁸ HHC, War in Ukraine Protection Situation in Hungary, 16 March 2022, available at: <https://bit.ly/3HMC2Es>.

By around May 2022, only two registration points, in **Záhony** and **Fehérgyarmat** remained in operation and solely for the purposes of issuing the temporary residence documents. Since around June 2022, only one registration point is working in **Záhony**.

At the same time with establishing the registration points, 5 helping points were also set up by the Government close to the Ukrainian-Hungarian border crossing points, where people who needed first-hand assistance for any reasons (e.g. accommodation, food provision, healthcare service, information, transfer), could get it. These helping points were operated by the Charity-Council, which is a body working under the coordination of the State Secretary for Church and Minority Relation. Its members are the biggest and most influential public benefit charity organisations working in Hungary, namely the Caritas Hungarica, the Hungarian Reformed Church Aid, the Hungarian Maltese Charity Service, the Hungarian Interchurch Aid, the Hungarian Baptist Aid and the Hungarian Red Cross.⁹⁴⁹

Each Charity Council member operates one helping point: Caritas Hungarica in **Barabás**, Hungarian Reformed Church Aid in **Záhony**, Hungarian Interchurch Aid in **Barabás**, Hungarian Baptist Aid in **Tiszabecs**, Hungarian Red cross in **Lónya**. The staff of the council members are present 24/7 at the helping points and provide assistance to people who cross the border and need any type of assistance for any reason. Regarding access to the temporary protection procedure, information materials mainly produced by other non-state entities are placed and used at the helping points. Staff members of the Office of Ombudsperson were present at **Záhony** railway station in the first half of 2022 and also provided information regarding access to the temporary protection procedure.

As written above, information about accessing protection at the border was predominantly conveyed by informal and random referral mechanisms. Information provision has not been coordinated by the state and the NDGAP, responsible for immigration and asylum and temporary protection procedures, has been absent at the helping points, shelters and accommodation sites.

There is no deadline to apply for temporary protection after arriving in Hungary. Applicants may decide anytime during their stay in Hungary to start the procedure.

In the experience of HHC lawyers, the greatest problem hindering registration of temporary protection applications has undoubtedly been the lack or shortage of interpreters present at the asylum client services countrywide, with the exception of **Budapest** client services, where at least one Russian-speaking administrator is present. In many cases, the applicants gave up on the registration of their application because they were not able to understand what the Hungarian case-officer told them. This was especially true when the applicants had more 'complex' profiles (e.g. Ukrainians without biometric passports or third country national family members of Ukrainians), and were hence required to substantiate their eligibility by presenting more evidence. The fact that some Ukrainians only know the Cyrillic alphabet and were not able to use the Latin letters in a written form also posed a problem, as even if there was a translator present in the asylum client service, no capacities were left to assist applicants in filling out the application forms. Menedék Hungarian Association for Migrants (Menedék Association) who has provided assistance to applicants in initiating the procedure since March 2022, also pointed out that the illiteracy of applicants was one of the main issues preventing individuals from submitting a temporary protection application. Menedék Association furthermore highlighted that other special circumstances, such as old age, diseases or disabilities sometimes also hindered the initiation of the procedure, as naturally, individuals with these types of special needs simply could not physically access the venues of the asylum client services. In these cases, staff members of Menedék Association either requested the NDGAP to send their officers directly to the accommodation sites or, if that was

⁹⁴⁹ Rules relating to the establishment, operation and membership of the Charity Council are set out in Government Decree 65/2000. (V. 9.).

unsuccessful, in cooperation with the operator of the accommodation site, they organised direct rides for the individuals to the closest asylum client service.⁹⁵⁰

Furthermore, HHC lawyers also reported multiple times that the asylum authority refused to register and take over the applications of those who did not seem to be ‘instantly eligible’ within the meaning of of TP Decree, such as third-country nationals, Ukrainians without personal ID documents, Ukrainians who arrived prior to 24 February 2022. In these cases, HHC lawyers, with the authorisation of the applicants, represented them in the procedure. The lawyers’ experience showed that once the applicants were accompanied by their legal representative, the case-officers of the asylum authority registered the applications. Although in some of the cases the lawyers did not contest the fact that the applicant was not eligible under the TP Decree (e.g. prior 24 February 2022 arrivals), they suggested that the registration of the application was still of utmost importance for the asylum authority having then the opportunity and the obligation to assess *refoulement*. As a result, the applicants, while not being recognised as beneficiaries of temporary protection, could still be granted tolerated status, because the principle of *non-refoulement* was applied.

Lastly, the temporary protection procedures frequently run beyond the procedural deadline (55 days). This may be partially attributed to the fact that the NGDAP asylum authority did not have the sufficient capacity to deal with the initially overwhelming influx of temporary protection applicants. The number of NGDAP case-officers assessing temporary protection applications was only 16 on 31 December 2022.⁹⁵¹ This is a significant shortcoming, as during the temporary protection procedure, applicants are not entitled to financial support. Access to the subsistence allowance, the only type of financial support provided by the state within the context of temporary protection, is only possible once status is granted.⁹⁵² The HHC also reported that there has been a delay in the issuance of temporary protection cards. In these cases, the asylum authority sometimes provided beneficiaries with a certificate of the protection instead of the temporary protection card. Some government offices, where applicants have to request the subsistence allowance, however do not accept the official certificate, thus causing further delays in accessing the financial aid.

Shortcomings such as lack of information provision on the possibility to apply for temporary protection and on the process by the border police, long delays in the finalisation of the process, barriers to access the physical space of NDGAP for people that were older, bed-bound or at the countryside with no access to transportation have also been highlighted by the IOM.⁹⁵³

Staff members of Menedék Association furthermore reported that the sometimes incorrect registration of the applicant’s data (e.g. typo mistakes) contributed to further procedural shortcomings (e.g. when the beneficiary tried to notify the NGDAP on the change of their address, the NDGAP could not identify the individual).⁹⁵⁴

As, contrary to what is foreseen in the EU TP scheme, in Hungary protection is not immediate and triggered by the sole submission of the application, the consequences of a failed registration and those of a refusal of an application must be distinguished.

There is no institutionalised appeal procedure against a refusal to register a temporary protection application. Nevertheless, applicants may attempt to submit their application again, even if the authority refused to take their application in beforehand, as there is no provision in law precluding that. The acting case-officer takes no formal decision if the registration of the application is denied.

⁹⁵⁰ Information provided by the Menedék Association to the HHC on 28 February 2023.

⁹⁵¹ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

⁹⁵² Section 37/A (1) e.) and Section 37/A (4) b.) of Asylum Decree; Section 4 (2)-(3) of Gov. Decree 106/2022 (III. 12.).

⁹⁵³ Information received from the IOM by the HHC on 14 February 2023.

⁹⁵⁴ Information received from the Menedék Association by the HHC on 28 February 2023.

If the temporary protection application is submitted, and as a result of the procedure the asylum authority denies the protection claim and potentially expels the applicant, the refusal decision might be challenged before the regional court within 8 days from its delivery.⁹⁵⁵ In the judicial review request, *non-refoulement* opinion and a potential expulsion decision might also be challenged. The court then has 60 days to decide in the case,⁹⁵⁶ whether to refuse the appeal or order the asylum authority to conduct a new procedure.⁹⁵⁷ The judicial review request does not have an automatic suspensive effect on the decision, but in practice the expulsion procedure never starts beforehand.

According to the asylum authority, 29 judicial review requests challenging the decision made as a result of a temporary protection procedure until 31 December 2022 were submitted.⁹⁵⁸ Neither the asylum authority, nor the National Office for the Judiciary could provide data as to the outcome of the judicial review procedures.

Interestingly, when refusing the temporary protection application, the Asylum Act does not preclude the submission of a subsequent application as it does regarding general asylum claims. As a consequence, even if the factual basis of the application and circumstances of the applicant did not change, another application can be submitted and the authority has to make a new – presumably – refusing decision.

4. Legal assistance

The TP Decree precludes the application of the provisions of Asylum Act according to which applicants are to be provided with the possibility of legal assistance or access to free legal aid in case of need, according to the rules set out in the Act on Legal Aid or by an NGO registered in legal protection.⁹⁵⁹ This does not mean that temporary protection applicants cannot have legal assistance in the procedure, but that the state is not required to provide legal aid upon the applicant's request, as is the case in general asylum procedures.

In the absence of state-coordinated legal aid, non-state actors were quick to react and established various channels via which legal assistance could be instantly accessed by people fleeing Ukraine. According to the experience of the HHC, legal assistance services concerning temporary protection were provided predominantly by the civil society organisations (e.g. HHC, Menedék Association), a network of legal assistance providers called 'Hungarian Attorneys for Ukraine' set up by the Hungarian Bar Association and by international organisations such as the UNHCR and IOM.

Most of these actors set up a dedicated phone number, email addresses, operated by Ukrainian or Russian-speaking staff members or with their help. The assistance providers made their information materials available on their websites. The UNHCR and the IOM have been constantly present in the border area since 24 February 2022, and the HHC monitors it on bi-weekly to monthly basis. The information materials of the UNHCR and HHC are physically available at the helping points close to the border and accommodation sites visited by these organisations during their monitoring missions. Over these monitoring trips, the HHC and UNHCR have provided on-the-spot legal assistance and information regarding the available protection schemes for anyone requesting.

In-person legal assistance in **Budapest** is available in the offices of the HHC and Menedék Association, at the community centre called Budapest Helps!, which was set up together by the UNHCR and IOM in

⁹⁵⁵ Sections 68 (1) and 79 (2) of Asylum Act.

⁹⁵⁶ Section 68 (2) of the Asylum Act.

⁹⁵⁷ Sections 88-89 of Code on Administrative Litigation.

⁹⁵⁸ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

⁹⁵⁹ Section 4(1) c.) of the TP Decree precludes the application of Section 37 (3) of Asylum Act.

partnership with Budapest Municipality and is dedicated to people fleeing Ukraine,⁹⁶⁰ and at IOM's Info Point at Nyugati Railway Station. If there is a need for legal representation in the temporary protection or following judicial review procedures, it has been provided either by attorneys and lawyers of the HHC or network members of 'Hungarian Attorneys for Ukraine', after a direct inquiry or by a referral to these entities. Legal information sessions, specifically for third-country nationals fleeing Ukraine, were organised by a volunteer organisation called [Beyond Borders Budapest](#) and the [Nigerian Diaspora Association](#).

Furthermore, in the Budapest BOK Centre, a sport centre which was converted into a humanitarian transit spot specifically for people fleeing Ukraine, staff members of the NDGAP have been present, and provide information on the temporary protection procedure. Appointments to start the procedure may also be booked with them. The immigration/asylum authority or other competent state-actors, usually responsible for providing information, have otherwise been absent at the border and at the shelters. Because of the lack of state-coordinated information provision, it has depended entirely on the non-state actors whether individuals could access any type of legal assistance.

Between 24 February and 31 December 2022, the HHC assisted 4,344 people in person, responded to 2,211 emails, 1,084 phone calls and 721 messages coming from people who fled Ukraine, predominantly seeking legal help. Despite being the only civil society organisation providing legal assistance in asylum procedures, the HHC was not granted access to the BOK Centre, although requesting it from the Budapest Government Office. The UNHCR reports that by 30 October 2022, its 15 protection partners had provided assistance in accessing protection and documentation to around 41,000 individuals.⁹⁶¹

5. Information provision and access to NGOs

According to the Asylum Act, the asylum authority is to inform the applicant on their procedural rights and obligations and the consequences of breaching these obligations. This is to be done when the applicant submits the application, in a written form, in the native language of the applicant or in one which is otherwise understood by the applicant.⁹⁶² Although the Asylum Act would normally require the authority to record the fulfilment of this obligation in the minutes,⁹⁶³ the TP Decree precluded the application of this provision in temporary protection procedures.⁹⁶⁴ In the experience of the HHC, no such written information is provided to the applicants when they lodge the application. If there is no language barrier or interpreters are present, the case-officers of the asylum client services normally provide information to applicants in person, informing them about the expected duration of the procedure and on the communication of the decision. Terre Des Hommes Hungary reported that in some occurrences the case-officers of NDGAP could not inform the applicants on the available protection and resident statuses and they could not explain the difference between temporary protection, tolerated and residence permit status.⁹⁶⁵

Furthermore, the Asylum Act provides that upon communicating the decision on recognition, the authority has to inform the beneficiary of their rights and obligations.⁹⁶⁶ The Asylum Decree also requires the authority to inform the beneficiary in a written form of the available services and financial support to which they are entitled when delivering the decision. The information must be provided in the native

⁹⁶⁰ Budapest, 'Budapest helps', available at: <https://bit.ly/3RCYxiN>; on the activities see UNHCR, *Refugee Situation Operational Update, September-December 2022*, December 2022, available at: <https://bit.ly/3jfAjOR>.

⁹⁶¹ UNHCR, *Hungary Refugee Response Plan, Achievements March-October 2022*, available at: <https://bit.ly/3Z6mem4>.

⁹⁶² Section 37 (1) of Asylum Act.

⁹⁶³ Section 37 (2) of Asylum Act.

⁹⁶⁴ Section 4 (1) c.) of TP Decree.

⁹⁶⁵ Information received from Terre Des Hommes Hungary on 28 January 2023.

⁹⁶⁶ Section 79 (3) of Asylum Act.

tongue of the beneficiary or in a language they understand.⁹⁶⁷ In line with the TP Decree, however, the authority does not adopt a separate decision about recognition and only records the recognition itself and notifies the applicant by handing over the temporary protection document.⁹⁶⁸ The asylum authority partially complies with the referred provision of the Asylum Act. Along with the TP card, a letter is sent informing the beneficiary that the card does not entitle its holder to travel and that receipt of the card renders its holder eligible to request the regular subsistence allowance at the competent district office. In this regard, the beneficiary is also informed that they have an obligation to register at the district office by the last day of each month during the period of temporary protection. There is no information in the letter about how to access other services which a beneficiary is entitled to (healthcare, education, travel discount etc.). This is contrary to Article 9 of the Temporary Protection Directive providing that 'Member States shall provide persons enjoying temporary protection with a document, in a language likely to be understood by them, in which the provisions relating to temporary protection and which are relevant to them are clearly set out.'

The HHC turned to the NDGAP requesting information on how the authority complies with its obligation concerning information provision. The NGDAP answered that the TP Decree was a *lex specialis* to the general rules set out in the Asylum Act and Decree, thereby, it did not apply Section 38(1) of the Asylum Decree that was relevant regarding this obligation.⁹⁶⁹ The TP Decree, however, does not preclude the application of the said section, thus, the authority should comply with it. The NDGAP furthermore stated that beneficiaries receive information when they receive their temporary application form in the client services and also that information is available on their website. The personal information provision was, however, insufficient and on the website some relevant information was only available in Hungarian and English.

There have been no special measures or practice introduced concerning the needs of vulnerable groups in any aspects of the temporary protection procedure. Accordingly, there is no information provided by state actors specifically tailored to the needs of vulnerable individuals.

Staff members of the NDGAP were neither present in the border area, nor were they visiting the accommodation sites for the purpose of information provision. The authority provided information on temporary protection on its website⁹⁷⁰ and in the BOK Centre in person. In the experience of the HHC and Terre Des Hommes Hungary,⁹⁷¹ the fact that the NGDAP could barely be contacted via phone or email posed unreasonable difficulties to persons of concern and to the authority too, as usually there was no other way to obtain information but to go to the authority in person, thereby burdening further the already overburdened capacities of the authority.

On a positive note, a state hotline was quickly set up by the government in March 2022, providing information in Ukrainian, Hungarian and English on basic issues relating to temporary protection procedure, entry, individual situations⁹⁷². A dedicated email address was also set up for the same purpose. The officers, however, were not really up-to-date as the hotline did not belong to NDGAP, they had to make inquiries to the NGDAP themselves. In the HHC's experience, they could answer straightforward questions but were professionally not prepared to answer more complex ones and had no information on resolving more complicated legal situations. As to the emails, information was sometimes quickly and efficiently provided, but other times no response arrived.

⁹⁶⁷ Section 38(1) of Asylum Decree.

⁹⁶⁸ Section 5/A (3) of TP Decree.

⁹⁶⁹ Letter received from the NDGAP's asylum department by the HHC on 16 June 2022.

⁹⁷⁰ The NDGAP website is available at: <http://bit.ly/3xBVE8m>.

⁹⁷¹ Information received from Terre Des Hommes Hungary on 28 January 2023.

⁹⁷² Official press release in English: <http://bit.ly/3Y69nzZ>. Phone numbers from HUN (free of charge): 06 80 310 310, from Ukraine: 0 800 504 546, from abroad: +36 1 550 1828, E-mail: menekultinfo@me.gov.hu.

Information provision was mainly organised by NGOs, the UNHCR and members of the Charity Council. According to the UNHCR,⁹⁷³ assistance partners⁹⁷⁴ in the Hungarian Refugee Response Plan are the Budapest Methodological Social Center (BMSZKI), Budapest Municipality, Caritas Hungarica, Cesvi, Cordelia, EMMA/Patent Association, Evangélikus Diakónia, FAO, Foundation of the Ukrainian Greek Catholic Church, From Street to Homes Association (ULE), Hungarian Baptist Aid, Hungarian Charity Service of the Order of Malta, Hungarian Civil Liberties Union, Hungarian Evangelical Fellowship, Oltalom Charity Society, Hungarian Helsinki Committee, Hungarian Interchurch Aid, Hungarian Red Cross, Hungarian Reformed Church Aid, Jesuit Refugee Service, Mandák Ház, Menedék Hungarian Association for Migrants, IOM, Migration Aid, NANE, Next Step, Romaversitas, Terres des Hommes CH, Trauma Center, Ukrainian Association Unity, UNESCO, UNFPA, UNHCR, UNICEF, Vamos Foundation (Lexi), WHO. Many of these organisations have generally provided information on their website, where they published those contact details (e.g. phone, email) which were specifically dedicated to the people seeking assistance or information regarding temporary protection. Some organisations' information leaflets, put together on the available protection alternatives, are available in Ukrainian and Russian beside English and Hungarian.

D. Guarantees for vulnerable groups

There are no specific identification mechanisms in place in Hungary to identify vulnerable individuals under the temporary protection scheme. Notably, there has been no comprehensive screening for people with special protection needs.⁹⁷⁵ In the experience of the HHC, people with disabilities have been frequently placed in shelters without reasonable accommodation that are not appropriate to their needs, lacking the necessary medical/psychological assistance. Although the arriving population mainly consisted of women and children being at risk of human trafficking, no adequate preventive measures specifically targeting persons fleeing Ukraine have been implemented. This means, among others, that no information on the risks of trafficking in a language these people understand is accessible at accommodation sites, no information at all has been available for unaccompanied minors (UAMs) in a child-friendly and age-appropriate manner, there is no information available at the accommodation sites or at the helping points close to the border on the fact that victims of human trafficking or those who are at risk of trafficking may turn to the National Crisis Management and Information Service, where no Ukrainian or Russian speaker dispatcher is available in any case. As to the population at risk of labour exploitation, the HHC received an increasing number of inquiries from September onwards reporting unfair labour conditions from applicants or beneficiaries of temporary protection who started working in Hungary. Most inquiries concerned unfairness regarding salary (e.g. receiving substantially less salary than agreed beforehand) or the fact that persons were employed without a contract.

In its information request sent to the NGDAP the HHC asked how many individuals fleeing Ukraine to Hungary were identified as vulnerable by the authority. Worryingly, the NGDAP stated they had no data in that regard.⁹⁷⁶

There have been no special procedures adapted specifically to the needs of UAMs who are entitled to temporary protection. The TP Decree even excluded the application of some procedural guarantees concerning UAMs provided by the Asylum Decree.⁹⁷⁷ Accordingly, if an UAM is to be heard in a temporary protection procedure, which is unlikely in practice but possible by law, they may be heard

⁹⁷³ UNHCR, *Hungary Refugee Response Plan, Achievements March-October 2022*, available at: <https://bit.ly/3Z6mem4>; UNHCR, *Regional Refugee Response Plan 2022 / Overview*, available at: <https://bit.ly/3RpQm92>.

⁹⁷⁴ The websites of the organisations can be found by clicking on their respective names.

⁹⁷⁵ UNHCR, *Inter-Agency Operational Update Hungary*, 10 May 2022, available at: <https://bit.ly/3l1dkYb>.

⁹⁷⁶ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

⁹⁷⁷ Section 5(1) g.) of Asylum Decree excludes the application of Sections 74-76 of Asylum Decree.

without their legal representative or guardian being present and without other guarantees prevailing (e.g. interview in a child-friendly environment).

The most worrisome deficiency of the authority's practice regarding UAMs has been the fact that the appointment of guardians has been frequently absent. Based on the Asylum Act, if the applicant is an UAM, the authority is to arrange their temporary accommodation and the appointment of a child protection guardian.⁹⁷⁸ In this case, the asylum authority must decide the UAM's case in a prioritised procedure.⁹⁷⁹ The Asylum Decree furthermore provides that UAMs under the age of 14 must be accommodated within the child protection system.⁹⁸⁰ In case of UAMs who are 14 years old or older, the authority is obliged to notify the district office in order to provide the UAM with a legal representative and case guardian.⁹⁸¹ However, in the HHC's experience, the asylum authority enforced none of these guarantees. This worrying practice led to UAMs alone or under the care of persons not related to them at accommodation sites, without being transferred to the official children's care facility.

On 28 April 2022, in an accommodation in **Vásárosnamény** (a town in the border area) monitors of HHC met 42 UAMs in the care of 9 adult women. They had all applied for temporary protection, but it was unclear to all of them whether the asylum authority had taken any steps to initiate the necessary guardianship procedure.

In its information request sent to the NGDAP the HHC asked the number of registered temporary protection beneficiary UAMs. Worryingly, the NGDAP stated they had no data in that regard.⁹⁸² There have been non-state coordinated programmes introduced to address the needs of individuals suffering from mental health problems. This type of assistance was also arranged mainly by the actors of NGOs. Special bio-psycho-social assistance to people fleeing Ukraine is provided by the Cordelia Foundation country-wide. Their 14 psychologists and psychiatrists provided assistance to 189 persons suffering from mental health problems between 24 February and 31 December 2022. Apart from Cordelia Foundation, psycho-social assistance was also given by the Trauma Centre, IOM and Menedék Association.⁹⁸³ BMSZKI also reported that at both accommodation sites run by them psychologists were present providing individual and group therapy sessions to adults and children separately.⁹⁸⁴ Next Step Hungary Association has run its mental health programme for 3 years and it has been made available also for people fleeing Ukraine. Within the programme, individual and group counselling sessions for adults and children are available.⁹⁸⁵

⁹⁷⁸ Section 36(6) of Asylum Act.

⁹⁷⁹ Section 36(7) of Asylum Act.

⁹⁸⁰ Section 33 (4) of Asylum Decree.

⁹⁸¹ Section 99/F(1) of Asylum Decree.

⁹⁸² Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

⁹⁸³ Information received from the Cordelia Foundation by the HHC on 19 January 2023.

⁹⁸⁴ Information received from the BMSZKI by the HHC on 13 February 2023.

⁹⁸⁵ Information received from the Next Step Hungary Association by the HHC on 6 February 2023.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of temporary protection?
Until 4 March 2024
2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2022?
28, 790⁹⁸⁶

Following recognition as a beneficiary of temporary protection, the NDGAP sends the temporary protection card (hereinafter: residence card or TP card) normally by post, or, if the beneficiary cannot be found under the address they gave to the authority upon application, the card is to be collected at the asylum client service where the applicant made their application or at the Budapest client service. As explained under Registration under temporary protection, the authority does not make a separate act on the recognition, but materialises the positive decision by sending the temporary protection card. Therefore, the deadline by which the procedure is to be conducted (55 days) is the legally required duration within which the TP card is to be received. In the HHC's experience, in the first 3 quarters of 2022, there were severe delays regarding the issuance of the temporary protection card (sometimes lasting over 70-90 days). This has posed a severe problem as subsistence allowance – the only type of financial support to which beneficiaries are entitled - may be requested only by temporary protection card holders. To remedy this, the asylum authority sometimes issued an official certificate about temporary protection, but not all Government/District offices (in Hungarian: 'járási hivatal') accepted it in the absence of the actual card.

All residence permits issued in 2022 were valid until 4 March 2023. As the EU temporary protection was extended, 58/2023 Government Decree (II.28) also declared the prolongation of the Hungarian TP cards' validity until 4 March 2024.

There is only one right which is connected solely to the possession of the TP card in practice. According to Government Decree 106/2022. (III. 12.), the beneficiary of temporary protection is entitled to a subsistence allowance.⁹⁸⁷ This also means that during the procedure, the applicant cannot receive the subsistence allowance. However, in the absence of a formal decision on recognition, TP beneficiary status can be substantiated by holding a TP card. As explained earlier, a letter is sent along the TP card informing the beneficiary that they can request the subsistence allowance at the Government/District office. Otherwise, in the experience of the HHC clients, accessing other rights does not require the physical possession of the TP card.

The table below summarises which are the rights that can be accessed by applicants and beneficiaries of temporary protection respectively, referring to their basis in law.

Benefits	Applicant	Beneficiary
Material reception conditions (accommodation, meals, hygienic services)	Section 22(1)c.) of the Asylum Act; of Section 21(1)a.) and Section 101 of the Asylum Decree (The assessment by the authority under Sections 16(4) -19 of the Asylum Decree shall be excluded under points	Section 41 (2) of the Asylum Decree

⁹⁸⁶ Data received from the National-Directorate General of Aliens Policing by the HHC on 13 February 2023.
⁹⁸⁷ Section 4 of Gov. Decree Government Decree 106/2022. (III. 12.).

	(c)-(d) of Section 5(1) of Gov. Decree 86/2022 (III. 7.)	
Health care	Sections 26-28 of the Asylum Decree Section 6(2)a.)-b.) of Gov. Decree 86/2022 (III. 7.): specialised oncological care, examinations and medical treatment within the framework of health services related to other chronic illness Gov. Decree 171/2022. (IV. 29.) – on the practical arrangements of receiving health care	Section 37/A(1)b.) and Section 44(2) of the Asylum Decree; Section 6(2)a.)-b.) of Gov. Decree 86/2022. (III.7.), Gov. Decree 171/2022. (IV. 29.)
Education	Section 29 of the Asylum Decree Section 92 (1) a.) and (3) of Act CXC of 2011 on Public Education	Section 37/A(1)c.) and Section 45 of the Asylum Decree; Section 3 of Gov. Decree 106/2022. (III. 12.) (preschool and childcare services) Section 92 (1) a.) and (3) of Act CXC of 2011 on Public Education
Free meals for children	Section 3/A of Gov. Decree 106/2022. (III. 12.) on request, for six months, if care-taker's income is below 173.000 HUF	Section 3/A of Gov. Decree 106/2022. (III. 12.) On request, for six months, if care-taker's income is below 173.000 HUF
Regular subsistence allowance	-	Section 37/A (1)e.) and Section 37/A (4)b.) of the Asylum Decree; Section 4 (2)-(3) of Gov. Decree 106/2022 (III. 12.) BUT Section 2(2): persons shall be obliged to accept the job offered to them within 45 days following the first payment of subsistence allowance. The allowance is subject to a monthly appearance in person before the district office. The entitlement to allowance shall cease in case of employment or pension.
Travel allowances	Section 24 of the Asylum Impl. Decree	Point (c) of Section 37/A(2) and Section 48 of the Asylum Decree. It must be requested from the asylum authority [Section 48 (2)]
Bearing the costs of public funeral	Section 25 of the Asylum Decree	-
Reimbursement of document translation costs	Section 6(2)c.) of Gov. Decree 86/2022. (III. 7.) Section 49 of the Asylum Decree;	Section 37/A (3)b.) and Section 49 of the Asylum Decree

	documents issued before the recognition as beneficiary of temporary protection, especially extracts from birth or marriage register, certificates of education or vocational training	
Employment	Section 6 (4) of Gov. Decree 86/2022. (III. 7.) – No special permit is necessary for the employment Public employment: Section 7 of Gov. Decree 86/2022. (III. 7.)	Section 6 (4) of Gov. Decree 86/2022. (III. 7.) – No special permit is necessary for the employment Public employment: Section 7 of Gov. Decree 86/2022. (III. 7.) Act CVI of 2011
Facilitating final departure from the country	-	Section 37/A(3) c.) of the Asylum Decree
Family Reunification	-	Section 105 of the Asylum Decree: If the family member was awarded temporary protection in another Member State, family reunification may be requested

It is important to mention that all benefits which can be accessed by the beneficiary of temporary protection can also be accessed by dual Hungarian-Ukrainian citizens who fled Ukraine after 24 February 2022 and had a permanent residence there, unless more favourable treatment is granted by virtue of the Hungarian citizenship.⁹⁸⁸ This is because those who hold Hungarian citizenship may not apply for temporary protection, but the law maker intended to grant them the same support as nationals of third countries entitled to the protection.

In the experience of the HHC lawyers, procedures to transfer residence to another EU Member State depend on the laws and practices of the targeted Member State. The Hungarian asylum authority does not require individuals moving to other member states to notify them beforehand. In practice, however, notifying the authority on the change of address is advisable to be able to receive official correspondence. If the person receives temporary protection in another member state, the asylum authority is obliged to withdraw the temporary protection status granted in Hungary with the consent of the beneficiary.⁹⁸⁹ It is worth mentioning that in its answer sent to the HHC, the asylum authority stated that according to their current practice, the fact that an individual was granted temporary protection status in another member state does not preclude them from applying for or being granted temporary protection in Hungary again.⁹⁹⁰

There is no formally introduced procedure to follow if the applicant has transferred to another member state. The law only provides that the asylum authority is to withdraw the status if the beneficiary renounces it in writing.⁹⁹¹

According to the data of the NDGAP, the authority withdrew the temporary protection status of 939 beneficiaries who renounced their status.⁹⁹²

⁹⁸⁸ Section 8 of TP Decree.

⁹⁸⁹ Section 25 (2)a.) of Asylum Act.

⁹⁹⁰ Letter received from the NGDAP asylum authority by the HHC on 16 June 2022.

⁹⁹¹ Section 25 (2) c.) of Asylum Act.

⁹⁹² Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

2. Access to asylum

Contrary to Article 17 (1) of the TPD, it is not possible for beneficiaries of temporary protection to apply for asylum in Hungary. On 26 May 2020, the government issued a government decree that introduced a new asylum system, the so-called “embassy procedure”.⁹⁹³ This new system was later included in the Transitional Act that entered into force on 18 June 2020 and which is still in effect.⁹⁹⁴ According to the new system, those wishing to seek asylum in Hungary, must first submit a ‘statement of intent for the purpose of lodging an asylum application’ at the Hungarian Embassies of **Kyiv**, Ukraine or **Belgrade**, Serbia.⁹⁹⁵ Only people belonging to the following categories are not required to go through this process: 1. beneficiaries of subsidiary protection who are staying in Hungary; 2. family members of refugees and beneficiaries of subsidiary protection who are staying in Hungary; 3. those subject to forced measures, measures or punishment affecting personal liberty, except if they have crossed Hungary in an ‘illegal’ manner

Accordingly, anyone who enters Hungary unlawfully and anyone who is legally staying in Hungary and does not belong to the three categories mentioned above, cannot apply for asylum in Hungary and beneficiaries of temporary protection are no exceptions. For more information on the new asylum system, please see [General Report – Embassy Procedure](#).

Consequently, if beneficiaries of temporary protection want to seek asylum in Hungary, they must first go either to Ukraine or Serbia. In practice it is very unlikely that any person who fled the war in Ukraine would want to go back there for this purpose. They can go to Serbia if they hold the necessary travel document to enter the country. If the beneficiary is a Ukrainian national and has a valid passport, no visa is required and entry into Serbia is allowed.⁹⁹⁶ However, if the beneficiary is a third-country national (e.g. family member of a Ukrainian citizen, who is eligible for temporary protection) who needs a visa to enter Serbia, the procedure is more complicated, as it has to be preceded by a visa procedure at the Embassy of Serbia, and the option to seek asylum in Hungary becomes quite hypothetical.

In its information request sent to the NDGAP the HHC asked for the number of asylum applications submitted by those individuals whose temporary protection application had been rejected or who applied for asylum after being recognized as a temporary protection beneficiary. The NDGAP stated that it has no data with regard to asylum applications submitted by those whose temporary protection application was rejected. As to asylum applications submitted by beneficiaries of temporary protection, the NDGAP revealed that no beneficiary had submitted any in 2022.⁹⁹⁷

B. Family reunification

Beyond the framework of TPD, it is not possible to apply for family reunification, neither for the sponsor (beneficiary of temporary protection), nor for their third-country national family members. Under the scope of Act II of 2007 on the entry and stay of third country nationals, setting forth the rules for family reunification of third-country nationals (for further information see [General Report – Family Reunification](#)), a sponsor of a family reunification may not be a beneficiary of temporary protection.

⁹⁹³ Government Decree 233/2020. (V. 26.) on the rules of the asylum procedure during the state of danger declared for the prevention of the human epidemic endangering life and property and causing massive disease outbreaks, and for the protection of the health and lives of Hungarian citizens.

⁹⁹⁴ Act LVIII of 2020 on the Transitional Provisions related to the Termination of the State of Danger and on Epidemiological Preparedness.

⁹⁹⁵ Section 1 of Government Decree 292/2020 (VI. 17.).

⁹⁹⁶ Republic of Serbia, Ministry of Foreign Affairs, ‘Visa regime’, available at: <https://bit.ly/3JvjU3c>.

⁹⁹⁷ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

Within TPD, the Asylum Decree provides that if a family member of a temporary protection beneficiary is granted temporary protection by another Member State applying the TPD, the beneficiary may, with a view to ensuring family unity, ask the asylum authority if the temporary protection afforded in the other Member State can be extended to them. The asylum authority shall then consult the Member State concerned as to whether the beneficiary is to be granted temporary protection with a view to ensuring family unity in that other Member State. If the requested Member State agrees to grant the beneficiary temporary protection, the asylum authority shall withdraw recognition as a beneficiary of temporary protection and issue them with a certificate specified in Annex 4 of the Asylum Decree, containing the personal data of the beneficiary and the fact that the certificate is issued for the purpose of transfer from Hungary to the other member state. If the requested state does not grant temporary protection to the beneficiary, the asylum authority shall notify them thereof, at the same time informing them of the provisions of Article 20(2) of the Asylum Act providing that the family member of the beneficiary, who is beneficiary of temporary protection in another Member State, is to be recognised as a beneficiary for the purpose of family unity in Hungary upon request.⁹⁹⁸ Within the meaning of Asylum Act family members are: spouse (if family relationship existed before entering the territory of Hungary), minor child (including adopted and foster children), the parent or an accompanying foreign person responsible for them under Hungarian law.⁹⁹⁹

If family members of temporary protection beneficiaries are reunited by applying the above rules, there are no material requirements.

C. Movement and mobility

Beneficiaries of temporary protection enjoy freedom of movement within Hungary, they are not subjected to any territorial restrictions.

In the view of the HHC, travelling between member states is possible by holding a TP card and a valid passport. This is so as according to the Preamble 16 of Council Decision and the EC's Operational Guidelines, once a Member State has issued a TP card (considered as residence permit), the beneficiary of temporary protection is entitled to travel to a Member State other than the one that issued the residence permit, for a period of 90 days within 180 days.

As the practice of the border police was, however, inconsistent as to what type of travel/residence documents are needed for beneficiaries of temporary protection to travel to other EU Member States from Hungary, the HHC turned to the NDGAP asylum authority and National Police Headquarters, requesting them to describe the border control practice concerning TP card holders and specify the legal basis of the practice.

The NDGAP asylum authority stated in their answer that the Council Decision and the EC Operational Guideline were not appropriate to be considered as *lex specialis* overriding the Schengen Border Code. The authority also highlighted that although the Council Decision and the Guidelines talk of the possibility of travelling to another Member State and the duration of stay, they remain silent as to what type of documents are needed for border crossing. Furthermore, in the view of the asylum authority, it is for the target country to decide what documents are required for entering the country.¹⁰⁰⁰

The National Police Headquarters Border Police Department, to whom the HHC sent a request to clarify the practice and applicable law with regard to border-crossing of temporary protection beneficiaries, stated in its answer that the National Police Headquarters as a law enforcement body is not entitled to

⁹⁹⁸ Section 105 of Asylum Decree.

⁹⁹⁹ Section 2 j.) of Asylum Act.

¹⁰⁰⁰ Letter received from the NDGAP asylum authority by the HHC on 16 June 2022.

interpret the law to any person or organisation – whose conducts may be thereby influenced – not subject to its direct supervision.¹⁰⁰¹

The HHC has recorded cases of beneficiaries of temporary protection believing that they needed a valid biometric passport to be able to re-enter Hungary from Ukraine as Ukrainian border guards require it. Some people not holding such passports were therefore worried about going back to Ukraine. Terre des Hommes Hungary also recorded such information.¹⁰⁰² This information has not been confirmed via official channels.

D. Housing

Indicators: Housing

- | | |
|---|--|
| 1. For how long are temporary protection beneficiaries entitled to stay in reception centres? | For the whole duration of TP ¹⁰⁰³ |
| 2. Number of beneficiaries staying in reception centres as of 12/2022 | Not available |
| 3. Number of beneficiaries staying in private accommodation as of 12/2022 | Not available |

According to the HHC, which visited nearly 600 places in relation to the Ukrainian crisis in 2022, housing has been one of the most chaotic areas of the Hungarian implementation of the temporary protection scheme. This is because the accommodation of not only TP beneficiaries, but of all people fleeing Ukraine and being in need of a shelter, has not been coordinated in a centralised manner by the government. Non-governmental actors, such as municipalities, NGOs, international organisations and private individuals took an equally important role in organising the housing of fleeing people as state actors did.

Tasks and competencies relative to accommodation have not been regulated by the usual legal instruments (e.g. in government decrees), rather mechanisms have been established in an ad hoc manner. If an applicant indicates to the asylum authority upon submitting the application for temporary protection that they need accommodation, the National Directorate for Disaster Management, operating under the Ministry of Interior, carries out related arrangements, following notification of the asylum authority.¹⁰⁰⁴ The HHC in its information request sent to the Ministry of Interior asked for the number of types (state-run or operated by municipalities) of accommodation sites and also for the number of those temporary protection applicants and beneficiaries who had been accommodated by the National Directorate for Disaster Management. The chaotic coordination of housing is also well-reflected by the fact that the Ministry of Interior responded that it did not qualify as the owner of this data. According to the communication of the Ministry of Human Resources, the disaster management department set up operational teams in each county and Budapest, which manage tasks related to accommodation and transfer of people arriving from Ukraine.¹⁰⁰⁵ The (legal) basis of this practice is unclear. If people who fled reach any of the helping points at the border, members of the Charity Council could provide them with very short term (few days) accommodation on the spot, and later more long term accommodation is organised either by the Disaster Management or by the Charity Council member. From Záhony railway station (border-crossing point) Ukrainian citizens and third-country nationals with Ukrainian

¹⁰⁰¹ Letter received from the National Police Headquarter by the HHC on 5 January 2023.

¹⁰⁰² Information received from Terre Des Hommes Hungary on 28 January 2023.

¹⁰⁰³ Section 41 (2) of the Asylum Decree.

¹⁰⁰⁴ Press release of the Disaster Management on its website: <https://bit.ly/3RkMcZv>. The NDGAP confirmed in its response sent upon the information request of the HHC that the National Directorate for Disaster Management is responsible to accommodate temporary protection applicants and beneficiaries.

¹⁰⁰⁵ Ministry of Human Resources, *Information to support families from Ukraine for family and child welfare service providers*, May 2022, available in Hungarian at: <https://bit.ly/3HXccxG>, 22.

residence permits can get a so-called free of charge ‘solidarity ticket’ and ride to Budapest by train. Those who are in need of accommodation are directed to the **BOK** Centre in Budapest. As mentioned earlier, this is a humanitarian transit spot, operated by the government, where people may access basic services (food, health care provision, relief items).¹⁰⁰⁶ Staff members of the Disaster Relief are on the spot and need for housing may be indicated to them.

Most accommodation solutions have been provided by municipalities at various locations: in schools, cultural centres, social and elderly homes and in random empty buildings owned by the municipality. Between 24 February and 1 November 2022, municipalities could receive an allowance of 4,000 HUF/day/capita, after 1 November 2022 this amount increased to 7,000 HUF.¹⁰⁰⁷

The Budapest Methodological Centre of Social Policy and Its Institutions (BMSZKI), which is the largest homeless service provider in Budapest, reported that upon request of Budapest municipality, they opened their accommodation centre dedicated specifically to people fleeing Ukraine with a capacity of 100 persons already on 26 February 2022. Two days later BMSZKI opened another site for 60 persons. In total, between the period of 26 February and 31 December 2022, they provided 964 persons with accommodation. They also reported that they assisted 6 families in finding permanent accommodations with the help of Utcáról Lakásba! Association, Jesuit Refugee Service and Wekerle Community. In its report BMSZKI, whose main profile is the housing of the homeless, also emphasised that they had no prior professional experience in the reception of refugees and it posed a great challenge for them to provide people with need-appropriate services without a state-led coordination and clear legal framework. BMSZKI pointed out that the capacities of their reception centres and staff members were insufficient in some instances. They noted that Ukrainian refugees needed complex social assistance apart from housing that they could provide and managing these needs required BMSZKI to find ad-hoc practical and financial solutions without substantive help from the state.¹⁰⁰⁸ According to Caritas Hungarica (one of the Charity Council members), they provided thousands of people with accommodation at very diverse spots, ranging from clergy houses to private apartments run by or with the support of the charity.¹⁰⁰⁹ It is unclear whether the Charity Council members have funded their services, including accommodation provided by them, exclusively through government allocated funds,¹⁰¹⁰ or through their private funds too. NGOs, private entities and individuals from the civic sphere have also mobilised themselves in an exceptional manner and assisted many Ukrainians in finding or by providing accommodation. Kalunba, a Budapest-based NGO, reported, for instance, that they alone provided 161 individuals with temporary accommodation for a total of 501 nights, and also could provide 31 apartments for rent for a total of 180 individuals in the period between 1 June 2022 and 6 February 2023.¹⁰¹¹

IOM reported that Ukrainian families were facing issues with identifying long term accommodation in Budapest and that landlords were reluctant to rent to Ukrainian families with children, being aware that the families might not be able to afford rent for a long period and knowing that they would not be able to terminate their contracts easily. IOM moreover added that Hungarian-speaking families also faced obstacles in finding accommodation partially due to prejudices towards Roma communities. The organisation otherwise contributed to the provision of short and mid-term accommodation. Concerning short-term accommodation, urgent and late arrivals were placed in two hotels close to the main stations

¹⁰⁰⁶ BOK Centre is indicated as a transit spot by UNHCR, see UNHCR, ‘Information for people from Ukraine’, available at: <https://bit.ly/3Rn3GLs>.

¹⁰⁰⁷ Section 4 of Gov. Decree 104/2022 (III.12).

¹⁰⁰⁸ Information received from BMSZKI by the HHC on 13 February 2023.

¹⁰⁰⁹ Information received from Caritas Hungarica on 23 January 2023.

¹⁰¹⁰ The Hungarian Government announced on 5 March 2022 that members of the Charity Council would receive 3 billion forint. The official press release can be found here: <https://bit.ly/3JyP0Hk>. In the Act XXV of 2022 on the central budget of Hungary for 2023 there is 1,218 billion forint allocated to the Charity Council, see: <https://bit.ly/3jmFVH0>.

¹⁰¹¹ Information received from Kalunba organisation by the HHC on 6 February 2023.

and usable up to one week. By virtue of a partnership with Airbnb, IOM offered apartments for stays up to 30 days. Concerning the mid-term accommodation, several options were available:

- ❖ IOM ran a shelter facility mainly dedicated to third country nationals;
- ❖ In partnership with a local stakeholder, IOM offered apartments aimed at accommodating the most vulnerable cases for up to five months. In addition, they rented an apartment block to host crisis-affected people who have an established livelihood or of schooling age;
- ❖ IOM Hungary rented a separate apartment for protection cases.

In partnership with the Capital Circus of Budapest, they supported the accommodation of a young talents' group. As of 16th of December 2022, the total number of people accommodated by IOM was 2,040 and total safe nights of accommodation provided was 65,145.¹⁰¹²

To the knowledge of the HHC, no state-run reception centres accommodated temporary protection beneficiaries, but in many cases the state contracted a church and corporate or private entities (e.g. hostel, hotel owners) to provide accommodation. If the competent Ministry, or the county/Budapest defence committee and the accommodation provider conclude an agreement for the use of accommodation with a capacity of more than 20 persons, the accommodation provider may claim an individual allowance for the accommodation and care of the people.¹⁰¹³ The amount of the allowance is the same as for municipalities.

The UNHCR conducted a multi-sectoral needs assessment in September 2022 with the participation of 512 respondents (83% Ukrainian refugees, 15% Hungarian-Ukrainian dual citizens, and 2% third-country nationals). Although it is emphasised that the result cannot be considered representative for the challenges of reaching out to private households, the paper found that 'one in three interviewees is residing in private accommodation and the percentage differs based on the location of residence; 61% of the refugees surveyed in Budapest are staying in private accommodation (7% in the rest of the country), while 74% of the refugees surveyed outside of Budapest are accommodated in collective sites, followed by hotels/hostels (18%)'.¹⁰¹⁴

Temporary protection beneficiaries,¹⁰¹⁵ applicants,¹⁰¹⁶ as well as Hungarian-Ukrainian dual citizens¹⁰¹⁷ as explained earlier, are entitled to access reception conditions. Pursuant to Section 26(1) of the Asylum Act, 'reception conditions include material reception conditions, and all entitlements and measures defined in an act of Parliament or government decree relating to the freedom of movement of applicants, as well as health care, social welfare and the education provided to applicants.'¹⁰¹⁸ Beneficiaries in need are entitled to 'material reception conditions and to aid and support, in accordance with specific other legislation'¹⁰¹⁹ (for specific entitlements within reception conditions see Residence Permit).

The Asylum Act defines the circumstances in which reception conditions provided to a beneficiary of temporary protection may be reduced and withdrawn, that is when the beneficiary:

- ❖ is engaged in repeated or serious violation of the rules of conduct at the reception centre;
- ❖ is engaged in any repeated or serious breach of the obligation of cooperation;
- ❖ has disclosed false information or untrue facts concerning his/her assets or income, or if he/she refused to provide such information in the interest of obtaining the material reception conditions or the aid and assistance provided in accordance with the relevant legislation; or
- ❖ is engaged in seriously violent behaviour.¹⁰²⁰

¹⁰¹² Information received from the IOM by the HHC on 14 February 2023.

¹⁰¹³ Section 8 of Gov. Decree 104/2022 (III.12).

¹⁰¹⁴ UNHCR, *Hungary: Multi-Sectoral Needs Assessment*, November 2022, available at: <https://bit.ly/3RkMoPf>.

¹⁰¹⁵ Section 32 (2) of Asylum Act.

¹⁰¹⁶ Section 26 (2) of Asylum Act.

¹⁰¹⁷ Section 8 of the TP Decree.

¹⁰¹⁸ Section 26 (1) of Asylum Act.

¹⁰¹⁹ Section 32 (2) of Asylum Act.

¹⁰²⁰ Section 32/A (1)a.- d.) of Asylum Act.

Government Decree 104/2022 (III.12.) furthermore provides that if the person accommodated does not leave the accommodation upon the request of the accommodation provider (if it is a private accommodation, for instance) the accommodation provider may notify the police. The police may oblige the person to leave the accommodation and, upon request, transfers them to another accommodation designated by the local defence committee.¹⁰²¹

Tasks related to the provision of reception conditions are to be carried out by the asylum authority.¹⁰²² In order to carry out reception-related tasks more efficiently, the asylum authority may conclude contracts with in particular, a non-governmental organisation, a local authority, church, a foundation, an institution of the mentioned entities, a company or any other legal entity to provide:

- ❖ the applicant with the material conditions for admission;
- ❖ the benefits falling within the material reception conditions to which the beneficiary is entitled;
- ❖ the social and mental health care to applicants and beneficiaries;
- ❖ information on the rights and obligations of the applicant and beneficiary;
- ❖ Hungarian language course to beneficiaries.¹⁰²³

Beneficiaries of temporary protection and dual Hungarian-Ukrainian citizens who fled Ukraine are entitled to stay in their designated accommodation as long as the EU temporary protection is activated.¹⁰²⁴

There is no official data available as to the number and capacity of those state-run accommodation sites which are dedicated to temporary protection beneficiaries. The HHC sent a freedom of information request to the relevant ministries inquiring about the matter, but none of the ministries engaging in the crisis response (Ministry of Interior, Prime Minister's Cabinet Office, Prime Minister's Office, Ministry of Economic Development) could answer the HHC's housing-related question, stating that they do not qualify as official owners of these data. At the time of writing, it is legally unclear which central government body is responsible to ensure compliance with the TPD's reception condition requirements, and no law specifies it.

In the HHC's experience, the very essential material reception conditions are generally accessible by those entitled. A disturbing occurrence, however, was recorded by the HHC staff on 4 August in the border area: persons of concern belonging to the Roma community stated that they did not receive any type of assistance in **BOK** Centre Budapest in spite of having requested it. The other issue to be highlighted is that the quality of the service provision may differ by locations, which is a direct consequence of the absence of coordination of services and service providers on a national level. As most accommodation sites are run by different entities, under different circumstances (e.g. some municipalities are in better financial situation than others), the level and the quality of assistance offered to the population varies significantly across the various shelters. The increased utility costs put all accommodation providers under serious financial pressure and some of the accommodation sites had to close due to this. Consequently, the accommodated people then had to move to new locations, despite the fact that their children had already been enrolled in schools. The HHC monitors reported in some locations that people lack basic food and non-food supplies. At the accommodation site in **Vitnyéd-Csermajor** conditions were degrading, food and hygiene items were lacking, and health care provision was also dissatisfactory. Accommodation conditions were also poor in **Ráckeve** and **Gyöngyös**. At the **Uszka** accommodation, persons of concern were greatly in need of clothing (especially winter clothing for the children), hygiene items, diapers, household appliances.

¹⁰²¹ Section 6 of Gov. Decree 104/2022 (III.12.)

¹⁰²² Section 12 (2) of Asylum Decree.

¹⁰²³ Section 14 (2) a.)-e.) of Asylum Decree.

¹⁰²⁴ Section 41 (2) of the Asylum Decree, Section 8 of the TP Decree.

Another issue of great concern has been the inconsistent receipt of the monthly subsistence allowance. Beneficiaries of temporary protection have regularly complained to the HHC about either not receiving the subsistence allowance at all despite requesting it, or receiving it with a great delay. In some cases the subsistence allowance arrived in one month but was absent in the following months. Families also reported that while they requested the subsistence allowance together, some family members received it, while others did not (typically the subsistence allowance requested for minor children). In its multi-sectoral needs assessment report the UNHCR noted that out of 512 respondents 93% had been granted temporary protection, and those granted protection had received this financial assistance at least once.¹⁰²⁵ The UNHCR added that this does not mean that the allowance is currently received or that it has been received regularly. The HHC requested data from the Ministry of Economic Development on the number of beneficiaries receiving subsistence allowance, but the Ministry stated in its response that they did not have this information.¹⁰²⁶ The director of NGDAP's asylum department suggested on 3 March 2022 to the representatives of HHC, that, according to his knowledge, a stable average of around 7,000 beneficiaries receive subsistence allowance on a regular basis in Hungary.

Moreover, until around September 2022, it was unclear to the relevant authorities (asylum authority and government/district offices) who is responsible for processing subsistence allowance requests. The HHC received numerous inquiries from people eligible for the subsistence allowance stating that neither the asylum authority nor the government/district office wanted to register their request for the subsistence allowance, claiming the other body for responsible for this. Some of HHC clients stated that their request for financial assistance was registered by the asylum authority, others said that it was done at the district office. This situation was the result of an ambiguous legal environment: according to the Asylum Decree, which is to be applied with Government Decree 106/2022 (III.12) setting forth special rules relative to the subsistence allowance, it is granted by the asylum authority upon request of the beneficiary.¹⁰²⁷ The referenced decree also provides that the allowance is transferred by the asylum authority,¹⁰²⁸ but at the same time, states that the transfer of the allowance is subject to a monthly appearance in person before the district office for beneficiaries over the age of 6.¹⁰²⁹ Accordingly, in March 2022, the asylum authority also published a form on its website, which was to be used for the purpose of requesting the allowance. This form was available online until May 2022. To clarify this controversy, the HHC turned to the NDGAP asylum authority. The asylum authority stated in its answer that the allowance is to be transferred by them, without a formal request of the beneficiary, as long as they fulfil their obligation to appear before the district office, a fact which is then reported to the asylum authority. Consequently, according to the interpretation of the asylum authority, the beneficiary, if older than 6 years, only has to appear before the district office and the allowance will be granted to them. The authority also stated that the form they published was no longer in use, and that the allowance was also transferred to beneficiaries under the age of 6 without them formally requesting it.¹⁰³⁰ Considering the referenced provisions, this legal interpretation is obscure and not conclusive. At the same time, however, in the second half of 2022, the practice of both the asylum authority and the district offices became consistent and followed this interpretation by the asylum authority.

¹⁰²⁵ UNHCR, *Hungary: Multi-Sectoral Needs Assessment*, November 2022, available at: <https://bit.ly/3HrxW39>, 14.

¹⁰²⁶ Information received from the Ministry of Economic Development by the HHC on 27 January 2023 .

¹⁰²⁷ Section 53 (3) of Asylum Decree.

¹⁰²⁸ Section 4 (4) of Government Decree 106/2022 (III.12).

¹⁰²⁹ Section (4a)-(4b) of Government Decree 106/2022 (III.12).

¹⁰³⁰ Letter of the NGDAP asylum authority received by the HHC on 16 June 2022.

The forms of reception conditions which temporary protection beneficiaries are entitled to and their basis in law are summarised in the following table:

Benefits	Beneficiary
Material reception conditions (accommodation, food, hygienic services)	Section 41 (2) of the Asylum Decree
Health care	Section 37/A(1)b.) and Section 44 (2) of the Asylum Decree; Section 6(2)a.)-b.) of Gov. Decree 86/2022. (III.7.), Gov. Decree 171/2022. (IV. 29.)
Education	Section 37/A(1)c.) and Section 45 of the Asylum Decree; Section 3 of Gov. Decree 106/2022. (III. 12.) (preschool and childcare services), Section 92 (1) a.) and (3)-(4) of Act CXC of 2011 on Public Education
Free meals for children	Section 3/A of Gov. Decree 106/2022. (III. 12.) on request, for six months, if care-taker's income is below 173,000 HUF
Regular subsistence allowance: 22,800 HUF - (around EUR 55) per adult/month and 13,700 HUF per child/month (around EUR 30)	Section 37/A (1)e.) and Section 37/A (4)b.) of the Asylum Decree; Section 4 (2)-(3) of Gov. Decree 106/2022 (III. 12.) BUT Section 2 (2): persons shall be obliged to accept the job offered to them within 45 days following the first payment of subsistence allowance. The allowance is subject to a monthly appearance in person before the district office. The entitlement to allowance shall cease in case of employment or pension.
Travel allowances	Point (c) of Section 37/A(2) and Section 48 of the Asylum Decree It must be requested from the asylum authority [Section 48 (2)]
Reimbursement of document translation costs	Section 37/A (3)b.) and Section 49 of the Asylum Decree
Employment	Section 6 (4) of Gov. Decree 86/2022. (III. 7.) – No special permit is necessary for the employment Public employment: Section 7 of Gov. Decree 86/2022. (III. 7.) Act CVI of 2011
Facilitating final departure from the country	Section 37/A(3) c.) of the Asylum Decree
Family reunification	Section 105 of the Asylum Decree: If the family member was awarded temporary protection in another Member State, family reunification may be requested

As has been noted under Guarantees for vulnerable persons, there has been no comprehensive screening for people with special protection needs,¹⁰³¹ which often resulted in people being accommodated in inappropriate conditions with regard to their needs. In the experience of the HHC, people with disabilities or special medical needs have been frequently placed in shelters lacking the necessary medical/psychological assistance. The most notable case concerned a 65-year-old Ukrainian man met by the HHC team on 4 August 2022 in the **Fülpösdaróc** (village close to the border) accommodation site. The accommodation was not well-equipped and hygiene was completely absent. 22 individuals were accommodated there at the time, they were generally in a poor mental and physical state, complaining about not receiving sufficient food provision. The said Ukrainian man, who was a beneficiary of temporary protection already, looked seriously underfed, he was barely able to speak. Following his arrival in Hungary, he had been diagnosed with lung cancer. It was apparent that he would

¹⁰³¹ UNHCR, *Inter-Agency Operational Update Hungary*, 10 May 2022, available at: <https://bit.ly/3wS7A5v>.

have needed constant and special medical attention, which was absent in the accommodation site. HHC monitors were informed that no Hungarian health-care provider could accept the man, although operators of the accommodation site and staff members of IOM had tried multiple times, at various hospitals. As a consequence, as the HHC was later informed by the operators of the accommodation site, the man was transferred back to Ukraine and was placed in a hospice near the border. His example is exceptional, but quite alarming at the same time, highlighting the potential deficiencies of the reception system with regard to the population with special needs. The **Fölpösdaróc** accommodation site was later renovated with the assistance of IOM and conditions became decent by October.

As it has been similarly mentioned, no adequate preventive measures specifically targeting persons fleeing Ukraine have been implemented concerning the risks of human trafficking, although the arriving population mainly consisted of women and children and there is substantial lack of information (see Guarantees for vulnerable groups). The HHC's continuous monitoring visits also revealed several relevant experiences by displaced persons, revealing potential exploitation patterns related to the Ukrainian crisis:

- ❖ Two sisters from Kyiv informed the HHC that every evening a Hungarian woman from Zakarpattia talks to them and wants to offer them work, asking them to sign papers. The sisters did not find this lady trustworthy and felt intimidated by her.
- ❖ Several women, encountered during several monitoring visits informed the HHC that they were given job offers by online recruiters, who also offered them housing. Many of them found these job offers through a leaflet placed at their accommodation facility advertising a company called 'Safe in Hungary' (www.safeinhungary.hu). One woman informed the HHC team that the recruiters had told her that she could work for them, but her 20-year-old daughter would have to work too and, for this, she should stop her studies. After a background check, the HHC found this dubious recruitment campaign concerning. It was particularly worrying that the for-profit recruitment agency was posing as a humanitarian actor offering 'help', which was at odds with its actual character and motivation. Also, it was clear for HHC monitors that Ukrainian refugees lacked proper information and could be easily misled by these job offers that may not give them the same rights and choices as registering for temporary protection would. It appeared that accepting job offers from this company could 'divert' refugees from acquiring temporary protection and put them in a more vulnerable situation with an elevated risk of exploitation. This was observed in March 2022 in visits at Helping Points and accommodation centres in the border area. An investigative journalism portal later published an article¹⁰³² revealing the close ties of this company to the Hungarian government, which can explain their exclusive placement at Helping Points on the Ukrainian-Hungarian border.
- ❖ Some Ukrainian refugees complained of being employed without the necessary permits by a company called 'Prohuman' (which is the one mentioned under the previous point, operating the www.safeinhungary.hu website). A woman informed the HHC that her uncle who worked for this company did not have any residence permit and that the company refused to initiate the relevant procedures.
- ❖ Some Ukrainian refugees informed the HHC that, after arrival, the men among them worked for 2 weeks for a local person who disappeared without paying their salaries (3 million HUF altogether).
- ❖ The HHC visited a former hotel, which functioned as an accommodation site for Ukrainian refugees, and which was in a very run-down state, offering dubious living conditions. The manager of the site was overtly hostile to the HHC monitors, not allowing them to enter and saying that 'there is no need to worry, people accommodated here are all employed and paid well'. Due to his resistance to provide access and hostile behaviour, the HHC monitors considered that working conditions offered to persons hosted at this site may be inadequate.
- ❖ An HHC monitoring team talked to a woman with a small child, who arrived in Hungary after acquiring temporary protection in Romania. She was robbed in Romania, and thus had no identity

¹⁰³² Atlatzso, 'Kormányközeli munkaerő-toborzó cég hirdethet az ukrán menekülteknek az állami központokban', 31 March 2022, available in Hungarian at: <http://bit.ly/3HZzMdq>.

documents. She was offered a job and accommodation by a stranger on the internet, which raised some concerns about unlawful employment and exploitation, given that she had no identity documents, nor a proof of her temporary protection status in the EU.

The presence of online recruitment agencies tackling fresh arrivals and those without a temporary protection status is particularly concerning, as well as the recruitment of workers for badly or unpaid seasonal, informal or other physical jobs.

Menedék Association launched a project¹⁰³³ called SAFEmployment Hungary specifically to tackle and prevent the potential labour exploitation of the population fleeing Ukraine. Within the programme, Menedék Association initiated a four-language information campaign (in Hungarian, English, Ukrainian, Russian) conveying the most important information about the rights of employees, as well as how to recognise exploitation. Moreover, they provide complex help through their qualified social workers for victims of exploitation. This project of Menedék Association has also been promoted by the asylum authority on their website¹⁰³⁴ and physically on leaflets in the asylum client services. Terre des Hommes also organised a discussion on issues related to labour exploitation for people who fled Ukraine.¹⁰³⁵ Next Step Hungary Association reported that they held an awareness raising event on work permit acquisition and anti-exploitation for third-country nationals from Ukraine.¹⁰³⁶

E. Employment and education

1. Access to the labour market

A temporary protection beneficiary or applicant has the same rights regarding employment as Hungarian citizens do, except in the public service and civil servant sector where Hungarian citizenship is a requirement.¹⁰³⁷ According to the TP Decree, beneficiaries and applicants may work in the territory of Hungary without special permission, including temporary employment and public employment.¹⁰³⁸ This has not always been the case as when the TP Decree came into effect on 8 March 2022, only beneficiaries had this right and only in certain sectors of the labour market as defined in the communication of the competent minister.¹⁰³⁹ This regulation was amended and consequently, not only beneficiaries, but applicants could also be employed in the jobs specified in the mentioned communication.¹⁰⁴⁰ This regime was in effect from 23 March to 29 April 2022. Since 30 April 2022, as a result of another legislative change, it is possible for both beneficiaries and applicants to be employed in any sector, without any limitation.¹⁰⁴¹

¹⁰³³ Safemployment Hungary project on Menedék Association's website: <https://bit.ly/3YiGMax>.

¹⁰³⁴ Safemployment Hungary project on the NGDAP's website: <https://bit.ly/3RpHC2J>.

¹⁰³⁵ Information received from Terre des Hommes Hungary on 28 January 2023.

¹⁰³⁶ Information received from Next Step Hungary Association by the HHC on 6 February 2023.

¹⁰³⁷ As provided in Section 39 (1) of Act CXCI of 2011 on Public Service Officials and Section 20 (1) c.) of Act XXXIII of 1992 on Civil Servant Status.

¹⁰³⁸ Section 6(4) and Section 7 of the TP Decree.

¹⁰³⁹ NGM Communication on the authorisation of the employment of third-country nationals in Hungary on the basis of a non-aggregated application procedure, on the exemption from the obligation to obtain an authorisation, on the cooperation of the labour office of the metropolitan and county government office in the aggregated application procedure, and on the notification of the employment of third-country nationals who are employed in Hungary without authorisation and on the reimbursement of wages pursuant to point 26 of paragraph (1) of Article 15 of Government Decree 445/2013 (28.XI.), available in Hungarian at: <http://bit.ly/3HzD8Cr>.

¹⁰⁴⁰ TP Decree as amended by Section 2 of Government Decree 112/2022 (III.22).

¹⁰⁴¹ TP Decree as amended by Section 1 of Government Decree 175/2022 (IV.29).

To be employed, the applicant or the beneficiary has to be at least 16 years old.¹⁰⁴² The employer shall notify the immigration authority of the employment of a person under the TP Decree.¹⁰⁴³ The employer is required to ascertain on or before the first day of employment that the person holds a TP card (if beneficiary) or a humanitarian residence card (if applicant) and shall make a copy of the permit which is to be kept for the entire duration of employment. The employer is then to notify the immigration authority of the start of employment and also of its termination. The detailed rules of notification procedure are set out in the Act II of 2007 on the entry and stay of third-country nationals.¹⁰⁴⁴

Since 29 April 2022, a person who intends to receive the subsistence allowance and who is eligible for employment must register as a service claimant (in Hungarian it is phrased as *foglalkoztatásba bevonható személy*, which would translate as ‘a person who can be employed’) with the district office and cooperate with the district office before receiving the first regular subsistence allowance.¹⁰⁴⁵ A person who is eligible for employment shall accept an offer for a suitable job, including public employment, in cooperation with the district office, within 45 days of receiving the first regular subsistence allowance.¹⁰⁴⁶ A person eligible for employment is not obliged to accept the job offered to them if:

- ❖ at the time of the offer of employment, they are in an employment relationship with an employer in Hungary and the employer in Hungary can prove it, or
- ❖ they provide care for a minor under the age of three, or
- ❖ they are enrolled in full-time school education and have not reached the age of 18.¹⁰⁴⁷

In order to facilitate access to the labour market of temporary protection beneficiaries and applicants, the government enacted a series of decrees concerning the support of those entities who employ these groups.

Since 11 March 2022, the Government shall provide support to employers in order to facilitate the employment in Hungary of persons with Ukrainian citizenship or dual Ukrainian-Hungarian citizenship who arrive in Hungary from Ukraine on or after 24 February 2022, and who are fleeing the armed conflict in Ukraine, if :

- ❖ the employer employs the Ukrainian citizen on or after 24 February 2022,
- ❖ the employment takes place in the territory of Hungary,
- ❖ the employment is concluded for a fixed or indefinite period of at least 20 hours per week, and
- ❖ the employer meets the other conditions laid down in the relevant government decree and in the labour market programme.¹⁰⁴⁸

The support is to be provided upon the request of the employer,¹⁰⁴⁹ which is to be submitted at the competent Government Office (“*Kormányhivatal*”).¹⁰⁵⁰ Since 30 April 2022, in order to request the support, the employer must be a company having at least a registered office, place of business or branch in Hungary.¹⁰⁵¹ The support is to be provided for a maximum period of 12 months. A request for an extension may be submitted for another 12 months, but for no longer than the duration of employment. The support shall be paid to the employer monthly in arrears and shall be used by the

¹⁰⁴² Section 1 b.) of Government Decree 106/2022. (III. 12.).

¹⁰⁴³ Section 6 (6) of the TP Decree.

¹⁰⁴⁴ Section 71 of Act II of 2007 on the entry and stay of third-country nationals.

¹⁰⁴⁵ Section 2 (3) of Government Decree 106/2022 (III.12) as amended by Section 9 of Government Decree 170/2022 (IV.29).

¹⁰⁴⁶ Section 2 (5) of Government Decree 106/2022 (III.12).

¹⁰⁴⁷ Section 2 (7) of Government Decree 106/2022 (III.12).

¹⁰⁴⁸ Section 1 of Government Decree 96/2022 (III.10).

¹⁰⁴⁹ Section 4(1) of Government Decree 96/2022 (III.10).

¹⁰⁵⁰ Section 5(2) of Government Decree 96/2022 (III.10).

¹⁰⁵¹ Section 4(2) of Government Decree 96/2022 (III.10) as amended by Section 2 of Government Decree 173/2022 (IV.29).

employer to cover the employee's accommodation and travel expenses. The amount of support may be 50 % of the employee's monthly housing and travel expenses per employee, up to a maximum of HUF 60,000 per employee, and an additional HUF 12,000 per child for minor children living in the same household as the employee. The portion of the accommodation and travel costs not covered by the support shall be borne 50%-50% by the employer and the employee, unless the employer agrees to bear more than 50% of the costs.¹⁰⁵² By applying for the support, the employer undertakes, for the duration of the employment, to accommodate the employer and, if necessary, their minor children in appropriate conditions and to secure the commute to work.¹⁰⁵³ The support received thereon is free of taxes.¹⁰⁵⁴

Since 9 May 2022, the above described support and relating procedure may also be applicable if the employer employs:

- ❖ a Ukrainian citizen, whose employment in Hungary as an employee has lasted for 90 days or more within the 365 days preceding the date of submission of the application for support,
- ❖ the family member of the employee, as defined in Article 2(4) of Council Implementing Decision, who arrived in Hungary from Ukraine on or after 24 February 2022, and the family member either applies for temporary protection or is a Hungarian citizen.¹⁰⁵⁵

Furthermore, since 9 May 2022, not only companies as defined above may apply for support, but also:

- ❖ the National Directorate General of Hospitals,
- ❖ the Directorate-General for Social Affairs and Child Protection,
- ❖ the school district centre under the central management of the Klebelsberg Centre, and
- ❖ the maintainer or the central governing body of a vocational training centre or vocational training institution established or maintained by the state,

if they employ any person falling within the scope of Government Decrees 96/2022 (III.10) or 172/2022 (IV.29).¹⁰⁵⁶ If a civil servant status is to be established by the Directorate-General for Social Affairs and Child Protection or the school district centre under the central management of the Klebelsberg Centre, then the requirement of Act XXXIII of 1992 on Civil Servant Status, under which a civil servant must have Hungarian citizenship, is not applicable.

The [website](#) of the National Employment Service contains further information available on how to access the support.

Lastly, according to Government Decree 96/2022 (III.10), the Minister for Foreign Affairs and Trade, in their functions and powers in connection with the employment of third-country nationals in Hungary:

- ❖ provides information to Ukrainian citizens on the possibilities of employment at designated assistance points within the country's borders,
- ❖ informs employers and the government office of the employment needs of the Ukrainian citizen intending to take up employment, taking into account their qualifications and experience,
- ❖ arranges temporary accommodation for the Ukrainian citizen intending to work and his/her family members,
- ❖ acts in the implementation of activities in furtherance of facilitating the access to the labour market of those who fled the war in Ukraine.¹⁰⁵⁷

In practice it remains unclear how the Minister has complied with these obligations.

¹⁰⁵² Section 7(2)-(8) of Government Decree 96/2022 (III.10).

¹⁰⁵³ Section 8(1) of Government Decree 96/2022 (III.10).

¹⁰⁵⁴ Section 7 (10) of Government Decree 96/2022 (III.10).

¹⁰⁵⁵ Section 1 of Government Decree 172/2022 (IV.29).

¹⁰⁵⁶ Section 1 of Government Decree 173/2022 (IV.29).

¹⁰⁵⁷ Section 3(1) of Government Decree 96/2022 (III.10).

Organisations in the civic sphere provided the following labour market integration opportunities for Ukrainian refugees:

According to the Hungarian Maltese Charity Service, their project called 'Work for you' has been set up specifically for the labour market integration of third-country nationals and is accessible for applicants and beneficiaries of temporary protection too. 14 beneficiaries of temporary protection participated in their programme called MMIA, which is a housing project but also provides labour market assistance services.¹⁰⁵⁸

Menedék Association runs a complex integration programme involving facilitation of access to the labour market, information provision for employers, mediation of intercultural conflicts in the workplace. Menedék Association moreover reported that within their common project with IKEA they supported the labour market integration of Ukrainian refugees throughout 2022.¹⁰⁵⁹

Kalunba reported that it too operates its own labour-market integration programme available for Ukrainian refugees.¹⁰⁶⁰

BMSZKI also stated that they facilitated access to employment opportunities either via Budapest Esély Non-Profit Organization or via for-profit stakeholders.

No information (practical or legislative in nature) is known to the HHC indicating that beneficiaries of temporary protection would not enjoy equal treatment as Hungarian nationals with regard to employment. The Act CXXV of 2003 on equal treatment and the promotion of equal opportunities prohibits employment related discrimination based on nationality or the use of mother tongue.

Discrimination based on a genuine and determining occupational condition which is justified by the nature of the work or working conditions, pursuing a legitimate aim and is proportionate, and discrimination based on religion or belief, or on national or ethnic origin, directly arising from an ethos which is fundamental to the nature of the organisation, justified by the content or nature of the particular occupational activities, and which is proportionate and based on a genuine occupational requirement, do not constitute a breach of the requirement of equal treatment.¹⁰⁶¹

Naturally, however, the most recurrent reasons for unemployment in the population of concern are the inability to find work due to lack of language skills, especially among those not accommodated at collective sites and having master degrees.¹⁰⁶² Menedék Association also points out that the expectations of employers and the reality of Ukrainian refugees are not corresponding as most labour market programmes aim at involving highly-qualified individuals with more diverse language skills.¹⁰⁶³ Next Step Hungary Association suggested labour market integration of Ukrainian refugees was also hindered by the fact that there were not enough institutions carrying out skill validation, therefore, otherwise experienced people could not substantiate their qualifications.¹⁰⁶⁴

There is no official data available on how many temporary protection beneficiaries could access the labour market in Hungary so far. The ministry competent in employment matters stated upon the freedom of information request of the HHC that they did not have this data.¹⁰⁶⁵

¹⁰⁵⁸ Information received from the Hungarian Maltese Charity Service by the HHC on 19 January and 2 February 2023.

¹⁰⁵⁹ Information received from Menedék Association by the HHC on 28 February 2023.

¹⁰⁶⁰ Information received from Kalunba organisation by the HHC on 6 February 2023.

¹⁰⁶¹ Section 22 (1) of Act CXXV of 2003 on equal treatment and the promotion of equal opportunities.

¹⁰⁶² UNHCR, *Hungary: Multi-Sectoral Needs Assessment*, November 2022, available at: <https://bit.ly/3HrxW39>, 16.

¹⁰⁶³ Information received from Menedék Association by the HHC on 28 February 2023.

¹⁰⁶⁴ Information received from Next Step Hungary Association on 6 February 2023.

¹⁰⁶⁵ Information received from the Ministry of Economic Development by the HHC on 27 January 2023.

2. Access to education

Education in Hungary is a right and obligation for children who fled Ukraine: the law does not only provide education for foreign children (not only applicants and beneficiaries of temporary protection), but obliges them to take part in it. According to the Act on Public Education, children, in the year when they turn 3 years old until 31 August, are to go to kindergarten for at least 4 hours a day.¹⁰⁶⁶ In the year when the child turns 6 years old until 31 August, the child may be enrolled and is to attend school. This can be delayed by a year upon request of the parent. Education is compulsory until the end of the school year when the child turns 16 years old, but for children with special educational needs this may be extended until they turn 23 years old. The obligation to get education can be fulfilled in primary, secondary schools and also in schools for children with special needs.¹⁰⁶⁷

The right to education of temporary protection applicant and beneficiary children is also foreseen by the Act on Public Education, which asserts that upon submitting the application, the child becomes entitled to take part in public education in kindergarten, dormitory care, specialised pedagogical services, school education until the end of his studies that begun before their age of eighteen. The law states that this may be done on the same conditions as Hungarian citizens.¹⁰⁶⁸ A Government Decree also provides since March 2022 that if the temporary protection beneficiary cares for a minor, they are entitled to use the services of crèches, nursery cares and the services of the "Biztos Kezdet" children's home under the same conditions as Hungarian citizens.¹⁰⁶⁹ Lastly, in the set of legal instruments providing for the education of temporary protection beneficiaries, the Asylum Decree holds that the beneficiary is entitled to the reimbursement of the cost of education.¹⁰⁷⁰

Day care in crèches is regulated under Act XXXI of 1997 on child protection and childcare administration. The law provides that day care is mainly for the children of working parents, but other needs (e.g. children at risk due to their social situation or children of a single parent or a parent's illness, etc.) may be considered. However, it is generally subject to a fee depending on the family's income, and free of charge only on grounds of need.¹⁰⁷¹

Menedék Association put together a guide on the most essential information on the Hungarian education system for parents, available in Ukrainian, English and Hungarian.¹⁰⁷²

The competent central administrative body, the Office of Education, stated in its response to the HHC's information request that they only had data covering all foreign students holding international or temporary protection status, therefore, no data is available specifically as to child beneficiaries of temporary protection who accessed education in Hungary.¹⁰⁷³

Organisations assisting people fleeing Ukraine identified the following main practical challenges faced by children when trying to access public education in 2022.

First, kindergartens and schools often refused to receive children from Ukraine, despite their parents having submitted an application on time at the competent institution. The competent institution is where the child belongs based on their address. This worrisome practice was confirmed by Terre Des Hommes and the HHC. Terre Des Hommes added that after an institution rejected an application, their social

¹⁰⁶⁶ Section 8(2) of Act CXC of 2011 on Public Education.

¹⁰⁶⁷ Section 45 (2)-(3) and (5) of Act CXC of 2011 on Public Education.

¹⁰⁶⁸ Section 92 (1) a.), (3)-(4) of Act CXC of 2011 on Public Education.

¹⁰⁶⁹ Section 3 of Government Decree 106/2022 (III.12).

¹⁰⁷⁰ 37/A (1) c.) and 45 of Asylum Decree.

¹⁰⁷¹ Ministry of Human Resources, *Information to support families from Ukraine for family and child welfare service providers*, May 2022, available at: <https://bit.ly/3HXccxG>, 15.

¹⁰⁷² Menedék Association: *Going to Kindergarten and School in Hungary: a parent's guide to the Hungarian Education System*, available: <https://bit.ly/3ZrTvba>.

¹⁰⁷³ Information received from the Office of Education by the HHC on 27 January 2023.

workers could still help enrol the children into the relevant institution via contacting the institutions governing bodies, which, in case of schools, are the so called education districts, but kindergartens are more frequently under the operation of municipalities. These governing bodies then obliged the institutions to take the children in. Terre Des Hommes pointed out that although this process eventually brought a positive result, it would be very difficult for the parents to do directly, considering the language barriers and not knowing local logistics, the operation of the authorities. Terre Des Hommes nonetheless highlighted that managing the enrolment of toddlers into crèches, which waded difficult by the fact that children lacked an official Hungarian address and social security card, which were requested by the crèches as a precondition of enrolment, did not work at all, despite their intervention.¹⁰⁷⁴ The HHC recorded a case in September 2022, in **Balatonakarattyá**, where children were unable to attend school and kindergarten, as the institutions stated they did not have capacity to take them. The employee of the accommodation facility informed the HHC team that a lot of children and their parents left the accommodation due to this particular reason. The HHC reported in May 2022 that children had absolutely no access to schools in **Tunyogmatolcs**, not even dual citizen children who spoke Hungarian.

Once the children managed to get enrolled, a systemic problem in reception into schools has been the lack of assistance in integrating non-Hungarian speaking children. The most significant issue in that regard is that children who started attending Hungarian schools/kindergarten are not being provided with Hungarian language lessons, whereas the language of education is Hungarian. Therefore, it has become very much ad hoc how much children can integrate due to the obvious language barriers. Parents are also often reluctant to enrol their children into Hungarian schools for fear of their children feeling excluded by their Hungarian peers for not speaking Hungarian, thus, parents rather choose the Ukrainian online education for them. This has been noted by the Caritas Hungarica,¹⁰⁷⁵ Terre Des Hommes¹⁰⁷⁶, Menedék Association,¹⁰⁷⁷ the Jesuit Refugee Service,¹⁰⁷⁸ Kalunba organisation,¹⁰⁷⁹ BMSZKI¹⁰⁸⁰ and HHC too. By attending Ukrainian public education, children do not fulfil their obligation to take part in the Hungarian public education as explained in the previous section. This obligation, however, is articulated by a *lex imperfecta*, accordingly, non-compliance with the law does not attract any sanction. Menedék Association and the Jesuit Refugee Service moreover emphasise that one of the greatest challenges in the education system is affecting those children who are to leave elementary school and go to high-schools as high-schools normally require an entry exam, which is to be taken in Hungarian.¹⁰⁸¹ These occurrences highlight that not only the children, but also the schools have been in need of assistance and centralised support in tackling these language barriers.

The need for 'school-starting support' for children from Ukraine was also identified by the HHC during its monitoring mission to **Szigetszentmiklós**, **Mátraderecske** in August. Children did not have the necessary supplies (backpacks, pencils etc.) and the families did not have the means to buy such things, which definitely hindered their school-starting process. This probably has been a more country-wide issue, but were specifically noted at these locations.

Paediatricians and nurses need general guidance regarding the vaccination of Ukrainian children as many do not have their vaccination record with them, but for kindergarten and school enrolment it is mandatory. This deficiency was recorded by the HHC in July 2022, during a border area monitoring trip.

¹⁰⁷⁴ Information received from Terre Des Hommes Hungary by the HHC on 29 January 2023.

¹⁰⁷⁵ Information received from Caritas Hungarica by the HHC on 23 January 2023.

¹⁰⁷⁶ Information received from Terre Des Hommes Hungary by the HHC on 29 January 2023.

¹⁰⁷⁷ Information received from Menedék Association by the HHC on 28 February 2023.

¹⁰⁷⁸ Information received from the Jesuit Refugee Service by the HHC on 3 March 2023.

¹⁰⁷⁹ Information received from Kalunba organisation by the HHC on 6 February 2023.

¹⁰⁸⁰ Information received from BMSZKI by the HHC on 13 February 2023.

¹⁰⁸¹ Information received from the Menedék Association and Jesuit Refugee Service by the HHC on 28 February and 3 March 2023.

Lastly, the education of bilingual/dual (Hungarian-Ukrainian) citizen children, who have no solid age-appropriate educational background has also been of great concern. While the language barrier is not an issue, the fact that these children - most typically Roma children from **Zakarpattia** - need catch-up and tutoring classes, which are not provided in most of the schools for evident capacity issues, has made their parents reluctant to apply to schools. This phenomenon was recorded by the HCC in **Uszka** (border area village) in November and December 2022 concerning 15 school-aged Roma children. The UNHCR also confirmed this finding in its multi-sectoral needs assessment in September 2022.¹⁰⁸² BMSZKI noted that dual citizen Roma children sometimes faced prejudice in Hungarian schools for being Ukrainian and Roma. As some of these children had not even met any non-Roma person before coming to Hungary, it was a quite distressing situation for them.¹⁰⁸³ IOM similarly noted that discriminatory patterns emerged concerning dual citizen Roma children, including discrepancies in vaccination records and practices between Ukraine and Hungary, claims on lack of capacity at school districts and requests for unnecessary certificates for enrolment, compelling parents to return to their house in Ukraine to retrieve them.¹⁰⁸⁴ The Jesuit Refugee Service reported that enrolling children to age-appropriate education in Hungary was problematic on some occasions.¹⁰⁸⁵ BMSZKI helping around 50 children to access public education also underlined this finding.¹⁰⁸⁶ In the absence of Ukrainian elementary school certificates, Hungarian high-schools sometimes refused to receive the children, who, for that reason, were compelled to be enrolled to the 8th grade of elementary schools instead of starting the 9th grade in high-schools. They also underlined that even if - typically - dual citizen children spoke Hungarian, their reading and writing skills were behind their speaking skills, therefore, they had to get enrolled in lower classes.¹⁰⁸⁷

Menedék Association points out that while child beneficiaries of temporary protection are entitled to free meals in schools and kindergarten upon request, they sometimes could not access this right for the competent administrative bodies providing contradictory information on where and how to manage the request. The Association added that the issuance of student cards has also been an issue in some instances as the officers of responsible government offices were not properly informed on the rights of beneficiaries of temporary protection and were thereby requesting documents (e.g. social security card) that the beneficiary could not and did not have to hold.

On a positive note, BMSZKI reported that in the 9th district of Budapest, where one of their accommodation sites is, the procedure of the local child protection service, which cooperated with them to find the most appropriate educational institution for the children, was exemplary. Staff members of the child protection service went directly to the accommodation site, they assessed the needs of parents and children, and then personally contacted the schools and kindergartens. Moreover, they even assisted the parents in the first weeks to get to the schools and kindergartens, so parents could learn the way. BMSZKI stated that in the 10th district of Budapest, they also managed to have all children enrolled in public education; all steps of the procedure, however, had to be managed by the social workers as the local child protection service did not anyhow engage in this process.¹⁰⁸⁸

From a legal perspective, minor applicants and beneficiaries of temporary protection including those with special needs are entitled (and obliged) to take part in public education, also in specialised pedagogical services, as explained above. The Act on Public education foresees special rules concerning the education and training of children with special educational needs and integration, learning and behavioural difficulties.

¹⁰⁸² UNHCR, *Hungary: Multi-Sectoral Needs Assessment*, November 2022, available at: <https://bit.ly/3HrxW39>.

¹⁰⁸³ Information received from the BMSZKI by the HHC on 13 February 2023.

¹⁰⁸⁴ Information received from the IOM by the HHC on 14 February 2023.

¹⁰⁸⁵ Information received from the Jesuit Refugee Service by the HHC on 3 March 2023.

¹⁰⁸⁶ Information received from BMSZKI by the HHC on 13 February 2023.

¹⁰⁸⁷ Information received from the Jesuit Refugee Service by the HHC on 3 March 2023.

¹⁰⁸⁸ Information received from the BMSZKI by the HHC on 13 February 2023.

A child with special educational needs is defined as a child who, according to an expert opinion of the competent body under the Act on Public Education, has a motor, sensory (visual, auditory), mental or speech disability, multiple disabilities, an autism spectrum disorder or other mental development disorder, including severe learning, attention or behavioural disability.¹⁰⁸⁹ These children shall have the right to receive pedagogical, remedial or conductive educational care appropriate to their condition. The care appropriate to the special educational needs must be provided in accordance with the expert opinion. The parent may choose the educational establishment providing appropriate care for children with special educational needs on the basis of the expert opinion of the competent expert committee, taking into account the needs and capacities of the parent and the child. The education of these children is to be carried out in institutions established for the specific purpose of educating children with special needs. If children have difficulties in integration, learning or behaviour, they are entitled to developmental pedagogical care.¹⁰⁹⁰

At the time of writing, the HHC is not aware of specific information regarding the practical challenges met by children with special needs in accessing education, although they are likely to at the very least face the challenges described above met by other children. Terre des Hommes, while working with children from Ukraine, noted the absence of special education teachers in schools. Menedék Association stated that while they saw a good example in that regard (an assistant teacher was designated to help the integration of a Ukrainian child with special needs), in other cases the assistance of their social workers was needed in the schools to enable teachers to deal with the needs of these children.¹⁰⁹¹ Kalunba also reported that according to the needs of educational institutions they provided professional, methodological and other support through its Education and Development Language Center.¹⁰⁹²

Moreover, as explained in Guarantees for vulnerable persons, there are no specific identification mechanisms in place in Hungary to identify vulnerable individuals and there has been no comprehensive screening for people with special protection needs within the temporary protection scheme. This is unfortunately also true with regard to children with special needs.

In the context of the temporary protection scheme, no measures were introduced concerning the education of young people. They are thus in the same situation as beneficiaries of international protection (see [General Report – Access to education](#)).

Beneficiaries of temporary protection may be admitted into higher education under the same conditions as Hungarian citizens and they are eligible for state-subsidised education in line with Act CCIV of 2011 on Higher Education.¹⁰⁹³ In practice, however, there are gaps in enforcing the rights of the refugee population in higher education (see [General Report – Access to education](#)).

It is worth noting that in the context of the Ukrainian crisis, it was not the temporary protection-eligible population, but primarily the third-country nationals with short-term student visas issued by Ukraine who sought assistance regarding access to the Hungarian higher education system in the experience of the HHC.

Although no official data is available as to how many students from Ukraine are enrolled in Hungarian higher education and into which institutions, according to Hungarian media outlets and university communications, numerous Hungarian universities opened their doors not only to temporary protection-eligible students, but to all students fleeing Ukraine. The University of Pécs, among the first, opened a registration platform for those who had to interrupt their studies in Ukraine due to the ongoing war and

¹⁰⁸⁹ Section 4 point 25. of Act CXC of 2011 on Public Education.

¹⁰⁹⁰ Section 47 of Act CXC of 2011 on Public Education.

¹⁰⁹¹ Information received from Menedék Association by the HHC on 28 February 2023.

¹⁰⁹² Information received from Kalunba organisation by the HHC on 6 February 2023.

¹⁰⁹³ Article 39 (1)b.) of Act CCIV of 2011 on Higher Education.

offered over 100 study programmes in English and Hungarian covering all major academic fields. Guest students from Ukraine were also exempted from paying the tuition fees and dormitory fees for the spring semester. [Simmelweis University](#) also announced earlier in March 2022 that it was accepting foreign medical students. The [Eötvös Loránd University](#), the [Moholy-Nagy University of Art and Design](#), the University of Pannonia, the [Corvinus University of Budapest](#) and the [Hungarian University of Agriculture and Life Science](#) also opened their courses to refugees from Ukraine. Students and teachers who would like to stay in Hungary can also apply to the Tempus Public Foundation. The Students at Risk Programme was launched by Tempus Public Foundation in the frame of the Stipendium Hungaricum Scholarship Programme supervised by the Ministry of Foreign Affairs and Trade, with the aim to provide higher education scholarships supporting the students in continuing their studies that they started in Ukraine and earning a bachelor's, master's or doctoral degree in Hungary.¹⁰⁹⁴ Applicants with Ukrainian citizenship can choose any study field and study programme offered in the Stipendium Hungaricum Scholarship Programme. Applicants with third-country citizenship can select study programmes offered in the Stipendium Hungaricum Programme in the field of Economic Science, Engineering Science, Computer Science and Information Technology, Natural Science, Agricultural Science and Medical and Health Science and they are eligible to apply for the Conductive Education study programme as well. Similarly, the applicants can apply to study at those Hungarian higher education institutions that are involved in the Stipendium Hungaricum Programme. Moreover, Széchenyi Funds and Óbuda University supported students from Ukraine with scholarships.¹⁰⁹⁵ The listing of universities and scholarship is not exhaustive herein, this exemplificative description solely aims at pointing out the unparalleled solidarity of the actors of higher education towards the student population fleeing Ukraine.

F. Social welfare

The law does not provide access to social welfare for beneficiaries of temporary protection. The Act III of 1993 on Social Administration and Social Benefits and the Act XXXI of 1997 on child protection and child care administration regulating child welfare services do not apply to temporary protection beneficiaries and applicants, thus, they are not entitled to the social services. The care of the temporary protection-eligible population is carried out entirely within the system of asylum administration.

Maternity allowance is the only available benefit outside the scope of asylum administration, which may be accessed by any woman legally resident in Hungary at the time of applying for maternity allowance and who attended antenatal care in Hungary at least four times during their pregnancy, or at least once in the case of premature birth, in line with the provisions of Act LXXXIV of 1998 on aiding families.¹⁰⁹⁶ This support may be requested after the child is born. If the child is a foreign national, then the request is to be submitted at the competent Government Office.¹⁰⁹⁷

As temporary protection beneficiaries are generally not entitled to access the benefits of the social welfare system, only maternity allowance may be requested, HHC and assistance partners do not have particular experience in this regard in terms of obstacles faced, contrary to those met when receiving the subsistence allowance.

No data available as to the number of beneficiaries of temporary protection who accessed different forms of social welfare as of 31 December 2022.

¹⁰⁹⁴ Tempus Public Foundation, 'Students at risk programme for students fleeing the war in Ukraine', 1 April 2022, available at: <http://bit.ly/3JFpfVO>.

¹⁰⁹⁵ The university's official communication is available at: <https://bit.ly/3RBJKEL>.

¹⁰⁹⁶ Section 29 (4) of Act LXXXIV of 1998 on aiding families.

¹⁰⁹⁷ Section 35 of Act LXXXIV of 1998 on aiding families.

G. Health care

Access to health care is provided both to temporary protection beneficiaries and applicants. The scope of services to which they are entitled is specifically defined in the Asylum¹⁰⁹⁸ and TP¹⁰⁹⁹ Decrees. These services are:

- A. examinations and treatment under the scope of general medical care (in practice these means the treatment generally provided by the district GP),¹¹⁰⁰
- B. examination and treatment in emergency outpatient care, and medicines and dressings used in the course of such care;
- C. in-patient care in case of urgent need, and medical treatment prescribed by a doctor, including surgical operations and the medical materials and prostheses used, medical care, medicines, dressings and meals;
- D. following specialised out-patient care or in-patient hospital treatment, until recovery from the illness or until stabilisation of the condition:
 - a. the necessary examination and treatment,
 - b. medicinal products other than those referred to in point (h) which cannot be substituted for another medicinal product and medical devices necessary for the administration of the medicinal product;
- E. medical appliances other than those referred to in point (D)(D(b)) ordered by a doctor, and their repair;
- F. emergency dental care and treatment for the preservation of teeth, provided that the treatment is of the lowest reimbursement category;
- G. prenatal care and obstetric care or, under the conditions laid down in the Act on the Protection of Foetal Life, for an operation to terminate a pregnancy;
- H. medicines and dressings prescribed free of charge for "persons entitled to public health care" under a special law or with a 90% or 100% social security subsidy under a "health care provision";
- I. in the case of benefits under points (B) and (C), (D)(D(a)) and (G), transport of a patient if, because of their state of health, transport cannot be provided otherwise;
- J. compulsory vaccination linked to age,
- K. examination and treatment in oncological care and other chronic care, and medicinal products used by persons entitled to social security benefits for the purpose of improving, maintaining or relieving pain in the context of specialised oncological care and other chronic care and general health care with price support.

Temporary protection applicants and beneficiaries' access to health care services is frequently hindered by administrative challenges faced by health care providers in practice. In the experience of the HHC, Menedék Association¹¹⁰¹ and Terre Des Hommes,¹¹⁰² and Kalunba,¹¹⁰³ health care providers frequently do not know how to register patients without a social security number, which is provided to those with a registered address and address card, having social security status. Without registration, the cost of healthcare services is not covered. Temporary protection applicants and beneficiaries, however, do not have an address card, as they are normally accommodated in a temporary manner, and as long as they lack employment, they cannot obtain social security status either. Therefore, if they turn to a health care provider, they are frequently sent away, for the health care providers fears that the expenses will not be reimbursed by the state.

¹⁰⁹⁸ Sections 26-28 and 44(2) of Asylum Decree.

¹⁰⁹⁹ Section 6(2) of TP Decree.

¹¹⁰⁰ As provided in Act CXXIII of 2015 on general medical care.

¹¹⁰¹ Information received from Menedék Association by the HHC on 28 February 2023.

¹¹⁰² Information received from Terre Des Hommes Hungary on 28 January 2023.

¹¹⁰³ Information received from Kalunba organisation by the HHC on 5 February 2023.

As indicated under the previous point, applicants and beneficiaries of temporary protection in need are to be provided with a broad set of health care services. In order to manage their registration by health care providers, Government Decree 171/2022 (IV.29) introduced some executive regulations, instructing health care providers on how to register temporary protection applicants, beneficiaries and Hungarian-Ukrainian citizens who fled the war. The Decree provides that health care providers are to use a special, technical identification number instead of the social security number. It furthermore provides that the number of the TP card and humanitarian residence card, and the number of personal ID documents are to be registered.¹¹⁰⁴ The cost of health care service is then to be reimbursed by the asylum authority.¹¹⁰⁵ These legal provisions are, however, unknown by some of the health-care providers. Therefore, the intervention and assistance of lawyers and social workers of NGOs assisting the refugee population, who could explain the procedure to be followed to the health care providers have been frequently needed. In Terre Des Hommes experience, this issue did not come up at paediatrics and dental care, but was present in the practice of a district GP. Caritas Hungarica pointed out that the lack of information on how to register patients who fled Ukraine not only came up with regard to health care providers, but also regarding patients, who sometimes did not know how they could navigate within the health care system, especially with language barriers involved. BMSZKI reported that many of those who were accommodated at their reception centres could access public healthcare services exclusively with the help of their social workers, as staff members of health-care providers were not aware of the rights a beneficiary of temporary protection might access. Social workers therefore had to show the printed legal provisions to the staff of healthcare providers. BMSZKI noted that this was necessary only in the early phase of the crisis and later on the need for this procedure became less and less frequent.¹¹⁰⁶

In the experience of IOM, the main challenges concerning healthcare are related to lack of language interpretation in healthcare facilities, lack of understanding of the rights linked to temporary protection from the side of the beneficiaries and the health personnel or administrative personnel at hospitals and discriminatory practices towards refugees from Ukraine, including Roma communities from the Transcarpathia region.¹¹⁰⁷

Menedék Association put together a policy-specific recommendation based on their experience concerning the health-care provision of people fleeing Ukraine.¹¹⁰⁸

¹¹⁰⁴ Section 2 of Government Decree 171/2022 (IV.29).

¹¹⁰⁵ Ministry of Human Resources, *Information to support families from Ukraine for family and child welfare service providers*, May 2022, available at: <https://bit.ly/3HXccxG>, 13.

¹¹⁰⁶ Information received from BMSZKI by the HHC on 13 February 2023.

¹¹⁰⁷ Information received from the IOM by the HHC on 14 February 2023.

¹¹⁰⁸ Menedék Association: Recommendations in the area of health care provision of people fleeing Ukraine, available in Hungarian at: <https://bit.ly/3M0oJ5X>.

Ireland



Temporary Protection Procedure

A. General

Temporary protection refers to an exceptional measure to provide immediate and temporary protection to displaced persons from non-EU countries and those unable to return to their country of origin.¹¹⁰⁹ Temporary Protection is established in EU law pursuant to the Temporary Protection Directive, which was introduced in 2001. While Ireland did not initially implement the Directive, the State subsequently opted in on 11 April 2003. The Directive was deemed to apply in Ireland from 31 December 2003.¹¹¹⁰

The Directive is transposed into Irish law pursuant to s.60 of the International Protection Act from 2015. Section 60(2) of the 2015 Act provides for permission for displaced persons to enter and remain in the State pursuant to a Council Decision under the TPD, whereby the individual's personal data is entered onto a register maintained by the Minister for Justice.¹¹¹¹ Section 60(7) states that permission shall be for a period of one year and may be renewed.

As per s.60(1) of the 2015 Act, beneficiaries of temporary protection are entitled to engage in employment or self-employment and access education on the same basis as an Irish citizen. Beneficiaries of temporary protection are also entitled to receive the same medical care and social welfare benefits and right of travel within the State as Irish citizens.

Subject to s.60(8) temporary protection may be revoked whereby the Council has ended temporary protection, where the person has been transferred to another Member State, or where the person has been excluded from temporary protection for one the reasons established in s.60(3) of the 2015 Act.¹¹¹²

Temporary protection was first activated in Ireland following the European Council's decision in March 2022 in response to the war in Ukraine and on 16 February 2023 was subsequently extended for an additional year, until March 2024.¹¹¹³

As of 11 May 2023, **82,196** individuals had registered for temporary protection in Ireland.¹¹¹⁴

The following table indicates a breakdown of the total number of applicants for temporary protection by gender and age:¹¹¹⁵

Age Group	Both Sexes	Male	Female
0 - 4 years	4,352	2, 628	2,804
5 - 12 years	12,414	6, 392	6,022
13-17 years	7,237	3, 758	3,515
18 - 25 years	8,628	3, 202	5, 426
26 - 35 years	14, 049	4,862	9, 187
36 - 45 years	15, 682	4, 976	10, 706
46 - 55 years	8, 846	2,550	6, 296

¹¹⁰⁹ Section 60(1), International Protection Act 2015, available at: <https://bit.ly/42wSMY9>.

¹¹¹⁰ Bar of Ireland, 'A Primer on The Temporary Protection Directive – Alternative protection for those fleeing Ukraine', 9 March 2022, available at: <https://bit.ly/45a4yK0>.

¹¹¹¹ Section 60(8), International Protection Act 2015, available at: <https://bit.ly/42wSMY9>.

¹¹¹² *ibid.*, s.60(3).

¹¹¹³ Department of Justice, 'Extension of Temporary Protection Permissions', 17 February 2023, available at: <https://bit.ly/41Hvpli>.

¹¹¹⁴ Central Statistics Office, 'Temporary Protection granted to arrivals from Ukraine', 11 May 2023, available at: <https://bit.ly/3pMju0B>.

¹¹¹⁵ *ibid.*

56 years and over	11, 190	3, 299	7, 891
All ages	82, 434	31, 307	51, 127

B. Qualification for temporary protection

Applicants can avail of temporary protection to reside in Ireland whereby they are:

- ❖ A Ukrainian national living in Ukraine before 24 February 2022;
- ❖ A third country national (a non-EU country other than Ukraine) or stateless person with refugee status or an equivalent national protection status in Ukraine living there before 24 February 2022;
- ❖ A 'family member' of one of the categories of persons above, who was resident in Ukraine prior to 24 February 2022. A 'family member' in this instance is defined as a spouse or unmarried partner in a stable relationship, minor unmarried children, or the minor children of the beneficiaries spouse, without distinction as to whether they were born in or out of wedlock or adopted; as well as any other close relatives who lived together as part of the family unit at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent on the beneficiary;
- ❖ Stateless persons, and nationals of third countries other than Ukraine, who can prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit issued in accordance with Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin. Member States may also apply this Decision to other persons, including to stateless persons and to nationals of third countries other than Ukraine, who were residing legally in Ukraine and who are unable to return in safe and durable conditions to their country or region of origin.¹¹¹⁶

Ukrainian nationals who are currently present in Ireland on a short stay 'C' visa can also receive temporary protection. Ukrainian nationals who are present in Ireland on another immigration permit or stamp (e.g. student or employment permits) may decide whether to further extend or renew their existing permit, or to avail themselves of Temporary Protection.¹¹¹⁷

In all other circumstances, whereby an individual arrived in Ireland from Ukraine prior to 24 February 2022, they will be deemed ineligible for temporary protection. However, they may instead apply for international protection or some alternative form of migration permit.

C. Access to temporary protection and registration

1. Admission to territory

On 25 February 2022, in response to the outbreak of war in Ukraine, the Irish Government announced, pursuant to the Immigration Act 2004 (Visas) (Amendment) Order 2022, the immediate lifting of visa requirements for Ukrainian citizens seeking to travel to Ireland.¹¹¹⁸

¹¹¹⁶ 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, 4 March 2022, available at: <https://bit.ly/42QDBJM>.

¹¹¹⁷ Immigration Service Delivery, 'Temporary Protection', 10 March 2022, available at: <https://bit.ly/3InVNSE>.

¹¹¹⁸ Immigration Act 2004 (Visas) (Amendment) Order 2022.

As of May 2023, the visa waiver applied only to Ukrainian nationals and persons with international protection status in Ukraine. Non-EEA nationals, if they were visa required nationals, would still need a visa to enter Ireland. Those who travel to Ireland under the visa waiver will have a period of 90 days in which to regularise their status in the State.¹¹¹⁹

There have been no known reports of persons fleeing from Ukraine refused entry at the Irish border, nor have there been any reports of refusal of entry or other difficulties for beneficiaries of temporary protection re-entering the state after having returned to the Ukraine.

2. Freedom of movement

The Irish Government asked all airline carriers to accept government-issued identity documents, not usually accepted for the purposes of international travel, in lieu of a national passport for people seeking protection: including, national ID Cards, birth certificates, internal passports, and expired passports.¹¹²⁰ However, it should be noted that immigration authorities and transportation carriers must be satisfied with the identification of any individual arriving at a border. In addition, the state requested that no one seeking protection bound for Ireland be denied boarding without first contacting Irish immigration authorities.¹¹²¹

3. Registration under temporary protection

At the outset of the conflict, a reception centre opened at the Dublin Airport in order to process applications for temporary protection in respect of persons arriving in Ireland from Ukraine. Individuals were provided with Temporary Protection certificates, Personal Public Service numbers, medical cards and other relevant supports and advice. The Department of Justice and the Department of Children established offices in the centre and the International Organisation of Migration (IOM) supported the operation of the facility. Translation services were also provided where required.¹¹²²

Further Ukraine Support Centres were subsequently established in Dublin city centre, Limerick, and Cork.¹¹²³ As of December 2022, operations at the Dublin Airport and Dublin city centres had ceased and instead moved to Citywest Convention Centre in west Dublin. Individuals arriving in Dublin Airport were brought directly to Citywest where they could apply for Temporary Protection and a PPS number. Individuals arriving at Rosslare Port could apply for Temporary Protection at the Port reception centre, while individuals arriving at Cork and Shannon airports could apply at the Cork and Limerick support centres respectively.¹¹²⁴

The Department of Justice is responsible for the registration of temporary protection applications. Upon arrival at Citywest Convention centre, applicants are met by representatives of the International Organisation for Migration (IOM) and are assisted in completing the relevant forms required for registration. Applicants are then issued with a Personal Public Service number by the Department of

¹¹¹⁹ Immigration Service Delivery, 'FAQ's – For Ukraine Nationals and Residents of Ukraine', 23 December 2022, available at: <https://bit.ly/3hMbVzK>.

¹¹²⁰ *ibid.*

¹¹²¹ European Union Agency for Asylum, 'Temporary Protection: Ireland', June 2022, available at: <https://bit.ly/3oalZJV>.

¹¹²² Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

¹¹²³ Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary Question Nos 8, 13, 19, 30, 50, 65, 72, 73, 298 and 306, 24 March 2022, available at: <https://bit.ly/3jZ13D8>.

¹¹²⁴ Immigration Service Delivery, FAQs – for Ukraine nationals and Residents of Ukraine, 6 January 2023, available at: <https://bit.ly/3jP6F2y>.

Social Protection, permitting them access to social welfare and public services in Ireland.¹¹²⁵ Finally, Immigration Officers record the details of each applicant, applicants are photographed and copies of their passport and other ID documents are made.

In order to demonstrate eligibility for temporary protection, applicants should provide identity and travel documents, as well as any supporting documents (e.g. marriage certificate, birth certificate, adoption certificate etc.), and any other essential information which proves that the requirements of temporary protection are met. Applicants are typically required to evidence by way of relevant exit stamp in their passport that they were present in the Ukraine on or after the outbreak of the war on 24 February 2022. Where an applicant fails to provide such evidence, the Irish Refugee Council are aware of reports of applicants being required to supply other documentary evidence, for example, receipts or bank statements evidencing their presence in Ukraine at the outbreak of the war.¹¹²⁶

Where an applicant has been determined to comply with the requirements of the Directive, a certificate confirming temporary protection under the EU Directive is issued to the applicant by the Department of Justice. This certificate confers the holder with permission to reside in Ireland for a period of 1 year, which may be extended for further periods in accordance with the Directive.¹¹²⁷

In the experience of the Irish Refugee Council, at the outset of the conflict, persons who arrived in Ireland from Ukraine in possession of long-stay visas for certain countries, in particular Canada and the United Kingdom, were refused temporary protection, despite being eligible. Additionally, those who had fled Ukraine and subsequently resided in other countries without a valid immigration permission were also refused, despite being otherwise eligible. The exact reasons for this practice are unclear.¹¹²⁸

There is no established appeals mechanism whereby an applicant can challenge a decision to refuse temporary protection. However, according to the Department of Justice, depending on the individual circumstances of the applicant, it may be possible for them to re-present to Immigration Officials at Citywest or one of the dedicated Ukraine Support Centres to submit new evidence demonstrating that they fall within the remit of the Directive.¹¹²⁹ Where such evidence is accepted, the applicant may be granted temporary protection in the State.

In the experience of the Irish Refugee Council's Ukraine Support team, there have been no practical difficulties for applicants in registering for temporary protection. The Citywest Transit Hub is staffed by trained volunteers and interpreters who are supported by IOM staff. The system is streamlined so that registration is conducted and documentation is received by applicants expeditiously.¹¹³⁰

4. Legal assistance

There is no dedicated legal assistance service for beneficiaries of temporary protection in Ireland. Various NGOs have, since the outset of the conflict, offered free legal advice and information services to persons requiring them. Beneficiaries of temporary protection may also access assistance for a variety of legal matters through the Legal Aid Board, a statutory body responsible for the provision of civil and criminal legal aid and advice, on the same basis as Irish citizens, should they meet the eligibility criteria.

¹¹²⁵ European Union Agency for Asylum, 'Temporary Protection: Ireland', June 2022, available at: <https://bit.ly/3oalZJV>.

¹¹²⁶ Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

¹¹²⁷ *ibid.*

¹¹²⁸ Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

¹¹²⁹ Information provided by Department of Justice, May 2022.

¹¹³⁰ Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

5. Information provision and access to NGOs

On arrival at a port of entry in Ireland, individuals seeking temporary protection are guided to a specific area at immigration control whereby they will be met by an immigration officer, an interpreter and a representative of IOM. If an applicant indicates that they wish to apply for Temporary Protection, they will then be transported to the Citywest Transit hub by bus where they will be assisted in making their application.¹¹³¹

The law does not provide for the provision of information to temporary protection beneficiaries. However, all beneficiaries are provided with written information regarding particular services available to them while in Ireland. This information is provided in Ukrainian, Russian, and English.¹¹³²

The Immigration Service Delivery has prepared two documents for persons seeking temporary protection, 'Information on Temporary Protection for People fleeing the conflict in Ukraine'¹¹³³ and a 'Frequently Asked Questions' document.¹¹³⁴ Both documents are published in English on the Immigration Service Delivery website.

Non-governmental organisations, citizens information services and community groups have also compiled information which is widely available for beneficiaries of temporary protection. Many immigration advocacy services have also established information and advice services staffed by Ukrainian and Russian speakers in order to provide information and support to beneficiaries of temporary protection.

D. Guarantees for vulnerable groups

There is no specific identification mechanism in place providing for the identification of individuals entitled to temporary protection who require specific procedural guarantees. All individuals are met by an immigration officer upon arrival at the relevant point of entry and will be assisted by an interpreter and an IOM representative.¹¹³⁵

Where an applicant is identified as an unaccompanied minor, they will be met by a representative of TUSLA and taken into the care of the State.¹¹³⁶

The Health Service Executive (HSE) are also present at the Citywest Transfer Hub in order to conduct health screenings in respect of persons arriving from Ukraine. Applicants requiring further medical attention or assessment will be sign posted to relevant services.¹¹³⁷

In relation to mental health support, at the onset of the conflict, the Ukrainian community in Ireland created a list of Ukrainian-speaking psychotherapists from Kyiv Gestalt University who are providing free counselling to those impacted by the conflict.¹¹³⁸ Additionally, the 'Call Tanya Helpline' was established on 17 of April 2023, in order to provide confidential psychosocial support to Ukrainians in Ireland who are experiencing distress due to displacement and the ongoing conflict in Ukraine. Trained call ambassadors are available on Mondays, Tuesdays, and Wednesdays from 9:00 to 11:00 and from

¹¹³¹ *ibid.*

¹¹³² *ibid.*

¹¹³³ Immigration Service Delivery, "Information on Temporary Protection for People fleeing the conflict in Ukraine", 23 December 2022, available at: <https://bit.ly/458iS5E>.

¹¹³⁴ Immigration Service Delivery, 'FAQ's – For Ukraine Nationals and Residents of Ukraine', 23 December 2022, available at: <https://bit.ly/3hMbVzK>.

¹¹³⁵ Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

¹¹³⁶ *ibid.*

¹¹³⁷ *ibid.*

¹¹³⁸ Help Ukraine Ireland, 'Counselling Services for Ukrainians', March 2022, available at: <https://bit.ly/43cFfFu>.

15:00 to 18:00 to provide psycho-social support in Ukrainian and Russian.¹¹³⁹ Counselling and Psychotherapy is provided free of charge to displaced Ukrainians by MyMind. Counselling is provided through Ukrainian and Russian speaking counsellors and psychologists and supported by the HSE.¹¹⁴⁰ Specialised treatment and psychosocial support for torture survivors is mainly provided by SPIRASI, which receives some funding from the Health Service Executive.

¹¹³⁹ Irish Examiner, 'National Psychological support helpline for Ukrainian refugees to be launched in Cork', 17 April 2023, available at: <https://bit.ly/42SIPFR>.

¹¹⁴⁰ MyMind, 'Free Counselling for Displaced Ukrainians', available at: <https://mymind.org/ukrainianproject>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of temporary protection?
1 year (renewable)
2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive?
82,196 individuals as of 11 May 2023.¹¹⁴¹

Upon obtaining temporary protection, beneficiaries of temporary protection are issued with a Certificate of Temporary Protection. Certificates are issued by the Department of Justice and can be obtained following registration at Citywest Processing hub in West Dublin or one of the dedicated Ukraine Support Centres located in Cork and Limerick.

In order to demonstrate eligibility for temporary protection, applicants should be able to present identity and travel documents, as well as any supporting documents (e.g. marriage certificate, birth certificate, adoption certificate etc.), and any other essential information which proves that the eligibility requirements for temporary protection are met. Applicants are typically required to evidence, by way of relevant exit stamp in their passport, that they were present in the Ukraine on or after the outbreak of the war on 24 February 2022. Where an applicant fails to provide such evidence, the Irish Refugee Council was made aware of cases in which applicants were required to supply other documentary evidence, for example, receipts, evidencing their presence in Ukraine at the moment of the war outbreak.¹¹⁴²

Where an applicant has been determined as eligible for temporary protection, a certificate confirming their status is issued to the applicant by the Department of Justice. This certificate confers the holder the permission to reside in Ireland for a period of 1 year, which may be automatically extended for further periods in accordance with the Directive.¹¹⁴³

Beneficiaries of Temporary Protection in Ireland may transfer their residence to another EU Member State, however, persons wishing to do so must ensure to withdraw their temporary protection status in Ireland after having taken up Temporary Protection in another Member State.¹¹⁴⁴ In order to do so, applicants can submit a request in writing along with a copy of their passport to the Department of Justice, or alternatively, attend the Citywest Transfer Hub.¹¹⁴⁵

2. Access to asylum

There is no requirement for those fleeing the war in Ukraine to seek international protection in order to receive support and protection upon arrival in Ireland. While applicants can choose to seek international protection, one cannot benefit from temporary protection at the same time. However, once registered under the Temporary Protection Directive, it is possible for a beneficiary to instead apply for international protection, provided they first renounce their temporary protection status. Equally, it is possible for

¹¹⁴¹ Central Statistics Office, 'Temporary Protection granted to arrivals from Ukraine', 11 May 2023, available at: <https://bit.ly/3pMju0B>.

¹¹⁴² Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

¹¹⁴³ Immigration Service Delivery, 'Information on Temporary Protection for People fleeing the conflict in Ukraine', 23 December 2022, available at: <https://bit.ly/458iS5E>.

¹¹⁴⁴ Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

¹¹⁴⁵ *ibid.*

someone who has previously applied for international protection to subsequently register for temporary protection, provided they withdraw their asylum application and meet the qualifying criteria for temporary protection.¹¹⁴⁶

There have been no issues reported regarding access to the international protection process in respect of those entitled to temporary protection. However, it should be noted that the asylum procedure has a significant length at present. Throughout 2022, the median processing time for first instance decisions was approximately 18 months.¹¹⁴⁷ The EU temporary protection directive provides a quicker and more streamlined process in these circumstances. Temporary protection provides beneficiaries with immediate access to the labour market, along with access to social welfare income supports and accommodation. If an applicant chooses to apply for asylum, they will not be permitted to access employment until 6 months after making their initial application for protection. Moreover, international protection applicants are not permitted to access social welfare supports in the State and are instead provided with a weekly stipend, known as the Daily Expense Allowance, in the amount of €38.80 per week.

422 applications for international protection were made by Ukrainian nationals in 2022. It is not known whether they would be automatically entitled to temporary protection as some of those applications may have been lodged prior to 24 February 2022.¹¹⁴⁸

B. Family reunification

The provisions of the International Protection Act 2015 expressly provide for family reunification with core family members, however, beneficiaries of temporary protection do not constitute ‘qualified persons’ for the purpose of the Act and thus, cannot benefit from family reunification provisions pursuant to s.56.

The Council Implementing Decision provides for family reunification for beneficiaries of temporary protection with spouses or partners, or any children under the age of 18, and thus circumvents this difficulty.¹¹⁴⁹ As a beneficiary of temporary protection, it is possible to activate a family reunification procedure, either in Ireland or in another Member State of the EU whereby the spouse, partner or child holds temporary protection in another EU member State. This is subject to cooperation between Ireland and the Member State concerned.¹¹⁵⁰ At the time of updating, there was no established mechanism by which to facilitate family reunification in Ireland. In the experience of the Irish Refugee Council’s Ukraine Support Team, the vast majority of applicants seeking family reunification in Ireland claim temporary protection independently of their family members. Reunification is then facilitated.¹¹⁵¹

¹¹⁴⁶ Immigration Service Delivery, ‘FAQ’s – For Ukraine Nationals and Residents of Ukraine’, 23rd December 2022, available at: <https://bit.ly/3hMbVzK>.

¹¹⁴⁷ Acting Minister for Justice Simon Harris, Response to Parliamentary Question No 558, 31 January 2023, available at: <https://bit.ly/3X56bmM>.

¹¹⁴⁸ Breaking News, ‘Almost 450 ukrainians have entered Direct Provision since start of last year’, 1 March 2023, available at: <https://bit.ly/3BTGVrv>.

¹¹⁴⁹ 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, 4 March 2022, available at: <https://bit.ly/42QDBJM>.

¹¹⁵⁰ Immigration Service Delivery, ‘FAQ’s – For Ukraine Nationals and Residents of Ukraine’, 23 December 2022, available at: <https://bit.ly/3hMbVzK>.

¹¹⁵¹ Information provided by the Irish Refugee Council’s Ukraine Support Team, May 2023.

C. Movement and mobility

Freedom of movement within the State is not restricted by law, and beneficiaries of temporary protection are afforded the same liberties as Irish citizens.

However, in practice, freedom of movement is restricted for some beneficiaries of Temporary Protection residing in International Protection Accommodation Services (IPAS) accommodation. This is due to IPAS rules which restrict residents' ability to freely leave and subsequently re-access their accommodation following a period of absence. From 31 of March 2022 onwards, beneficiaries of Temporary Protection are permitted to take one short-term absence in exceptional circumstances (a maximum of 7 non-cumulative days) over a 6-month calendar period. Residents are obliged to notify their accommodation provider of their planned absence and must complete an Absence Notification Form which must be submitted to IPAS. Absences are considered on a case-by-case basis by IPAS and applicants are required to remain in regular contact with their accommodation provider and provide updates on the duration of their proposed absence.

Whereby a resident is absent for a period in excess of 7 days, or fails to notify the accommodation provider of their proposed absence, their bed may be re-allocated and no further accommodation will be offered.¹¹⁵²

There are no constraints with regard to beneficiaries of temporary protection leaving the State temporarily, should they wish to do so. This includes short term trips to Ukraine. At present, there is no notification system in place by which beneficiaries of temporary protection are required to advise the State of their intention to travel. However, beneficiaries who leave the State may still require a visa to travel. Beneficiaries planning to travel and subsequently return to Ireland should retain their Temporary Protection Certificate and show same to the immigration authorities on re-entering the country. Ukrainian nationals and nationals of any other country that are eligible for the visa waiver need not take any additional steps when returning to Ireland.¹¹⁵³

It should be noted that beneficiaries who are receiving social welfare supports from the State should notify the Department of Social Protection if they intend to be outside of the country for a period greater than two weeks. Pursuant to s.249(6) of the Social Welfare Consolidation Act 2005, payments may be made administratively for up to two weeks in any calendar year in respect of periods of absence from the State. On that basis, temporary periods of absence of up to two weeks may be facilitated. Beneficiaries' payment will be suspended for a two-week period and paid upon their return. Where a beneficiary is going to be absent from the State for a period greater than two weeks, they will be required to close their claim and reapply for income supports upon their return.¹¹⁵⁴ Additionally, as noted above beneficiaries of temporary protection who are accessing State-provided accommodation are permitted one 7-day absence over a 6 months calendar period and are obliged to notify their accommodation provider of same. Whereby a resident is absent for a period in excess of 7 days, or fails to notify the accommodation provider of their proposed absence, their bed may be re-allocated and no further accommodation will be offered.¹¹⁵⁵

¹¹⁵² Department of Children, Equality, Disability, Integration and Youth, 'Short term accommodation: Refusals Protocol for Beneficiaries of Temporary Protection from Ukraine', 24 November 2022, available at: <https://bit.ly/43fTokZ>.

¹¹⁵³ Information provided by Department of Justice, October 2022.

¹¹⁵⁴ Department of Social Protection, 'Operational Guidelines, 20 June 2019, available at: <https://bit.ly/42Xnev0>.

¹¹⁵⁵ Department of Children, Equality, Disability, Integration and Youth, 'Short term accommodation: Refusals Protocol for Beneficiaries of Temporary Protection from Ukraine', 24 November 2022, available at: <https://bit.ly/43fTokZ>.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?
No specific time limit in place
2. Number of beneficiaries staying in reception centres as of 15/05/23 54,151¹¹⁵⁶
3. Number of beneficiaries staying in private accommodation as of 15/05/23 10,287¹¹⁵⁷

Individuals requiring immediate accommodation in the State have been housed facilities contracted by IPAS. Accommodation was provided through different channels including hotels, guest houses, bed and breakfasts, hostels and local authority facilities. Families and adults of the same sex are often required to share rooms. At present, there is a shortage of available accommodation and the type of accommodation provided depends on what is available at the time at which it is requested; beneficiaries of temporary protection do not have a choice regarding the location. Whereby a beneficiary refuses an offer of accommodation, they may not receive any further offer from IPAS. Due to a lack of available places, requests for transfer within IPAS accommodation will only be facilitated in the most exceptional of circumstances. Additionally, as noted above beneficiaries of temporary protection who are accessing State-provided accommodation are permitted one 7-day absence over a 6-month calendar period and are obliged to notify their accommodation provider of same. Whereas a resident is absent for a period in excess of 7 days or fails to notify the accommodation provider of their proposed absence, their bed may be re-allocated and no further accommodation will be offered.¹¹⁵⁸

Meals are provided if the centre does not have self-catering facilities. From 3 January 2023, in an effort to ease pressure on the State's accommodation system, Ukrainian beneficiaries of temporary protection staying in IPAS-provided accommodation were required to pay for their meals at a cost of €10.00 per day for adults and €5.00 per day for children. This cost had previously been borne by the State. Residents are not required to pay for their first 2 weeks in accommodation, however, if they refuse to pay afterwards, they may be asked to leave.¹¹⁵⁹

In addition to State-provided accommodation, the Irish Red Cross, in conjunction with the government and Local Authorities, established an accommodation pledge programme in which Irish residents can pledge a spare room in their home or a vacant property in which to accommodate Ukrainian beneficiaries of temporary protection.¹¹⁶⁰ As of October 2022, the Irish Red Cross had received approximately 21,000 pledges, 10,000 of which had been deemed suitable. As of October 2022, approximately 4,800 Ukrainian nationals had been placed in private-hosting arrangements around the country.¹¹⁶¹

Additionally, in March 2022, a voluntary organisation, Helping Irish Hosts, was established, whereby prospective hosts can register and be matched with displaced beneficiaries of temporary protection requiring accommodation. Hosts can also register with Helping Irish Hosts in order to connect with other

¹¹⁵⁶ Department of Children, Equality, Disability, Integration and Youth, 'Accommodation of Beneficiaries of Temporary Protection – Weekly Statistics', 15 May 2023, available at: <https://bit.ly/3lxI0dL>.

¹¹⁵⁷ *ibid.*

¹¹⁵⁸ Department of Children, Equality, Disability, Integration and Youth, 'Short term accommodation: Refusals Protocol for Beneficiaries of Temporary Protection from Ukraine', 24 November 2022, available at: <https://bit.ly/43fTokZ>.

¹¹⁵⁹ The Irish Times, 'Ukrainian refugees must start paying for meals or face eviction', 31 December 2022, available at: <https://bit.ly/3CxPDfT>.

¹¹⁶⁰ Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary Question Nos 8, 13, 19, 30, 50, 65, 72, 73, 298 and 306, 24 March 2022, available at: <https://bit.ly/3jZ13D8>.

¹¹⁶¹ RTE, 'Host Family Wait 6-months to welcome Ukrainian families', 26 October 2022, available at: <https://bit.ly/3WUR2Wa>.

host families, share experiences and provide mutual support. As of January 2023, Helping Irish Hosts had matched almost 800 beneficiaries of temporary protection with over 260 Irish host households.¹¹⁶²

In July 2022, the Government introduced an Accommodation Recognition Payment for households hosting beneficiaries of Temporary Protection having fled the conflict in Ukraine. An initial payment of €400.00 per month was paid to hosts and backdated as far as the 4 March 2022. The payment is administered by the Department of Social Protection on behalf of the Department of Children, Equality, Disability, Integration and Youth.¹¹⁶³ In December 2022, the payment was increased to €800.00 per month.¹¹⁶⁴

Beneficiaries of temporary protection may be entitled to apply for state housing support such as Rent Supplement and the Rental Accommodation Scheme in the case that they have independently rented a house or apartment and meet the requisite eligibility criteria.¹¹⁶⁵

Numerous challenges have arisen in the provision of accommodation to beneficiaries of temporary protection. The primary and most significant challenge is that of accommodation services reaching capacity due to difficulties in sourcing appropriate accommodation. On 24 January 2023, the government announced that it could no longer guarantee that beneficiaries of temporary protection in Ireland would be provided with temporary accommodation by the State. This was due to a lack of State-accommodation capacity.¹¹⁶⁶ However, in the experience of the Irish Refugee Council, there have been no reported cases to date of a beneficiary of temporary protection having been refused accommodation on arrival in Ireland.¹¹⁶⁷ In relation to pledged accommodation, over 85% of properties pledged for use by beneficiaries of temporary protection had not been brought on stream as of September 2022. Progress in this regard has been frustrated due to properties being unsuitable and offers of accommodation being withdrawn.¹¹⁶⁸ As of 15 May 2023, **54,151** beneficiaries of temporary protection were staying in IPAS accommodation, while **10,287** beneficiaries were staying in private rented accommodation.¹¹⁶⁹

E. Employment and education

1. Access to the labour market

Having received their Temporary Protection Certificate, Beneficiaries of Temporary Protection are entitled

to access the labour market on the same basis as Irish citizens. The Temporary Protection Certificate itself is adequate proof of entitlement to take up employment in the State. Beneficiaries of temporary

¹¹⁶² Open Community, Supports for Hosts and Host Communities, January 2023, available at: <https://bit.ly/3VVSdTr>.

¹¹⁶³ Government of Ireland, €400 'Accommodation Recognition Payment' for hosts accommodating people from Ukraine is open for applications, 26 July 2022, available at: <https://bit.ly/3ZuWj8C>.

¹¹⁶⁴ Government of Ireland. Accommodation Recognition Payment, 5th January 2023, available at: <https://bit.ly/3QIFnNw>.

¹¹⁶⁵ Minister for Social Protection Heather Humphreys, Response to Parliamentary Question No 211, 22 June 2022, available at: <https://bit.ly/3BO1MNa>.

¹¹⁶⁶ Department of Children, Equality, Disability, Integration and Youth, 'Citywest Transit Hub to pause entry of new International Protection arrivals to its emergency accommodation area', 24 January 2023, available at: <https://bit.ly/3Ow3wlu>.

¹¹⁶⁷ Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

¹¹⁶⁸ The Irish Times, 'Over 85% of properties pledged for Ukrainian refugees not 'activated'', 7 September 2022, available at: <https://bit.ly/3Ws4f9B>.

¹¹⁶⁹ Department of Children, Equality, Disability, Integration and Youth, 'Accommodation of Beneficiaries of Temporary Protection – Weekly Statistics', 15 May 2023, available at: <https://bit.ly/3lxl0dL>.

protection are thus entitled to the full range of statutory employment rights and protections in the same manner as Irish employees.¹¹⁷⁰

As of 13 March 2023, 18,101 beneficiaries of temporary protection had accessed the labour market in Ireland.¹¹⁷¹ The following table provides a breakdown a breakdown of the sectors in which individuals were employed:¹¹⁷²

Financial and insurance activities	125
Transportation and Storage	246
Information and communications	315
Public Administration and Defence	194
Education	416
Human Health and Social Work Activities	416
Real estate activities	378
Professional, Scientific and Technical Activities	508
Agriculture, Forestry and Fishing	537
Construction	901
Administrative and Support Service Activities	1,515
Miscellaneous Sectors	1,048
Manufacturing	1,920
Wholesale and Retail Trade	2,940
Accommodation & Food Service Activities (I)	6,642
All Economic Sectors	18,101

2. Access to education

Child beneficiaries of temporary protection between the ages of 4 and 18 years are entitled to access public primary or post-primary education provided by the State on the same basis as Irish children.¹¹⁷³ Beneficiaries of temporary protection can approach any primary or post-primary school and seek information on how to enrol a child in the school. The Tusla Education Support Service provides assistance to parents in locating school places for their children.¹¹⁷⁴

The Department of Education also established the Regional Education and Language Teams (REALT) to support the needs of child beneficiaries of temporary protection. REALT is hosted by the 16 regional Education and Training Boards. The primary role of REALT is to build upon existing regional education support structures with an initial focus on assisting Ukrainian families to secure school places. English language classes for child beneficiaries of temporary protection are available through local Education and Training Boards.¹¹⁷⁵

¹¹⁷⁰ Immigration Service Delivery, 'FAQ's – For Ukraine Nationals and Residents of Ukraine', 23 December 2022, available at: <https://bit.ly/3hMbVzK>.

¹¹⁷¹ Central Statistics Office, 'Temporary Protection granted to arrivals from Ukraine', 11 May 2023, available at: <https://bit.ly/3pMju0B>.

¹¹⁷² *ibid.*

¹¹⁷³ Immigration Service Delivery, 'FAQ's – For Ukraine Nationals and Residents of Ukraine', 23 December 2022, available at: <https://bit.ly/3hMbVzK>.

¹¹⁷⁴ European Union Agency for Asylum, 'Temporary Protection: Ireland', June 2022, available at: <https://bit.ly/3oalZJV>.

¹¹⁷⁵ ETBI, 'Regional Education and Language Teams for Ukraine', 6 June 2022, available at: <https://bit.ly/3OwYI4X>.

The Department of Education confirmed that as of 31 March, **15,282** Ukrainian pupils have been enrolled in schools across Ireland. Of that figure, **9,877** of these pupils have been accommodated in primary schools while **5,405** pupils have enrolled in post-primary schools. Current data indicates an enrolment rate of 90% among Ukrainian children aged 5-18.¹¹⁷⁶

All Beneficiaries of Temporary Protection are eligible to access third-level education and vocational training on the same basis as Irish citizens. Beneficiaries of Temporary Protection who are seeking to apply for a first-time place in higher education in Ireland are required to apply through the CAO (Central Applications Office). Beneficiaries of Temporary Protection applying to access the Irish higher education system are subject to the same conditions as Irish students for the purposes of fees, meaning that students with temporary protection status will be liable for EU fees.¹¹⁷⁷ In order to assist students with the cost of tuition fees, an administrative scheme, the Temporary Tuition Fee Support Scheme for displaced Ukrainian Students, was established by the Department of Further and Higher Education for the academic year 2022/2023. In order to be considered eligible for the scheme, students were required to be an individual in respect of whom a permission to reside in the State had been granted pursuant to s.60 of the International Protection Act 2015 or an Irish national who was attending a Higher Education Institution in the Ukraine during the 2021/2022 academic year and subsequently arrived in Ireland due to the conflict without completing their course of study, but who had taken up a place on an authorised transition scheme during the academic year 2022/2023. Moreover, applicants were required to be present and residing at an address within the State and attending or intending to pursue an approved course in the 2022/2023 academic year.¹¹⁷⁸ At the time of writing, it had not been confirmed whether the Support Scheme would be administered once again for the 2023/2024 academic year.

Additionally, the Department of Further and Higher Education established a Post-Leaving Certificate (PLC) Bursary for Displaced Persons from Ukraine for the academic year 2022/2023. The Scheme provided students with the opportunity to undertake full-time study for a period of one or two years, with courses leading to major awards at National Framework of Qualifications (NFQ) Levels 5 and 6, while also receiving a bursary not exceeding €6,115 in total for the academic year. In order to be eligible for the scheme, students were required to have been granted temporary protection pursuant to s.260 of the International Protection Act 2015, be living in Ireland and participating in an approved full-time post leaving certificate (PLC) course.¹¹⁷⁹ It was not clear at the time of updating whether or not the Bursary Scheme would be offered for the forthcoming 2023/2024 academic year.

F. Social welfare

Beneficiaries of temporary protection are entitled to social welfare payments in the same manner as eligible Irish nationals pursuant to s. 60(10)(b) of the IPA 2015. As such, there are a broad range of social welfare entitlements of which a beneficiary of temporary protection may avail themselves, including access to jobseeker's allowance for those who are unemployed but actively seeking work; access to disability allowance for those unable to provide for themselves due to disability or illness; access to the one-parent family payment for single parents, and access to child benefit for parents/guardians. Applications for the various payments may be made at the applicant's local Intreo office.

¹¹⁷⁶ Central Statistics Office, 'Temporary Protection granted to arrivals from Ukraine', 11 May 2023, available at: <https://bit.ly/3pMju0B>.

¹¹⁷⁷ Minister for Further and Higher Education, Research, Innovation and Science Simon Harris, Response to Parliamentary Question No 1050, 18 January 2023, available at: <https://bit.ly/3Mtlqmk>.

¹¹⁷⁸ Department of Further and Higher Education, Research, Innovation and Science, 'Minister Harris announces new measures to provide access to further and higher education for displaced Ukrainian students', 21 June 2022, available at: <https://bit.ly/42VvMCp>.

¹¹⁷⁹ Department of Further and Higher Education, Research, Innovation and Science, 'PLC Bursary for Displaced Persons (Ukraine) Scheme 2022: Your questions answered', 17 August 2022, available at: <https://bit.ly/3WprWix>.

As of May 2023, **35,388** beneficiaries of temporary protection were receiving income support payments. A further **13,909** beneficiaries were receiving child benefit payment.¹¹⁸⁰

G. Health care

Beneficiaries of temporary protection are entitled to the same medical and social care as Irish citizens in accordance with s. 60(10)(b) IPA 2015. Beneficiaries of temporary protection receive healthcare services from the Health Service Executive (HSE), including access to General Practitioners (GPs), community care, hospital or emergency care, children's health services, mental health services, disability services, and maternity care.¹¹⁸¹

The Health Service Executive (HSE) are present at the Citywest Transfer Hub in order to conduct health screenings in respect of persons arriving from Ukraine. Applicants requiring further medical attention or assessment will be sign posted to relevant services.¹¹⁸²

Beneficiaries of Temporary Protection are automatically entitled to a medical card on arrival in Ireland. A medical card permits access to medical services, prescription medications and hospital services free of charge.¹¹⁸³ At the time of writing however, proposals were established by the Department of Health with a view to introducing a standardised means assessment for all medical card holders a year after their arrival in Ireland. It is envisaged that Ukrainian people will continue to maintain existing eligibility for a medical card pending transition to and completion of a standard means assessment process over the coming months. All incoming Beneficiaries of Temporary Protection will continue to have access to a medical card for their first year in Ireland.¹¹⁸⁴

As of March 2023, **59,627** medical cards were issued to arrivals from Ukraine.¹¹⁸⁵

Regarding psycho-social supports, at the onset of the conflict, the Ukrainian community in Ireland has created a list of Ukrainian-speaking psychotherapists from Kyiv Gestalt University who are providing free counselling to those impacted by the conflict.¹¹⁸⁶ Additionally, the 'Call Tanya Helpline' was established on the 17th of April 2023 in order to provide confidential psychosocial support to Ukrainians in Ireland who are experiencing distress due to displacement and the ongoing conflict in Ukraine. Trained call ambassadors are available on Mondays, Tuesdays, and Wednesdays from 9:00 to 11:00 and from 15:00 to 18:00 to provide psycho-social support in Ukrainian and Russian.¹¹⁸⁷ Counselling and Psychotherapy is provided free of charge to displaced Ukrainians by MyMind. Counselling is provided through Ukrainian and Russian speaking counsellors and psychologists and supported by the HSE.¹¹⁸⁸ Specialised treatment and psychosocial support for torture survivors is mainly provided by SPIRASI, which receives some funding from the Health Service Executive.

¹¹⁸⁰ Central Statistics Office, 'Temporary Protection granted to arrivals from Ukraine', 11 May 2023, available at: <https://bit.ly/3pMju0B>.

¹¹⁸¹ HSE, 'Healthcare services for Ukrainian nationals in Ireland', available at: <https://bit.ly/42VUF16>.

¹¹⁸² *ibid.*

¹¹⁸³ *ibid.*

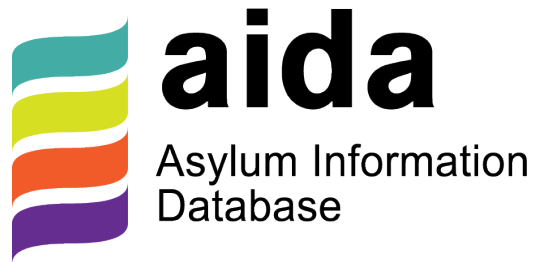
¹¹⁸⁴ Irish Examiner, 'Ukrainians to be means-tested for medical cards after a year', 30 March 2023, available at: <https://bit.ly/3MNml2n>.

¹¹⁸⁵ Central Statistics Office, 'Temporary Protection granted to arrivals from Ukraine', 11 May 2023, available at: <https://bit.ly/3pMju0B>.

¹¹⁸⁶ Help Ukraine Ireland, 'Counselling Services for Ukrainians', March 2022, available at: <https://bit.ly/43cFfFu>.

¹¹⁸⁷ Irish Examiner, 'National Psychological support helpline for Ukrainian refugees to be launched in Cork', 17 April 2023, available at: <https://bit.ly/42SIPFR>.

¹¹⁸⁸ MyMind, 'Free Counselling for Displaced Ukrainians', available at: <https://mymind.org/ukrainianproject>.



Italy



ASGI

Temporary Protection Procedure

A. General

Italy incorporated the Temporary Protection Directive (TPD) in its legislation with the adoption of the Legislative Decree of April 7th 2003, n. 85.

After the Russian invasion of Ukraine on 24 February 2022, the European Commission identified a risk that the standard asylum system could be struggling to cope with the demand stemming from the arrivals of displaced persons, risking a negative impact on the efficiency of said asylum system, as stated in the 2001/55/EC Directive, due to the massive numbers of displaced Ukrainian citizens fleeing the country's territory without being able to return. Following a call from the Home Affairs Ministers of EU countries, on 2 March 2022, the Commission proposed to activate the Temporary Protection Directive. On 4 March 2022, the Council unanimously adopted decision 382/2022, giving those fleeing the war in Ukraine the right to access temporary protection.

Transposing Directive 2001/55/EC, Italy issued LD no. 85 of 7 April 2003. According to Article 4 of LD 85/2003, if the conditions of the directive are met, the President of the Council of Ministers, in agreement with the regions and local authorities, establishes by decree the welfare measures to implement, also through the involvement of associations and entities providing voluntary work, including those focusing on housing, social and health assistance, access to the educational system for minors on par with Italian citizens, as well as for access to vocational training or internships.¹¹⁸⁹

On 28 February 2022, the Government declared the state of emergency until 31 December 2022 and entrusted the organisation and implementation of emergency relief and assistance interventions to the population fleeing from Ukraine to the Head of the Civil Protection Department, who regulates these matters with ordinances.¹¹⁹⁰

Italy implemented the directive by adopting D.P.C.M. (Decree of the President of the Minister's Council) of 8 March 2022, and through several Head of Civil Protection Department Ordinances.¹¹⁹¹

From 11 March 2022, Questure were entitled to release receipts for those coming from Ukraine who request temporary protection. These receipts, free of charge, immediately indicate the tax code, give access to the national health service and allow work.¹¹⁹² The permit to stay indicates the wording "Prot. Temporanea Emerg. Ucraina" and it was valid for one year.¹¹⁹³

¹¹⁸⁹ Legislative Decree no. 85 of 7 April 2003, Article 4 (1 g).

¹¹⁹⁰ Resolution of the State of emergency, 28 February 2022, published on 10 March 2022, available at: <https://bit.ly/3uN1bbl>.

¹¹⁹¹ OCDPC OF 4 march 2022, published on 12 march 2022, which provided urgent dispositions to ensure the rescue, hosting and assistance of population displaced as a consequence of the events in Ukraine, available at: <http://bitly.ws/AVt6>; OCDPC of 13 march 2022, published on 19 march 2022, which contains directions on special public transport concessions for displaced persons from Ukraine and appoints an extraordinary Commissioner for unaccompanied minors, available at: <http://bitly.ws/AVv2>; OCDPC n. 881 of 29 march 2022, published on 1 April 2022, with measures to increase the widespread hosting capacity for displaced persons from Ukraine and financial measures to ensure that displaced persons who find a private accommodation receive a financial contribution, available at: <http://bitly.ws/AVUQ>; OCDPC of 24 May 2022, published on 30 May 2022, which (among other financial provisions) establishes the possibility to enter into agreements with UNHCR for humanitarian activities regarding displaced persons from Ukraine, available at: <http://bitly.ws/AVV7>; OCDPC n. 926 of 22 September 2022, published on 3 October 2022, which establishes an agreement with IOM (available at: <http://bitly.ws/AVWM>).

¹¹⁹² Ordinance of the Head of Civil Protection department no. 872 of 4 March 2022, available in Italian at: <https://bit.ly/3k7njY2>.

¹¹⁹³ Mol - state police Department, Circular no. 20815 of 10 March 2022 and Article 2 of the Prime Ministerial Decree of 29 March 2022. According to the MOI circular the permit to stay cannot exceed the date of 4 March 2023.

According to the Prime Ministerial Decree signed on 28 March 2022,¹¹⁹⁴ temporary protection was recognised to people who were residing in Ukraine before 24 February who escaped from Ukraine on or after 24 February and who:

- ❖ Are Ukrainian;
- ❖ Are family members of Ukrainian nationals, which includes the partner, spouse, and underage and unmarried children, including the children of the spouse. Parents and adult children can also be entitled to temporary protection in case they were totally or partially dependent on their Ukrainian relatives' assistance;
- ❖ Are refugees or stateless persons and held a permit to stay in Ukraine, as well as their family members;
- ❖ Are third country nationals who were permanent residents in Ukraine.

In case holders of temporary protection also applied for international protection, their request was suspended in order to be examined only after the expiring date of their temporary protection permit to stay.

The Prime Ministerial Decree also stated that beneficiaries of international protection cannot ask for temporary protection and for the related benefits.¹¹⁹⁵

In terms of access to the labour market, Decree Law 21/2022 provided for a derogation from the discipline of the recognition of professional health qualifications, stating that public or private health structures can hire with fixed-term contracts Ukrainian doctors, nurses and OSS resident in Ukraine before 24 February 2022 and in possession of the European Qualification passport for refugees.¹¹⁹⁶

The following table summarises the content of the European directive and that of the Italian decrees, highlighting the differences between EU and national provisions:

Content of temporary protection	
European Directive	Decree of the President of the Council of Ministers and Ordinances of the Head of Civil Protection department
1. Release of a permit of stay allowing the holder to stay regularly in the territory of the country for all the duration of protection	<ul style="list-style-type: none"> ❖ Right to enter Italian territory as a tourist (with visa exemption) ❖ Right to travel free of charge for the first 5 days of presence on Italian territory to reach their destination (as per Obligation to issue a declaration of presence (dichiarazione di presenza) within 8 days from arrival, to border authorities or police authorities of the area of destination) ❖ Right to stay on Italian territory for 90 days without formalities as a tourist ❖ Right to a residence permit for Temporary protection (1-year validity, issued without costs or taxes, electronic badge, validity extended every 6 months after 1st expiration date)
2. Right to work (subordinate or self-employed)	<ul style="list-style-type: none"> ❖ Right to work (subordinate or self-employed) granted also to holders of the receipt certifying the permit application, waiting for the issuance of the permit ❖ Facilitated access to sanitary professions

¹¹⁹⁴ Article 1 of the Prime Ministerial Decree of 28 March 2022, published on 15 April 2022, available at: <https://bit.ly/38Wxyfw>.

¹¹⁹⁵ Ibid. Article 3.

¹¹⁹⁶ Article 34 DL 21 of 21 March 2022.

3. Right to access education and professional training for adults	❖ The holder of temporary protection in Italy has access to adult education, as well as professional training.
4. Right to access education for children	❖ Minors who are TP holders have access to the education system on par with Italian citizens
5. Right to adequate housing or to receive financial help to get adequate housing	<ul style="list-style-type: none"> ❖ The Council of Ministers approved the proclamation of a state of national emergency and entrusted the Head of the Department of Civil Protection with the role of Extraordinary Commissioner of the Government with a coordination task. ❖ The Department established specific rules for the reception of TP beneficiaries, providing different forms of support, which complement those already provided for asylum seekers and refugees. ❖ Each Region sets up a coordination structure which works in conjunction with private ones and, if present, local representatives of the Ukrainian community. ❖ It is up to the Prefectures responsible for the area to verify the availability of accommodation in the ordinary network of CAS (Extraordinary Reception Centres for asylum seekers) and SAI (reception and integration system). ❖ People displaced from Ukraine have the right to access: <ul style="list-style-type: none"> a) First reception centres for asylum seekers; b) Extraordinary reception centres (CAS); c) Reception structures of the Reception and Integration System (SAI); d) Independent accommodation in private lodgings. The support contribution provided in these situations amounts to EUR 300 per month for each displaced adult beneficiary of temporary protection, who has found independent accommodation; the adult who is the guardian or custodian of minors under the age of 18 is also entitled to a contribution of EUR 150 per month for each minor. The contribution is paid for a maximum of 90 days, starting from the date of submission of the temporary protection request.
6. Right to social care, means of subsistence and access to healthcare	❖ The platform of the Civil Protection Department, which has been online since 2 May 2022, allows people fleeing the war in Ukraine to apply for a subsistence grant for oneself, for one's children, and for minors of whom one has legal guardianship.

The invasion of Ukraine caused the displacement of not only Ukrainian citizens or residents. After the beginning of the war, many Russian nationals started to flee their country due to the increasingly harsh measures taken by the Russian government to limit freedom of expression and free speech by political opponents, at every level. According to data provided by Ministry of Interior in response to a FOIA request sent by ASGI, in the year 2022, 357 Russian citizens asked for asylum in Italy. Data on the outcome of these requests was not provided.¹¹⁹⁷ Many Russian asylum seekers, in the experience of ASGI lawyers, were dissidents since long before the beginning of the war, or were of half-Ukrainian

¹¹⁹⁷ Figures and charts provided by the Ministry of Interior at the request of ASGI by FOIA public access on 17 and 18 April 2023.

heritage, or homosexuals with a long history of harassment from Russian authorities or police. The invasion was a trigger for their decision to leave the country. They obtained refugee status.

Regarding the number of beneficiaries of protection in the country, between 8 March and 31 December 2022, the following categories received a temporary protection permit:

- ❖ Ukrainian citizens holders of temporary protection: 150,478
- ❖ Russian citizens holders of temporary protection: 260
- ❖ Moldovan citizens holders of temporary protection: 179
- ❖ Belarusian citizens holders of temporary protection: 63
- ❖ Other nationalities: 455

The total number of permits of stay for Temporary protection issued from in the same period was 151,435.

The total number of applications for temporary protection from 8 March 2022 to 31 December 2022 was 188,733. The breakdown of the requests by nationality was the following:

- ❖ Ukraine: 187,298
- ❖ Russia: 363
- ❖ Moldova: 240
- ❖ Uganda: 102
- ❖ Tuvalu: 97
- ❖ Belarus: 77
- ❖ Morocco: 61
- ❖ Pakistan: 55
- ❖ Georgia: 54
- ❖ Uruguay: 38
- ❖ USA: 38
- ❖ Armenia: 28
- ❖ Azerbaijan: 25
- ❖ Egypt: 22
- ❖ Uzbekistan: 22
- ❖ China: 16
- ❖ Nigeria: 16
- ❖ Kazakhstan: 12
- ❖ Tunisia: 12
- ❖ Iran: 12
- ❖ Tajikistan: 11
- ❖ Türkiye: 11
- ❖ Other nationalities: 107

B. Qualification for temporary protection

Temporary protection applies to the following groups of persons in the national context:

- a) citizens of Ukraine residing in Ukraine before 24 February 2022, who fled the country starting from 24 February 2022;
- b) stateless persons and nationals of third countries other than Ukraine who enjoyed international protection or an equivalent national protection in Ukraine before 24 February 2022;
- c) family members of the persons referred to in letters a) and b).
- d) stateless persons and nationals of third countries other than Ukraine who can prove that they stayed in Ukraine before 24 February 2022 on the basis of a permanent residence permit issued

in accordance with Ukrainian law and which cannot return in safe and stable conditions to their country or region of origin.

People not able to provide proof/evidence of having entered the country after 24 February are not considered eligible for temporary protection. Police authorities follow this rule when deciding whether someone is eligible for temporary protection, following a restrictive interpretation of national legislation as described in the previous paragraphs. Ukrainian citizens (or residents) who, solely on these grounds, are not eligible for temporary protection, and not excluded for the causes provided by the Directive, are usually granted special protection (Art. 19 of T.U.I.), if they choose not to apply for international protection.

The Civil Court of Bologna recently ruled on the case of a Moroccan man holding a Ukrainian permit of stay of 5 years for study, who fled Ukraine and came to Italy, where he had acquaintances, immediately after the beginning of the invasion. Not being eligible for TP, he applied for special protection, which the Questura of Bologna refused to grant him, following the negative decision of the local Territorial Commission for international protection. He then appealed the decision and the Court granted him special protection, on the grounds of his positive integration process in Italy rather than due to the situation in the country of his last habitual residence.¹¹⁹⁸

When compared to the scope of TPD, additional categories are covered in the national framework, in particular:

- a) stateless persons and nationals of third countries other than Ukraine who enjoyed international protection or national protection equivalent in Ukraine before 24 February 2022;
- b) family members of Ukrainian citizens or stateless persons and third countries nationals.

The scope of TPD in Italy is not restricted compared to the Council Decision, except with regard to displaced people who cannot prove they left Ukraine after 24 February 2022 through official documentation such as passport stamps or equivalent documents. The Council Decision (para. 14) encourages MS 'to consider extending temporary protection to those persons who fled Ukraine not long before 24 February 2022 as tensions increased or who found themselves in the territory of the Union (e.g. on holidays or for work reasons) just before that date and who, as a result of the armed conflict, cannot return to Ukraine'. However, the date of 24 February 2022 is being used as a strict time limit by Italian authorities as far as temporary protection is concerned.

TCN and stateless persons are included under the scope of the temporary protection, if holders of a permanent permit of stay in Ukraine or holders of international/national protection in Ukraine. Family members are those included in the definition of family members eligible for family reunification according to art. 29 of T.U.I. (parents, spouse, minor children or unable to provide for themselves in case of serious incapacity/invalidity).

Special protection under article 19.1 and 19.1.1 of T.U.I. is available for people fleeing Ukraine who do not fall under the scope of the temporary protection regime (for example, people who cannot provide evidence that they left Ukraine after 24 February 2022). A permit of stay of two years is granted in these cases.

The duration of temporary protection is of one year, starting from 4 March 2022. The permits of stay issued all expire on 4 March 2023 and can be extended every 6 months for another year. According to a Government press release,¹¹⁹⁹ the first extension will expire on 31 December 2023 (Council of Ministers deliberation of 23 February 2023, published 10 March 2023).

¹¹⁹⁸ Civil Court of Bologna, Decision no. 14313/2022.

¹¹⁹⁹ Available at: <https://bit.ly/3oxPWDL>.

C. Access to temporary protection and registration

1. Admission to territory

In ASGI's experience, people who returned to Ukraine did not experience difficulties in re-accessing national territory but did in some cases when leaving Ukraine for the second time if holding an expired passport.

ASGI lawyers have been contacted regarding the case of a Ukrainian young mother who left Italy to go back to Ukraine to apply for benefits granted to new-born children by Ukrainian law, as the procedure can be started only on Ukrainian territory. At the moment of publication of this report, she has not obtained permission to leave the country (despite holding a valid Italian permit of stay for temporary protection) because her passport has expired and she is having trouble renewing it.

Ukrainian citizens could already travel with a visa exemption before the war, being granted the right to enter the country for 90 days for tourism. The EU Decision states that, in the first 90 days after entering EU territory, they have freedom of movement and can choose in which Member State they want to apply for temporary protection. Volunteers have been organising transport from the Ukrainian border to Italy with private means of transport.

2. Freedom of movement

Individuals entitled to temporary protection who do not hold a biometric passport or a biometric travel document did not experience any issue in moving within the territory or when attempting to continue their journey towards other European countries.

Under the EU Council Decision, once temporary protection has been obtained, the holder has the right under EU law to temporarily reside in another EU Member State for 90 days over a period of 180 days, without prejudice of the obligation to possess a passport or travel document equivalent. The Italian legislation, however, established a more restrictive rule, providing that a holder of temporary protection cannot leave the national territory (art. 10, legislative decree 85/2003).

The only exceptions to the rule are any 'bilateral agreements with another Member State, or in case of voluntary transfer between Member States' or 'prior authorisation of the Authority that issued the residence permit'. Art. 10 forbids holders of TP from leaving the Italian territory, but it is not clear what would be the consequences if a temporary protection beneficiary decided to leave anyway. It is not clear if the permit for temporary protection could be revoked for this reason.

3. Registration under temporary protection

Police authorities (Questure, i.e. provincial police headquarters) are responsible for registering temporary protection applications after the declaration of presence submitted by Ukrainian citizens in the municipality of domicile as mentioned above. At first, they are fingerprinted and a receipt certifying that the procedure has been started is issued. After a certain period of time (between one month and two months, on average) an electronic permit of stay is issued.

Specific time limits to apply for TP were not laid down in the DPCM.

In terms of evidence required for registration, applicants are required to show proof of their Ukrainian nationality or resident status and of the date they left the country (mainly through exit passport stamps). In fact, those who fled without being able to get an exit stamp (due to dangerous conditions, coming from areas under attack, etc.) are often denied temporary protection and offered alternatives such as special protection if they do not choose to apply for international protection.

After completing the declaration of presence, the applicant is provided with a copy of the declaration containing their personal details, domicile and a photo. Immediately after registration for temporary

protection at the Questura, the applicant is given a receipt certifying that the request has been submitted and is pending.

One practical problem common to all areas of the country is the time needed to issue the permits (for TP, treated with priority, at least 3-4 months). It should be noted, however, that basic rights such as housing and health care are provided also to holders of the receipt of application, partially solving the issues related to the waiting time.

Applicants who are refused temporary protection have the right to appeal such decisions before Administrative Courts, as stated in art. 9 of Legislative Decree n. 85 of 2003.

However, due to the formulation of the rule prior to the jurisprudential and regulatory evolution that took place in Italy regarding the judicial protection of international and national protection, and the fact that temporary protection can be classified as a subjective right, the competence to decide in cases of this kind could be assigned to the ordinary judge. In 2022, however, no cases of appeal were reported to ASGI.

4. Legal assistance

Free legal assistance for persons entitled to TP is provided through general legislation granting free legal aid for nationals and residents who do not have sufficient resources (D.P.R., 30/05/2002 n° 115). The income limit is currently fixed at EUR 11,746.68 annually per household. Under this threshold, access to free legal aid is granted and covered with State funds (through the Ministry of Justice). However, the Italian legislative framework ensures it only for the – eventual – judicial phase and not for the administrative steps. Therefore, people displaced from Ukraine applying for temporary protection cannot benefit from this aid until the judicial appeal.

TP holders who enter hosting programmes for asylum seekers and holders of international protection (C.A.S. and S.A.I.) have access to legal assistance and legal counsel concerning the procedure for obtaining TP and on the territory. Such assistance is funded through hosting programmes.

People privately accommodated can benefit from legal support provided by some International organisations, such as IRC, Save the Children, UNHCR and by some NGOs that have received *ad hoc* funding.

In particular, the Intesa SanPaolo bank financed 10 Italian associations, including the Italian Refugee Council (CIR), to offer free legal aid to Ukrainian citizens and legal support to unaccompanied minors and single-parent families.¹²⁰⁰

5. Information provision and access to NGOs

According to Article 8 LD 85/2003, TP beneficiaries are delivered a document in a language which they are presumed to know, or in English, French, Spanish or Arabic, which illustrates their rights, duties and the rules relating to temporary protection.

In practice, at the check points set up for the emergency – from March 2022 until December 2022 – on the Italian-Slovenian border (Ferneti border) and on the Italian-Austrian border (Ugovizza - Tarvisio), while the police realised checks of new arrivals and the Civil Protection provided primary goods, the organisations present at the so called “bludots” provided psychosocial support and legal information. Bludots were implemented by UNHCR and UNICEF with implementing partners Save the Children, Arci, D.i.r.e, Stella Polare (only in Ferneti), Terres des Hommes (only in Ugovizza -Tarvisio).

At the same borders, UNHCR and Save the Children provided a brochure in Ukrainian, Russian and English informing about the right to asylum and to temporary protection.

¹²⁰⁰ Linkiesta “Intesa Sanpaolo dona 10 milioni di euro per aiutare il popolo ucraino”, 2 September 2022, available at: [bit.ly/3KG1nSo](https://www.linkiesta.it/en/2022/09/02/intesa-sanpaolo-dona-10-milioni-di-euro-per-aiutare-il-popolo-ucraino/).

No information sheets were distributed by the authorities; instead, an information sheet prepared by the MOI and EEUA was available in Italian and Ukrainian and is present on the Civil protection website.¹²⁰¹

In general, on national territory and depending on the region or municipality, some organisations provided information to people fleeing from Ukraine. Information is also provided by the Italian government through a dedicated website,¹²⁰² which links to a written booklet on temporary protection and the rights of people fleeing from Ukraine in Italy.

D. Guarantees for vulnerable groups

In 2022, the Ministry of Labour traced the arrival in Italy of 7,034 minors from Ukraine.¹²⁰³

According to the provisions of L 47/2017 (the Zampa Law), minors arriving from Ukraine without their parents, even in the presence of adults of reference, were considered as unaccompanied minors.¹²⁰⁴

On 13 March 2022, the Head of the Department for Civil Liberties and Immigration of the Ministry of the Interior was appointed Deputy Commissioner for the coordination of assistance measures for unaccompanied minors from Ukraine.¹²⁰⁵

On 13 April 2022, the Ministry of Interior issued the Plan for unaccompanied foreign minors, reaffirming the need to apply to minors fleeing from Ukraine all the guarantees provided by the Zampa Law for the identification, reception and protection of foreign minors.¹²⁰⁶ Then, in order to address specific cases emerging after the outbreak of the conflict, an addendum published on the same day established specific procedures and reports in cases of transfers of minors promoted by associations or other organisations operating in Italy.¹²⁰⁷

The plan provides that the Ministry of Interior's Departments of civil protection, civil liberties and immigration and public security are informed of the transfer at least 10 days in advance. The Departments also receive information on the personal details of the minors and the reception measures they will have access to. The plan also established that the territorially competent Prefecture should immediately activate coordination with the local institutions concerned, including the school office, the health authority and the Juvenile Court for the orderly access to reception measures.¹²⁰⁸

Many Juvenile Courts recalled the need to respect the age assessment procedures and the procedure to name the guardians dictated by the Zampa law.¹²⁰⁹

According to ASGI's experience, procedures relating to minors from Ukraine were prioritised and fast-tracked.

¹²⁰¹ Information sheet available in Italian and Ukrainian at: bit.ly/3LzngDb.

¹²⁰² See the booklet at: bit.ly/3oRDoHf.

¹²⁰³ Ministry of Labour, Report on unaccompanied minors, 31 December 2022, available in Italian at: bit.ly/3kol1b5. Summary available in English at: bit.ly/3YWNnXQ.

¹²⁰⁴ Article 2 L. 47/2017

¹²⁰⁵ Article 2 Ordinance of the Head of the Civil Protection Department no. 876 of 13 March 2022

¹²⁰⁶ The Plan, published on 13 April 2022, available at [http://bit.ly/42oiCgX](https://bit.ly/42oiCgX), was issued as provided by the Ordinance of the Civil Protection no. 876/2022.

¹²⁰⁷ Addendum to the Plan, available at: [http://bit.ly/40MUsew](https://bit.ly/40MUsew).

¹²⁰⁸ Plan for unaccompanied minors, Ukraine emergency, Prot. 4070 of 13 April 2022.

¹²⁰⁹ See for example, the letter sent by the Juvenile Court of Milan to all the municipalities of Milan district, to Questure of Lombardy, to the border police of Lombardy, and to Prefectures of Lombardy, available at: [http://bit.ly/3J9Vjzg](https://bit.ly/3J9Vjzg). Also, the note issued by the Juvenile Court of Brescia, available at: bit.ly/3nfQwFx, the Juvenile Court of Genoa, available at [http://bit.ly/42aueUB](https://bit.ly/42aueUB), and the Court of Turin, available at [http://bit.ly/41Klxk4](https://bit.ly/41Klxk4).

On 6 April 2022, the Juvenile Court of Bolzano rejected the request to proceed with the appointment of a guardian for seven minors coming from Ukraine where they were housed in an orphanage, deeming that the presence of the Head of the orphanage, who was their legal guardian in Ukraine, should be taken into consideration and that her role as guardian should also be recognised in Italy without proceeding with the appointment of further guardians.¹²¹⁰

In September 2022, ASGI received information on decision to authorise repatriation, issued by the Juvenile Court of Venice, concerning some Ukrainian unaccompanied minors. These decisions were taken on the basis of the wishes expressed by the representatives of the communities where the children lived in Ukraine and upon request of the Ukrainian embassy, without proceeding to hear the guardians or the minors themselves. The minors had not been able to access the temporary protection measure as no one had started the procedure on their behalf. After the intervention of a solicitor, appointed by some of the guardians, the minors were heard, but the Court confirmed the decision as all the minors expressed their willingness to return to Ukraine.

¹²¹⁰ Juvenile Court of Bolzano, decision of 6 April 2022, available in Italian at: <https://bit.ly/41Mt5C>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--|-----------------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | One year with 6 months extensions |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2022? | 151,435 |

The procedure for granting a residence permit is started by a direct request to the police authorities (which can be submitted by email, certified email, or in person at the front desk of an immigration office). After the request, an appointment is given where the applicant is fingerprinted and given a receipt certifying that the application has been submitted and is pending. After some time (2 months or more, average), an electronic permit is issued.

The Ministry of Interior is the authority responsible for the procedure, through Questure (Provincial Police Headquarters) located in every provincial capital city/town. At least in the last 6 months, delays and blockages in the release and renewal procedures are experienced in many areas throughout the country, due to lack of personnel and poor organisation of the responsible police offices. This also affected the procedures of request and issuance of TP permits. In any case, the sole possession of the receipt proving the submission of the request for TP gives the holder access to basic fundamental rights.

The duration of the TP residence permit is of one year. The first automatic extension started on 5 March 2023 and expires on 31 December 2023. The possibility to enjoy certain rights to which TP holders are entitled is directly connected to the permit. Such is the case for:

- ❖ Facilitated access to sanitary professions
- ❖ Access to adult education, as well as professional training

All other rights connected to the temporary protection status (e.g. employment, school, healthcare, etc) can be enjoyed directly upon receiving the receipt upon registration.

According to the information sheet arranged by the Civil Protection, if temporary protection beneficiaries move to another EU Member State, they can request and receive TP in the State where they move but, in this case, they lose temporary protection in Italy.¹²¹¹ There is no available information as to a procedure to be followed by the beneficiaries to end their status in Italy when obtaining status elsewhere in the EU.

2. Access to asylum

Access to asylum for holders of temporary protection is regulated by art. 3 of DPCM 28 March 2022: according to this provision, the holder of a residence permit for temporary protection has the right to submit, at any time, an application for international protection. The examination and decision on the application for international protection, submitted by the holder of TP, are deferred to the expiration date of the permit for temporary protection.

The application for international protection submitted in Italy by a person entitled to temporary protection belonging to categories listed in art. 1 of DPCM 28 March 2022 does not preclude the possibility of submitting the application for temporary protection.

A. ¹²¹¹ Protezione civile, Opuscolo informativo, available at: bit.ly/3LzngDb.

In case of recognition of temporary protection, the Questore (head of Questura, Chief of provincial police department) immediately communicates with the Territorial Commission for the recognition of international protection for the purposes of deferment. These provisions apply also, where compatible, to the application for special protection.

Recognition of international protection precludes access to temporary protection.

Questura had treated these situations in two different ways:

- ❖ Some register the application of international protection and suspend it until the end of temporary protection;
- ❖ Some refuse to register the application and postpone registration until the end of temporary protection (thus violating the DPCM provision).

In 2022, on a total number of **3,168** international protection applications were presented by Ukrainian nationals, and **1,701** decisions were issued to Ukrainian asylum seekers (not holders of temporary protection). 98 obtained refugee status; 1,409 obtained subsidiary protection; 72 obtained special protection; 122 were denied any form of protection.¹²¹²

In a case related to the asylum request submitted by a Ukrainian conscientious objector who had refused to perform military service in Ukraine, the Court of Cassation decided that the applicant had to be granted refugee status because the conscription, due to the armed conflict in place throughout the entire territory, entailed a high risk of involvement, even indirectly, in the commission of war crimes and crimes against humanity. In this case, the Court specified that the penal sanction envisaged by the foreign legal system for evading military service constitutes an act of persecution, pursuant to Article 7, (2 e), of the Qualification Decree and of Article 9 (2, e), of Qualification Directive, as interpreted by the CJEU in the judgement *Shepherd v. Germany* (case C-472/13), regardless of any consideration related to the proportionality of the penalty.¹²¹³

B. Family reunification

Transposing the Directive 2001/55/EC, Italy issued LD no. 85 of 7 April 2003, whose Article 6 governs family reunification for TP holders. The DPCM of 28 March 2022 also made clarifications with respect to the use of the procedure as applied to temporary protection holders.

Family members covered under the procedure are:¹²¹⁴

- ❖ unseparated spouses and stable partners
- ❖ the minor unmarried children of the sponsor or of their spouse, without distinction as to whether they were born in or out of wedlock or adopted as well as minors entrusted or under guardianship;
- ❖ parents, who lived together as part of the family unit at the time of the events leading to the mass influx, who were wholly or mainly dependent on the sponsor at the time, and who are living outside the territory of the EU Member states, if they have no other adult children in the country of origin or of provenance or, if over 65 years old, if the other adult children are unable to support them for documented serious health reasons;
- ❖ the adult children of the TP beneficiary who lived with them as part of the family unit at the time of the events leading to the mass influx, who were wholly or mainly dependent on the sponsor

¹²¹² Figures and charts provided by the Ministry of Interior at the request of ASGI by FOIA public access on 17 and 18 April 2023.

¹²¹³ Court of Cassation, decision no. 18626 of 9 June 2022.

¹²¹⁴ Article 6 Legislative Decree no 85/2003 and DPCM of 28 March 2022.

at the time, if they cannot for objective reasons provide for their livelihood due to their state of health leading to total disability. They are admitted for purposes of family reunification if they are living outside the territory of an EU Member State.¹²¹⁵

Italian law has used of the possibility provided for by Article 15 (2), second part of the Directive to allow family reunification in cases where the separate family members enjoy temporary protection in different Member States.¹²¹⁶

The reunification procedure is the same as for ordinary family reunification (see AIDA Country Report, section on Family Reunification) and is thus divided into: request for authorisation from the competent prefecture, and issuance of the family visa at the Italian embassy where the family member is located.

Reunited family members obtain a residence permit for temporary protection whose duration is the same as that of the TP holder.¹²¹⁷ They enjoy all the rights recognised to TP beneficiaries.

C. Movement and mobility

There are no national territorial restrictions for beneficiaries of temporary protection, and freedom of movement within the State is granted.

For what concerns freedom of movement towards other EUMS after registration, see Freedom of movement.

Beneficiaries of temporary protection are allowed to return in Ukraine and to subsequently re-access the Italian territory, provided they are in possession of a valid travel document.

See section on Access to the territory.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?
At least for the duration of Temporary Protection
2. Number of beneficiaries staying in reception centres as of 12/22
11,149 in temporary reception centres
2,402 in structures of the Reception and Integration system
3. Number of beneficiaries staying in private accommodation as of 12/22
2,162 accommodation places are currently occupied out of the
5,332 offered by local communities

Beneficiaries of temporary protection have the right to access different forms of accommodation:

- a) First reception centres for asylum seekers;
- b) Temporary reception centres (CAS);

¹²¹⁵ DPCM of 28 March 2022, Article 1 (5).

¹²¹⁶ DPCM of 28 March 2022, Article 1 (5).

¹²¹⁷ Article 6 (3) LD no. 85 of 7 April 2003.

- c) Reception structures of the Reception and Integration System (SAI);
- d) A specific form of reception in local communities (*accoglienza diffusa*).

An economic contribution was provided in case of independent accommodation in private lodgings, with a support of EUR 300 per month for each displaced adult holder of temporary protection, who has found independent accommodation; an adult who is the guardian or custodian of minors under the age of 18 is also granted a contribution of EUR 150 per month for each minor.

Transposing the Directive 2001/55/EC, Italy issued LD no. 85 of 7 April 2003. According to Article 4 of LD 85/2003, if the conditions of the directive are met, the President of the Council of Ministers, in agreement with the regions and local authorities, establishes by decree the welfare measures to implement, also through the involvement of the associations and entities providing voluntary work, including those for housing, social and health assistance, access to the educational system for minors on par with Italian citizens, as well as for access to vocational training or internships.¹²¹⁸

On 28 February 2022, the Government declared the state of emergency until 31 December 2022 and entrusted the organisation and implementation of emergency relief and assistance interventions to the population fleeing from Ukraine to the Head of the Civil Protection Department who regulates these matters with ordinances.¹²¹⁹

After the outbreak of the conflict and the decision to implement the 2001/55/EC Directive, the Government issued some decrees, detailed by the civil protection ordinances.

The planned interventions were mainly of two types: on one hand, it was planned to increase the places within the asylum reception system (first governmental, CAS and SAI facilities); on the other, alternative forms of reception in local communities (*accoglienza diffusa*) and economic support were foreseen.

Moreover, for further reception needs, the possibility to use the structures already set up for COVID-19 fiduciary isolation was foreseen; for further needs not covered by other measures, the presidents of the Regions, appointed delegated commissioners, are allowed to request Prefectures to prepare further housing solutions, especially for people in transit.¹²²⁰

Expansion of the reception system

DL 16 of 28 February 2022 established that people fleeing from Ukraine could access the reception system even without having submitted an asylum request.¹²²¹

It also established the *ad hoc* creation of 3,000 additional SAI places, the possibility for people fleeing from Ukrainian's war to access SAI places that had been increased for Afghans¹²²² and the financing

¹²¹⁸ Legislative Decree no. 85 of 7 April 2003, Article 4 (1 g).

¹²¹⁹ Resolution of the State of emergency, 28 February 2022, published on 10 March 2022, available at: <https://bit.ly/3uN1bbl>.

¹²²⁰ Ordinance of the Head of the Civil Protection no. 872 of 4 March 2022, Article 2 (1 lett b), Article 3 (2), and Article 3(4) available at: <https://bit.ly/3k7njY2>. See also Mol Circular, no. 0015709 of 8 March 2022, available at: <https://bit.ly/3s2XBs2>.

¹²²¹ DL 16/2022, Article 3, then repealed and transposed in the DL 14/2022, Article 5 quater as modified by the conversion Law n. 28 of 5 April 2022, without prejudice to all effects, acts and measures adopted in the meantime on the base of DL 16/2022.

¹²²² 3,000 places increased by Article 7 (1) DL 139/2021, converted into L 205/2021, as modified by Article 5 quater (5) DL 14/2022 converted into L 28/2022 and also 2,000 places according to Article 3(4) DL 16/2022, modifying Article 1 (390) L 234/2021, later transposed in DL 14/2022 as modified by Article 5 quater (6) DL 14/2022 converted into L 28/2022.

for the management, activation and rental of the reception centres of an additional 54,162,000 euros for the year 2022, corresponding, as specified by a following circular¹²²³ to about 5,000 CAS places.

Article 5 quarter of DL14/2022 modified by the conversion L 28 of 5 April 2022 – and to which the DL 16/2022 provisions on accommodation were transposed - provided that the abovementioned resources should be used as a matter of priority for the reception of vulnerable people¹²²⁴ coming from Ukraine. It also provided for the transfer of the beneficiaries (both Ukrainians and Afghans) from the first reception and CAS facilities to the SAI facilities progressively activated, within the limit of available places.

A MOI communication regarding the start of the procedure for expanding the SAI network to face the Ukrainian emergency,¹²²⁵ published on 16 March 2022, announced the opening of the procedure to activate 3,530 additional SAI places,¹²²⁶ to be dedicated with priority to the reception of families, including single parents, with a deadline for the applications made by 19 April.

However, as also affirmed by the Prime Ministerial Decree of 28 March 2022, published on 15 April 2022, accommodation was ensured only within the limit of available places and relevant resources as implemented by Article 31 DL 21/2022.¹²²⁷

DL 50 of 17 May 2022 has provided for the funding of a further 8,000 SAI places.¹²²⁸ It also established the increase in SAI places, due to the 2022 *ad hoc* funding, should be intended as mainly directed at granting reception for people who fled the Ukrainian conflict and to Afghan evacuees.¹²²⁹

Later, DL 115 of 9 August 2022 increased by further 8,000 the places in SAI again specifying that the increase was intended to give priority to the reception needs of people who fled from Ukraine and Afghanistan.¹²³⁰

Alternative forms of accommodation for people fleeing from Ukraine and asking temporary protection

DL 21 of 21 March 2022, later converted by L. 51 of 20 May 2022, at Article 31 (1) (a), established:

- ❖ The establishment of further forms of reception in local communities (*accoglienza diffusa*), different and additional respects to the governmental first accommodation centres and the temporary centres (CAS) to be implemented in agreement with the Municipalities, and through non-profit organisations, volunteer service centres, selected organisations and associations registered at the Presidency of the Council of Ministers¹²³¹ and religious bodies recognised according to national law, in substantial homogeneity of services and costs with the reception system facilities (CAS and first governmental facilities), for a maximum of 15,000 units, later increased by the DL n. 50 of 17 May 2022 with additional 7,000 places;¹²³²

¹²²³ MOI Circular, 2 March 2022 available at: <https://bit.ly/3OiV7zt>.

¹²²⁴ It refers to Article 17 (1) of the Reception Decree, LD 142/2015.

¹²²⁵ MOI communication about the start of the procedure for expanding the SAI network for the Ukrainian emergency, 16 March 2022, available at: <https://bit.ly/37ICDxF>.

¹²²⁶ The number also includes SAI places first foreseen to be reserved for Afghans.

¹²²⁷ Article 5 of the Prime Ministerial Decree, 28 March 2022, published on 15 April 2022, available at: <https://bit.ly/38Wxyfw>.

¹²²⁸ In detail, the decree has provided for funding of 50 million and 500 thousand euros to the Ministry of the Interior for this purpose, Article 44 (1 c-bis), DL 50 of 17 May 2022.

¹²²⁹ Article 44 (3 bis) DL 50 of 17 May 2022, converted by L. 91 of 15 July 2022.

¹²³⁰ Article 26, LD. 9 August 2022, no 115, converted with amendments by L 142 of 21 September 2022.

¹²³¹ This is the register referred to in article 42 of the TUI where selected associations and organisations dealing with migration themes can be registered in order to promote activities for foreign people and allowed to file appeals before the administrative Courts for the annulment of illegitimate acts.

¹²³² Article 44 (1 a) DL 50 of 17 May 2022 converted by L. 91 of 15 July 2022.

- ❖ To establish additional forms of support and assistance to persons entitled to temporary protection who have found autonomous accommodation, for a maximum duration of 90 days from the moment the temporary protection was requested and up to 60,000 units, later increased by the DL 50 of 17 May 2022 by 20,000 additional units and, in September, extended by 40,000 additional units;¹²³³
- ❖ To recognise, in proportion to the number of people accommodated in each region and up to a limit of 152 million, a flat-rate contribution for access to the National Health Service to the regions and provinces of Trento and Bolzano, up to 100,000 units, later integrated by DL 50 of 17 May 2022 by 27 million up to further 20,000 units;¹²³⁴

The Ordinance issued by the Head of the Civil Protection Department on 29 March 2022 better detailed these provisions. Regarding the financing of accommodation projects, it informed about the publication of notices to collect expressions of interest to the reception measures for people fleeing Ukraine.¹²³⁵

On 11 April 2022, the MOI Civil Protection Department published the first notice according to which each organisation offering its services had to make at least 300 places available, with a maximum of 3,0000, also in associated form, and to prove an experience of at least 3 years in the reception of migrants or social and work integration activity.

The cost per capita was set at a maximum of EUR 33 per day.

The document highlighted that within the limit of 15,000 units, priority in terms of funding would be given to projects located in places with the greatest request for hospitality by people fleeing from Ukraine and then to the projects in places gradually closer.¹²³⁶

The notice requested the submission of proposals for reception places but determined the time limit to send the proposals would be 22 April 2022.

The strict time limit and the need to offer at least 300 places made it difficult to submit such proposals for many organisations.

Of the 48 proposals presented, 29 were approved, for a total of 17,012 places offered¹²³⁷ but the first conventions were then only signed in early August.

By December 2022, only 12 entities signed agreements for the reception in local communities (*accoglienza diffusa*) for a total of 5,332 places. They were in detail:

Caritas	1,489
ARCI	840
Apulia Anolf	310

¹²³³ Civil protection ordinance no. 921 of 15 September 2022 - Further urgent civil protection provisions to ensure, on the national territory, the reception, rescue and assistance to the population as a result of the events taking place in the territory of Ukraine, in implementation of article 44, paragraph 2, of the legislative decree 17 May 2022, no. 50, converted, with amendments, by law 15 July 2022, n. 91. The ordinance acknowledged that as of 15 August 2022, a total of 99,772 economic contribution transfers were authorised, referring to 61,485 individuals; a total of 37,248 supplementary contributions were also disbursed for minor children.

¹²³⁴ Article 44 (1 c) DL 50 of 17 May 2022 converted by L. 91 of 15 July 2022.

¹²³⁵ Ordinance from the Head of the Civil Protection Department no. 881 of 29 March 2022, available at: <https://bit.ly/3LH2VJ0>.

¹²³⁶ Civil Protection Department, Notice for the acquisition of expressions of interest for the reception activities for people fleeing from the war in Ukraine, 11 April 2022 available at: <https://bit.ly/3KKYpJv>.

¹²³⁷ See overview provided by the Civil Protection website, Emergenza Ucraina. Dashboard accoglienza diffusa, available at: bit.ly/3Aw6G0C.

Apeiron	501
Comunità Papa Giovanni XXIII	171
CSV Monza Lecco Sondrio	297
CSV Vicenza	180
Dimora D'Abramo	340
Esculapio	352
Gea	527
San Marco	119
Umana Solidarietà	206

The Decree Law no. 16 of 2 March 2023 established the continuation of the provision of reception in local communities (*accoglienza diffusa*) until 31 December 2023 and up to a maximum of 7,000 places.¹²³⁸

As of 15 February 2023, the distribution was the following: 11,149 people displaced from Ukraine were hosted in CAS (temporary reception centres); 2,402 were hosted in structures of the Reception and Integration System (SAI); 3,266 people were accommodated in hotels; 2,162 persons in local communities (*accoglienza diffusa*).¹²³⁹

Regarding economic support to persons entitled to temporary protection who have found autonomous accommodation, the Ordinance of Civil protection of 29 March 2022 stated that they would receive an economic contribution of EUR 300, plus EUR 150 per child for up to three months from the date of the temporary protection receipt.¹²⁴⁰ On 30 April 2022, the online platform through which to apply for the contribution was opened.¹²⁴¹ Even if on 9 May 2022, a Civil Protection Note specified that the economic contribution could be asked only up to 30 September 2022,¹²⁴² although the online platform was still opened and usable for all 2022. Decree Law no. 16 of 2 March 2023 also ensured the continuation of provision of economic support for people privately accommodated.¹²⁴³

According to ASGI's experience, TP holders requesting to access reception measures are given accommodation. They are also able to maintain their places in the facilities even when they need to leave the accommodation for a short period of time (this usually is not the case of asylum seekers or holders of international or special protection, see [AIDA Country Report on Italy - 2022 Update](#)).

However, the existing offer of places is severely limited; around 170,000 people fleeing the war in Ukraine reached Italy in 2022, and state-sponsored reception (CAS, SAI and widespread reception) could only ensure accommodation measures for 20% of those arriving.

¹²³⁸ DL 16 of 2 March 2023, Article 1 (1) a) and b).

¹²³⁹ Redattore Sociale, Accoglienza ucraini, quel "modello nuovo" frenato da ritardi e troppa burocrazia", 22 February 2023, available in Italian at: <http://bitly.ws/DvxZ>.

¹²⁴⁰ Ordinance issued by the Head of the Department of Civil Protection, no. 881 of 29 March 2022, available at: <https://bit.ly/3LH2VJ0>.

¹²⁴¹ Department of Civil Protection, communication available at: <https://bit.ly/3vtsLLy>.

¹²⁴² Department of Civil Protection, Note no. 30457 of 9 May 2022.

¹²⁴³ DL 16 of 2 March 2023, Article 1 (1) a) and b).

Finally it should be mentioned that the Ordinance of the Civil Protection no 937 of 20 October 2022¹²⁴⁴ ordered to cease, within 30 days from its entry into force, the use of temporary housing solutions in hotel structures.¹²⁴⁵ The Ordinance established that this solution can be used only as a provisional and temporary measure for a maximum period of 30 days, exclusively in case of new arrivals of people escaping from Ukraine or in favour of people whose forms of spontaneous assistance by associations or families are no longer sustainable, when no immediate possibility of housing in other forms of reception can be guaranteed by the state.

E. Employment and education

1. Access to the labour market

Right to work (subordinate or self-employed) is granted to beneficiaries of temporary protection, and to holders of the receipt certifying the permit application, waiting for the release of the permit.

Access to sanitary professions is facilitated according to art.34 of Decree Law 21/2022, which provided for a derogation from the discipline of the recognition of professional health qualifications, stating that public or private health structures can hire with fixed-term contracts Ukrainian doctors, nurses and OSS resident in Ukraine before 24 February 2022 and in possession of the European Qualifications Passport for Refugees.¹²⁴⁶

TP beneficiaries also have access to professional training or apprenticeships in companies.¹²⁴⁷

Statistics as to the number of temporary protection beneficiaries who access the labour market are not available.

2. Access to education

TP status gives the right to access education. In this regard, the DPCM of 28 March 2022, Article 2, grants minor TP holders access to the education system on par with Italian citizens.

The Ministry of Education ensured that minors who fled the war in Ukraine and entitled to TP would have a place in Italian schools. The Ministerial Notes n. 381 of 4 March 2022 'School reception of Ukrainian exile students - Initial indications and resources' and n. 576 of 24 March 2022 'Refugee students from Ukraine - Contributions to pedagogical and didactic reflection' reaffirmed the need for schools, through immediate and concrete didactic-training interventions, to ensure the fulfilment of the training obligation and full integration into the services of Italian education.

To support the integration process of these minors, in a particular state of fragility or emotional shock, it is requested to foster relations between those displaced by the war and the Ukrainian communities permanently inserted in Italy, in order to avoid any form of isolation. The possibility of organising psychological support courses to help these minors is also foreseen within the schools.

As an emergency measure, the Ministry of Education allocated an initial loan of EUR one million to be allocated to educational institutions significantly involved in the reception and integration of Ukrainian minors.¹²⁴⁸

As regards access to the University, nothing was specified in the DPCM.

¹²⁴⁴ Ordinance of the Civil Protection no 937 of 20 October 2022, Article 1 and 2.

¹²⁴⁵ As was established by Articles 2 and 3 Ordinance of the Civil Protection no 872/2022.

¹²⁴⁶ Article 34 DL 21 of 21 March 2022.

¹²⁴⁷ Article 4 letter g of LD no. 85/2003.

¹²⁴⁸ Ministry of Labour, report on unaccompanied minors, December 2022, available at: <http://bit.ly/3kol1b5>.

F. Social welfare

I.N.P.S. (National Institute of Social Providence) is the national entity responsible for social welfare provisions, through its local offices and Social services of Municipalities. Foreign nationals holding a residence permit with a duration of more than a year are granted access to social welfare under the same conditions as Italian citizens. Some specific categories of aid however require having been a resident in the country for a certain period before applying (for example, “assegno unico” – unified family aid – requires a previous residence period of 2 years). These requirements, unless they are considered discriminatory by courts, exclude holders of temporary protection from access, not on the grounds of the type of permit but depending on other requirements (for example, previous residence).

However, through circular no. 41 of 4 July 2023, I.N.P.S. specified that, "in agreement with the Ministry of Labor and Social Policies", TP holders are entitled to receive “assegno unico”.¹²⁴⁹

Thus, residence is the main issue when it comes to social welfare (see [AIDA Country Report, Content of Protection, Housing](#)).

¹²⁴⁹ See ASGI: Circolare INPS sull'Assegno Unico Universale: anche chi è titolare di protezione temporanea ne ha diritto" available at: <http://bit.ly/43h9ivZ>.

G. Health care

Access to health care is guaranteed to people fleeing the war in Ukraine since the presentation of the declaration of presence, which gives access to the STP system (Temporary Present Foreigner), which is usually granted to undocumented migrants who need to access national health care. Registration in the national healthcare system is guaranteed from the issuing of the application receipt. All medical treatments are free of charge (*regime di esenzione*).

TP holders do not appear to experience particular issues regarding access to healthcare. Some sanitary districts have put in place measures to overcome language barriers through a service of cultural mediation. In the country, public health care is managed at regional level, so practical measures may vary significantly depending on the territory and on the regional administration.

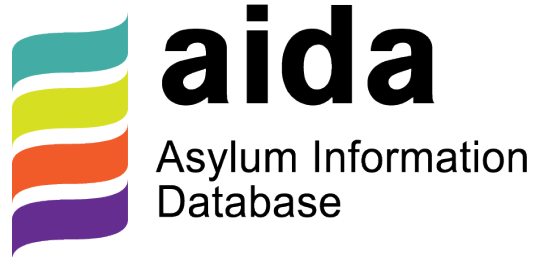
Pursuant to the DPCM of 28 March 2022,¹²⁵⁰ TP holders' access to health care is guaranteed on the national territory, with equal treatment compared to Italian citizens, subject to registration in the sanitary offices of the place where they live. They can ask for a general doctor and for a paediatrician. Until the application for the residence permit is submitted, health care is in any case guaranteed in emergency cases (Article 35 of TUI) by registering as temporarily present foreigners (STP-code).

The civil protection ordinance no. 895 of 24 May 2022 established that the TP holders have access to healthcare in the regime of exemption from participation in health care costs, if they do are not employed.¹²⁵¹

Medical treatments remained free of charge for all the duration of the first permit of stay (until 4.3.2023). As all the permits have been extended automatically until 31 December 2023, the exemption from medical fees is extended as well, though it is reported that some districts are not providing an automatic extension but are, instead, requesting holders of TP to present a specific extension application (which is then granted).

¹²⁵⁰ Article 5 (3) DPCM of 28 March 2022.

¹²⁵¹ O.c.d.p.c. no. 895 of 24 May 2022 'Further urgent civil protection provisions to ensure, on the national territory, the reception, relief and assistance to the population as a result of the events taking place in the territory of Ukraine'.



Malta



Temporary Protection Procedure

A. General

The Temporary Protection for Displaced Persons (Minimum Standards) Regulations¹²⁵² were adopted by the Home Affairs Ministry in May 2005 as subsidiary legislation to the International Protection Act. In terms of content, the Regulations faithfully transpose the Directive provisions to the letter. The Regulations specify that the CEO's declaration will also specify the groups of persons eligible for Temporary Protection.

On 8 March 2022, Malta activated the Regulations following the relevant Council decision.¹²⁵³ The Regulations state that the existence of a *"mass influx of displaced persons shall be made by the Chief Executive Officer"*, being the CEO of the International Protection Agency. The only public information available regarding the CEO's declaration is an undated page on the Home Affairs Ministry's website.¹²⁵⁴

The declaration states that the following persons are eligible for temporary protection:

- a) Ukrainian nationals residing in Ukraine before 24 February 2022;
- b) stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022; and
- c) family members of the persons referred to in points (a) and (b).

Furthermore, *"family members"* is defined as the following persons who were already present and residing in Ukraine before 24 February 2022:

- a) the spouse of a person referred to in point (a) or (b), or the unmarried partner in a stable relationship;
- b) the minor unmarried children of a person referred to in point (a) or (b), or of his or her spouse, without distinction as to whether they were born in or out of wedlock or adopted;
- c) other close relatives who lived together as part of the family unit at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent on a person referred to in point (a) or (b) at the time.

Finally, the declaration also states that Temporary Protection shall also be granted to stateless persons third country nationals (other than Ukraine), as long as they are able to prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit issued in accordance with Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin.

Furthermore, following the amendment of the operating plan with EUAA, the Agency committed to provide specific support for the registration and processing of TP applications. This support includes;

- Standard operating procedures on the implementation of the Temporary Protection Directive are established and fully in line with the Council Implementing Decision (EU) 2022/382 of 4 March 2022;

¹²⁵² Temporary Protection for Displaced Persons (Minimum Standards) Regulations, Subsidiary Legislation 420.05, 6 May 2005, available at: <https://bit.ly/3AlbNRg>.

¹²⁵³ European Union Agency for Asylum, Information on Temporary Protection: Malta, June 2022, available at: <https://bit.ly/3H2RLP4>.

¹²⁵⁴ Ministry for Home Affairs, Security, Reforms and Equality, Temporary Protection Directive (2001/55/EC) – Ukraine Nationals, available at: <https://bit.ly/3N4ckyr>.

- Regular coordination meetings will be held among the concerned representatives of the national authorities and EUAA to ensure effective collaboration and coordination;
- The Maltese authorities make the necessary office space available for the Agency's deployed personnel and provide the necessary equipment for implementation of the activities, unless otherwise agreed;
- A bi-directional data sharing on the outputs of EUAA deployed personnel under the performed operational activities and detailed overall national data on the respective statistical indicator;
- Support the drafting of leaflets/info-material in a language likely to be understood, when necessary;
- Support the delivery of information sessions on the provisions of the TPD in a language likely to be understood;
- Support TP registrations;
- Support in assessing the eligibility criteria for TP applications;
- Support the issuing of TP decisions;
- Support the issuing and the delivery of TP certificates;
- Additional support for the implementation of TP activities, conditional upon agreement between EUAA and the Maltese authorities.

Accordingly, asylum support teams were re-deployed from the support provided the registration and processing of international protection applications and from the support provided in reception.

In early 2023, the NGO SOS Malta conducted a survey among the Ukrainian community in Malta (with 81 respondents), summarised below:

- Most respondents reached Malta between 6 and 11 months ago;
- 60% of respondents are renting an apartment, whilst 16.3% rent with other unrelated persons. The remainder are in provided accommodation (NGO, Maltese people, friends);
- Most expressed that no discrimination issues were faced when seeking accommodation;
- Main moments for social engagement with co-nationals: individual and general meetings and rallies;
- 31% of respondents sought psychological support;
- Overall, these are the concerns expressed:
 - ❖ Generally, lack of information on anything;
 - ❖ Employment: language requirements (English), employers not recruiting due to fear of return to Ukraine;
 - ❖ Educational: children arriving mid-way through the academic year meant they were not admitted to school, administrative delays in registering children, traumatised children, burdensome documentation requirements, adults unable to continue their studies;
 - ❖ Healthcare: expensive medicines, long waiting lists, dismissive attitude of healthcare staff;
 - ❖ Mental health situation remains an obstacle to achieving normality;
 - ❖ Discrimination: some with expensive possessions from home (e.g. a car) were criticised as not being worthy of protection or support;
 - ❖ No affordable housing;
 - ❖ No legal aid.

Between 24 February 2022 and 2 April 2023, a total of 1842 persons have been granted temporary protection in Malta.¹²⁵⁵ The vast majority of protection beneficiaries are Ukrainian women.¹²⁵⁶

¹²⁵⁵ Information provided by the International Protection Agency.

¹²⁵⁶ Data available at <https://bit.ly/3KTcDtj>.

B. Qualification for temporary protection

The persons eligible for temporary protection are those outlined in the CEO's declaration, mentioned above. This criterion has been strictly applied.

All persons applying for temporary protection and not fulfilling the eligibility criteria, including persons who left Ukraine before 24 February, were prevented from applying for temporary protection and instructed to seek international protection as per the regular channels.

The Regulations and the CEO's Declaration mirror the Decision's wording. TCN's and stateless persons could be eligible for temporary protection as long as they fulfil the stipulated requirements.

TCN parents of Ukrainian nationals were not deemed to be eligible for temporary protection in terms of the "family member" definition. These persons were then required to show, if possible, that they fulfilled the criteria relating to all other TCNs. Attempts were made by some applicants to argue that separation from their children would constitute a situation falling under "unable to return in safe and durable conditions to their country or region of origin". This was not accepted by the International Protection Agency. It is understood that these persons left Malta to seek protection elsewhere.

NGOs providing legal services confirmed that no stateless persons approached their offices for assistance relating to temporary protection.

Persons fleeing Ukraine who are not eligible for temporary protection were given a number of options:

1. International protection through the regular channels;
2. Travel to another EU Member State to seek temporary protection
3. Return to Ukraine and travel back to Malta if the condition "*residing in Ukraine before 24 February 2022*" is met.

In practice, several persons travelled back to Ukraine through informal travel arrangements whilst many others applied for international protection.

The temporal scope of temporary protection under the TPD was not extended.

In February 2022, a Community Crisis Centre was created with the help of the Honorary Consulate of Ukraine in Malta, to better coordinating reception efforts.¹²⁵⁷ As of March 2022, the International Protection Agency started to provide specific information regarding applications to Ukrainian Nationals that wish to apply for the Temporary Protection under the Temporary Protection Directive (2001/55/EC).¹²⁵⁸

On 18 March 2022, the Maltese authorities requested support from EUAA, with personnel and services to support the implementation of the Temporary Protection Directive in Malta, via a letter addressed to the Executive Director of the EUAA.

NGOs reported that Malta has seen some applications from third country nationals who did not satisfy the requirements of the Directive, i.e. third country nationals benefitting from temporary residence permits in Ukraine and Russian nationals but reported the phenomenon was limited.

¹²⁵⁷ Information distributed by the centre can be found at: <https://bit.ly/3wPKGgA>.

¹²⁵⁸ Information available on the Home Affairs Ministry of Malta at: <https://bit.ly/3qPUldx>.

C. Access to temporary protection and registration

1. Admission to territory

The vast majority of applicants reached Malta by plane in a regular manner. No particular immigration checks were applied, and no restrictions for what concerned access to the territory were reported. Applicants and beneficiaries who left back to Ukraine could re-enter the country.

Malta lifted the COVID-19 restrictions very early in the year and quarantine at an alternative accommodation was allowed.

2. Freedom of movement

No reports or incidents were noticed. There was a time where applicants faced some challenges with procuring documentation relating to civil status, yet it seems that the Consulate intervene to assist.

3. Registration under temporary protection

The International Protection Agency registered applicants through a straightforward procedure at front desk level. Applicants are required to set an appointment – in person, via telephone or email – during which they are expected to provide the documents confirming their eligibility for temporary protection. If the submitted documentation fulfilled the eligibility requirements, temporary protection was immediately granted.

Where a person expresses the intention to apply for temporary protection at the border, immigration officials at the airport would share the contact details of the International Protection Agency. No time limits are stipulated for individuals to make their applications.

Applicants are expected to provide the following documents:¹²⁵⁹

- original identification documents (passport, identity card, etc.)
- travel documents that show their travel route
- original or printed copies of birth certificates of minor children
- printed copies (documents cannot be printed at the IPA) of:
 - the first page of their passport – identity card (with the personal detail information/biodata page) and;
 - of the page(s) including the stamp related to entry in the EU and/or the pages with the VISA issued by an EU Member state.

No document was provided upon registration. In most cases this did not present any challenges since the timeframe between registration and a decision was usually extremely brief.

This was not so for persons denied temporary protection who subsequently appealed this negative decision, nor were any problems registered regarding the registration of applications.

The Regulations do not stipulate any right or procedure to appeal against negative decisions on temporary protection. Challenges were faced by some applicants who were deemed not to be eligible for temporary protection but not provided with any decision in writing explaining reasons in fact and law for the decision on ineligibility.

¹²⁵⁹ Information provided by the International Protection Agency to the Malta Refugee Council, available at: <https://bit.ly/3UXAWea>.

When approached on this matter, the International Protection Agency stated that the Directive does not place an obligation on the competent national authorities to give reasons in writing as to why a request for temporary protection is not being acceded to.

It appears that the International Protection Appeals Tribunal has not, so far, declared any such appeal as ineligible or inadmissible.

4. Legal assistance

Applicants are entitled to secure their own legal services, and no legal aid is provided by the State. Furthermore, applicants for international protection are only entitled to State legal aid at second instance.

In practice, most applicants for temporary protection approached NGOs for information and legal assistance: aditus foundation and Jesuit Refugee Service Malta. The Ukrainian community in Malta also provided information to applicants and referred individual cases where necessary. Some applicants were able to pay private lawyers.

NGOs provided the only free legal services. The only practical obstacles possibly encountered included identifying suitable interpreters/translators, including for documents, and waiting lists since the NGOs providing the services also provide their services to several other groups of people.

5. Information provision and access to NGOs

Regulation 10 states requires the State to provide beneficiaries “with a document, in a language likely to be understood by them, in which the provisions relating to temporary protection, and which are relevant to them are clearly set out.”

The International Protection Agency produced two leaflets in English, disseminated to persons together with the decision and temporary protection certificate: ‘Frequently Asked Questions’ and ‘Rights of persons enjoying temporary protection’.¹²⁶⁰

The Malta Refugee Council regularly posted information updates on its website and social media sites, under the heading ‘Ukraine Info’.¹²⁶¹ The NGO aditus foundation published a Fact Sheet on Temporary Protection.¹²⁶² During the early months of the arrivals to Malta, the Malta Refugee Council organised a series of information meetings with representatives of the Ukrainian community and government officials, with the aim of explaining issues such as social support, accommodation, documentation, etc.

Furthermore, the Ukraine Community Crisis Centre Malta was established with the help of the Honorary Consulate of Ukraine in Malta.¹²⁶³ It provided the following support:

- Information on the rules of arrival in Malta (quarantine rules, border crossing rules, travel with animals, etc.);
- Information support regarding temporary accommodation during quarantine;
- Information support on further steps after the end of quarantine;
- Information provision, assistance and welcoming by volunteers upon arrival at the Malta International Airport;

¹²⁶⁰ The two leaflets are available on this news post of the Malta Refugee Council: <https://bit.ly/3LuhD9n>.

¹²⁶¹ Malta Refugee Council, Latest News from Malta Refugee Council: <https://bit.ly/3H4nbEV>.

¹²⁶² aditus foundation, Fact Sheet No. 24 – Temporary Protection for Persons Fleeing Ukraine, May 2022: <https://bit.ly/3H55cOB>.

¹²⁶³ Facebook page of the Ukrainian Community Crisis Centre Malta: <https://bit.ly/41rmzB3>.

- Practical assistance during quarantine. The Crisis Centre had several volunteers who can be contacted directly for support with food, clothing, medicine, etc.;
- Information support with reference to the collection of medical and non-medical humanitarian aid;
- Information support for finding and coordinating volunteers.¹²⁶⁴

The main information challenges related to the absence of information in Ukrainian, the limited availability of interpreters/translators and the seemingly uncoordinated approach of Government entities on the content of protection and related procedures.¹²⁶⁵

At the Malta International Airport, immigration officials refer applicants to the International Protection Agency. No interpretation is available at this point.

D. Guarantees for vulnerable groups

There is no specific mechanism for temporary protection applicants, yet it is assumed that the regular procedures for identifying vulnerable asylum-seekers could be applied (see [Identification of vulnerable applicants, AIDA Country Report – 2022 Update](#)).

No specific procedure was set-up to address the needs of individuals fleeing from Ukraine suffering from mental health problems, including survivors of torture and other traumatised persons.

¹²⁶⁴ Malta Refugee Council, Ukraine Info: Ukraine Community Crisis Centre Malta, 28 March 2022: <https://bit.ly/3ow0SBq>.

¹²⁶⁵ Malta Refugee Council, Malta needs to coordinate its response to Ukrainian refugees: We urge Government to establish a Humanitarian Coordination Committee, with effective Civil Society participation, 21 March 2022, available at: <https://bit.ly/43Q46Qr>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--|--------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | Valid until 4 March 2024 |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2022? | Not available |

Beneficiaries of temporary protection apply for an appointment at the public agency Identity Malta. Upon presentation and verification of the required documents, the residence permit is issued within days. The required documents are:¹²⁶⁶

- Identity Malta Form ID 1A (filled). This is downloadable from the Identity Malta site;
- Identity Malta Form CEA (filled). Available as above;
- Lease agreement;
- Rental declaration form (filled by the lessor). Available as above;
- IPA certificate;
- IPA decision letter;
- Payment of €27.50 per person (also children);
- Deed of purchase of the property (if landlord is not a Maltese national).

Difficulties were encountered in the first months since Identity Malta was not issuing residence permits and Government officials were informing temporary protection applicants and beneficiaries that no residence permits were actually required. This error was rectified, and the procedure streamlined.

Another difficulty related to the requirement that holders present a lease agreement as several persons were not actually renting but being accommodated by friends or families. This was eventually rectified by allowing persons to present declarations from hosts confirming accommodation.

Residence permits had an initial validity of one year (until 4 March 2023); after this date, all expired permits can be automatically renewed upon renewal of temporary protection certificate until 4 March 2024.

In terms of law, all rights of beneficiaries are associated with the temporary protection and not with the residence permit. In practice, however, all rights require a residence permit for their enjoyment.

No additional conditions are imposed for the enjoyment of rights.

TP holders are required to relinquish their temporary protection in Malta by writing to the International Protection Agency. This also applies for TP holders wishing to move to Malta. Specifically, the International Protection Agency states that, "Malta is connected to the EU TP solidarity platform and data of persons granted TP in Malta is regularly being uploaded to the system. In the case of a hit with another Member State, the competent authorities of that Member State are notified accordingly so that the TP status and residence permit in that Member State can be withdrawn/de-registered.

Without prejudice to the above, it is recommended that before requesting TP in Malta, the person

¹²⁶⁶ Malta Refugee Council, Ukraine Info: Residence Permits for Temporary Protection holders, 29 April 2022: <https://bit.ly/3N3ojwj>.

concerned confirms that he/she is eligible for TP in Malta and informs the competent authorities of the Member State where he/she was originally granted TP of his/her intention to request TP in Malta.”¹²⁶⁷

2. Access to asylum

The Regulations provide that persons enjoying temporary protection shall 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 shall be completed after the end of that period.¹²⁶⁸

The Regulations further provide that here, after an asylum application has been examined, refugee status or, where applicable, any other kind of protection is not granted to a person eligible for or enjoying temporary protection, then, without prejudice to their right to appeal, that person shall enjoy or shall continue to enjoy temporary protection for the remainder of the period of protection.¹²⁶⁹

There was no report of TP holders wishing to apply for asylum. However, persons fleeing the war who have applied for international protection are being processed together with all other asylum applicants.

B. Family reunification

Temporary protection beneficiaries cannot apply for family reunification using existing provisions beyond the TPD framework, as they are entitled only to the same rights as **subsidiary protection beneficiaries**.

C. Movement and mobility

Beneficiaries of temporary protection have freedom of movement within the State and towards other EUMS once registered.

No issues are reported regarding the experience of TP beneficiaries who wished to travel to Ukraine temporarily. However, the International Protection Agency stated that a return to Ukraine – irrespectively of duration of purpose – could result in a withdrawal of TP,¹²⁷⁰ with the possibility of the person applying for TP once again.

D. Housing

Indicators: Housing

- | | |
|---|---------------|
| 1. For how long are temporary protection beneficiaries entitled to stay in reception centres? | 6 months |
| 2. Number of beneficiaries staying in reception centres as of 12/2022 | Not available |
| 3. Number of beneficiaries staying in private accommodation as of 12/2022 | Not available |

TP holders are entitled to seek accommodated in the open reception centres managed by the Agency for the Welfare of Asylum-Seekers (AWAS).

¹²⁶⁷ Information provided by the IPA to the Malta Refugee Council, reproduced at: <https://bit.ly/3HcXKAQ>.

¹²⁶⁸ Regulation 18 of the Temporary Protection for Displaced Persons (Minimum Standards) Regulations, Subsidiary Legislation 420.05 of the Laws of Malta.

¹²⁶⁹ Regulation 20(2) of the Temporary Protection for Displaced Persons (Minimum Standards) Regulations, Subsidiary Legislation 420.05 of the Laws of Malta.

¹²⁷⁰ Malta Refugee Council, Ukraine Info: Holders of Temporary Protection temporarily returning to Ukraine, 5 August 2022, available at: <https://bit.ly/40wpfMF>

Beneficiaries of TP are not entitled to access reception conditions in the same way as asylum-seekers. Holders are entitled to the same rights as SP beneficiaries, and to accommodation in the open reception centres for the maximum permissible period.

AWAS is responsible for the provision of reception to beneficiaries of TP.

Beneficiaries are entitled to stay in reception centres for 6 months, with the possibility of this being reviewed on a case-by-case basis.

No places were specifically dedicated to TP beneficiaries in reception centres.

TP applicants and holders generally used hotels and private accommodation, as most had contacts here in Malta (being family or friends). These were not coordinated or in any way related to the general reception scheme and entirely private initiatives.

Although there were no formal obstacles to accessing open reception centres, TP applicants and holders refused to be accommodated in them due to abysmal living conditions

TP holders are not entitled to reception conditions. They are entitled to the same rights as subsidiary protection beneficiaries, with the possibility of being accommodated in the open reception centres for up to 6 months, as above.

The vast majority of applicants and holders secured accommodation privately, either through friends and/or family already based in Malta. NGOs received several offers of accommodation, yet there was/is no centralised platform to coordinate or monitor these spaces. Ad hoc initiatives were also being implemented.¹²⁷¹

The Ukrainian Community circulated a site for persons to refer to when seeking accommodation,¹²⁷² yet not information is available as to its effectiveness or operation.

Reception in private accommodation is not organised by the State. It would only be involved if, as with all other situations, the situation raised issues of security or violation or rent laws.

No compensation was provided to private hosts. Funds were made available at the beginning of the arrivals, to cover hotel and other accommodation costs linked to quarantine measures.¹²⁷³

SOS Malta published a survey on housing in September 2022, where it found that 45% of TP holders were renting an apartment themselves, 31% were in a private apartment or house with or without a foster family and 17% were renting an apartment with another Ukrainian family. The rest of the respondents indicated that they were hosted in a house or apartment provided by the authorities (this remains unclear) or were renting a hotel or Airbnb.¹²⁷⁴

The main challenges faced in securing housing were:

- Open reception centres offer substandard living conditions;

¹²⁷¹ For example, see: <https://bit.ly/3UXCHb3>.

¹²⁷² See Ukraine Take Shelter, Housing for Ukrainian Refugees here: <https://bit.ly/3UVHQR2>.

¹²⁷³ Ministry of Foreign and European Affairs and Trade, The Ministry for Foreign and European Affairs is offering to cover the accommodation costs of Ukrainian nationals and their dependents fleeing from the current conflict in Ukraine, 2 March 2022, available at: <https://bit.ly/3Amj2Z7>.

¹²⁷⁴ Malta Council for Refugees, Ukraine info: SOS Malta publishes survey results persons who fled Ukraine to Malta, September 2022, available at <https://bit.ly/40nwPZW>.

- No State-coordinated accommodation system;
- Exorbitant rent prices, coupled with difficulties securing livelihood;
- Private hosts not provided with any form of support;
- No monitoring of private offers.

There are no safeguards to prevent risks of exploitations beyond mainstream services.

E. Employment and education

1. Access to the labour market

Access to the labour market is guaranteed in the same conditions as subsidiary protection holders. TP holders are granted an employment licence in their own name by the public entity Jobsplus.

No specific regulation or policy is in place to facilitate access to the labour market for TP beneficiaries. TP beneficiaries are not entitled to equal treatment to nationals with regard to employment.

2. Access to education

The Regulations state that children TP holders are entitled to access education at par with Maltese nationals. Adults may be allowed to access the public education system by the IPA CEO.

TP beneficiaries are entitled to education under the same conditions as nationals if they are under the age of 18.

Language difficulties and administrative issues in securing documentation (in the early months of arrivals) are the main issues faced in accessing the education system. The Migrant Learners Unit, a public initiative offering language classes to prepare newly-arrived migrants for mainstreaming education, stepped up its registration efforts to meet the new increased demand for registrations.¹²⁷⁵

Vaccinations, whilst necessary to access education, are freely administered.¹²⁷⁶

NGO stepped in to provide language education classes to adults.

If the child beneficiary has special needs they would be treated as Maltese children with particular needs.

TP holders above the age of 18 are treated as SP holders for purposes of access to education. They may apply for an exemption of fees for attending public educational institutions¹²⁷⁷.

Refugees, SP and TP holders have their fees waived when seeking to have their educational certificates recognised through the Malta Qualifications Recognition Information Centre (MQRIC).¹²⁷⁸

The policy on exemption of fees, above, also applies here.

¹²⁷⁵ See Malta Refugee Council, Ukraine info: Registering children at the Migrant Learners' Unit here: <https://bit.ly/3oBOOyM>.

¹²⁷⁶ Malta Refugee Council, Ukraine Info: Updated info re. Health issues for persons coming to Malta from Ukraine, 22 March 2022: <https://bit.ly/3Ne1qGy>.

¹²⁷⁷ See <https://bit.ly/40CmZUa>.

¹²⁷⁸ See Malta Refugee Council, Ukraine info: fees for the recognition of qualifications waived for Temporary Protection Holders at: <https://bit.ly/3LtDNrX>.

Language challenges remain the main obstacles to full enjoyment of education rights.

F. Social welfare

The Regulations state that TP beneficiaries are entitled to “*necessary assistance*”, translated by policy to mean the same level of benefits as SP holders. This is a lower level of social welfare provided to Maltese nationals and recognised refugees.

Services are provided by the Foundation for Social Welfare Services,¹²⁷⁹ whilst welfare schemes and support are provided by the Department of Social Security.¹²⁸⁰

TP beneficiaries face obstacles such as lack of information and lack of clarity by State entities in accessing social assistance.

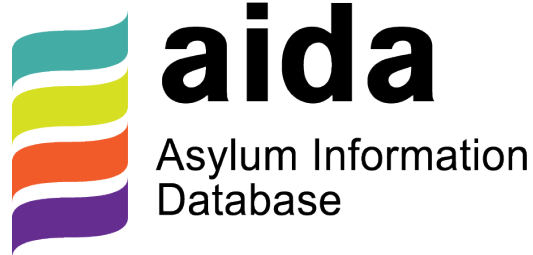
G. Health care

The Regulations state that TP holders are entitled to “*necessary*” medical care, specifying that it includes, as a minimum, essential treatment of illness and emergency care. The Regulations also add that persons with particular requirements, such as vulnerable persons, are entitled to medical support.

No significant challenges were reported in relation to access to health care. The main issues noted were in relation to mental health support, as these services are generally either inaccessible due to long waiting lists, or not sufficiently specialised to deal with particular issues faced by refugees and TP holders.

¹²⁷⁹ Foundation for Social Welfare Services, here: <https://fsws.gov.mt/en>.

¹²⁸⁰ Department for social security – MALTA, here: <https://bit.ly/40CPvF6>.



Netherlands



Temporary Protection Procedure

A. General

In the Netherlands, the Temporary Protection Directive (TPD) was introduced in national law in 2004/2005, through Articles 3, 43a and 45 (6) of the Aliens Act and Article 3.1a Aliens Decree and Article 3.9a Aliens Regulation. Displaced persons who fall under the scope of the TPD are considered as asylum seekers under a specific asylum regime. People falling under the scope of the TPD have right of residence in the Netherlands as asylum seekers having been granted temporary protection. As such, they can claim the rights laid down in the TPD. They do not obtain a regular or asylum residence permit.

As a result of the Implementing Decision (EU) 2022/382), detailed national measures have been introduced.

Scope of temporary protection in the national context

1. Ukrainian nationals who resided in Ukraine on 23 February 2022;
2. Ukrainians who left Ukraine on or after 27 November 2021;
3. Ukrainians who can prove that they were already in the Netherlands before 27 November 2021 and not in another EU country;
4. Non-UA nationals who, on 23 February 2022, had been recognised as refugees by Ukraine;
5. Non-UA nationals who held a valid, permanent Ukrainian residence permit on 23 February 2022 and who had not left Ukraine before 27 November 2021 or had not returned to their country of origin by 23 February 2022;
6. Minor children, the spouse or partner with a long-term relationship of a person falling under the scope of the TPD, who lived together in Ukraine before the start of the war;
7. Other family members (largely) dependent on a person who is part of the above-mentioned groups.¹²⁸¹

National procedure for temporary protection

The Dutch government introduced a specific national procedure for displaced people from Ukraine. After an initial assessment conducted by a municipality (local council), whether or not the person concerned falls under the scope of the TPD, displaced persons from Ukraine are registered by the municipality in the Personal Records Database (in Dutch: *Basisregistratie Personen* or BRP). Thereafter, the beneficiary has to obtain proof of residency from the immigration authorities (IND). At that moment, the IND also assesses whether or not the person concerned falls under the scope of the TPD. The beneficiary also has to submit an asylum application with the IND.

On 24 March 2023, 91,540 displaced persons from Ukraine (nationals and non-nationals from UA) have been registered in the BRP in the Netherlands.¹²⁸²

UA nationals beyond the scope of TPD

Ukrainian nationals who had left Ukraine prior to 27 November 2021 do not fall within the scope of the TPD, unless they were staying in the Netherlands. They can submit an asylum application at the

¹²⁸¹ Dutch Parliament, Aanpak opvang ontheemden Oekraïne, 30 March 2022, available in Dutch at: <https://bit.ly/36BbUwN>.

¹²⁸² Dutch government, only available in Dutch at: <https://bit.ly/3kww3KZ>.

application center in Ter Apel. No information is available on the numbers of this group of displaced persons.

Third Country nationals from Ukraine (non-UA nationals)

Initially, non-UA nationals who were displaced and had a valid Ukrainian residence permit on 23 February 2022 – regardless of whether this was a temporary or a permanent residence permit – were entitled to temporary protection. However, the scope of the TPD concerning non-UA nationals has changed. As of 19 July 2022, non-UA nationals who merely held a temporary residence permit in Ukraine no longer fall under the scope of the TPD in the Netherlands.¹²⁸³ Non-UA nationals who had already been registered by a municipality in the BRP before the policy change on 19 July 2022 benefit from temporary protection initially until 4 March 2023, but the Secretary of State announced on 10 February 2023 that this will be extended until 4 September 2023. This is due to logistic problems and a shortage of places in reception facilities in the regular asylum procedure, and to the work load for the IND assessing asylum applications.¹²⁸⁴ Without the extension, on 4 March 2023 all persons belonging to this group would have lost their right to benefit from the temporary protection regime. After the end of the extension, on 4 September 2023, they will be considered as regular asylum seekers, under the COA responsibility. It should be noted that, as extensively described in the [AIDA country report](#) there is a significant shortage of reception places for asylum seekers. Until September, however, reception for this group will remain the municipalities' responsibility.

According to information provided by the Dutch Parliament, it can be estimated that this policy applies to around 4,660 third country nationals who fled from Ukraine.¹²⁸⁵

Russian nationals

Russian nationals who have a valid permanent Ukrainian residence permit on 23 February 2022 or who are family members of a beneficiary of temporary protection are entitled to temporary protection in the Netherlands.

Russian nationals who do not fall within the scope of the TPD and are fleeing from Russia can submit an asylum application at the application center in Ter Apel. Since October 2022, 651 people with Russian nationality have applied for asylum.¹²⁸⁶

B. Qualification for temporary protection

As previously indicated, different groups qualify for temporary protection in the Netherlands:

- 1) Ukrainian nationals who:
 - Resided in Ukraine on 23 February 2022;
 - Fled Ukraine on or after 27 November 2021 because of rising tensions or who travelled to the territory of the European Union for another reason (e.g., for vacation or work) in the period from 27 November 2021 to 23 February 2022;
 - Can prove that they already resided in the Netherlands in the period before 27 November

¹²⁸³ Dutch Parliament, Aanpassing Doelgroep Beschermingsrichtlijn, 18 July 2022, available in Dutch at: <https://bit.ly/3zuFUVF>; see also Staatscourant 2022, 22623, amendment of Article 3.9a of the Aliens Decree, information only available in Dutch at: <https://bit.ly/3nIKVr2>.

¹²⁸⁴ Dutch Parliament, 10 February 2023, number 44 75144, information only available in the Dutch language at: <https://bit.ly/3Je4Kii> and IND, specific webpage 'War in Ukraine', available in English at: <https://bit.ly/3ZAYIDu>.

¹²⁸⁵ Dutch Parliament, 10 February 2023, number 44 75144, information available in the Dutch at: <https://bit.ly/3Je4Kii>.

¹²⁸⁶ IND Asylum Trends, information only available in the Dutch language at: <https://bit.ly/3KqEEJH>.

2021, for example because of a previously submitted asylum application, on the basis of a regular residence permit or a residence permit that has been terminated.

- 2) Stateless or non-UA nationals who:
 - On 23 February 2022 enjoyed international protection or equivalent national protection in Ukraine;
 - Had a valid Ukrainian permanent residence permit on 23 February 2022, and;
 - a. with respect to whom there is no evidence that they left Ukraine before 27 November 2021, and;
 - b. with respect to whom there is no evidence that they returned to their country of origin after 23 February 2022.
- 3) Family members of beneficiaries of temporary protection:
 - Spouse or partner with whom a long-term relationship is maintained.
 - Minor (unmarried) children (born within or outside marriage or adopted).
 - Other family members who lived with the beneficiary and are (largely) dependent on them.

Please note that family members must prove that they lived together in Ukraine prior to the outbreak of war on 24 February 2022. The DCR understands, from exchanges with the IND, that family members have to prove that they lived together in Ukraine for at least six months prior to the outbreak of war, or from 27 November 2021 until their departure from Ukraine. This applies to partners with a long-term relationship and to persons who are married.

As can be observed from the above, the scope of the TPD in the Dutch context is broader compared to the Council Implementing Decision 2022/382 as Ukrainian nationals who already fled Ukraine before 24 February 2022 may be granted temporary protection.

Similarly, the scope of the TPD regarding stateless and non-UA nationals is broader in the Dutch context compared to the Council Implementing Decision 2022/382. Non-Ukrainian nationals who held a valid Ukrainian permanent residence permit on 23 February 2022 are entitled to temporary protection without it being assessed whether they can return safely and durably to their country or region of origin.

Moreover, prior to 19 July 2022, non-UA nationals with a temporary Ukrainian residence permit fell under the scope of the TPD. Since 19 July 2022 however, non-Ukrainian nationals who held a temporary Ukrainian residence permit on 23 February 2022, are no longer regarded to fall under the scope of the TPD. Third-country nationals who held a temporary Ukrainian residence permit on 23 February 2022 and who had been registered in the BRP before 19 July 2022, were granted temporary protection initially until 4 March 2023. This is extended until 4 September 2023. From 4 September 2023, they will no longer fall under the scope of the TPD.¹²⁸⁷

Ukrainian nationals, third-country nationals and stateless persons fall under the scope of the TPD, as long as they meet the criteria mentioned above.

In the Dutch context, displaced persons who do not fall under the scope of the temporary protection regime can apply for asylum at the application centre in Ter Apel. Their applications will be assessed in one of the asylum procedures ('tracks'). However, as a result of Dutch policy, decisions on asylum applications of Ukrainian nationals, as well as forced returns to Ukraine, were suspended.¹²⁸⁸ The measure regarding the suspension on asylum application has been extended for another six months,

¹²⁸⁷ Dutch Parliament, 18 July 2022, 2021 - 2022, 19 637, nr. 36045, available in the Dutch language at: <https://bit.ly/3Cywr1v>.

¹²⁸⁸ The Secretary of State of Justice & Security, Staatscourant 2023, number 9340, only available in the Dutch language at: <https://bit.ly/3YeODh>; IND, specific webpage 'War in Ukraine' War in Ukraine', available in English at: <https://bit.ly/3WrmRVh>.

until 28 August 2023. Exceptions apply, such as for Dublin cases, beneficiaries of protection in another EU Member State, and cases involving people suspected of having committed war crimes or who are considered as a threat to public order or national security. Nevertheless, the measure regarding the suspension on forced returns has not been extended, as the maximum duration of this suspension is one year.

Following the announcement of the European Commission at the Justice & Home Affairs Council on 14 October 2022 that it would extend the Temporary Protection Directive (TPD) for one-year, national authorities extended the applicability of the TPD in the Netherlands (at least) until 4 March 2024.

C. Access to temporary protection and registration

1. Admission to territory

There has been no report of people having fled from Ukraine being refused entry at the Dutch border.

However, the DCR received various reports indicating that displaced persons who had been granted temporary protection in the Netherlands, after a short return to Ukraine, were refused to enter the Schengen area at the Polish border.

Ukrainian nationals fleeing Ukraine can enter the Netherlands freely if they are in possession of a biometric passport. They can stay in the Netherlands without a Schengen visa for 90 days during the visa-exempt term. This is also not necessary if the visa-exempt term has already expired.¹²⁸⁹ Ukrainian nationals fleeing from Ukraine who do not hold a biometric passport and non-Ukrainian nationals – as a rule – have to apply for a short stay visa (Schengen visa). The Schengen visa applies for 90 days. When these 90 days (nearly) have expired the validation of the visa will be extended for another 90 days.

2. Freedom of movement

Beneficiaries of temporary protection are free to move within the Netherlands. Ukrainian nationals without a biometric passport and Third country nationals from Ukraine, who have been granted temporary protection in the Netherlands, are not allowed to travel to other European Member States. Travelling outside of the EU is also at their own risk. they face a risk not being readmitted in the Schengen area.¹²⁹⁰ Displaced persons from Ukraine who fall under the scope of the TPD merely receive proof of residency in the Netherlands. This is not a residence permit. Displaced persons from Ukraine who fall under the scope of the TPD and want to benefit from its provisions must apply for asylum. Consequently, they are considered as asylum seekers falling under a specific asylum regime. In order to travel inside and outside the European Union these individuals need a valid biometric travel document and a short stay (Schengen) visa.

Displaced Ukrainian nationals who do have a biometric passport and have proof of residency in the Netherlands are only allowed to travel to other European Union Member States and back and forth to Ukraine.¹²⁹¹ In practice, these individuals-face the risk of not being readmitted in case of travel outside Union, despite them having proof of residency.

¹²⁸⁹ IND, specific webpage 'War in Ukraine', available in the English language at: <https://bit.ly/3QOjB5f>; Dutch government, information available in English: <http://bit.ly/3K5sJj8>.

¹²⁹⁰ Ibid.

¹²⁹¹ Ibid.

As mentioned before, DCR received information that some individuals were refused re-entry into the Schengen area via Poland.

3. Registration under temporary protection

Upon entry in the Netherlands, displaced persons from Ukraine are referred to support centres at the Amsterdam and Utrecht Central Stations for the initial reception (also called ‘hubs’). At central stations, the Red Cross is available for questions. From there, the displaced person will be accommodated in a municipality in the Netherlands. At central stations the Red Cross is available for questions in the Ukrainian, Russian or English language or a message to the Red Cross could be sent via WhatsApp +31 6 48 15 80 53.¹²⁹² In support centres, displaced people are also made aware of the existence of www.refugeehelp.nl, a website with all necessary information for displaced people from Ukraine. Nevertheless, people can also go directly to municipalities/ local councils for registration and reception. Please see also information below under the section on Housing.

Displaced persons from Ukraine who fall under the scope of the TPD must be registered by a municipality. After an initial assessment of whether the person concerned falls under the scope of the TPD, the person is registered by the municipality in the Personal Records Database (*Basisregistratie Personen* or *BRP*). Once displaced persons from Ukraine are registered in the BRP, they are entitled to rights as laid down in the Temporary Protection Directive.

Thereafter, the beneficiary obtains proof of residency from immigration authorities (IND). The beneficiary must then also submit an asylum application with the IND. At the moment for collecting the proof of residency, the IND also assesses whether the person concerned falls under the scope of the TPD:

1. Whether the person concerned falls under the TPD implemented in Dutch legislation;
2. Whether the person concerned committed criminal offences as mentioned in Article 28 of the Temporary Protection Directive (2001/55/EG);
3. The person concerned has temporary protection in another EU Member State and has not renounced it.

No time limits for individuals to make their application are set in Dutch policy.

Displaced people from Ukraine are required to provide documentation proving they are either:¹²⁹³

A Ukrainian national who resided in Ukraine on 23 February 2022;

- A Ukrainian national who left Ukraine on or after 27 November 2021;
- A Ukrainian national who can prove that they were already in the Netherlands before 27 November 2021 and not in another EU country;
- A third-country national who, on 23 February 2022, had refugee status in Ukraine;
- A third-country national who held a valid, permanent Ukrainian residence permit on 23 February 2022 and who did not:
 1. Leave Ukraine by 27 November 2021; or
 2. Returned to their country of origin by 23 February 2022
- The partner, under-aged child or dependent relative of persons covered by the regulation.

¹²⁹² IND, specific webpage ‘War in Ukraine’, available in English at: <https://bit.ly/3XshlDk>.

¹²⁹³ Rijksdienst voor Identiteitsgegevens, instructions for municipal officials to register displaced persons from Ukraine in the *Basisregistratie Personen*, available in Dutch at: <https://bit.ly/3lXPJIE>. On this specific webpage, a Q&A section for municipal officials is available, and it provides information on how to register displaced persons from Ukraine.

Documents

Foreign documents must, as a rule, be apostilled or legalized. In the case of people coming from Ukraine, exemption from this rule may be granted due to the war. The translation of source documents, such as birth and marriage certificates, by a sworn interpreter/translator is almost impossible in the country, as demand is often greater than supply. At the moment, it is recommended that a Declaration under Oath or Promise (*Verklaring Onder Ede* or VOE) at the municipality be used to record marital status information. In case the document is translated, the procedure of "Update when source document is stronger" can be followed. If the document shows different data than the previously issued VOE, a correction procedure must follow.¹²⁹⁴ If the municipality official doubts whether the nationality and/or identity of the person concerned is correct, or that the person falls under the scope of the TPD, they can perform a so-called triage by asking advice from a special team at the IND. The municipality is not obliged to follow the advice of the IND, as it alone is fully responsible for registration in the BRP.

Upon registration by a municipality, no specific documentation is provided. Proof of residency can be obtained at a later stage from the IND. Proof of residency could take the form of a 'sticker' in a passport or a sticker on a separate piece of paper or card (a so called 'O-document'). Which (initial) proof of residency is provided depends on several aspects. The IND explains this on their website:¹²⁹⁵

- "Displaced people will receive a sticker in their passport if:
They are a Ukrainian woman; or
They are a Ukrainian man, aged 60 or over (on 24 February 2022).
- Displaced people will receive a sticker on a separate piece of paper if:
They are a Ukrainian man younger than 60 years old (on 24 February 2022)
They have an identity card or statement by the Ukrainian embassy (no passport)
They only have a domestic passport
- Displaced people will receive a card if:
They fall under the directive, even though they do not have a passport, identity card or statement by the Ukrainian embassy;
They are a Ukrainian child aged 14 or over without proof of identity (passport);
They have a passport that expired before 4 March 2023".

Whether a sticker, a sticker on a separate piece of paper or a card is provided: the rights are the same except as regards the right of freedom of movement (see section of Freedom of movement). The right to freedom of movement depends on whether the displaced person is a TCN, a stateless person from Ukraine or a Ukrainian national who does not have a biometric passport.

The process of providing proof of residency did not start until 1 July 2022. Right from the start, there were not enough time slots to provide all beneficiaries with a sticker or a card. This was caused by the large number of beneficiaries of temporary protection wanting to collect proof of residency. Another problem was caused by shortages of IND staff. On 4 September 2022, the IND announced they would not be handing out proof of residency anymore; the measure was effective from 5 September 2022. The reason for this decision was that the IND ran out of stickers to hand out a proof of residency. The process of providing proof of residency was resumed on 12 October 2022.

¹²⁹⁴ Rijksdienst voor Identiteitsgegevens, information on the VOE, available in Dutch at: <https://bit.ly/3K1207f>.

¹²⁹⁵ IND, specific webpage 'War in Ukraine', available in the English language at: <https://bit.ly/3ZP4vR8>.

Proof of residency (proof of having been granted temporary protection) is important for Ukrainian nationals who have a biometric passport, so that they can travel within the European Union. Proof of residency is also required by employers before employment.¹²⁹⁶

Refusal of registration in the BRP by the municipality

The municipality officer can refuse registration in the BRP (under BRP code 46) in case they find the person concerned does not fall within the scope of the TPD. Depending on the municipality, this refusal could be given orally or in writing. It is not specified whether a possibility of appeal exists or how to object to this refusal. In most cases, third-country nationals face issues in proving being entitled to temporary protection.

It is possible to report to the municipality again after registration in the BRP was initially refused, for example, when new evidence has emerged.

Refusal issuance proof of residency from the IND

Once a displaced person has been registered in the BRP, they have to obtain proof of residency from the IND. At that moment, the IND reassesses whether the person concerned should be granted temporary protection. Grounds for refusing temporary protection are:

1. the person concerned does not fall under the scope of the TPD;
2. the person concerned has committed a criminal offence as in Article 28 of the Temporary Protection Directive (2001/55/EG);¹²⁹⁷
3. the person concerned has been granted temporary protection in another EU Member State and has not renounced it.

The IND on behalf of the Secretary of State of Justice & Security issues a written notice (decision) in which the reasons for refusing proof of residency are briefly mentioned. In this written notice, the IND (in most of the cases) also provides information on how to object the refusal. The person concerned has four weeks to make the written objection with the IND.

The DCR is familiar with cases in which a written objection has been made. In several cases, Ukrainian nationals were refused temporary protection in the Netherlands due to the fact that, according to the IND, they had already left Ukraine prior to 27 November 2021 to work or study in another EU Member State.

In case of a refusal from the IND, the entitlement to rights arising from the TPD, such as the right to housing and to work, cease immediately, and the complaint has no suspensive effect.

In some cases, in which the persons concerned all left Ukraine prior to 27 November 2021 and used to stay in another (Member) State, the lawyer made a written objection against the refusal (decision) of the IND and requested a provisional measure with the regional court to continue the entitlement to rights under the TPD. Concerning the provisional measure, regional courts ruled that the persons concerned were still entitled to housing/reception. The regional courts ruled thus in particular due to the fact that the persons concerned had not been given the opportunity to explain fully their personal circumstances (they had only had a very brief conversation of 2 up to 5 minutes with an IND official), which meant the refusal had not been taken with due diligence. The requests for a provisional measure were granted.¹²⁹⁸

¹²⁹⁶ IND, specific webpage 'War in Ukraine', available in the English language at: <https://bit.ly/3ZSFzII>.

¹²⁹⁷ See also IND, Informatiebericht 2022/73 'Oekraïne en inreisverboden of ongewenstverklaringen', only available in Dutch at: <https://bit.ly/3WONpN9>.

¹²⁹⁸ Regional Court Den Haag, NL22.22311, NL22.22312, NL22.22313, 6 December 2022, ECLI:NL:RBDHA:2022; Regional Court Amsterdam, NL22.22330, 20 January 2023; Regional Court Amsterdam, NL23.646, 28 February 2023, ECLI:NL:RBDHA:2023:3815; Regional Court Den Bosch, NL22.22846, 2 February 2023, ECLI:NL:RBDHA:2023:1008.

In the judgment of the regional court Den Bosch, the court specifically takes into account that the person concerned has an employment contract that allows her to be self-sufficient and not depend on general resources.

However, in one known case, the Regional Court Middelburg refused to grant the provisional measure as, *inter alia*, the reception facility for displaced persons from Ukraine in the municipality was fully occupied and the persons concerned who already applied for asylum, will be entitled to reception from COA. As such, the reception by the municipality concerned could be ended.¹²⁹⁹

The Regional Court Utrecht also refused to grant the requested provisional measure as the persons concerned left Ukraine before 27 November 2022, and worked in Poland prior to their arrival in the Netherlands. This means that they do not fall under the TPD in the Netherlands. The court also ruled that the persons concerned should apply for (temporary) protection in Poland.¹³⁰⁰

As far as known, the IND has not issued any new decision on the written objections for the moment.

4. Legal assistance

DCR provides (individually or in groups) information on the regulation and policies regarding temporary protection in the Netherlands. To this end, DCR organises consultation hours at various locations in the Netherlands. DCR also offers online consultations. Furthermore, DCR provides information on the website [Refugeehelp.nl](https://refugeehelp.nl) in collaboration with the IND and other organizations.¹³⁰¹

Specialised organisations, such as Nidos, also provide information to displaced persons from Ukraine.¹³⁰² Nidos is the national guardianship institution for unaccompanied minors and separated children in the Netherlands. Unaccompanied children in the Netherlands should be under either parental authority or guardianship. Nidos provides free (legal) assistance to unaccompanied minors from the Ukraine in the Netherlands. Nidos is mainly funded by the Ministry of Justice.

An organization called *Juridisch Loket* provides free legal advice to people who do not have sufficient income to consult a lawyer. For displaced persons who do not have sufficient income the organization provides information or advice on legal issues regarding employment, social security and possibilities to obtain a residence permit in order to work or study in the Netherlands. The *Juridisch Loket* is in the position to refer a case to a lawyer. The *Juridisch Loket* is a foundation and is funded by the Ministry of Justice.

If subsidized legal aid is necessary, (specialized) lawyers will give legal assistance to displaced persons from Ukraine, for which in general a contribution of 156 EURO is required. When the person concerned can show that they cannot pay this contribution, (s)he is exempted from this. During the asylum procedure, legal assistance from a lawyer is free. Free legal aid/assistance from a lawyer is subsidized via the Ministry of Justice and Security and the Legal Aid Board.-The Legal Aid Board is an independent governing body with a public task to subsidize legal aid.¹³⁰³

¹²⁹⁹ Regional Court Den Haag Middelburg, AWB 23/1704, AWB 23/1696, AWB 23/1700, AWB 23/1702, AWB 23/1697, 24 February 2023, ECLI:NL:RBDHA:2023:2526. In each judgment similar reasoning is provided by the Regional Court Middelburg.

¹³⁰⁰ Regional Court Utrecht, NL22.22224 and NL22.22246, 30 January 2023, ECLI:NL:RBDHA:2023:871.

¹³⁰¹ [Refugeehelp.nl](https://refugeehelp.nl) is created by Dutch Council for Refugees in collaboration with several organizations: <https://bit.ly/3XrZMDp>.

¹³⁰² Nidos, information available in the English language at: <https://bit.ly/3wIJaa>.

¹³⁰³ Legal Aid Board, information available in the English language at: <https://bit.ly/3QT7owh>.

Legal assistance third country nationals fleeing from Ukraine

As a result of a policy change made on 18 July 2022,¹³⁰⁴ regarding the scope of temporary protection in the Netherlands, lawful residence of a group of third country nationals would have initially ended on 4 March 2023. In November and December 2022, the third country nationals concerned received a letter from the Secretary of State of Justice & Security (IND) explaining that their lawful residence under the TPD will end on 4 March 2023. Third country nationals can respond and provide information to the IND from which should follow that the person concerned falls under the TPD, also after 4 March 2023. The IND also indicated that information is also provided on a specific return arrangement which was introduced for this group of third country nationals. Until 4 March 2023, they could apply for support and financial assistance from the Dutch Repatriation & Departure Service.¹³⁰⁵

As previously explained the Third country nationals of this group are allowed to stay in the Netherlands under the TPD until 4 September 2023. Recently, the Third country nationals received a new letter from the IND informing that the lawful residence under the TPD has been extended until 4 September 2023. The Third country nationals concerned have to collect a card at the IND, which serves as proof that their residency permit was extended until 4 September 2023.¹³⁰⁶

As the DCR has the public task, according to the Aliens Circular,¹³⁰⁷ to provide general information to asylum seekers ('voorlichting'), information was given to Third country nationals on the options for obtaining legal residence in the Netherlands after 4 September 2023.

As agreed with the Legal Aid Board, DCR has the possibility to refer cases of third country nationals to lawyers with whom they can freely seek legal advice, for example, on the options for obtaining legal residence in the Netherlands after 4 September 2023. The possibility to give free legal advice by a lawyer is subsidized via Legal Aid Board. The Third country nationals concerned will receive a final letter (decision) from the Secretary of State (IND) in stating that their lawful stay under the TPD will end on 4 September 2023. As far as known, legal remedies are in place against the decision.

As far as known, the obstacles most displaced persons face difficulties, for example due to language barriers, or not knowing which organisations to contact for support.

5. Information provision and access to NGOs

No explicit provisions on providing information to beneficiaries of temporary protection have been laid down in Dutch law.

Information is provided on Refugeehelp.nl, a website created by DCR in collaboration with several other (governmental and non-governmental) organizations, amongst which the IND.¹³⁰⁸ Refugeehelp.nl contains information on the legal position of persons entitled to temporary protection as well as practical information on various topics. The content on Refugeehelp.nl is available in English, Ukrainian, Russian and Dutch.

To provide information for third country nationals whose lawful residence ends on 4 September 2023, DCR distributed brochures in Dutch, Ukrainian, Russian and English.

¹³⁰⁴ IND, specific webpage 'War in Ukraine', available in the English language at: <https://bit.ly/3GYHtie>.

¹³⁰⁵ IND, specific webpage 'War in Ukraine', available in English at: <https://bit.ly/40H79Zn>.

¹³⁰⁶ IND, specific webpage 'War in Ukraine', available in English at: <https://bit.ly/3KqlouF>.

¹³⁰⁷ The Dutch Council for Refugees has a public task in providing information on the asylum procedure as laid down in Paragraph C1/2.2 Aliens Circular.

¹³⁰⁸ Please, see for more organizations DCR collaborates with in order to provide information on Refugeehelp.nl the website: <https://www.refugeehelp.nl/en/about-us>.

Information is also available on the IND website, with a specific webpage initially called 'Ukraine: effects of Russian invasion' and currently 'War in Ukraine'. The information is available in Dutch and English, but some specific information (instructions) is also available in Russian and Ukrainian.¹³⁰⁹

Municipalities, governmental organizations, and several other organizations also provide information to displaced people from Ukraine on their specific websites.

Beneficiaries of temporary protection receive a brochure from the IND when they collect their proof of residency. This brochure is available in Ukrainian, Russian, English, Arabic and Dutch.¹³¹⁰

The information provided is written in a simple manner. This information is not tailored to, for example, persons who are (nearly) illiterate or are (nearly) blind. As far as known, no tailored information is available for unaccompanied minors from Ukraine.

Difficulties with providing information

During the first months after the start of the war, many elements regarding TPD implementation were still unclear, such as the legal position of beneficiaries of temporary protection in the Netherlands. Regulations and policies had to be made and published by the Dutch government.

In addition to this, the municipalities, which are responsible for the reception/ housing of displaced people from Ukraine, comply with this obligation in various way. Every municipality may decide for itself how to provide reception/housing to beneficiaries of temporary protection and determine what kind of information should be shared.¹³¹¹ As a result, information provided by municipalities may differ, which may cause uncertainty.

DCR is present in most but not every municipality. Because of this, displaced persons may be fully reliant on information they find online or receive from the municipality. There is a lack of case-oriented information.

For third country nationals from Ukraine whose lawful residence under the TPD will be granted only until 4 September 2023, various developments have been registered, making their position unclear. Some have received letters from the IND concerning their lawful residence in the Netherlands, an invitation to continue their asylum procedure and to collect a new proof of residency which is valid until 4 September 2023.¹³¹² Due to technical reasons, in some cases, the IND sent a letter to the wrong person.

The Dutch Royal Military Police (KMAR) can provide information at border-crossing points on how to apply for temporary protection. The KMAR can refer people to the locations where the first reception takes place.¹³¹³ At the Amsterdam and Utrecht Central Stations, workers from the Red Cross inform displaced people from Ukraine where they can go to obtain initial shelter.¹³¹⁴

¹³⁰⁹ For example, see the instruction manual on how to collect proof of residency the IND specific webpage 'War in Ukraine', available in the English language at: <https://bit.ly/3GXvyBg>.

¹³¹⁰ IND, specific webpage 'War in Ukraine', available in the English language at: <https://bit.ly/3QVG0xv>.

¹³¹¹ Specific rules exist regarding reception of displaced persons from Ukraine. The rules are laid down in the Regulation for the Reception of Displaced Persons from Ukraine In the Dutch language it is called '*Regeling Opvang Ontheemden uit Oekraïne*', available in the Dutch language at: <https://bit.ly/3H9HmSi>.

¹³¹² IND, specific webpage 'War in Ukraine', information available in English at: <https://bit.ly/40zF9qq>.

¹³¹³ Dutch government, available in the Dutch language at: <https://bit.ly/3k9KLXS>.

¹³¹⁴ Dutch government, Handreiking Gemeentelijke Opvang Ontheemden uit Oekraïne (GOO), pages 8 and 9, information available in the Dutch language at: <https://bit.ly/3CBIE5I>; Nidos, information available in Dutch at: <https://bit.ly/3J6Yp8P>.

D. Guarantees for vulnerable groups

As far as known, a specific identification mechanism to systematically identify individuals entitled to temporary protection who can be categorised as vulnerable has not been introduced by the Dutch government for the moment.

Unaccompanied minors are usually placed in host families and, as a rule, not accommodated in municipal reception centres. It is up to the municipal reception centres to identify these unaccompanied children and report them as soon as possible to Nidos, the national guardianship institution for unaccompanied minors and separated children. Nidos provides (legal) assistance to unaccompanied minors from Ukraine in the Netherlands.¹³¹⁵

After the referral from the municipality, Nidos has an initial interview with the minor, and if possible a remote one with the parents. It is assessed whether applying for temporary guardianship is appropriate. If the minor stays with adult supervisors in a host family, Nidos reports this to the Child Protection Council ('Raad voor de Kinderbescherming'), for them to conduct a judicial screening of the host family.

Dutch organisations such as *Arq Nationaal Psychotrauma Centrum* specialize in helping people traumatised by war or victims of torture.¹³¹⁶ This particular organisation also treats regular asylum seekers who are traumatised.

The Dutch organization *Wereldpsychologen* (World Psychologists), which is a foundation, offers free mental health care through (video) calling.¹³¹⁷ The website of the organization also contains information in Ukrainian.

For professionals working with displaced persons from Ukraine, the *Loket Ontheemden Oekraïne Psychosociale hulpverlening (LOOP)*, an advice centre, has been set up by several governmental and non-governmental organizations, such as DCR. At LOOP, professionals can get information, ask questions and find appropriate psychological assistance for displaced persons from Ukraine.¹³¹⁸

¹³¹⁵ Nidos, information available in the Dutch language at: <https://bit.ly/3HidB0v>.

¹³¹⁶ Arq Nationaal Psychotrauma Centrum, information available in the Dutch language at: <https://bit.ly/3wfd22f>.

¹³¹⁷ Wereldpsychologen, information available in the English language at: <https://bit.ly/3Kks5Q2>.

¹³¹⁸ Loket Ontheemden Oekraïne PSH (LOOP), information available in Dutch at: <https://bit.ly/3U8JX3v>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--|----------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | Not applicable |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2022? | Not applicable |

General information

Displaced persons from Ukraine who fall under the scope of the TPD do not obtain a residence permit. They remain in the Netherlands as asylum seekers having been granted temporary protection and are as such entitled to rights laid down in the TPD. Beneficiaries of temporary protection are issued proof of residency, which is not a residence permit.

People entitled to temporary protection may remain in the Netherlands at least until 4 March 2024.¹³¹⁹ The proof of residency, valid until 4 March 2023 will be extended automatically. TP beneficiaries have received a letter from the IND informing them of the fact that the proof of residency is extended.¹³²⁰ The obtained proof of residency together with the letter of the IND show that person concerned falls under the TPD (at least) until 4 March 2024.

Third-country nationals from Ukraine who held a temporary Ukrainian residence permit on 23 February 2022 and had been registered in the BRP before 19 July 2022, are granted temporary protection until 4 September 2023. They also received a letter from the IND informing that their temporary protection will end on 4 September 2023. They will have to collect a card ('O-document') as to proof that their residency has been extended until 4 September 2023.¹³²¹

Procedure

The procedure starts with registration by a municipality in the Basic Registration of Persons or BRP. To register the person concerned must provide personal details and an (temporary) address to the municipality. For this, the municipality needs a passport or other proof of identity. People who do not have the Ukrainian nationality may also be registered using a Ukrainian permanent residence permit that was valid on 23 February 2022.

If a municipal official doubts whether the correct documents have been submitted, they may contact the IND to perform a triage. This means the IND investigates further to establish the person's identity and nationality and to determine whether the person concerned falls under the scope of the TPD. A triage may entail a meeting the person concerned in person. The triage results in an advice to the municipality to register the person concerned in the BRP (BRP code 46), to refuse registration or to defer registration pending additional documentation.

After registration, the person concerned has an appointment with the IND. The IND does a background check regarding criminal offences. Furthermore, the IND assesses whether the person concerned is

¹³¹⁹ Dutch government, information only available in the Dutch language at: <https://bit.ly/3ZUnHNe>.

¹³²⁰ IND, specific webpage 'War in Ukraine', available in the English language at: <https://bit.ly/40J2PrQ>.

¹³²¹ IND, specific webpage 'War in Ukraine', available in the English language at: <https://bit.ly/40IkGzw>.

entitled to temporary protection. If that is the case a proof of residency is issued by the IND, also called a 'sticker' or an 'O document'. This is not a residence permit.¹³²² The person concerned also makes an official asylum application. The IND merely registers the asylum application and does not decide on the application as long as the Temporary Protection Directive applies.

If the IND decides temporary protection is denied, the person concerned may object this decision within 4 weeks, in front of the IND itself.

In September and October 2022, the issuance of proof of residency was temporarily stopped due to a shortage of resources. This caused difficulties in practice. This lasted from 2 September 2022, until 12 October 2022. After that, the IND restarted issuance of proof of residency.¹³²³

For as long as the TPD applies the proof of residency is valid; for the moment, that will be the case until 4 March 2024.¹³²⁴ Until now, Ukrainian nationals do not receive a new proof of residency (sticker or card), but instead a letter informing that the obtained proof of residency, together with the letter itself, will be proof they are allowed to live and work in the Netherlands. As previously explained, the group third country nationals who had a temporary Ukrainian residence permit and were registered in the BRP before 19 July 2022, were initially expected to be able to benefit from temporary protection only until 4 March 2023. The right to benefit from temporary protection for individuals pertaining to this group was however extended until 4 September 2023.

Various rights are connected to the temporary protection beneficiary status. Once displaced persons from Ukraine have been registered in the BRP by a municipal official, they are entitled to the rights as laid down in the TPD.

Right to reception/housing

A person who has been granted temporary protection has the right to reception/ housing by the municipality, as established in the Regulation for the Reception of Displaced Persons from Ukraine.¹³²⁵ Municipalities are responsible for reception/ housing of beneficiaries of temporary protection. They are housed in facilities created specifically for them or may be placed with a hosting family.

Allowances

Beneficiaries of temporary protection are entitled to a monthly allowance provided by the municipality. Until 1 February 2023, a beneficiary received 205 € monthly for food. For clothing and other expenses, they receive 55 € per person. This is regardless of whether it concerns adults, (unaccompanied) minors, or the size of the family.¹³²⁶

In addition to the aforementioned allowance, beneficiaries who have been placed with a host family also receive a so called 'residential component' of 215 € per adult per month and 55 € per child. This will enable the beneficiary to pay, for example, for public transport, additional activities (such as visiting family/friends, sports etc.), but also to voluntarily contribute to the household of the host family. Arrangements for such a contribution can be made by the beneficiary and the host family together. No direct reimbursement is provided from the government to host families or other individuals who provide shelter.¹³²⁷

¹³²² IND, specific webpage 'War in Ukraine', available in the English language at: <https://bit.ly/3ZUtimH>.

¹³²³ IND, specific webpage 'War in Ukraine', available in the English language at: <https://bit.ly/3WsjMUX>.

¹³²⁴ Dutch government, information only available in the Dutch language at: <https://bit.ly/3ZUnHNe>.

¹³²⁵ In Dutch, it is called '*Regeling Opvang Ontheemden uit Oekraïne*', available in Dutch at: <https://bit.ly/3H9HmSi>.

¹³²⁶ Dutch government, Factsheet 'Changes living allowance for refugees from Ukraine', available in English at: <https://bit.ly/3zyZd0f>.

¹³²⁷ Ibid.

The amount of the monthly allowance decreased from 1 February 2023.¹³²⁸ For food, an adult currently receives 215,06 € monthly. For clothing and other expenses, the allowance will be 56.12 € per adult. As for families, the amount per person decreases depending on the size of the family and whether the family consists of minor children (a gradual scale).

Monthly allowances from 1 February 2023 are distributed as follows:

Allowance for living expenses	Family size					
	1-2 persons		3 persons		4+ persons	
	Adult/ unaccompanied minor	Minor	Adults	Minor	Adults	Minor
Food	215,06 EUR	178,36 EUR	171,99 EUR	142,57 EUR	150,45 EUR	124,97 EUR
Clothes & personal expenses	56,12 EUR	56,12 EUR	56,12 EUR	56,12 EUR	56,12 EUR	56,12 EUR
Residential component (only for persons living with a host family)	93 EUR	93 EUR	93 EUR	93 EUR	93 EUR	93 EUR

According to the national government, the amount of the monthly allowance had to be decreased due to the fact that displaced persons (particularly families) received a considerably higher monthly allowance than asylum seekers and social welfare recipients in the Netherlands.¹³²⁹

Already, adult beneficiaries who have an income from work are no longer entitled to an allowance. Before 1 February 2023, their family members were still entitled to an allowance and housing. Starting from 1 February 2023, this changed as well, as from this date the allowance can be reduced or withdrawn completely, depending on the income from work. If a minor has a part-time job, then the financial benefits will be discontinued only for them, but not for all other members of the family.

Access to the labour market and education

A beneficiary of temporary protection is allowed to work in the Netherlands without a work permit as paid employee. For self employment a work permit is required. Beneficiaries also have access to education. Please see sections on Access to the labour market and Access to education.

Access to health care

Beneficiaries of temporary protection are entitled to health care. On 1 July 2022, a specific Medical Care Regulation for beneficiaries of temporary protection was introduced.¹³³⁰ TP beneficiaries do not have to pay for health care insurance fees (premium). Please see section on Health care.

¹³²⁸ The amount of the living allowance has changed from the start of 1 February. Until then, persons from Ukraine received an allowance of 205 EUR for food and 55 EUR clothes and other expenses per person on a monthly basis.

¹³²⁹ Secretary of State of Justice and Security, Staatscourant 2022, number 31970, Amendment of the Regulation for the Reception of Displaced Persons from Ukraine only available in Dutch at: <https://bit.ly/3GYocxd>.

¹³³⁰ Dutch Government, information (flyer) is available in the English language at: <https://bit.ly/3QJApdy>.

Transferring temporary protection to another Member State

TP holders who wish to transfer their (permanent) residence to another EUMS have to end their lawful residence under the Temporary Protection Directive in the Netherlands. It is important to note that for displaced persons from Ukraine, Ukrainian nationals without a biometric passport and Third country nationals from Ukraine, who are granted temporary protection it is a risk to travel to other EU Member States. Travelling outside of the EU is at their own risk for not being readmitted to the Schengen area.¹³³¹ Displaced persons from Ukraine who fall under the scope of temporary protection merely receive a proof of residency in the Netherlands. The proof of residency is not a residence permit.

Ukrainian nationals holding biometric passports and who collected their proof of residency are able to travel to other EU Member States and back and forth to Ukraine. Ukrainian nationals holding a biometric passport are anyway exempted from visa requirements for a short stay to enter the Schengen area. They may, after having had access to the Schengen area, move freely within the Schengen area for a period of 90 days within a period of 180 days.¹³³²

Ukrainian nationals holding a biometric passport with or without a proof of residency can therefore easily travel to the Member State where they wish to exercise the rights that are attached to the temporary protection.

Once a temporary protection beneficiary transfers to another MS, it is important that the displaced person must deregister from the BRP, after which benefits that are linked to the registration can be stopped. In order to ensure that deregistration from the BRP proceeds promptly, the municipality or reception location hands the displaced person a departure form. To ensure that the IND can also easily terminate the asylum procedure, the municipality or reception location will issue a withdrawal statement of the asylum application to the displaced person, which has to be signed.¹³³³

When a beneficiary of temporary protection leaves the Netherlands permanently after having announced their decision,¹³³⁴ or in the case they made an unannounced departure, they are not anymore entitled to the rights attached to the TPD. Furthermore, the beneficiary can leave the Netherlands (announced) for a maximum of 28 days without losing their status as TP holders. When the departure exceeds the 28 days, then the rights attached to the TPD can be ended. Once the displaced person returns to the Netherlands, they have to register at a municipality again. At that moment, it will be assessed whether the person falls under the scope of the TPD according to the present rules.¹³³⁵

2. Access to asylum

When a displaced person from Ukraine applies for lawful residency under the TPD by collecting proof of residency from the IND, they also apply for asylum. This application is submitted by completing the M35H form. The assessment of the asylum application however, remains 'on hold' as long as the TPD applies. The issuance of decisions on these asylum applications has been suspended. After the end of

¹³³¹ IND, specific webpage 'War in Ukraine', available in English at: <https://bit.ly/3HmJc1Y>.

¹³³² IND, specific webpage 'War in Ukraine', available in English at: <https://bit.ly/3HmJc1Y>.

¹³³³ Dutch government, Circular 'Departure and effects facilities Scheme for Reception of Displaced Persons' from Ukraine', information only available in the Dutch language at: <https://bit.ly/3ks0ORb>.

¹³³⁴ The permanent departure is announced when the municipality has been informed by the beneficiary and they deregister themselves from the BRP.

¹³³⁵ Dutch government, Circular 'Departure and effects facilities Scheme for Reception of Displaced Persons' from Ukraine', information only available in the Dutch language at: <https://bit.ly/3ks0ORb>.

the TP regime, the Secretary of State (IND) will have six months to decide on the asylum applications.¹³³⁶

Displaced persons from Ukraine who fall under the scope of the TPD and who go to the application centre in Ter Apel to start a regular asylum procedure are told to report to a municipality instead. Should temporary protection end, while a return to Ukraine or to the country of origin (in the case of third-country nationals) is still not considered possible for security reasons, the asylum application will be assessed.¹³³⁷

However, in the case of a Ukrainian national who applied for asylum in the Netherlands in February 2020 and would fall under the scope of temporary protection, the Regional Court of Amsterdam ruled that the asylum application should be examined. In this case, the Secretary of State issued two decisions rejecting the application, but subsequently withdrew them. The court ruled that the time limit of 21 months (as laid down in Article 31 (5) APD) was exceeded. The court ruled that the Secretary of State had to issue a (new) decision on the application, regardless of the fact that the person concerned falls under the scope of the TPD. The mere existence of the TPD regime does not, in any case, prevent national authorities from issuing a decision on the asylum application.¹³³⁸

Processing asylum applications of non-Ukrainian nationals

Regarding the group non-Ukrainian nationals who will fall under the scope of the Temporary Protection Directive just until 4 September 2023, the IND started to process their asylum applications. The first applications processed are the ones from non-Ukrainian nationals from Yemen and Syria, which are considered, as a group, eligible for international protection. The second group whose asylum applications will be assessed are the persons from 'safe countries of origin'. The last group whose asylum application will be assessed are those holding other nationalities.

DCR provides targeted information ('*Voorlichting*') on the asylum procedure to non-Ukrainian nationals. See section on Information provision and access to NGOs. Additionally, the persons concerned will have a specialized lawyer appointed during the asylum procedure.

The IND is contacting individuals who fall under these categories via letter, requesting them to state whether they wish to proceed with their asylum application.¹³³⁹

As DCR understands from exchanges with the IND, in case their asylum application was to be refused before 4 September 2023, non-Ukrainian nationals would still remain lawfully in the Netherlands as beneficiaries of TPD until this date.

Suspension on decisions on Ukrainian asylum applications

Ukrainian nationals who do not fall under the scope of the Temporary Protection Directive in the Netherlands and who have submitted an asylum application at the application centre in Ter Apel the following applies. From 28 February 2022, the Secretary of State (IND) does not have to take a decision on Ukrainians' asylum applications on the grounds that a suspension on decisions on Ukrainian asylum applications applies. This means that, as a rule, the IND has 18 months (and a maximum of 21 months) for taking a decision on new and pending asylum applications of Ukrainian nationals. This is based on Article 43 of the Aliens Act. Recently, this measure was prolonged – for the moment - until 28 August 2023. Rejected asylum seekers from Ukraine initially were not forced to return to Ukraine, but the

¹³³⁶ Article 43a Aliens Act.

¹³³⁷ IND Work Instruction 2022/17 (page 5), information available in the Dutch language at: <https://bit.ly/3wbJdiU>.

¹³³⁸ Regional Court Amsterdam, NL22.5058, 30 June 2022, ECLI:NL:RBDHA:2022:9130.

¹³³⁹ IND, specific webpage 'War in Ukraine', information available in English at: <https://bit.ly/40PcZlg>

measure regarding the suspension on forced returns has not been extended, as the maximum duration of this suspension is one year. This is based on Article 45 (4) of the Aliens Act.¹³⁴⁰ It is assumed that they will be able to present a subsequent asylum application.

B. Family reunification

As previously explained, beneficiaries of temporary protection have legal stay in the Netherlands as asylum seekers having been granted temporary protection. They are not issued a residence permit. Because in the existing framework a (regular or asylum) residence permit is required to apply for family reunification, it is not possible for beneficiaries of temporary protection to do so.

Family reunification is allowed if it concerns a beneficiary of temporary protection who wants to reunite with a family member they lived with in Ukraine. Family members are also entitled to temporary protection if there was a durable relationship and they lived with the beneficiary in Ukraine at the time of the start of the war, or from 27 November 2021 until their departure from Ukraine.¹³⁴¹

Family members are considered:

1. Spouse or unmarried partner with whom a durable relationship has been maintained;
2. Minor unmarried children (born or adopted within or outside marriage);
3. Other close relatives who lived with the beneficiary and who are totally or mostly dependent on them.

As could be inferred from communications between DRC and the IND, the married and unmarried partners must show that they have lived together for at least 6 months before being displaced from Ukraine due to the war. As far as known, both partners have to be in the Netherlands to be eligible for temporary protection as an (un)married partner from a temporary protection beneficiary.

No (formal) framework or procedure for reuniting family members has been introduced. In practice, DCR has submitted specific cases to the IND who would assess whether a family member residing outside the EU would fall under the scope of the TPD as implemented in the Netherlands.

The status given to family members is the same as any other who falls under the scope of TPD in the Netherlands. They have the same rights and obligations, but, their TP-status depends on the family member who initially is granted temporary protection.

C. Movement and mobility

Persons covered by the Temporary Protection Directive may move freely within the Netherlands. There are no restrictions.

Ukrainian nationals who hold a biometric passport and have a proof of residency can travel to other EU countries and back and forth from Ukraine.

Ukrainian nationals who hold a biometric passport can also travel to other EU countries if the person is in his or her free period. This means that a person may travel visa-free for up to 90 days within a 180 - day period.¹³⁴²

¹³⁴⁰ The Secretary of State of Justice & Security, Staatscourant 2023, number 9340, only available in the Dutch language at: <https://bit.ly/3lYeODh>; IND, specific webpage 'War in Ukraine' War in Ukraine', available in English at: <https://bit.ly/3WrmRVh>.

¹³⁴¹ IND Work Instruction 2022/17, information available in the Dutch language at: <https://bit.ly/3wbJdiU>, 3.

¹³⁴² IND, specific webpage " 'War in Ukraine', available in the English language at: <https://bit.ly/3CXckRa>.

For TP beneficiaries who hold a biometric passport and who have a proof of residency it is a risk to travel outside of the European Union (with the exception of Ukraine).

Displaced persons from Ukraine, Ukrainian nationals without a biometric passport and Third country nationals from Ukraine, who are granted temporary protection are not able to travel to other European Member States. Also travelling outside of the EU is at their own risk for readmittance in the Schengen area.¹³⁴³ Displaced persons from Ukraine who fall under the scope of temporary protection merely receive a proof of residency in the Netherlands. The proof of residency is not a residence permit. Displaced persons from Ukraine who fall under the scope of temporary protection and want to benefit from its provisions do have to apply for asylum; they are considered as asylum seekers falling under a specific asylum regime. In order to travel inside and outside the European Union these individuals do need a valid (biometric) travel document and a short stay (Schengen) visa.

Also displaced Ukrainian nationals who hold a biometric passport are, when they hold a proof of residency in the Netherlands, only able to travel to other European Union Member States and to travel back and forth to Ukraine.¹³⁴⁴ So these individuals are not able to travel outside of the European Union while holding their proof of residency.

Important to note that all TP-beneficiaries receive a flyer whilst collecting the proof of residency. In the flyer it is explained what the proof of residency under the TPD entails in the Netherlands.¹³⁴⁵ The flyer is available in Dutch, English, Ukrainian, Russian and Arabic.

As described above, TP-beneficiaries who hold a biometric passport and a proof of residency have experienced problems re-entering the Schengen area via Poland.

For Ukrainian nationals without a biometric passport and Third country nationals who hold a proof of residency it is anyway a risk to travel to Ukraine and try to re-enter the Schengen area.

To note: in the Netherlands TP-beneficiaries do not receive a residence permit. They remain lawfully in the Netherlands as asylum seekers and merely receive a proof of residency that they remain lawfully in the Netherlands under the Temporary Protection Directive. Due to the extension of temporary protection until 4 March 2024, TP-beneficiaries need to show their proof of residency together with the IND-extension letter as an identification document.¹³⁴⁶

D. Housing

Indicators: Housing

- | | |
|---|---------------|
| 1. For how long are temporary protection beneficiaries entitled to stay in reception centres? | Not available |
| 2. Number of beneficiaries staying in reception centres as of 31/12/2022 | Not available |
| 3. Number of beneficiaries staying in private accommodation as of 31/12/2022 | Not available |

Municipalities are responsible for the reception/ housing of Ukrainian displaced persons and not COA. For reception, they can register at a municipality. Municipalities provide various reception facilities for displaced persons from Ukraine. Reception in host families is also possible. Municipalities are also

¹³⁴³ Ibid.

¹³⁴⁴ Ibid.

¹³⁴⁵ IND, specific webpage 'War in Ukraine', available in the English language at: <https://bit.ly/3XJdCRu>.

¹³⁴⁶ IND, specific webpage 'War in Ukraine', information available in English at: <https://bit.ly/3K7Xjse>.

responsible for this kind of reception. TakeCareBnB,¹³⁴⁷ in collaboration with the Dutch Red Cross,¹³⁴⁸ the Dutch Salvation Army¹³⁴⁹ and DCR are the organizations that coordinate this.

Displaced persons from Ukraine who fall under the scope of the Temporary Protection Directive in the Netherlands are entitled to access dedicated reception facilities organised by municipalities as long as they are under temporary protection. This entitles them to housing, work, social care and education.¹³⁵⁰

Displaced persons from Ukraine who are covered by the Temporary Protection Directive are entitled to reception as long as they are covered by the Directive. However, DCR received information – directly from TP beneficiaries assisted - that a beneficiary of temporary protection who causes tension or any form of nuisance could be expelled from the municipal shelter. The persons concerned would then have to find another municipality to obtain shelter.

The Dutch government provided the following statistics on 24 March 2023:¹³⁵¹

- Number of BRP registered displaced persons from Ukraine: 91,540
- Number of available reception places ('available beds'): 73,980
- Number of occupied reception places ('occupied beds'): 72,440

The kind of accommodation which is used for Ukrainian displaced persons varies depending on the individual municipality. Displaced persons could, for example, be accommodated in hotels, in emergency shelters, or on boats. Sometimes empty office buildings have been transformed to apartments where displaced persons could be accommodated. Displaced person could also be placed in host families. The municipalities are responsible for the housing or reception of displaced persons from Ukraine.

Due to the arrival of many displaced persons from Ukraine to the Netherlands and the need to realize many reception places in a short term, on 7 March 2022, the Dutch government requested the Security Council and the security regions¹³⁵² to coordinate the realization of reception of displaced persons from Ukraine in the municipalities. At the moment, security regions still have the task to coordinate the reception of displaced persons from Ukraine.¹³⁵³

Due to extraordinary circumstances, the Dutch government was (and is) unable to provide (emergency) accommodation to the displaced persons within the existing structure. This is the reason that the Dutch government activated, on 1 April 2022, the Relocation Population Act (*Wet verplaatsing bevolking*), which is state emergency law. As a result, the municipalities (mayors) are given the statutory duty (task) to provide for the reception of displaced persons from Ukraine. Furthermore, this task has been implemented in the Regulation for the Reception of Displaced Persons from Ukraine. Under this scheme, municipalities (mayors) must provide shelter, a monthly financial allowance for food, clothing and other personal expenses, recreational and educational activities, insurance against financial consequences of legal liability and the possible payment of extraordinary costs.

¹³⁴⁷ TakeCareBnB, specific webpage dedicated to displaced persons from Ukraine: <https://bit.ly/3K4QFDc>.

¹³⁴⁸ Dutch Red Cross, information available in Dutch at: <https://bit.ly/43drDdZ>.

¹³⁴⁹ Dutch Salvation Army (*Leger des Heils*), information available in Dutch at: <https://bit.ly/2mkGkID>.

¹³⁵⁰ Regulation for the Reception of Displaced Persons from Ukraine; in Dutch '*Regeling Opvang Ontheemden uit Oekraïne*', available in Dutch at: <https://bit.ly/3H9HmSi>; Dutch government, Guide '*Handreiking Gemeentelijke Opvang Oekraïners (GOO)*', available in Dutch at: <https://bit.ly/3QQE5dP>.

¹³⁵¹ Dutch government, information only available in Dutch at: <https://bit.ly/3ZUAU8M>.

¹³⁵² The Netherlands is divided into 25 security regions. Each safety region is committed to the safety of the residents and visitors of that area. The safety region also makes arrangements for dealing with disasters and crises. Please see: Dutch government, information only available in Dutch: <https://bit.ly/3GXxTfm>.

¹³⁵³ Dutch government, Guide '*Handreiking Gemeentelijke Opvang Oekraïners (GOO)*', available in the Dutch language at: <https://bit.ly/3QQE5dP>.

A concept proposal was drafted to create a Temporary Act on the Reception of Displaced Persons from Ukraine to de-activate the Relocation and Population Act. The responsibility for the municipalities to provide for the reception of displaced persons from Ukraine will be transferred from the Relocation and Population Act to the Temporary Act. For the moment, no further developments were registered for what concerns the draft proposal.¹³⁵⁴

The Dutch government (several ministries), in collaboration with NGO's (including DCR) and the Association of Dutch Municipalities (*Vereniging van Nederlandse Gemeenten, VNG*), issued two guides regarding accommodating TP-beneficiaries. One guide concerns the accommodation of displaced persons in host families (*Handreiking Particuliere Opvang Oekraïners, POO*)¹³⁵⁵ and the other guide concerns the accommodation of displaced persons in reception facilities in municipalities (*Handreiking Gemeentelijke Opvang Oekraïners, GOO*).¹³⁵⁶

It should be noted that the Ukraine Coordination Information Exchange (*Knooppunt Coördinatie Informatie Oekraïne, KCIO*) provides an information platform between the national government, the 25 security regions and involved partners such as, inter alia, the Dutch Red Cross, Association of Dutch Municipalities and COA. Professionals can contact the platform when they have questions about available reception places. Part of the hub is the National Coordination Point Refugee Distribution (LCVS). From this collection point, the overview of available municipal reception places on a supra-regional/rural scale is monitored and coordinated.

TP beneficiaries are entitled to living allowance. This is a monthly allowance from the municipality. Until 31 January 2023, it corresponded to 205€ per person for food, and 55 € per person for clothing and other expenses. An employed TP holder would be no longer entitled to the living allowance, while their family members would. For displaced persons in private shelters, the living allowance was of 215€. The latter group also receives monthly residence allowance.¹³⁵⁷ From 1 February 2023, the amount and scope of the financial allowance changed, as detailed above.

In the Netherlands, it is possible for TP-beneficiaries to be accommodated with hosting families for three months. Takecarebnb is a voluntary organization who primarily coordinates the assignment of temporary protection beneficiaries to host families. Normally, Takecarebnb connects, 'matches', refugees with Dutch families. Refugees who are eligible for this type of accommodation are granted asylum residence permit and are allowed to stay in the Netherlands, but would still live in a reception centre (AZC) until they have been provided permanent accommodation within a municipality.¹³⁵⁸ Currently, Takecarebnb also matches TP beneficiaries from Ukraine with Dutch families. TP-beneficiaries were never hosted in an AZC. Municipalities are responsible for the reception of TP-beneficiaries instead of COA. Only after reception was provided by the competent municipality, Takecarebnb can proceed to the "matching".

Reception in private accommodation – in host families - is not directly organized by the government, but primarily organized by Takecarebnb. Regarding the accommodation of TP beneficiaries with host families Takecarebnb collaborates with DCR, Red Cross and Salvation Army. The collaboration between these organizations is called Refugeehome. Nevertheless, municipalities are (also) responsible for sheltering TP-beneficiaries in host families.

¹³⁵⁴ Draft proposal Temporary Act on the Reception of Displaced Persons from Ukraine (Internet consultation), only available in Dutch at: <https://bit.ly/3WljHSZ>.

¹³⁵⁵ Dutch government, Guide 'Handreiking Particuliere Opvang Oekraïners (POO)', available in Dutch at: <https://bit.ly/3iOD2yu>.

¹³⁵⁶ Dutch government, Guide 'Handreiking Gemeentelijke Opvang Oekraïners (GOO)', available in Dutch at: <https://bit.ly/3QQE5dP>.

¹³⁵⁷ Dutch government, information (factsheet) only available in Dutch at: <https://bit.ly/3XPzZEK>.

¹³⁵⁸ Takecarebnb, information available in English at: <https://bit.ly/3Xs7OMt>.

The Dutch government, in collaboration with Refugeehome and the Association of Dutch Municipalities, issued a guide regarding accommodating TP-beneficiaries with host families. In this guide, host families can find information on how to offer shelter, to detect signs of abuse or exploitation and which services are available for TP beneficiaries from Ukraine, such as health care and education.¹³⁵⁹

In the Dutch context, there are organizations that provide support to displaced persons from Ukraine when they become victims of (sexual) exploitation, abuse, or other forms of violence. If the TP-beneficiary is living with a host family, the host family can report the risk to a support worker from the Dutch Salvation Army ('*Leger des Heils*'). This person is trained to support host family with these kinds of issues.

When there are signs of abuse or other problems, the support worker discusses this with the host household coordinator at the Leger des Heils. The coordinator is in the position to refer the victim to relevant organizations (such as CoMensHa) when there is a situation of exploitation.¹³⁶⁰

Information for host families is provided in the guide *Handreiking Particuliere Opvang Ontheemden uit Oekraïne*.¹³⁶¹

In municipal reception facilities, procedures are also in place to face situations of exploitation, (child) abuse or any other forms of violence. In cases in which there is suspicion of (sexual) exploitation, CoMensHa can be contacted. It is also advised to supervisors of reception facilities to be in contact with local police officer on a regular basis. Information for municipalities is provided in the guide *Handreiking Opvang Ontheemden uit Oekraïne*.¹³⁶²

When workers from DCR identify abuse or other kind of insecure situation affecting a displaced person from Ukraine they can contact *Veilig Thuis*,¹³⁶³ an organization that provides advice to victims of (domestic) violence or to anyone who suspects that there might be a situation of (domestic) violence.

On Refugeehelp.nl information is provided for displaced persons from Ukraine how to reach out for help when there is (a suspicion of) a dangerous, an insecure or a violent situation.¹³⁶⁴ This information is available in Dutch, English, Ukrainian and Russian. However, it is difficult for municipalities and organizations to inform and to reach displaced persons who live in private – non-municipal – accommodation.

E. Employment and education

1. Access to the labour market

A beneficiary of temporary protection is allowed to work in the Netherlands without a work permit¹³⁶⁵ as a paid employee. For self-employment, a work permit is instead needed. The employer has the

¹³⁵⁹ Dutch government, *Handreiking Particuliere Opvang Oekraïners (POO)*, information is only available in Dutch at: <https://bit.ly/3wc05pY>.

¹³⁶⁰ CoMensHa is the National Coordination Centre against Human Trafficking, information available in English at: <https://bit.ly/3QY0XpZ>.

¹³⁶¹ Dutch government, *Handreiking Particuliere Opvang Oekraïners (POO)*, information only available in Dutch at: <https://bit.ly/3wc05pY>.

¹³⁶² Dutch government, Guide 'Handreiking Gemeentelijke Opvang Oekraïners (GOO)', pages 24-26, only available in Dutch at: <https://bit.ly/3QQE5dP>.

¹³⁶³ Veilig thuis, information is available in English at: <https://bit.ly/3GXl3hk>.

¹³⁶⁴ Refugeehelp.nl, information available in English at: <https://www.refugeehelp.nl/en/get-help/safety/general>.

¹³⁶⁵ If an employer wants to employ a person from outside of the European Economic Area, a work permit is required. Amongst other things, a work permit entails the assessment whether an EU citizen could do the same work as the person who is aspiring for the work permit.

obligation to report to the UWV. The UWV is the Dutch provider of employee insurance schemes. The UWV provides employee benefits and helps job seekers find work. In order to work, the beneficiary needs a citizen's service number (BSN). Furthermore, a TP-beneficiary needs proof of nationality (passport or id card) and a proof of residency in the Netherlands. A non-Ukrainian also needs ID-card/passport and a Ukrainian residence permit or recognition as a refugee valid on 23 February, 2022 and a proof of residency. The proof of residency is necessary because the employer can see that the person concerned has temporary protection in the Netherlands which means that he does not apply for a work permit with the IND.

Adult beneficiaries who work and who earn their own income are not entitled to living allowance. From 1 February 2023 onwards, also the living allowance of their family members could be reduced or withdrawn when one family member has paid employment. The decision regarding the reduction is left to the discretion of each municipality.

Measures have been taken to facilitate access to the labour market for TP beneficiaries; for example, they do not need a work permit to be employed. Instead, they only have to be registered in the BRP, having obtained a BSN number and a proof of residency.

The UWV and municipalities can also assist displaced persons from Ukraine in finding a job. To make this possible, the SUWI Decree had to be amended.¹³⁶⁶

Furthermore, there are several initiatives - such as RefugeeWork - that support beneficiaries of international protection in their job search, that can also be accessed by TP- beneficiaries, that can also obtain information about work and internship opportunities on [Refugeehelp.nl](https://www.refugeehelp.nl).¹³⁶⁷ TP-beneficiaries from Ukraine who work have the same rights as national employees.

Latest available data on the number of TP-beneficiaries who had access to the labour market refers to 1 July 2022 and was published on 30 November 2022: 35% of the BRP registered displaced persons from Ukraine.¹³⁶⁸

2. Access to education

According to the Compulsory Education Act, all children in the Netherlands from the 5 to 16 years of age should have access to school and education is compulsory. This means that all children between the ages of 5 and 16 from Ukraine are subject to compulsory education and must attend school. Municipalities are responsible for education programmes and paths. Due to a lack of (specialized) staff in primary schools, it is sometimes difficult to register a child at a school.

If a municipality registers too many new inscription requests from children from Ukraine, or in case the children have special educational needs, school boards may decide to establish a temporary educational facility. In doing so, schools may deviate from laws and regulations to provide an appropriate educational offer to displaced children. This should be reported to the Dutch authorities.¹³⁶⁹

From the age of 16, children have the obligation to obtain a certificate in order to acquire access (a start qualification) to the Dutch labour market. Therefore, they need to obtain a diploma in secondary or vocational education. The conditions for displaced children of this age are the same as those for Dutch nationals or beneficiaries who hold a residence permit.

¹³⁶⁶ Amendment of the SUWI Decree, Staatsblad 2022, 256, only available in Dutch at: <https://bit.ly/3QVpuO4>.

¹³⁶⁷ [Refugeehelp.nl: https://www.refugeehelp.nl/nl/get-help/work-income/workplaces-internships](https://www.refugeehelp.nl/nl/get-help/work-income/workplaces-internships).

¹³⁶⁸ Dutch Parliament, TK 2022-2023, KST 19637, number 3004 ç, only available in Dutch at: <https://bit.ly/3iXFMtl>.

¹³⁶⁹ Regulation on temporary educational facilities in case of mass influx of displaced persons, available in Dutch at: <https://bit.ly/3XFW9tn>.

Displaced persons from Ukraine with prior foreign education must have their previous diploma validated in order to study at a college or university. The valuation can be carried out by the Dutch organisation for internationalisation in education (Nuffic)¹³⁷⁰ or by the college or university where the refugee wants to study. After the diploma is valued, the college or university decides whether the student meets the requirements. These are requirements specific to a study and/or language requirement necessary for a study. To be admitted, the student may have to take entrance exams or a language test.¹³⁷¹

The amount of institutional tuition fees is determined by the college or university. The minimum tuition fee for the 2022-2023 academic year is 2,209 €. Most colleges and universities apply the minimum fee to TP beneficiaries from Ukraine.

In general, TP-beneficiaries are entitled to education under the same conditions as nationals. The only difference is that beneficiaries who are adults between the age of 18 and 30 years are not entitled to student grants, because TP-beneficiaries are not holders of a residence permit. Only Dutch nationals and migrants who hold a residence permit are entitled to student grants up to the age of 30.

On 27 March 2023, 11,100 child beneficiaries of temporary protection had been registered in primary schools and 7,300 in secondary education; however, these numbers do not match with the BRP-registrations in municipalities. According to numbers of the BRP-registration, 13,200 child beneficiaries of TP should be registered in primary schools and 7,700 should be registered in secondary education.¹³⁷²

Due to a lack of (specialised) staff in primary schools, it is sometimes difficult to register a child.

Schools facing many registrations from children who fled the war in Ukraine can turn to LOWAN, an organization supporting schools in providing education for migrant children who have just arrived in the Netherlands in primary and secondary education.¹³⁷³ Schools and special new arrivals facilities provide a specific curriculum (lessons) for child beneficiaries from Ukraine. Dutch language lessons are an integral part of this.¹³⁷⁴

F. Social welfare

Displaced people from Ukraine receive a monthly allowance for food and other minor expenses. See section on Residence permit.

Beneficiaries of temporary protection in the Netherlands have access to the labour market. Should a beneficiary of temporary protection lose their job and become unemployed, they are entitled to employee insurances. There are four types of employee insurance schemes:

- Unemployment Act
- Occupational Disability Insurance Act
- Work and Income according to Labour Capacity Act
- Sickness Benefits Act

¹³⁷⁰ Nuffic is the Dutch organisation for internationalisation in education, information available in English at: <https://bit.ly/3XxO6P2>.

¹³⁷¹ Nuffic, Dutch organisation for internationalisation in education, information available in the English language at: <https://bit.ly/3XxO6P2>.

¹³⁷² Ministry of Education (Education Executive Agency, DUO), information available in Dutch at: <https://bit.ly/3nHKH3v>.

¹³⁷³ Dutch government, information only available in the Dutch language at: <https://bit.ly/3ZLUDaG>.

¹³⁷⁴ Dutch government, information only available in the Dutch language at: <https://bit.ly/3HdeQyZ>.

In order to benefit from an employee insurance scheme, the beneficiary of temporary protection needs to comply with the specific requirements laid down in the different employee insurance schemes.

Beneficiaries of temporary protection who are paid for their work and thus earn their own income in the Netherlands are entitled to child benefits and child budget for children under the age of 18 years. This is a contribution towards the costs of children up to the age of 18. The amount of child budget depends on the income of the beneficiary, on how many children (s)he has and the age of the children.

Beneficiaries of temporary protection who do paid work may be entitled to childcare allowance ('*Kinderopvangtoeslag*'), but as in many cases their (un)married partner is still in Ukraine they often are not eligible for this. The Childcare Act stipulates that people whose (un)married partner is outside the EU do not qualify for childcare allowance. This is a problem for Ukrainians whose (un)married partners cannot leave Ukraine because of the war. Because of this, it has been proposed to change the Childcare Allowance Act to make it possible for beneficiaries of temporary protection from Ukraine in the Netherlands and whose (un)married partner is still in Ukraine to benefit from childcare allowance.¹³⁷⁵ This proposal has been sent to Parliament.

Beneficiaries of temporary protection may also be eligible for other benefits such as rent allowance and health care allowance. See section on Health care.

As far as known, social welfare is provided to beneficiaries of temporary protection under the same conditions and on the same level as to nationals or legally residing Third country nationals. One exception applies: beneficiaries of temporary protection whose (un)married partner is still in Ukraine are formally not eligible for childcare allowance. To make this possible, the Childcare Allowance Act will be amended.¹³⁷⁶ Nevertheless, other groups such as holders of asylum residence permits deal with the same issue, but the Act will not be amended for the purpose of these groups.

The Tax authority ('*Belastingdienst*') is the organisation responsible for granting rent allowances. Employee insurances are granted by the UWV.¹³⁷⁷ The Tax Authority provides specific information for beneficiaries of temporary protection from Ukraine.¹³⁷⁸

Municipalities and refugee work provide social counselling to Ukrainian refugees.

G. Health care

Health care insurance before 1 July 2022

Prior to 1 July 2022, when a specific Medical Care Regulation for beneficiaries of temporary protection from Ukraine ('*Regeling Medische zorg Ontheemden uit Oekraïne*', '*RMO*') was introduced, the following applied.

TP holders from Ukraine who did not have paid work and who did not earn their own income had access to health care. The health care costs were reimbursed by the healthcare providers through the Central Administration Office (*Centraal Administratie Kantoor*, *CAK*). The *CAK* is the organization that implements financial arrangements in the healthcare sector and informs citizens. The *CAK* does this on

¹³⁷⁵ Dutch Parliament, proposal amendment Childcare Act, TK 2022-2023, 36241, information only available in Dutch at: <https://bit.ly/3QNpla0>.

¹³⁷⁶ Dutch Parliament, proposal amendment Childcare Act, TK 2022-2023, 36241, information only available in the Dutch language at: <https://bit.ly/3QNpla0>.

¹³⁷⁷ UWV, information only available in Dutch at: <https://bit.ly/3kxKwq9>.

¹³⁷⁸ Dutch Tax Authority (*Belastingdienst*), information on rent benefits only available in Dutch at: <https://bit.ly/3ZNa6Ya>.

behalf of the Ministry of Health, Welfare and Sport. The medical care is the same as nationals and beneficiaries of residence permits are entitled to according to the basic health insurance. It covers, for example, care from the general practitioner, hospital, psychiatrist or pharmacy.

TP holders from Ukraine who had paid work and earned their own income had to take out a healthcare insurance (a basic healthcare insurance) themselves. This is similar to Dutch nationals and beneficiaries of a residence permit. Like every national and beneficiaries of a residence permit, TP holders have to pay health insurance fees. In order to compensate the paid fees, TP holders were entitled to health care benefits. With the effect of 1 August 2022, the RMO also applies to TP holders in employment.

Health care insurance from 1 July 2022 onwards

From 1 July 2022, a specific Medical Care Regulation for beneficiaries of temporary protection from Ukraine ('*Regeling Medische zorg Ontheemden uit Oekraïne*', 'RMO') was introduced.¹³⁷⁹ To fall under the RMO scheme, the person displaced from Ukraine has to be registered by a municipality in the *Basisregistratie Personen (BRP)* as a person who is entitled to temporary protection (BRP code 46) and receives a citizen's service number (BSN). When a displaced person from Ukraine fulfils these criteria, regardless whether the person concerned is in employment or not, they fall under the RMO scheme. With the effect of 1 August 2022, the RMO also applies to TP holders in persons in employment.

By the RMO scheme, health care providers will be reimbursed for the costs specifically for this group. The TP-beneficiaries do not have to pay health care insurance fees (premium). The health care covered by the RMO is not limited to emergency care, but general medical care is covered. The RMO covers at least the same medical care as nationals and beneficiaries of residence permits are entitled to according to the basic health care insurance. It covers, for example, care from the general practitioner, hospital, psychiatrist or pharmacy. Certain medical care is even outside the basic health care insurance package. This concerns, for example, the compensation of dental care for acute pain up to 250 euro, contraception, abortion care, glasses and hearing aids, and certain medication.¹³⁸⁰ The RMO is similar to the health care arrangements for asylum seekers in the Netherlands. Nationals and beneficiaries of a residence permit have to pay fees for their health care insurance.

When a person from Ukraine is refused by a municipality to be registered in the BRP as a person who is entitled to temporary protection (BRP code 46) and does not receive a citizen's service number (BSN) the person concerned does not fall under the RMO scheme. The health care costs can be reimbursed by the health care providers via the CAK.¹³⁸¹

All TP holders have effective access to health care as long as the medical treatment falls under the basic health care insurance. As far as known, there are no practical obstacles in accessing it. Problems might arise when TP holders wish to be treated by a health care provider whose costs are not covered by the RMO.

¹³⁷⁹ Dutch Government, information (leaflet) is available in the English language at: <https://bit.ly/3QJApdy>.

¹³⁸⁰ Dutch government, Q&A for municipalities regarding medical care for displaced persons from Ukraine, information only available in the Dutch language at: <https://bit.ly/3Wkm0G0>.

¹³⁸¹ Dutch government, information on healthcare and displaced persons from Ukraine, information is only available in the Dutch language at: <https://bit.ly/3Y23p2X>.

Poland



Temporary Protection Procedure

A. General

The Temporary Protection Directive (TPD) was implemented into the Polish legal system in 2003,¹³⁸² in the Act of 21 July 2003 on the Protection of Foreigners in Poland (hereinafter: Act on Protection).¹³⁸³ While some incoherences between the EU and Polish legal framework on temporary protection were identified back then,¹³⁸⁴ it may be concluded that the respective national law mostly followed the EU law.

When the Council Implementing Decision (EU) 2022/382 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 (hereinafter: Council Implementing Decision) has been adopted, for a short period of time, the temporary protection regime arising from the Act on Protection was applied to persons mentioned in Article 2 of the Council Implementing Decision. 77 Ukrainian nationals received certificates for temporary protection beneficiaries on a basis of Article 110(5) of the Act on Protection. They were invalidated with the introduction of a new temporary protection regime in March 2022.¹³⁸⁵

In response to the war in Ukraine and the activation of the TPD, Polish authorities decided to adopt a new law: the Act of 12 March 2022 on the Assistance to Ukrainian Nationals in relation to the Armed Conflict in this State¹³⁸⁶ (hereinafter: the Special Law). This law has been applied retroactively since 24 February 2022. Together with the Act on Protection, the new law implements TPD in Poland. However, it applies only to some persons displaced from Ukraine.

As a result, since March 2022, there are two temporary protection mechanisms in Poland¹³⁸⁷: a general one, arising from the Act on Protection (as changed in March 2022 and in the following months), and a special one, based on the Special Law. Both apply to persons fleeing the war in Ukraine who are eligible for temporary protection under the Council Implementing Decision and TPD, albeit they are applicable to different groups of beneficiaries (see [Qualification for temporary protection](#)). They also offer different rights to their beneficiaries. The status of a temporary protection beneficiary under the Act on Protection and under the Special Law are not the same, despite being based on the same EU legal acts.

Since the very beginning of the war, thousands of displaced persons have been crossing the Polish-Ukrainian border. In total, in 2022, 9,436,203 third-country nationals entered Poland via this border (in comparison with 4,145,434 in 2021).¹³⁸⁸ Only some of them were registered as temporary protection beneficiaries in Poland. In 2022, there were over 1.5 million special temporary protection

¹³⁸² Rada Ministrów, 'Projekt ustawy o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej. Druk nr 1304', 2003, available in Polish here: <https://bit.ly/3fGJ1Dq>.

¹³⁸³ Ustawa z dnia 13 czerwca 2003 r. o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej, available in Polish here: <https://bit.ly/3FoB4Nn>.

¹³⁸⁴ Noll G. and Gunneflo M., 'Directive 2001/55 Temporary Protection. Synthesis Report', Academic Network for Legal Studies on Immigration and Asylum in Europe. Study for the European Commission, 2007.

¹³⁸⁵ Information from the Office for Foreigners, 17 January 2023. See Article 100b of the Special Law.

¹³⁸⁶ Ustawa z dnia 12 marca 2022 r. o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa, available in Polish here: <https://bit.ly/3FoB4Nn>.

¹³⁸⁷ See Article 2(6-8) of the Special Law, clarifying that the Ukrainian nationals and their spouses covered by this act are considered to be enjoying temporary protection within the meaning of Article 106 of the Act on Protection, but their rights and obligations are specified in the Special Law, hence the Act on Protection is not applicable.

¹³⁸⁸ Border Guard's official statistics for 2022, published here: <https://bit.ly/3fDaMwB>.

beneficiaries.¹³⁸⁹ 1,301 persons enjoyed general temporary protection in 2022 in total, with 1,224 beneficiaries as of 31 December 2022.¹³⁹⁰

This chapter explains temporary protection law and practice in Poland until March 2023. Statistical data concern the year 2022.

B. Qualification for temporary protection

Only persons specifically mentioned in Article 2 of the Council Implementing Decision have been eligible for temporary protection in Poland.

Special temporary protection

Special temporary protection, arising from the Special Law, is available only to Ukrainian nationals, who reached Poland on or after 24 February 2022 due to the war in Ukraine, and some of their non-Ukrainian family members, i.e. their spouses and the closest family of the Ukrainian national who has a 'Poles Card' (*Karta Polaka* - a document confirming that a person concerned belongs to the Polish nation).¹³⁹¹

With regard to family members, the following rules apply:

- ❖ Spouses of Ukrainian nationals are not eligible for special temporary protection if they have Polish or some other EU Member State citizenship.
- ❖ 'Unmarried partners in a stable relationship' (Article 2(4)(a) of the Council Implementing Decision) are not eligible for special temporary protection.
- ❖ The 'closest family' of the Ukrainian national who has a 'Poles Card' has not been defined in law, so it is unclear which family members are being considered to constitute this family.
- ❖ Minor unmarried children of Ukrainian nationals (or his/her spouse) (Article 2(4)(b) of the Council Implementing Decision) are not eligible for special temporary protection unless they are the closest family of the Ukrainian national who has a 'Poles Card' or they are born in Poland of a mother who is a temporary protection beneficiary.
- ❖ Children born in Poland whose mother enjoys temporary protection here are entitled to legal stay as long as the mother has this right. In 2022, this rule applied to approx. 5.360 children born in Poland.¹³⁹²
- ❖ 'Other close relatives who lived together as part of the family unit at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent on' a Ukrainian national (Article 2(4)(c) of the Council Implementing Decision) may be eligible for this special temporary protection only if they are to be considered the 'closest family' of the Ukrainian national who has a 'Poles Card'.

The exclusion of some children and other close relatives of Ukrainian nationals from the personal scope of special temporary protection is incoherent with Article 2(4)(b-c) of the Council Implementing Decision. Arguably, these family members could still be recognised as temporary protection beneficiaries under

¹³⁸⁹ Information provided by the Ministry of Digital Affairs, 1 March 2023.

¹³⁹⁰ Information from the Office for Foreigners, 17 January 2023.

¹³⁹¹ Article 1 and 2 of the Special Law. See also HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 2-3.

¹³⁹² Information provided by the Ministry of Digital Affairs, 1 March 2023.

the Act on Protection.¹³⁹³ However, the official information of the Office for Foreigners does not mention them as persons eligible for general temporary protection.¹³⁹⁴

Initially, the personal scope of special temporary protection has been even further narrowed down by the requirement of a direct entry from Ukraine to Poland. Thus, Ukrainian nationals and their family members who escaped from Ukraine through other than the Polish border and subsequently travelled to Poland were not eligible for special temporary protection at first. The rule was incoherent with the EU law and was quickly repealed.

However, another limitation remains in force, despite its incoherence with the EU law.¹³⁹⁵ Ukrainian national or his/her spouse must enter Poland in a regular manner to qualify for an 18-month legal stay in Poland (and intertwined set of rights).

Moreover, some Ukrainian nationals are excluded from enjoying special temporary protection in Poland, i.e.:¹³⁹⁶

- ❖ holders of a temporary residence permit, permanent residence permit, EU long-term residence permit;¹³⁹⁷
- ❖ international protection beneficiaries;
- ❖ holders of a tolerated stay and humanitarian stay;
- ❖ asylum seekers (albeit a Ukrainian national who seeks asylum in Poland can withdraw his/her asylum application and again be eligible for temporary protection);¹³⁹⁸
- ❖ and, since 28 January 2023, temporary protection beneficiaries in other EU member states.¹³⁹⁹

The latter amendment reflects the earlier practice of Polish authorities which denied access to temporary protection in Poland to persons enjoying temporary protection in another Member State, irrespective of their personal circumstances, even when a person concerned renounced temporary protection in this other state. The practice was based on internal guidance that had no legal force and was contrary to EU law.¹⁴⁰⁰

General temporary protection

General temporary protection mechanism applies to persons mentioned in Article 2 of the Council Implementing Decision, who are not eligible for special temporary protection,¹⁴⁰¹ i.e.:

- ❖ stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022; with their family members, and
- ❖ stateless persons, and nationals of third countries other than Ukraine, who can prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent

¹³⁹³ SIP, *Letter of 30 November 2022 to the European Commission*, available in English at: <https://bit.ly/3TgHaEX>, 2; W. Klaus and M. Górczyńska, 'Administration and Law', in: M. Bukowski and M. Duszczak (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 90.

¹³⁹⁴ Office for Foreigners, 'Ochrona czasowa dla cudzoziemców niebędących obywatelami Ukrainy', 23 March 2023, available in Polish here: <http://bit.ly/3Tf5Yx8>.

¹³⁹⁵ SIP, *Letter of 30 November 2022 to the European Commission*, available in English at: <https://bit.ly/3TgHaEX>, 2.

¹³⁹⁶ Article 2(3) of the Special Law.

¹³⁹⁷ Since 28 January 2023, the Special Law specifies that applying for this permits does not result in the loss of temporary protection (Article 2(5a)).

¹³⁹⁸ Article 2(5) of the Special Law.

¹³⁹⁹ Article 2(3)₃ and Article 11(4) of the Special Law, both in force since 28 January 2023.

¹⁴⁰⁰ HNLAC, 'Refugees from Ukraine: access to temporary protection in Poland after moving from another MS', 12 December 2022, available at: <http://bit.ly/3mTxGTY>.

¹⁴⁰¹ Office for Foreigners, 'Ochrona czasowa dla cudzoziemców niebędących obywatelami Ukrainy', 23 March 2023, available in Polish here: <http://bit.ly/3Tf5Yx8>.

residence permit issued under Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin.

Stateless persons who do not have any document confirming their statelessness may have difficulty accessing temporary protection in Poland.¹⁴⁰²

Persons not enjoying temporary protection

Poland did not extend the personal scope of temporary protection to displaced persons from Ukraine other than the ones mentioned in Article 2 of the Council Implementing Decision. In particular, persons who came to Poland before 24 February 2022 are not covered by any of the temporary protection mechanisms.¹⁴⁰³ However, some special rules as regards their stay in Poland have been introduced in the Special Law.¹⁴⁰⁴

- ❖ Validity of national visas issued to Ukrainian nationals was prolonged by law first to 31 December 2022, and then to 24 August 2023, if they were to expire after 24 February 2022. Such a prolonged visa did not entitle to cross a border unless the person concerned was a professional driver in international transportation.
- ❖ Validity of temporary residence permits issued to Ukrainian nationals was prolonged by law first to 31 December 2022, and then to 24 August 2023, if they were to expire after 24 February 2022.
- ❖ The 30-day period for leaving Poland applicable to Ukrainian nationals was prolonged by law until 24 August 2023, if it was to pass after 24 February 2022. In this prolonged period of legal stay, a person concerned could apply for a temporary, permanent or EU long-term residence permit.
- ❖ The period for a voluntary return determined in a decision concerning a Ukrainian national was prolonged by law until 24 August 2023, if it was to pass after 24 February 2022. In this prolonged period, a person concerned could apply for a temporary, permanent or EU long-term residence permit.
- ❖ The validity of residence permits (*karty pobytu*), Polish identity documents and tolerated stay documents of Ukrainian nationals was prolonged by law until 24 August 2023 if they were to expire after 24 February 2022. Such a prolonged residence permit does not entitle to cross a border.
- ❖ If a Ukrainian national came to Poland before 24 February 2022 on a basis of a Schengen visa, visa-free movement or other documents that entitle to travel in the EU, and the last day of his/her legal stay in Poland on this basis were to pass after 24 February 2022, his/her legal stay in Poland was prolonged by law until 24 August 2023.
- ❖ A 15-day permit to enter Poland given by the Border Guard at the Polish border to a Ukrainian national was prolonged by law by 18 months (for more, see [Admission to territory](#)).

Since August 2022, some Ukrainian nationals, i.e. drivers in international transport and pilots, can also obtain a national visa for work purposes during their stay in Poland. The visa is issued by the Ministry of Foreign Affairs. Since 28 December 2022, a humanitarian visa may be also issued for a Ukrainian national who entered Poland with a visa having the annotation “Polish Business Harbour”.¹⁴⁰⁵

¹⁴⁰² HNLAC, ‘Refugees from Ukraine: stateless persons and persons at risk of being stateless. Most important challenges’, 21 November 2022, available at: <http://bit.ly/3Jgl2pN>.

¹⁴⁰³ See, critically, W. Klaus and M. Górczyńska, ‘Administration and Law’, in: M. Bukowski and M. Duszczyk (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 90.

¹⁴⁰⁴ Articles 42, 44 of the Special Law.

¹⁴⁰⁵ See Article 79a of the Act on Foreigners and §§3-4 of the Ordinance of Minister of Foreign Affairs of 18 August 2022 (Rozporządzenie Ministra Spraw Zagranicznych, z dnia 18 sierpnia 2022 r. w sprawie wydawania wiz krajowych cudzoziemcom przebywającym na terytorium Rzeczypospolitej Polskiej), available in Polish at: <https://bit.ly/42ljvqW>.

While some Ukrainian nationals, not eligible for temporary protection, could benefit from the above-mentioned solutions, third-country nationals who lived in Ukraine before 24 February 2022 and who were not mentioned in Article 2 of the Council Implementing Decision (e.g. students, temporary workers) were not eligible for any form of special protection in Poland. Some third-country nationals were detained upon crossing the Polish border¹⁴⁰⁶ (the scope of detention of non-Ukrainian third-country nationals fleeing Ukraine is unknown: most of the detention centres declared that they do not gather such data or that they did not detain such persons; however, the detention centre in Lesznowola confirmed detaining 26 third-country nationals upon their escape from Ukraine, on average for 95 days).¹⁴⁰⁷ Others were admitted to Poland for a 15-day stay and were left without any state support during that time. In practice, accommodation and other assistance for this group of displaced persons was provided by NGOs. Prolonging their legal stay upon 15 days was very difficult, if not impossible. HFHR noticed, for example, a particularly difficult situation of non-Ukrainian unaccompanied minors who struggled with legalizing their stay in Poland.¹⁴⁰⁸

In 2022, 994 Ukrainian nationals received return decisions (including 137 due to national security and similar reasons), and 207 of them appealed against those decisions. The Border Guard declared that the returns to Ukraine were suspended since 25 February 2022 to the end of the year.¹⁴⁰⁹ Since 28 January 2023, the Special Law specifies that until 24 August 2023, return proceedings may not be initiated against Ukrainian nationals and the initiated proceedings can be discontinued if it is in the interest of a concerned person. This rule is not applicable to return decisions issued for national security and similar reasons (Article 42b). SIP indicated that these safeguards are insufficient: the concerned persons are in legal limbo – impossible to return, but without a legal stay and a right to work.¹⁴¹⁰

Despite the suspension of returns to Ukraine, some Ukrainian nationals were detained in 2022.

Detention of Ukrainian nationals in 2022		
Detention centre	Number of detained Ukrainian nationals in 2022	Period on detention
Przemyśl	4	32, 126, 186 days, one person still detained in March 2023 since 6 October 2022
Krosno Odrzańskie	9 (8 persons arrested before 24.02.22)	20-58 days
Kętrzyn	0	-
Białystok	3	On average 15 days
Lesznowola	5	127 on average in the case of 3 released persons, 2 still detained in March 2023
Biała Podlaska	0	-

Source: Information from different branches of SG from March 2023.

¹⁴⁰⁶ See e.g. Human Rights Commissioner, 'Przedstawiciele BRPO w placówkach SG w województwach podkarpackim i lubelskim', 5 March 2022, available in Polish here: <https://bit.ly/3M6f3qj>; SIP, Lambda Warsaw, Birmingham City University and Global Detention Project, *Third-party submission in the 4th cycle of Universal Periodic Review of Poland*, available in English at: <https://bit.ly/3LPC4MG>, 13.

¹⁴⁰⁷ Information from different branches of SG from March 2023.

¹⁴⁰⁸ HFHR, 'Dzieci z pieczy zastępczej oraz małoletni bez opieki z Ukrainy: ocena ex-post regulacji i praktyki stosowania specustawy ukraińskiej', October 2022, available in Polish here: <https://bit.ly/3HSqeA6>, 79-80.

¹⁴⁰⁹ Information from the Border Guard's Headquarters, 25 January 2023.

¹⁴¹⁰ SIP, *Letter to the Ministry of Internal Affairs and Administration*, 28 October 2022, available in Polish at: <https://bit.ly/3VHuyrT>, 10-11.

All persons displaced from Ukraine could seek asylum in Poland. In practice, 1.778 Ukrainian nationals applied for international protection: 962 were granted subsidiary protection, 3 – were granted refugee status, and 33 – were refused international protection.¹⁴¹¹ The number of other third-country nationals who came to Poland from Ukraine due to the war and sought asylum here is unknown (see [Access to asylum](#)).

C. Access to temporary protection and registration

1. Admission to territory

At the very beginning of the war in Ukraine, Poland swiftly opened its borders to displaced persons. Polish authorities widely informed that every person from Ukraine will be allowed to enter Poland and that they do not need to worry about documents normally required to cross a Polish border or to stay in Poland.¹⁴¹² Ukrainian nationals and other persons fleeing from Ukraine were admitted to Poland sometimes even without any formal check of their identity or registration of their arrival.¹⁴¹³ However, in the first days of the war, displaced persons had to wait several dozens of hours (even up to 70 hours) to enter Poland due to long queues at the Ukrainian side of the border.¹⁴¹⁴

At the beginning of the war, cases of discrimination and racial profiling were reported at the border.¹⁴¹⁵ Some non-Ukrainian nationals, in particular foreign students, were not allowed by Ukrainian authorities to enter Poland; racist incidents were reported as well.¹⁴¹⁶ Moreover, non-Ukrainians were singled out by the Polish Border Guard from the groups of people crossing the border and subjected to a more detailed identity control lasting from a couple of hours to several days. Seeking asylum was possible, but some of those ‘singled-out’ third-country nationals were detained upon failed identity verification.¹⁴¹⁷

¹⁴¹¹ SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English at: <https://bit.ly/3B8qWFW>, 12.

¹⁴¹² See e.g. Ministry of Internal Affairs and Administration, ‘Minister Kamiński: Wszystkim naszym ukraińskim braciom okażemy solidarność i wsparcie’, 24 February 2022, available in Polish here: <https://bit.ly/3MiER2F>; Office for Foreigners, ‘Informacja w sprawie pobytu w Polsce osób uciekających z Ukrainy’, 27 February 2022, available in Polish here: <https://bit.ly/3ppPsQ0>. See also Jaroszewicz M., Krępa M., ‘Stabilisation of Emergency Measures: Poland’s Refugee Reception System One Month After the Russian Attack on Ukraine’, in M. Ineli-Ciger, S. Carrera (eds), *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, EUI 2023, available at: <https://bit.ly/3U4ii3X>, 166.

¹⁴¹³ For this reason, the Special Law, in Article 3, provides for the possibility of the post-factum registration of entry to Poland. For more, see Registration under temporary protection. See also, as regards children travelling without parents to join their family members in Poland and beyond, who entered Poland without required documents and any registration, HFHR, ‘Dzieci z pieczy zastępczej oraz małoletni bez opieki z Ukrainy: ocena ex-post regulacji i praktyki stosowania specustawy ukraińskiej’, October 2022, available in Polish here: <https://bit.ly/3HSqeA6>, 12.

¹⁴¹⁴ HFHR, ‘Sytuacja na granicy polsko-ukraińskiej. Raport z monitoringu. 26.02-2.03.2022’, available in Polish here: <https://bit.ly/3LHuvci>, 2-3.

¹⁴¹⁵ Jaroszewicz M., Krępa M., ‘Stabilisation of Emergency Measures: Poland’s Refugee Reception System One Month After the Russian Attack on Ukraine’, in M. Ineli-Ciger, S. Carrera (eds), *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, EUI 2023, available at: <https://bit.ly/3U4ii3X>, 167-168.

¹⁴¹⁶ Human Rights Commissioner, ‘Granica UA-RP: odmienne traktowanie studentów z innych państw. RPO interweniuje w MSWiA. Resort wyjaśnia’, 1 March 2022, available in Polish here: <https://bit.ly/3ACsJT8>. See also ECRE, ‘Seeking Refuge in Poland: A Fact-Finding Report on Access to Asylum and Reception Conditions for Asylum Seekers’, April 2023, available here: <https://bit.ly/41hGgdJ>, 20.

¹⁴¹⁷ Human Rights Commissioner, ‘Przedstawiciele BRPO w placówkach SG w województwach podkarpackim i lubelskim’, 5 March 2022, available in Polish here: <https://bit.ly/3Nu9Jy9>; HNLAC, ‘Poland: Information for stateless people and those at risk of statelessness fleeing Ukraine’, ENS, 6 April 2022, available at: <https://bit.ly/3M9z9zZ>, 1, 4.

Already in the first month of the outbreak of the war, over 104,000 non-Ukrainians crossed the Polish-Ukrainian border.¹⁴¹⁸

Persons who had no entitlement to cross the Polish border (e.g. they were not entitled to the visa-free movement in the EU), were issued by the Border Guard with a special permit for up to 15-day-long stay in Poland.¹⁴¹⁹ Those permits, however, were only prolonged by law by 18 months with regard to Ukrainian nationals and some of their family members.¹⁴²⁰ Other third-country nationals most often had to leave Poland before the expiration of the validity of this short-term permit. However, organizing travel in such a short time (e.g. obtaining a visa to another state, as the 15-day permit allowed only to enter and stay in Poland) proved difficult in practice.¹⁴²¹ In 2022, the Border Guard issued 1,321,240 special permits for up to 15-day-long stay in Poland at the Polish-Ukrainian border: 1,239,814 for Ukrainian nationals and 81,426 for other third-country nationals.¹⁴²²

While the admission of displaced persons to Poland at the very beginning of the war in Ukraine has not raised major concerns, soon the Polish Border Guard started to issue decisions on a refusal of entry at the Polish-Ukrainian border.¹⁴²³ In the period of March-December 2022, the Border Guard issued in total 14,063 decisions on a refusal of entry at this border. This number includes decisions issued as regards 11,745 Ukrainian nationals. In the same period, 12,894 Ukrainian nationals were denied entry to Poland if one considers all Polish external borders. According to the Border Guard, those decisions on a refusal of entry were, first of all, reasoned by exceeding the 90-day period for visa-free movement in the EU, and, secondly, the lack of documents entitling to entry, e.g. a visa or a residence permit. Several persons have been denied entry for national security reasons.¹⁴²⁴

2022	Number of decisions on a refusal of entry issued at the Polish-Ukrainian border
March	54
April	331
May	1,052
June	1,734
July	2,805
August	1,494

¹⁴¹⁸ Klaus W. (ed), *Ustawa o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa. Komentarz*, Wolters Kluwer 2022, 26.

¹⁴¹⁹ Human Rights Commissioner, 'Kolejne wizyty przedstawicieli BRPO przy granicy polsko-ukraińskiej', 12 March 2022, available in Polish here: <https://bit.ly/3HqKsRk>. See Article 32 of the Act on Foreigners, based on Article 6(5)(c) of the Schengen Border Code.

¹⁴²⁰ Article 44 of the Special Law.

¹⁴²¹ W. Klaus and M. Górczyńska, 'Administration and Law', in: M. Bukowski and M. Duszczek (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 90. See also Jaroszewicz M., Krępa M., 'Stabilisation of Emergency Measures: Poland's Refugee Reception System One Month After the Russian Attack on Ukraine', in M. Ineli-Ciger, S. Carrera (eds), *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, EUI 2023, available at: <https://bit.ly/3U4ii3X>, 167.

¹⁴²² Information from the Border Guard's Headquarters, 9 February 2023.

¹⁴²³ See also HIAS and R2P, 'The told me they couldn't help me... Protection Risks Facing Non-Ukrainian Asylum Seekers and Refugees Fleeing Ukraine to the EU', January 2023, available at: <https://bit.ly/3HOQYSc>, 5-6, referring to statements of a third-country national refused entry to Poland, and of a NGO by stating that 'since April 2022, the Ukraine-Poland border has operated the same as it did before February 2022: that is, there are no simplified procedures and there are strict border controls'.

¹⁴²⁴ Information from the Border Guard's Headquarters, 9 February 2023. These data differ from the data provided by the same authority to SIP in 2022 and earlier in 2023 (see e.g. SIP, 'Disturbing refusals of entry at the Ukrainian border', 6 March 2023, available at: <https://bit.ly/3K0NoEI>; PRAB, 'Beaten, punished and pushed back', January 2023, available at: <https://bit.ly/432pqIm>, 12).

September	1,905
October	1,742
November	1,651
December	1,295

Source: Information from the Border Guard's Headquarters, 9 February 2023.

In the period of March-December 2022, only 32 appeals against a decision on a refusal of entry were submitted by Ukrainian nationals; 29 third-country nationals appealed against this decision issued at the Polish-Ukrainian border.¹⁴²⁵ An appeal against a decision on a refusal of entry is not an effective remedy – it lacks a suspensive effect – and is in general used rarely. Overall, as regards all decisions on a refusal of entry issued in 2022 in Poland (28.170), 80 appeals were submitted to the first-instance administrative appeal authority, and one onward appeal to a court. Only one appeal was considered justified by Polish authorities throughout the year.¹⁴²⁶

According to the NGOs, persons seeking protection in Poland due to the war in Ukraine, including recognised temporary protection beneficiaries, were amongst those who had been denied entry at the Polish-Ukrainian border. Recognised temporary protection beneficiaries in Poland struggled with re-entry to Poland upon their temporary return to Ukraine. Those difficulties resulted from the unfavourable practice of the Border Guard and the incorrect implementation of the TPD in Poland¹⁴²⁷ (see Movement and mobility).

In this context, it is worth noting that the Act on Protection provides for the possibility to issue – free-of-charge – a visa to a person enjoying temporary protection under the general mechanism.¹⁴²⁸ No similar possibility has been guaranteed in the Special Law. However, the Act on Foreigners also mentions a visa issued in order to enjoy temporary protection.¹⁴²⁹ In 2022, only one visa was requested and granted – to a Belarusian national – in connection with temporary protection.¹⁴³⁰ Nevertheless, in 2022, overall, 352 Ukrainian nationals applied for a visa to Poland based on humanitarian reasons.¹⁴³¹ 346 of them received this visa. 804 third-country nationals applied for a humanitarian visa in the Polish consulates located in Ukraine. 798 were granted this visa.¹⁴³²

2. Freedom of movement

No problems concerning moving within Poland by temporary protection beneficiaries were reported.

The journey towards other European countries was hindered by the lack of residence permits issued to Ukrainian nationals and their family members being special temporary protection beneficiaries (see Residence permit). Since July 2022, an electronic document 'Diia.pl' has been issued, but not to all children. Moreover, the 'Diia.pl' entitles to travel only with a valid passport (see Movement and Mobility).

¹⁴²⁵ Information from the Border Guard's Headquarters, 9 February 2023.

¹⁴²⁶ SIP, Rule of Law Institute, 'Communication of the Association for Legal Intervention and the Rule of Law Institute on the execution of the M.K and Others v. Poland judgment', March 2023, available at: <https://bit.ly/3M8Ajvz>, 4-5.

¹⁴²⁷ SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 3-4.

¹⁴²⁸ Article 110(1-2) of the Act on Protection.

¹⁴²⁹ Article 60(1)⁽²²⁾ of the Act on Foreigners.

¹⁴³⁰ Information from the Ministry of Foreign Affairs, 31 January 2023.

¹⁴³¹ Based on Article 60(1)⁽²³⁾ of the Act on Foreigners.

¹⁴³² Information from the Ministry of Foreign Affairs, 31 January 2023.

3. Registration under temporary protection

Special temporary protection

Ukrainian nationals and some members of their family, who are eligible for temporary protection under the Special Law, can register with any of the local authorities (*organ wykonawczy gminy*) to obtain a special personal identification number 'PESEL UKR'.¹⁴³³ Obtaining this number is not mandatory, however, access to some rights is conditioned upon acquiring it. The first 'PESEL UKR' numbers were granted on 16 March 2022.¹⁴³⁴ In 2022, approx. 1,502,620 persons were given 'PESEL UKR' in Poland. As of 31 December 2022, approx. 13,440 local officials were qualified to grant this number.¹⁴³⁵

The application for the 'PESEL UKR' must be submitted in person and in writing. Exceptionally, due to the ill health or disability of an applicant, the application can be submitted in the place of his/her stay. For children, an application is submitted by their parents, caregivers, guardians, temporary guardians, or, if needed, *ex officio*. Applicants are fingerprinted, with some exceptions *inter alia* concerning children under 12 years old. Applications are also available in the Ukrainian language.

The application for the 'PESEL UKR' contains a declaration of the applicant that he/she entered Poland due to the war in Ukraine. Family members declare as well that they are a spouse of a Ukrainian national, or a member of the 'closest family' of a Ukrainian national having a 'Pole's Card', or a child born in Poland of a mother eligible for special temporary protection. Those declarations are made under the penalty of criminal responsibility.

An identity of Ukrainian nationals and their family members is established on a basis of a passport, Pole's Card, or another document with a photo that enables identification. In the case of children, birth certificates can be also accepted. Invalid documents may be also recognised if they enable identification. Due to the lack of identity documents, some beneficiaries, in particular from the Roma minority, struggled with accessing temporary protection.¹⁴³⁶

Initially, the Special Law did not specify whether Ukrainian nationals or their family members who already had a PESEL number in Poland,¹⁴³⁷ could obtain 'PESEL UKR'. Local authorities, not finding the answer in law, approached the matter diversely. In consequence, some Ukrainian nationals and their family members could not register as special temporary protection beneficiaries.¹⁴³⁸ Article 4(1a) of the Special Law, added in April 2022, clarified that a person who has a PESEL number can receive a 'PESEL UKR'.

In 2022, there was no specific time-limit to apply for a 'PESEL UKR'. However, if a person concerned would like to have his/her entry to Poland registered by the Border Guard,¹⁴³⁹ an application for 'PESEL UKR' had to be submitted no later than 90 days upon arrival to Poland.¹⁴⁴⁰ Since 28 January 2023, the

¹⁴³³ Article 4 of the Special Law.

¹⁴³⁴ Ministry of Internal Affairs and Administration, 'Ruszył proces nadawania numeru PESEL uchodźcom wojennym z Ukrainy', 16 march 2022, available in Polish here: <https://bit.ly/3M9dqrG>.

¹⁴³⁵ Information provided by the Ministry of Digital Affairs, 1 March 2023.

¹⁴³⁶ Human Rights Commissioner, 'Systemowo chronić grupy wrażliwe wśród uchodźców z Ukrainy. Odpowiedź pełnomocnika rządu ds. uchodźców z Ukrainy', 8 April and 13 July 2022, available in Polish here: <https://bit.ly/3NRnp6g>.

¹⁴³⁷ A PESEL number is given to all Polish nationals and some foreigners who live or lived in Poland.

¹⁴³⁸ SIP, 'We are working for equal access to rights and benefits for Ukrainian citizens', 14 June 2022, available at: <https://bit.ly/3B9thAm>.

¹⁴³⁹ It was particularly important for persons who entered Poland at the beginning of the war. Back then, not all arrivals were registered at the border. Thus, in Article 3, the Special Law offered a possibility to have the arrival to Poland registered post-factum. In 2022, 1,280,977 applications under Article 3(1) of the Special Law were registered by the Polish Border Guard, 753,853 were accepted and 527.124 were rejected (information from the Border Guard's Headquarters, 9 February 2023).

¹⁴⁴⁰ Article 3(2) of the Special Law.

90-day time limit has been removed from the Special Law, but the 30-day time limit (from arrival to Poland) to apply for a 'PESEL UKR' has been introduced.¹⁴⁴¹ Moreover, a Ukrainian national who entered Poland between 24 February 2022 and 28 January 2023, and who did not apply for a 'PESEL UKR' before the latter date, could apply for it only within 30 days from 28 January 2023.¹⁴⁴²

Human Rights Commissioner reported in 2022 long waiting periods – of even a couple of months – for obtaining a PESEL number by Ukrainian nationals and members of their family. It hampered access to some rights, in particular social welfare.¹⁴⁴³

Ukrainian nationals and their family members could acquire a written confirmation that they obtained a 'PESEL UKR' (albeit this right was also questioned by some authorities). However, they had no access to residence permits at least until July 2022 (see Residence permit).

The Special Law states that local authorities refuse to give 'PESEL UKR' in three situations: when a photo submitted with an application is incorrect; when fingerprints were not taken and no exceptions to fingerprinting apply; and when a person concerned did not disclose having an identity document despite having one. Appealing against this decision to the second instance administrative authority is excluded.¹⁴⁴⁴ It is unclear whether a judicial remedy is available in those circumstances.¹⁴⁴⁵

The Special Law does not provide a clear answer to the question of how local authorities should act if a person concerned is considered not eligible for temporary protection. The lack of clear legal rules again resulted in diverse practices throughout the country. In practice, as NGOs informed, Ukrainian nationals and their family members, who were refused to be issued with a 'PESEL UKR', were often informed about that only orally, no decision had been issued and no remedy was made available.¹⁴⁴⁶

The Ministry of Digital Affairs does not collect data as regards the number of applications for the 'PESEL UKR', only data concerning the given numbers are gathered.¹⁴⁴⁷ Thus, it is unknown how many persons were refused to be issued with this number in practice.

¹⁴⁴¹ Article 4(2) of the Special Law since 28 January 2023. The change has been criticized by NGOs as not justified and only making the beneficiaries' lives harder, see SIP, Letter to the Ministry of Internal Affairs and Administration, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 2-3.

¹⁴⁴² Article 22 of the Act of 13 January 2023 amending the Special Law (Ustawa z dnia 13 stycznia 2023 r. o zmianie ustawy o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa oraz niektórych innych ustaw), available in Polish here: <https://bit.ly/42xC9vc>.

¹⁴⁴³ Human Rights Commissioner, 'Kolejki po PESEL przyczyną nierównego dostępu uchodźców do świadczeń. RPO pisze do minister Małag. Resort odpowiada', 6 and 29 April 2022, available in Polish here: <https://bit.ly/44ECTR3>. See also Jaroszewicz M., Krępa M., 'Stabilisation of Emergency Measures: Poland's Refugee Reception System One Month After the Russian Attack on Ukraine', in M. Ineli-Ciger, S. Carrera (eds), *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, EUI 2023, available at: <https://bit.ly/3U4ii3X>, 169.

¹⁴⁴⁴ Article 4(16-17) of the Special Law.

¹⁴⁴⁵ Klaus W. (ed), *Ustawa o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa. Komentarz*, Wolters Kluwer 2022, 53. Cf. HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 6.

¹⁴⁴⁶ See e.g. HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 6; HFHR, *Input to the EUAA's Asylum Report*, February 2023, available in English here: <https://bit.ly/44EE82F>, 8; SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 3; HNLAC, 'Refugees from Ukraine: access to temporary protection in Poland after moving from another MS', 12 December 2022, available at: <https://bit.ly/44GKvJ8>.

¹⁴⁴⁷ Information provided by the Ministry of Digital Affairs, 1 March 2023.

General temporary protection

The Head of the Office for Foreigners issues a certificate confirming that a person concerned enjoys temporary protection in Poland upon that person's request.¹⁴⁴⁸ There is no deadline to make such a request. There are no other rules provided for in the Act on Protection as regards the registration of persons enjoying temporary protection under a general mechanism. No procedure regarding registration and recognition has been established in the law. In particular, the Act on Protection does not specify what documents a person concerned must present to receive a certificate confirming that he/she enjoys temporary protection in Poland.

In practice, in 2022, persons willing to be recognised as temporary protection beneficiaries under the Act on Protection could personally inform about that the Office for Foreigners – in Warsaw or in Biała Podlaska and sometimes other locations – or send an application by letter or online. According to the Office for Foreigners, to be recognised as temporary protection beneficiaries, they had to submit the following documents:

- ❖ Identity documents;
- ❖ Documents confirming that a person concerned was an international protection beneficiary in Ukraine or had a permanent residence permit there, as well as that they left Ukraine on or after 24 February 2022 (in particular, travel document);
- ❖ A statement that a person concerned is unable to return in safe and durable conditions to their country or region of origin;
- ❖ Other documents, if needed, e.g. school certificates, birth certificates, concerning living in Ukraine, especially documents confirming family relations.¹⁴⁴⁹

As of 31 December 2022, 36 employees were responsible for issuing certificates to general temporary protection beneficiaries.¹⁴⁵⁰

Stateless persons who do not have any document confirming their statelessness may have difficulties accessing temporary protection in Poland.¹⁴⁵¹

The Office for Foreigners does not gather information with regards to the length of the waiting period for the certificate to be issued.¹⁴⁵² It is unknown how long beneficiaries had to wait for the certificate.

The Act on Protection does not provide for any appeal procedure in case of a denial of issuing a certificate (in case of not being recognised as a person enjoying temporary protection). The Office for Foreigners claims that in such a case a decision is issued that can be appealed to the Head of the Office for Foreigners (for a reconsideration) or directly to the administrative courts.¹⁴⁵³ However, the Office for Foreigners does not have data as regards the number of persons who applied for temporary protection under the Act on Protection, nor the information about the number of decisions on the refusal of issuing a certificate for temporary protection beneficiaries, or about the number of appeals that had been submitted and their results. Thus, it is unknown how many persons were denied protection, and whether and to what extent the abovementioned remedy has been used in practice.

¹⁴⁴⁸ Article 110(5) of the Act on Protection.

¹⁴⁴⁹ Information from the Office for Foreigners, 17 January 2023, and published by the Office online: <https://bit.ly/3B9frOs> and <https://bit.ly/3B5eYge>.

¹⁴⁵⁰ Information from the Office for Foreigners, 17 January 2023.

¹⁴⁵¹ HNLAC, 'Refugees from Ukraine: stateless persons and persons at risk of being stateless. Most important challenges', 21 November 2022, available at: <http://bit.ly/3Jgl2pN>.

¹⁴⁵² Information from the Office for Foreigners, 17 January 2023.

¹⁴⁵³ Ibid. See also governmental information published here: <https://bit.ly/3B9frOs>.

4. Legal assistance

Under the Special Law, only temporary guardians and unaccompanied minors enjoying temporary protection in Poland (see Guarantees for vulnerable groups) have an explicit right to access legal assistance. They can benefit from the general legal aid system, in the same way as Polish citizens.¹⁴⁵⁴ Apart from that, no state legal assistance has been guaranteed in the temporary protection law. State legal aid system for asylum seekers and persons deprived of international protection is not available to persons displaced from Ukraine (unless they apply for international protection).

In practice, in 2022, legal aid has been provided *pro bono* to Ukrainian nationals and other persons fleeing the war in Ukraine by NGOs, law associations and individual lawyers.¹⁴⁵⁵ To name some initiatives of Polish civil society organizations, SIP created a special portal where questions about the law applicable to temporary protection beneficiaries and other persons fleeing the war in Ukraine, could have been asked. The answers were published online.¹⁴⁵⁶ Another NGO, HNLAC, provided free legal aid for Ukrainian nationals in 13 different locations and operated a dedicated helpline.¹⁴⁵⁷

The provision of legal assistance to temporary protection beneficiaries and other persons fleeing the war in Ukraine was hampered by the fact that the Polish law on temporary protection is of low quality, faulty, ambiguous, and overly complicated. Moreover, as of 31 March 2023, the Special Law has been changed 15 times.

5. Information provision and access to NGOs

Under the Special Law, there are no specific rules as regards the information provision for persons enjoying temporary protection.

Under Article 111 of the Act on Protection, a temporary protection beneficiary must be informed in the language that he/she understands about the procedure concerning temporary protection, as well as about his/her rights and obligations in this context. Since 15 April 2022, this information may be published online, on the website of the Office for Foreigners. In practice, some information about eligibility, residence permit, social and medical assistance, employment, and education has been published on this website. It is available in four languages: Ukrainian, Russian, English and Polish.¹⁴⁵⁸

Moreover, under Article 118(2) of the Act on Protection, the Head of the Office for Foreigners is obliged to inform a temporary protection beneficiary in a language that he/she understands about all circumstances that may be of significance when a person concerned considers returning to his/her country of origin. However, this provision applies only after a temporary protection ends; thus, it has not been applied in practice yet.

¹⁴⁵⁴ Article 25(3aa) of the Special Law.

¹⁴⁵⁵ E.g. SIP informed that from 24 February 2022 until the end of the year, it assisted over 3.500 persons fleeing the war in Ukraine (SIP Facebook post of 12 February 2023); HNLAC, with supporting attorneys-at-law, provided assistance to over 300 persons until the end of June 2022: 'Dziękujemy prawnikom pro bono za pomoc prawną dla uchodźców z Ukrainy!', <https://bit.ly/3HrkfSJ>. See also legal assistance coordinated by the Krajowa Izba Radców Prawnych: <https://bit.ly/44HmV8Q>, and Naczelna Rada Adwokacka: <https://bit.ly/3LjABxX>. See also HFHR, *Input to the EUAA's Asylum Report*, February 2023, available in English here: <https://bit.ly/3VgXwOZ>, 4.

¹⁴⁵⁶ See <https://bit.ly/3B91hgf>. Over 600 answers were published at this website in 3 languages; it is daily used by over 2.000 persons (SIP Facebook post of 12 February 2023).

¹⁴⁵⁷ HNLAC, 'Refugees from Ukraine: stateless persons and persons at risk of being stateless. Most important challenges', 21 November 2022, available at: <http://bit.ly/3Jgl2pN>.

¹⁴⁵⁸ See Office for Foreigners' website: <https://bit.ly/41dRZu0>.

In practice, in 2022, information for Ukrainian nationals and other persons fleeing the war in Ukraine has been mostly provided by NGOs and local authorities.¹⁴⁵⁹ Access to information was particularly difficult in the first days of the war.¹⁴⁶⁰ To provide quick access to important information, SIP created a special portal – in Ukrainian, English and Polish – where questions about the law applicable to temporary protection beneficiaries and other persons fleeing the war in Ukraine, were asked and answered. IOM also activated a special website - in Polish and Ukrainian language – concerning legal employment in Poland.¹⁴⁶¹ NGOs also published leaflets and brochures with the information needed by persons fleeing the war in Ukraine, concerning e.g.:

1. unaccompanied minors from Ukraine;¹⁴⁶²
2. financial allowances for Ukrainian nationals who came to Poland on or after 24 February 2022;¹⁴⁶³ and
3. financial allowances for persons with disabilities, including those having 'PESEL UKR'.¹⁴⁶⁴

Despite those efforts, there is still a lot of chaos and disinformation with regard to the legal situation of persons displaced from Ukraine staying in Poland.¹⁴⁶⁵

D. Guarantees for vulnerable groups

Under the Special Law and the Act on Protection, there is no identification mechanism provided for to systematically identify temporary protection beneficiaries with special reception or procedural needs arising from their vulnerability.

In April 2022, the Polish Human Rights Commissioner called for providing adequate protection to vulnerable persons displaced from Ukraine, in particular women and girls at risk of human trafficking, elderly, disabled persons and Roma community. In July 2022, the Polish government answered that the protection of vulnerable persons from Ukraine is sufficient.¹⁴⁶⁶

Special temporary protection

Unaccompanied minors

Until 13 January 2023, in total 633.660 minors were given a 'PESEL UKR'. Most of them were accompanied by a parent, however, according to the Ministry of Digital Affairs, at least 3.690 were unaccompanied.

¹⁴⁵⁹ For example, see S. Jarosz and W. Klaus (eds), 'Polska szkoła pomagania', Konsorcjum Migracyjne, OBMF and CeBaM 2023, available in Polish here: <https://bit.ly/3pmsAB0>, 29-30.

¹⁴⁶⁰ See e.g. HFHR, *Input to the EUAA's Asylum Report*, February 2023, available in English here: <https://bit.ly/3VgXwOZ>, 3-4.

¹⁴⁶¹ See <https://bit.ly/3B91hgf> and <https://bit.ly/3pcF12b>.

¹⁴⁶² SIP, 'Udostępniamy broszurę Dziecko bez opieki w Polsce i Ukrainie', 28 April 2022, available in Polish and Ukrainian here: <https://bit.ly/3Vjxpaf>.

¹⁴⁶³ SIP, UNHCR, 'Świadczenia dla obywateli i obywaterek Ukrainy – broszura', January 2023, available in Polish and Ukrainian here: <https://bit.ly/3LLYf6C>.

¹⁴⁶⁴ HNLAC, 'Świadczenia dla cudzoziemców z niepełnosprawnością, w tym dla osób z PESEL UKR', available in Polish and Ukrainian: <https://bit.ly/41mgx41>.

¹⁴⁶⁵ HFHR, *Input to the EUAA's Asylum Report*, February 2023, available in English here: <https://bit.ly/44EE82F>, 4.

¹⁴⁶⁶ Human Rights Commissioner, 'Systemowo chronić grupy wrażliwe wśród uchodźców z Ukrainy. Odpowiedź pełnomocnika rządu ds. uchodźców z Ukrainy', 8 April and 13 July 2022, available in Polish here: <https://bit.ly/3NRnp6g>.

Legal guardian	Number of children with a 'PESEL UKR' in 2022
Mother	Approx. 559,290
Father	Approx. 21,720
Temporary guardian	Approx. 3,340
Guardian	Approx. 350
Other factual guardians or lack of data	Approx. 48,960

Source: Data provided by the the Ministry of Digital Affairs, 1 March 2023.

In response to an influx of unaccompanied minor Ukrainian nationals, a special registry was established.¹⁴⁶⁷ In 2022, 485 unaccompanied Ukrainian children, and 2.750 minors who benefited from foster care in Ukraine, were registered in this registry. As of 31 December 2022, 436 unaccompanied Ukrainian children, and 2.367 minors who benefited from foster care in Ukraine, were registered.¹⁴⁶⁸ According to the NGOs, not all unaccompanied minors are inscribed in this registry due to the gaps in law and in practice.¹⁴⁶⁹

For Ukrainian unaccompanied minors, a special, new solution was introduced: a temporary guardian. Under Article 25 of the Special Law, a temporary guardian represents a Ukrainian unaccompanied minor and has custody over his/her person and property. Important decisions concerning an unaccompanied minor and his/her property require the court's consent. Temporary guardians should be supervised by local authorities, but they struggle with fulfilling this obligation in practice.

A temporary guardian should be a child's relative or, at least, a person guaranteeing the proper performance of duties. One person can be a temporary guardian for more than one unaccompanied minor. Siblings should have one temporary guardian. If a minor was in foster care in Ukraine and came to Poland with his/her caregiver, this person is appointed as a temporary guardian in Poland. Temporary guardians taking care of more than 15 minors are supported by Polish authorities (i.e. an additional person is hired by local authorities to help those temporary guardians).¹⁴⁷⁰

Temporary guardians are appointed by courts. The child's best interest should be taken into account. Proceedings on temporary guardianship are initiated *ex officio* or on motion and should last up to 3 days. A court hears a candidate for a guardian, and a child concerned, if his/her mental development, state of health and degree of maturity allows for it. A court should take into account the minor's opinion where possible. In particularly justified cases, a court can limit the proceedings to the documents' analysis.

In 2022, 555 temporary guardians were registered and 2.382 Ukrainian unaccompanied minors had a temporary guardian appointed. As of 31 December 2022, 507 temporary guardians were registered and 2.128 Ukrainian unaccompanied minors had a temporary guardian appointed.¹⁴⁷¹

Furthermore, a minor special temporary protection beneficiary can be taken care of by a foster family or be accommodated in a family children's home created or run by another special temporary protection beneficiary even though the latter does not fulfil all legal requirements in this regard (i.e. he/she is lacking a proper training). Moreover, in justified cases, a care and education facility can be opened – only for Ukrainian children – without fulfilling legal requirements in this regard. Special rules have been

¹⁴⁶⁷ Article 25a-25b of the Special Law.

¹⁴⁶⁸ Information from the Ministry of Family and Social Affairs, 16 January 2023.

¹⁴⁶⁹ SIP, *Letter to the Ministry of Internal Affairs and Administration*, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 17.

¹⁴⁷⁰ Article 25(3c) of the Special Law.

¹⁴⁷¹ Information from the Ministry of Family and Social Affairs, 16 January 2023.

also established to enable Ukrainian nationals enjoying special temporary protection to work in the Polish foster care system.¹⁴⁷²

In March 2022, the Border Guard established a special procedure applied when an unaccompanied minor is crossing the Polish-Ukrainian border. Those internal guidelines were sent to the border check points on 21 March 2022.¹⁴⁷³

In June 2022, Ukrainian and Polish Social Policy Ministries signed a political declaration concerning the situation of Ukrainian children in Poland. The Ministries agreed to support a voluntary return of those children to Ukraine, to exchange needed information, to register all Ukrainian unaccompanied children staying in Poland in the special registry, to not initiate, and suspend initiated, adoption procedures concerning Ukrainian children, and to provide free legal assistance and all relevant information to Ukrainian children staying in Poland. Moreover, Poland declared that it intends to provide 'high quality care for children from Ukrainian institutions'.¹⁴⁷⁴

In October 2022, Helsinki Foundation for Human Rights published a report concerning unaccompanied minors from Ukraine staying in Poland.¹⁴⁷⁵ HFHR noticed that many children crossed the Polish border – in particular in the first days of the war – alone or with some caregivers (e.g. neighbours, friends of the family, or strangers) to join their parents or family members in Poland and beyond. Documents, normally required in those circumstances (e.g. a notary-certified agreement of the parent for this travel), were not checked; children were often not registered. Moreover, children from Ukrainian institutions were moved to Poland without or with insufficient control of Polish authorities. The Special Law, with its possibility of appointing a temporary guardian, offered a prompt solution to provide unaccompanied minors with some care and protection. However, those new rules are far from being perfect. First, the courts struggle to decide on temporary guardianship in 3 days. Evidentiary proceedings are insufficient in some cases. Second, there are no rules concerning relieving of duties of a temporary guardian, even in case of violence towards children or children being joined by their parents. Third, temporary guardians are not adequately controlled. HFHR also highlighted a particularly difficult situation of non-Ukrainian unaccompanied minors. They are not entitled to special temporary protection and they often remain in Poland irregularly. Moreover, the Polish foster care standards do not apply to children from Ukrainian foster care institutions. Lastly, the new rules facilitating access to foster care by decreasing the requirements in this regard, raise major concerns, according to the NGO.

In practice, cases of violence used by temporary guardians towards their wards were reported. Moreover, the temporary guardianship system was attempted to be used for potentially criminal purposes. Men were reported pressing on social welfare services to insert their names to the list of candidates for temporary guardians, but only for young girls. Those men argued that they cannot be denied due to the lack of rules concerning the candidates provided for in law.¹⁴⁷⁶

In December 2022, NGOs alarmed Polish authorities about the dangers and needs of unaccompanied minors displaced from Ukraine and staying in Poland.¹⁴⁷⁷ The civil society called for *inter alia*:

¹⁴⁷² Article 27 of the Special Law.

¹⁴⁷³ Human Rights Commissioner, 'Systemowo chronić grupy wrażliwe wśród uchodźców z Ukrainy. Odpowiedź pełnomocnika rządu ds. uchodźców z Ukrainy', 8 April and 13 July 2022, available in Polish here: <https://bit.ly/3NRnp6g>.

¹⁴⁷⁴ Ministry of Family and Social Affairs, 'Polskie i ukraińskie ministerstwa podpisały deklarację w sprawie ochrony dzieci', 30 June 2022, available here in Polish, with the declaration in English: <https://bit.ly/3nQZvx7>.

¹⁴⁷⁵ HFHR, 'Dzieci z pieczy zastępczej oraz małoletni bez opieki z Ukrainy: ocena ex-post regulacji i praktyki stosowania specustawy ukraińskiej', October 2022, available in Polish here: <https://bit.ly/3HSqeA6>.

¹⁴⁷⁶ Klaus W. (ed), *Ustawa o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa. Komentarz*, Wolters Kluwer 2022, 193-194.

¹⁴⁷⁷ SIP, 'Protection of unaccompanied children from Ukraine in Poland – what should be improved', 6 March 2023, available at: <https://bit.ly/3NSA1tX>.

- ❖ Adopting clear rules as regards the appointment, control, time limits and relieve of duties of temporary guardians,
- ❖ More transparent and comprehensive data collection as regards those minors and their temporary guardians,
- ❖ Providing needed assistance to minors from Ukrainian foster care who reached the age of majority,
- ❖ Abolition of double standards between Polish and Ukrainian minors in foster care,
- ❖ Monitoring of the foster care personnel from Ukraine,
- ❖ Unifying the rules concerning temporary protection to all its minor beneficiaries (there are different rules for children from Ukraine and for other minor beneficiaries).

Torture survivors and traumatised beneficiaries

By law, Ukrainian nationals and their family members enjoying special temporary protection can access the general healthcare system in Poland (see Health care). Furthermore, Ukrainian psychologists have been allowed to provide psychological assistance to their compatriots until 24 August 2023.¹⁴⁷⁸ Moreover, a special temporary protection beneficiary *may* be provided with free-of-charge psychological assistance. However, providing this assistance is at the discretion of local authorities.¹⁴⁷⁹ Psychological assistance is only guaranteed by law with regard to temporary guardians and unaccompanied minors under their care who benefited from the Ukrainian foster care system.¹⁴⁸⁰ The general discretion of authorities as regards the provision of psychological assistance and the gross limitation of the personal scope of this assistance, is considered to be against Article 13(4) of the TPD.¹⁴⁸¹

Accommodation

The vulnerability of some temporary protection beneficiaries has been noticed in the rules concerning their accommodation in Poland. First, the Special Law provides for a financial allowance for persons who offered accommodation and food to special temporary protection beneficiaries (see [Housing](#)). This assistance is limited to 120 days, but it may be prolonged if it concerns:

- a. Persons with disabilities,
- b. Elderly;
- c. Pregnant women and mothers of children of up to 1 year old,
- d. Single parents taking care of three or more children,
- e. Unaccompanied minors.¹⁴⁸²

Second, since 1 March 2023, the cost-free accommodation for special temporary protection beneficiaries is limited to 120 days, afterwards, they must co-participate in the costs of accommodation (for more, see [Housing](#)). However, this rule does not apply to:

- a. Persons with disabilities,
- b. Elderly;
- c. Pregnant women and mothers of children of up to 1 year old,
- d. Single parents taking care of three or more children,
- e. Minors,

¹⁴⁷⁸ Article 64a of the Special Law. See also Human Rights Commissioner, *Ukraińcom chorującym psychicznie potrzebna jest pilna pomoc. RPO apeluje do premiera. MRiPS informuje: będzie zmiana specustawy*, 25 March and 8 April 2022, available in Polish here: <https://bit.ly/3BaMCRQ>.

¹⁴⁷⁹ Article 32 of the Special Law.

¹⁴⁸⁰ Article 25(3b) of the Special Law.

¹⁴⁸¹ SIP, *Letter to the Ministry of Internal Affairs and Administration*, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 18-19.

¹⁴⁸² Article 13 of the Special Law and §4 of the Ordinance of 4 May 2022 (Rozporządzenie Rady Ministrów z dnia 4 maja 2022 r. w sprawie maksymalnej wysokości świadczenia pieniężnego przysługującego z tytułu zapewnienia zakwaterowania i wyżywienia obywatelom Ukrainy oraz warunków przyznawania tego świadczenia i przedłużania jego wypłaty, available in Polish here: <https://bit.ly/3HUFrai>.

- f. Persons in a difficult individual situation that prevents them from contributing to the costs.¹⁴⁸³

On the other hand, Roma from Ukraine have been particularly exposed to discrimination when accessing accommodation and other assistance in Poland. In September 2022, Amnesty International informed that it received several reports of Roma from Ukraine being not able to access reception centres financed or managed by Polish authorities. Those who managed to be accommodated in those centres informed about the discrimination they experienced there. Persons working in the centres denied them information and assistance, granted less material support (e.g. clothes) or food, and accused them of stealing while having no proof. Meanwhile, finding a private accommodation proved to be more challenging for this group of third-country nationals, also due to the persisting prejudice towards Roma in the Polish society.¹⁴⁸⁴ Some Roma were forced to depend on accommodation provided by civil society organizations. Salam Lab was running a hostel in Cracow for the Roma community from Ukraine from 1 April to 13 May 2022; it accommodated in total approx. 250 persons during this short period.¹⁴⁸⁵

Persons with disabilities

Under Article 4(2) of the Special Law, persons with disabilities can apply for a 'PESEL UKR' in their place of stay, e.g. an apartment or reception centre. They can be accommodated by Polish authorities without any time limits and the obligation of co-payment. If they live privately, their landlord can receive a financial allowance for more than 120 days (see above). The Special Law also enables financing support for persons with disabilities from some public funds.¹⁴⁸⁶ Governmental programs offering special assistants to persons with disabilities were changed to include Ukrainian nationals with disabilities. Moreover, special reception centres for persons with disabilities were created in two voivodeships: podkarpackie and lubelskie.¹⁴⁸⁷

In May 2022, the Human Rights Commissioner noticed that assistance for persons with disabilities displaced from Ukraine is mostly provided by NGOs. He considered the state's support for those persons insufficient and not adapted to their special needs.¹⁴⁸⁸ In particular, Ukrainian certificates of disability are not recognised in Poland. To access some forms of assistance for persons with disabilities, a decision in this regard, issued by the competent Polish authorities, is required. No special rules have been established to facilitate Ukrainian nationals' recognition of disability in Poland. Meanwhile, they struggle with obtaining the medical documentation required in these proceedings. The Polish government disagreed with the Commissioner's analysis of the situation. It stated that no evidentiary problems were reported and, as of September 2022, 5,830 Ukrainian nationals applied for being recognised as a person with disability, 3,776 received positive decision, 109 appealed from a first-instance decision.¹⁴⁸⁹

¹⁴⁸³ Article 12(17c) of the Special Law.

¹⁴⁸⁴ AI, 'Polska: „Przyjechaliliśmy tu, nie chcieli nas wpuścić”. Romowie z Ukrainy traktowani jak niechciani uchodźcy', 27 September 2022, available in Polish here: <https://bit.ly/3ppA1HT>. See also Human Rights Commissioner, 'Systemowo chronić grupy wrażliwe wśród uchodźców z Ukrainy. Odpowiedź pełnomocnika rządu ds. uchodźców z Ukrainy', 8 April and 13 July 2022, available in Polish here: <https://bit.ly/3NRnp6g>.

¹⁴⁸⁵ Salam Lab, 'Wiosna w Salam Lab. Oto, co udało nam się zdziałać w kwietniu', 30 April 2022, available in Polish here: <https://bit.ly/41lj0Mb>; B. Dybała, J. Tęcza-Ćwierz, 'Ukraińscy Romowie: Uciekliśmy przed tą samą wojną', Gazeta Krakowska, 3 June 2022, available in Polish here: <https://bit.ly/3BaI3Xs>.

¹⁴⁸⁶ Articles 26a, 34-36 of the Special Law.

¹⁴⁸⁷ Human Rights Commissioner, 'Jak wspierać uchodźców z Ukrainy z niepełnosprawnościami. Odpowiedź min. Pawła Szefernakera', 5 May and 27 December 2022, available in Polish here: <https://bit.ly/44Ac5Bs>.

¹⁴⁸⁸ Ibid.

¹⁴⁸⁹ Human Rights Commissioner, 'Problemy uchodźców z Ukrainy z uzyskaniem orzeczeń o niepełnosprawności. Rzecznik interweniuje w MRiPS. Odpowiedź resortu', 29 June and 5 October 2022, available in Polish here: <https://bit.ly/3LPC8fD>. See also HFHR, *Input to the EUAA's Asylum Report*, February 2023, available in English here: <https://bit.ly/44EE82F>, 16.

General temporary protection

Procedural guarantees for vulnerable groups provided for in Article 106-118a of the Act on Protection are scarce and they only concern children. In 2022, 224 minors benefited from general temporary protection in Poland.¹⁴⁹⁰

For an unaccompanied temporary protection beneficiary, a guardian is appointed by a court on the motion of the Head of the Office for Foreigners.¹⁴⁹¹ A relative of a minor can be his/her guardian. Only in justified cases, an unrelated person may be indicated as a guardian in the Head of the Office for Foreigners's motion. A court has 3 days to issue a decision. It should hear a candidate for a guardian and a child concerned, if his/her mental development, state of health and degree of maturity allows for it. A court should take into account the minor's opinion where possible. In particularly justified cases, a court can limit the proceedings to the documents' analysis.

Children staying in the reception centres should have access to food adapted to their age.¹⁴⁹²

General temporary protection beneficiaries have access to the same medical assistance as asylum seekers. For years, it has been criticized. In particular, the specialised treatment for victims of torture or traumatised third-country nationals is not available in practice (see [Reception - Health care](#)).

¹⁴⁹⁰ Information from the Office for Foreigners, 17 January 2023.

¹⁴⁹¹ Article 113 of the Act on Protection.

¹⁴⁹² Article 112(7) of the Act on Protection.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of temporary protection?
Special TP: 18 months
General TP: Duration of TP
2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive as of 31 December 2022? Special TP: 288,850, General TP: 1,244

Special temporary protection

Ukrainian nationals and some of their family members who entered Poland legally on or after 24 February 2022 due to the war in Ukraine, provided that they declare the intention to stay in Poland, are entitled to a legal stay in Poland for 18 months starting with 24 February 2022. A child born in Poland by a mother enjoying special temporary protection in Poland, is legally staying in Poland too. Those rules respectively apply to closest family of a Ukrainian national who has a 'Pole's Card'.¹⁴⁹³

Until July 2022, Ukrainian nationals and some of their family members who were recognised as temporary protection beneficiaries in Poland were not given any residence permit, in violation of Article 8 of the TPD.¹⁴⁹⁴

In July 2022, the electronic document 'Diia.pl' was introduced and notified to the European Commission as a residence permit required under the TPD.¹⁴⁹⁵ However, in 2022, children, in particular those under 13 years old, struggled with accessing the 'Diia.pl'. Persons excluded digitally struggled with this solution too.¹⁴⁹⁶ Only in March 2023, the Special Law was changed so as to enable children some access to 'Diia.pl' (through their parents' mobile application), but as of 20 April 2023 the amendment was not in force yet.¹⁴⁹⁷

'Diia.pl' is accessible only after the temporary protection beneficiary obtains the 'PESEL UKR' (see [Registration under temporary protection](#)). For this purpose, he/she can access the mobile application 'mObywatel'.¹⁴⁹⁸

¹⁴⁹³ Article 2(1-2) of the Special Law.

¹⁴⁹⁴ Commissioner for Human Rights, 'Trudności uchodźców przy ponownym wjeździe do Polski po powrocie do Ukrainy. Odpowiedź MSWiA', 22 August 2022, available at: <https://bit.ly/3Mf065N>; SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 3; HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 3-4.

¹⁴⁹⁵ Ministry of Internal Affairs and Administration, 'Diia.pl – elektroniczny dokument dla uchodźców wojennych z Ukrainy', 22 July 2022, available in Polish here: <https://bit.ly/41eqEld>. See also European Commission. Update of the list of residence permits referred to in Article 2(16) of Regulation (EU) 2016/399 of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code). 2022/C 304/05.

¹⁴⁹⁶ SIP, Letter to the Polish Parliament, 9 December 2022, available in Polish here: <https://bit.ly/3HUXhnc>, 16; Human Rights Commissioner, 'Aplikacja potwierdzająca status uchodźcy z Ukrainy nie dla osób poniżej 13. roku życia. Marcin Wiącek pisze do MSWiA', 24 March 2023, available in Polish here: <https://bit.ly/436wA84>.

¹⁴⁹⁷ Article 10(1a-1d) of the Special Law.

¹⁴⁹⁸ Article 10 of the Special Law.

As of 31 March 2023, 'Diia.pl' is valid for the period for which special temporary protection was granted, so 18 months counted from 24 February 2022. However, if a person concerned loses the 'PESEL UKR', 'Diia.pl' is invalidated as well.¹⁴⁹⁹ In particular, a temporary protection beneficiary loses his/her status upon being absent from Poland for 30 days.¹⁵⁰⁰ Since 28 January 2023, the status is also lost if a person concerned enjoys temporary protection in another EU Member State¹⁵⁰¹ (see [Movement and Mobility](#)).

In 2022, approx. 1,502,620 persons were given 'PESEL UKR' in Poland. In addition, children born in Poland whose mother enjoys temporary protection here are entitled to legal stay as long as the mother has this right. In 2022, this rule applied to approx. 5,360 children born in Poland. However, as of 31 December 2022, only approx. 288,850 temporary protection beneficiaries had access to 'Diia.pl', and another 215,432 persons did not instal 'Diia.pl' despite having this possibility.¹⁵⁰² Thus, approx. only one-third of persons enjoying special temporary protection had a residence permit at the end of the year. Moreover, in 2022, 2,380 beneficiaries lost 'Diia.pl' due to their 'PESEL UKR' being withdrawn.¹⁵⁰³

Only since 28 January 2023, the Special Law clearly states that 'Diia.pl', with a travel document, entitles its holder to travel without a visa.¹⁵⁰⁴ It is the only right directly associated with this residence permit. Some of the rights of the temporary protection beneficiaries are conditioned upon obtaining the 'PESEL UKR', e.g. rights to run a business (Article 23(2) of the Special Law, see [Access to labour market](#)), to continue with accommodation organised by Polish authorities beyond 120 days (Article 12(17a), since 1 March 2023, see [Housing](#)), and to some financial allowances and social aid (Articles 26(2), 29(1), 31(1) of the Special Law, see [Social Welfare](#)). Access to medical assistance is facilitated by obtaining 'PESEL UKR' (Article 37(1a) of the Special Law, see [Health care](#)).

In addition to the legal stay for 18 months (and the electronic document 'Diia.pl'), Articles 38 and 39 of the Special Law, as adopted in March 2022, offered temporary protection beneficiaries an easy access to a temporary residence permit. Upon a 9-month stay in Poland, they could apply for a 3-year residence permit, including a right to work. However, just before the first applications for this permit were about to be submitted, in November 2022, the Polish government announced that this possibility is to be withdrawn. Articles 38 and 39 have been repealed by the amendment of the Special Law of 13 January 2023 (in force since 28 January 2023). All the applications for a three-year residence permit submitted before that date were left without consideration.¹⁵⁰⁵ Instead, the facilitated possibility to apply for a one-year temporary residence permit was introduced on 28 January 2023. It should be issued until 24 August 2023 (Article 42a of the Special Law). Moreover, since 1 April 2023, special temporary protection beneficiaries can apply in a facilitated manner for a temporary residence permit related to their work or business run in Poland. In both cases though, obtaining a temporary residence permit means losing temporary protection in Poland (Article 2(3)(1)(c) of the Special Law).

¹⁴⁹⁹ However, the respective rules in this regard were only introduced by the amendment of the Special Law of 13 January 2023.

¹⁵⁰⁰ Article 11(2) of the Special Law.

¹⁵⁰¹ Article 110(9)(4) and Article 110(10-11) of the Act on Protection, in force since 28 January 2023.

¹⁵⁰² Information provided by the Ministry of Digital Affairs, 1 March 2023.

¹⁵⁰³ Ibid.

¹⁵⁰⁴ Article 10(7) of the Special Law.

¹⁵⁰⁵ Article 25 of the Act of 13 January 2023 amending the Special Law (Ustawa z dnia 13 stycznia 2023 r. o zmianie ustawy o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa oraz niektórych innych ustaw), available in Polish here: <https://bit.ly/42xC9vc>. See also [critical comments concerning this amendment](#), SIP, *Letter to the Ministry of Internal Affairs and Administration*, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 7-10.

General temporary protection

Under Article 110(5-9) of the Act on Protection, temporary protection beneficiaries¹⁵⁰⁶ may receive, upon request, a certificate confirming that they enjoy temporary protection in Poland. It is free of charge and it is valid for a duration of temporary protection (it is prolonged by law if temporary protection is extended in the EU). Thus, in February 2023, the Office for Foreigners informed that temporary protection beneficiaries should not apply for new certificates despite their validity being determined as until 4 March 2023. Their validity was automatically prolonged at least until 4 September 2023.¹⁵⁰⁷

By law, the certificate is invalidated if its holder receives a decision refusing him/her temporary protection due to national security considerations; or moves to another EU Member State under the right to family reunification. However, no certificate was invalidated in 2022.¹⁵⁰⁸ Since 28 January 2023, the certificate is also invalidated if its holder receives a residence permit for temporary protection beneficiaries in another EU Member State.¹⁵⁰⁹

This certificate is the only proof of being recognised as a general temporary protection beneficiary in Poland. It also confirms the beneficiaries' right to stay in Poland. In July 2022, it was notified to the European Commission as a residence permit required under Article 8 of the TPD.¹⁵¹⁰ However, it has been contested whether it can be a residence permit within this meaning.¹⁵¹¹ Moreover, only since 28 January 2023, the Act on Protection clearly states that this certificate, with a travel document, entitles its holder to travel without a visa. Moreover, access to medical assistance, as well as accommodation and food (or financial allowance), is conditioned upon obtaining this certificate.¹⁵¹²

Until 25 January 2023, submitting an application for a certificate to be issued, was not necessary. A person concerned could orally inform the Office for Foreigners that he/she is a temporary protection beneficiary (see Registration for temporary protection).¹⁵¹³ Since 25 January 2023, the application for the issuance of the certificate must be submitted in writing: in person in the Office for Foreigners, sent by letter or submitted online.¹⁵¹⁴ Copies of the required documents should be submitted with the application; the originals are expected to be presented in the Office for Foreigners before the certificate's collection.¹⁵¹⁵

In 2022, in total, 1.301 third-country nationals have been registered as temporary protection beneficiaries under the Act on Protection, thus received a certificate that confirms their status (including 77 Ukrainian nationals whose certificates have been invalidated upon the entry into force of the Special Law¹⁵¹⁶). 224 of registered beneficiaries were minors. As of 31 December 2022, 1.224 third-country

¹⁵⁰⁶ Since 28 January 2023, the Act in Protection, in Article 110(7a), provides for a right to this certificate for a child of a temporary protection beneficiary born in Poland.

¹⁵⁰⁷ Office for Foreigners, 'Przedłużenie obowiązywania ochrony czasowej', 15 February 2023, available in Polish here: <https://bit.ly/3Ba3WpY>.

¹⁵⁰⁸ Information from the Office for Foreigners, 17 January 2023.

¹⁵⁰⁹ Article 110(9)(4) and Article 110(10-11) of the Act on Protection, in force since 28 January 2023.

¹⁵¹⁰ European Commission. *Update of the list of residence permits referred to in Article 2(16) of Regulation (EU) 2016/399 of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)*. 2022/C 304/05.

¹⁵¹¹ HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 4.

¹⁵¹² Article 112(1) and (9) of the Act of Protection.

¹⁵¹³ Office for Foreigners, 'Dodatkowe miejsca wydawania zaświadczeń o ochronie czasowej', 13 May 2022, available in Polish here: <https://bit.ly/3B5eYge>.

¹⁵¹⁴ Office for Foreigners, 'Zmiana zasad wydawania zaświadczeń o ochronie czasowej', 18 January 2023, available in Polish here: <https://bit.ly/42kstEz>.

¹⁵¹⁵ Information from the Office for Foreigners, 17 January 2023, and published by the Office online: <https://bit.ly/3B9frOs>.

¹⁵¹⁶ See Article 100b of the Special Law.

nationals were having a valid certificate confirming that they were enjoying temporary protection (mostly from Russia – 445, and Belarus – 200).¹⁵¹⁷

2. Access to asylum

Special temporary protection

In 2022, in total, 1,778 Ukrainian nationals applied for international protection. 962 Ukrainian nationals were granted subsidiary protection, 3 Ukrainian nationals were granted refugee status, and 33 – were refused international protection.¹⁵¹⁸ The positive decisions seem to be mostly justified by the fact that there is a serious and individual threat to a civilian's life or person by reason of indiscriminate violence due to the armed conflict ongoing in Ukraine.¹⁵¹⁹

Ukrainian nationals and their family members who applied for international protection in Poland, as well as Ukrainian nationals recognised in Poland as refugees and subsidiary protection beneficiaries, cannot enjoy temporary protection at the same time.¹⁵²⁰ However, a Ukrainian national or his/her family member can withdraw his/her asylum application and again be eligible for temporary protection.¹⁵²¹ Thus, special temporary protection and international protection are exclusive.

In 2022, the Polish Border Guard informed about 36 cases of applying for asylum by special temporary protection beneficiaries.¹⁵²² Upon such information, the 'PESEL UKR' is withdrawn.¹⁵²³

When temporary protection ends, its beneficiaries will have the possibility to apply for international protection in Poland.

General temporary protection

The Act on Protection does not preclude seeking international protection by temporary protection beneficiaries under a general mechanism. Article 112(1b) of the Act, indirectly confirms that the conjuncture of asylum proceedings and temporary protection is possible. Under this provision, medical assistance as well as accommodation and food (or financial allowance) for temporary protection beneficiaries is not provided if a person concerned benefits from material reception conditions for asylum seekers. There is no information on the number of general temporary protection beneficiaries who also applied for asylum.

If a general temporary protection beneficiary applies for international protection, general rules concerning asylum proceedings are applicable.

It is unknown how many non-Ukrainian third-country nationals who came to Poland from Ukraine due to the war sought asylum here but did not qualify for temporary protection.

¹⁵¹⁷ Information from the Office for Foreigners, 17 January 2023.

¹⁵¹⁸ SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English here: <https://bit.ly/3B8qWFW>, 20.

¹⁵¹⁹ SIP, 'Subsidiary protection for Ukrainian citizens', 24 August 2022, available at: <https://bit.ly/3LOc5oV>.

¹⁵²⁰ Article 2(3) of the Special Law.

¹⁵²¹ Article 2(5) of the Special Law.

¹⁵²² Information from the Border Guard's Headquarters, 9 February 2023.

¹⁵²³ Article 4(17a)₍₃₎ of the Special Law.

B. Family reunification

Special temporary protection

Contrary to Article 15 of the Temporary Protection Directive, there is no right to family reunification under the Special Law.¹⁵²⁴ Ukrainian nationals cannot apply for family reunification with their family members neither staying in another EU Member State nor in Ukraine. The calls of NGOs for the right to family reunification to be guaranteed in the Polish law for Ukrainian nationals fleeing the war in their country have been ignored.¹⁵²⁵

General temporary protection

The Act on Protection provides for a right to family reunification for temporary protection beneficiaries. Under Article 117(1), if a spouse or a child of this beneficiary stays outside Poland, the Head of the Office for Foreigners takes actions to reunite the family. The Head of the Office for Foreigners may take those actions in regard to other close relatives who directly before coming to Poland lived together as part of the family unit, and who were wholly or mainly dependent on the temporary protection beneficiary (Article 117(2) of the Act on Protection). However, the actions that the Head of the Office is supposed to be taking are not specified in law.

The Head of the Office for Foreigners may also apply to another EU Member State asking for the temporary protection beneficiaries' transfer to that state in order to reunite a family therein. Such a transfer is realised only upon consent of the beneficiary (Articles 117a-117b of the Act on Protection).

The rules as regards family reunification provided for in the Act on Protection are insufficient. In particular, there are no rules concerning: the initiation of the family reunification proceedings, the documents that have to be submitted (e.g. concerning family ties), the form and time limits for the decision that is made by the Head of the Office for Foreigners, and appeal proceedings. The lack of procedural rules in this regard may make the right to family reunification illusory.¹⁵²⁶ This conclusion is indirectly confirmed by the information provided by the Office for Foreigners. In 2022, no applications for family reunification were submitted to the Office for Foreigners and no temporary protection beneficiary was reunited with his/her family.¹⁵²⁷

C. Movement and mobility

Movement within Poland

Temporary protection beneficiaries – both under the Special Law and the Act on Protection – have freedom of movement within Poland. The same minor limitations that apply to asylum seekers (see [Reception, Freedom of movement](#)) also apply to the beneficiaries of temporary protection who are accommodated in the reception centres (only 6 persons in 2022, see Housing).

¹⁵²⁴ SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 6; HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 7.

¹⁵²⁵ See e.g. SIP, *Letter to the Polish Parliament*, 9 December 2022, available in Polish here: <https://bit.ly/3HUXhnc>, 20.

¹⁵²⁶ SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English here: <https://bit.ly/3B8qWFW>, 15.

¹⁵²⁷ Information provided by the Office for Foreigners, 17 January 2023.

Movement to other EU Member States

Special temporary protection

In the first months upon the beginning of the war in Ukraine, travel to other EU Member States was hampered by the fact that Ukrainian nationals and their family members enjoying special temporary protection in Poland had no access to a residence permit (see Residence permit).¹⁵²⁸ Only in July 2022, the electronic document 'Diia.pl' was introduced and notified to the European Commission. However, in 2022, children, in particular those under 13 years old, struggled with accessing the 'Diia.pl'¹⁵²⁹ (see Residence permit). Moreover, only since 28 January 2023, the Special Law clearly states that 'Diia.pl', with a travel document, entitles its holder to multiple travels without a visa.¹⁵³⁰

Since 28 January 2023, a temporary protection beneficiary loses his/her status in Poland, if he/she enjoys temporary protection in another EU Member State. In those circumstances, his/her 'PESEL UKR' is withdrawn.¹⁵³¹ The Special Law amendment dated 13 January 2023 stated also that Ukrainian nationals who were registered as temporary protection beneficiaries in Poland, but were granted temporary protection in another EU Member State as of 28 January 2023, lost their temporary protection in Poland on the same date.¹⁵³²

Moreover, a temporary protection beneficiary loses his/her status ('PESEL UKR') upon the 30-day absence in Poland.¹⁵³³ This rule applies to all absences in Poland, so also to travels to other EU Member States. It has been considered against the EU law (as an unjustified limitation to a right to free movement within the EU).¹⁵³⁴ If a temporary protection beneficiary departs from Poland for a longer period than 30 days via an internal border of the EU, he/she may inform the respective authorities about this departure, including where and when he/she is going. Upon such notification, the 'PESEL UKR' is withdrawn.¹⁵³⁵ Such a withdrawal was reported in 2022 in approx. 4.000 cases.¹⁵³⁶

If a person concerned confirms that his/her absence in Poland was no longer than 30 days, the 'PESEL UKR' may be restored.¹⁵³⁷ If a person concerned loses temporary protection due to the fact that he/she enjoys this protection in another EU Member State or due to the over 30-day absence in Poland, the 'PESEL UKR' may be re-granted, if a person again comes to Poland due to the war in Ukraine (see below, movement to and from Ukraine).

Temporary protection beneficiaries in other Member States who subsequently wanted to benefit from temporary protection in Poland struggled with accessing this protection upon arrival to Poland (see Qualification for temporary protection).

¹⁵²⁸ HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 4.

¹⁵²⁹ SIP, *Letter to the Polish Parliament*, 9 December 2022, available in Polish here: <https://bit.ly/3HUXhnc>, 16; Human Rights Commissioner, 'Aplikacja potwierdzająca status uchodźcy z Ukrainy nie dla osób poniżej 13. roku życia. Marcin Wiącek pisze do MSWiA', 24 March 2023, available in Polish here: <https://bit.ly/436wA84>.

¹⁵³⁰ Article 10(7) of the Special Law.

¹⁵³¹ Article 11(4) in conjunction with Article 4(17a)(4) of the Special Law.

¹⁵³² Article 23 of the Act of 13 January 2023 amending the Special Law (Ustawa z dnia 13 stycznia 2023 r. o zmianie ustawy o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa oraz niektórych innych ustaw), available in Polish here: <https://bit.ly/42xC9vc>.

¹⁵³³ Article 11(2) in conjunction with Article 4(17a)(1) of the Special Law. Before 28 January 2023, it was 'one month'.

¹⁵³⁴ HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 5.

¹⁵³⁵ Article 4(17c-17d) of the Special Law.

¹⁵³⁶ Information provided by the Ministry of Digital Affairs, 1 March 2023.

¹⁵³⁷ Article 4(17b) of the Special Law.

General temporary protection

Only in July 2022, the certificate for temporary protection beneficiaries issued under the Act on Protection was notified to the European Commission (see Residence permit). Beforehand, general temporary protection beneficiaries could have faced issues while travelling to another country.

Since 28 January 2023, a temporary protection beneficiary loses his/her status in Poland, if he/she enjoys temporary protection in another EU Member State. In those circumstances, his/her certificate is invalidated.¹⁵³⁸ Re-granting temporary protection after invalidating the certificate for temporary protection beneficiaries has not been regulated in the Act on Protection. As yet, no information concerning practice in this regard is available.

Movement to and from Ukraine

Special temporary protection

The movement to and from Ukraine was hampered throughout the year. In particular, in the period of March-December 2022, the Border Guard issued 14,063 decisions on a refusal of entry at the Polish-Ukrainian border. This number includes decisions issued as regards 11,745 Ukrainian nationals (see Admission to territory), both first-time entrants and recognised temporary protection beneficiaries. With regard to the latter, those difficulties resulted from the unfavourable practice of the Border Guard and the incorrect implementation of the TPD in Poland.¹⁵³⁹

- ❖ Until July 2022, Ukrainian nationals and their family members who were recognised as special temporary protection beneficiaries were not given any residence permit, in violation of Article 8 of the TPD (see Residence permit). In consequence, if they returned temporarily to Ukraine and then again tried to enter Poland, they might have been requested at the Polish border for a visa or a residence permit and/or their right to visa-free movement in the EU was checked. Thus, some temporary protection beneficiaries who had exhausted their right to a visa-free stay in the EU and had not a valid visa were denied entry to Poland despite their temporary protection status therein. They had no residence permit to show at the border checkpoint that would confirm their status and entitle them to re-enter Poland.¹⁵⁴⁰
- ❖ In July 2022, the electronic document 'Diia.pl' was introduced and notified as a residence permit to the European Commission (see Residence permit). With a valid passport, the 'Diia.pl' entitles to crossing a Polish border.¹⁵⁴¹ However, in 2022, children, in particular those under 13 years old, struggled with accessing the 'Diia.pl'. The Border Guard claimed though that a child having temporary protection in Poland wanting to re-enter Poland with his/her parent who presents a valid 'Diia.pl', will be allowed to enter by issuing him/her a special 15-day permit under Article 32 of the Act on Foreigners (see Admission to territory).
22,834 border crossings to Ukraine and 69,631 border crossings back to Poland on a basis of a document 'Diia.pl' were registered in 2022.¹⁵⁴²

¹⁵³⁸ Article 11(4) in conjunction with Article 4(17a)(4) of the Special Law. Article 110(10-11) of the Act on Protection.

¹⁵³⁹ SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 3-4.

¹⁵⁴⁰ SIP, 'People who fled from Ukraine should be allowed to re-enter Poland – SIP's opinion', 19 July 2022, available at: <https://bit.ly/3MqBzZB>; Commissioner for Human Rights, 'Trudności uchodźców przy ponownym wjeździe do Polski po powrocie do Ukrainy. Odpowiedź MSWiA', 22 August 2022, available at: <https://bit.ly/3Mf065N>.

¹⁵⁴¹ This has been clarified in Article 10(7) of the Special Law, added only in January 2023.

¹⁵⁴² Information from the Border Guard's Headquarters, 9 February 2023.

- ❖ Temporary protection beneficiaries have been denied entry to Poland if they stayed in Ukraine for a period longer than one month/30 days.¹⁵⁴³ Under Polish law, the temporary protection status ('PESEL UKR') is withdrawn then,¹⁵⁴⁴ so the 'Diia.pl' also becomes invalid.¹⁵⁴⁵ If a person concerned confirms that his/her absence in Poland was no longer than 30 days, the 'PESEL UKR' may be restored.¹⁵⁴⁶ However, in practice, Ukrainian nationals face difficulties with proving that they did not leave Poland for over a month.¹⁵⁴⁷ Moreover, if a person concerned loses temporary protection due to the over 30-day absence in Poland, the 'PESEL UKR' may be re-granted, if a person again comes to Poland due to the war in Ukraine. However, the fact of departure from Ukraine must be registered in the special registry run by the Border Guard, which is problematic (see below). Granting again 'PESEL UKR' should be automatic, if a person concerned entered Poland from Ukraine (via EU external border). The 'PESEL UKR' may be also re-granted on motion.¹⁵⁴⁸ In 2022, approx. 18,980 persons were automatically re-granted 'PESEL UKR', while approx. 19,950 persons were given this number back on motion.¹⁵⁴⁹
- ❖ Furthermore, some temporary protection beneficiaries claimed in 2022 that they were denied entry to Poland despite being away for periods shorter than one month. It resulted from an unfavourable practice of the Border Guard that registered all departures from Poland of those beneficiaries, but only some of their returns to Poland.¹⁵⁵⁰ Border Guard required at the border checkpoint a direct and clear declaration that a person concerned was entering Poland due to the war in Ukraine, even if he/she was a temporary protection beneficiary in Poland. Ukrainian nationals were often unaware that such a declaration was expected. If it was lacking, their return to Poland was not inscribed into the special registry. It could result in the loss of temporary protection status because the one-month period abroad is only interrupted by inscribing the return to Poland to this special registry. Persons concerned were sometimes unaware that their return had not been properly registered and they were surprised by the fact that they are no longer temporary protection beneficiaries in Poland, *inter alia*, upon another attempt to re-enter Poland after another short-term travel to Ukraine, or when their social welfare was ceased.¹⁵⁵¹ Moreover, in practice, Border Guard inserts the information about over-month stays abroad (real and presumed) to a special registry with a delay (even of couple of months). Ukrainian nationals and their family members, unaware that they lost their temporary protection status, may in this period still be paid social welfare, which can be requested to be returned afterwards.¹⁵⁵²
- ❖ Poland did not implement Article 21 of the TPD. Under Article 21(2) of the Temporary Protection Directive, the Members States are obliged to give favourable consideration to requests for a return to the Member State upon a voluntary return. However, this provision has not been

¹⁵⁴³ Commissioner for Human Rights, 'Trudności uchodźców przy ponownym wjeździe do Polski po powrocie do Ukrainy. Odpowiedź MSWiA', 22 August 2022, available at: <https://bit.ly/3Mf065N>.

¹⁵⁴⁴ Article 11(2) in conjunction with Article 4(17a)₍₁₎ of the Special Law. As of 28 January 2023, the law states that it is '30 days' instead of 'one month'.

¹⁵⁴⁵ However, it has been clarified only in the amendment of the Special Law of 13 January 2023, in Article 10(8) of the Special Law (as of 26 March 2023, not yet in force).

¹⁵⁴⁶ Article 4(17b) of the Special Law.

¹⁵⁴⁷ Human Rights Commissioner, 'Uchodźcy z Ukrainy są błędnie pozbawiani statusu uprawniającego do opieki medycznej i pomocy. Interwencja RPO', 16 March 2023, available in Polish here: <https://bit.ly/3Kg37jI>.

¹⁵⁴⁸ Article 4(17f-17h) of the Special Law.

¹⁵⁴⁹ Information provided by the Ministry of Digital Affairs, 1 March 2023.

¹⁵⁵⁰ Human Rights Commissioner, 'Uchodźcy z Ukrainy są błędnie pozbawiani statusu uprawniającego do opieki medycznej i pomocy. Interwencja RPO', 16 March 2023, available in Polish here: <https://bit.ly/3Kg37jI>.

¹⁵⁵¹ Ibid., SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English here: <https://bit.ly/3B8qWFW>, 6.

¹⁵⁵² Human Rights Commissioner, 'Uchodźcy z Ukrainy są błędnie pozbawiani statusu uprawniającego do opieki medycznej i pomocy. Interwencja RPO', 16 March 2023, available in Polish here: <https://bit.ly/3Kg37jI>.

implemented into the Special Law and, as shown above, the ‘favourable consideration’ seems to be in general lacking at the Polish borders.¹⁵⁵³

General temporary protection

Only in July 2022, the certificate for temporary protection beneficiaries issued under the Act on Protection was notified to the European Commission (see Residence permit). Beforehand, travels over Europe of those beneficiaries could have been hampered.

In 2022, the Border Guard registered 197 border crossings back to Ukraine by general temporary protection beneficiaries (on a basis of a certificate issued under Article 110(5) of the Act on Protection). 229 border crossings of those beneficiaries were registered in the opposite direction.¹⁵⁵⁴

Under the Act on Protection, there are no rules concerning the withdrawal of temporary protection upon any absence in Poland. As a rule, general temporary protection beneficiaries can travel to Ukraine without (temporal or other) limitations.

D. Housing

Indicators: Housing

- | | |
|---|---------------|
| 1. For how long are temporary protection beneficiaries entitled to stay in reception centres? | Not available |
| 2. Number of beneficiaries staying in reception centres as of 31/12/22 | Not available |
| 3. Number of beneficiaries staying in private accommodation as of 31/12/22 | Not available |

Providing housing to all persons displaced from Ukraine posed the biggest challenge in 2022. In the early days of the war, the first reception centres were created, mostly near the Polish-Ukrainian border and in big cities, to provide a short-term accommodation to Ukrainian nationals and other persons fleeing the war. They were mostly run by local authorities, NGOs and volunteers from all over Poland.¹⁵⁵⁵ Throughout the year, long-term accommodation facilities were also established.

Numerous Polish citizens and residents promptly offered their houses and apartments – also free of charge – to displaced persons from Ukraine.¹⁵⁵⁶ However, rents raised significantly during the year,

¹⁵⁵³ SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 4.

¹⁵⁵⁴ Information from the Border Guard's Headquarters, 9 February 2023.

¹⁵⁵⁵ See also Jaroszewicz M., Krępa M., ‘Stabilisation of Emergency Measures: Poland’s Refugee Reception System One Month After the Russian Attack on Ukraine’, in M. Ineli-Ciger, S. Carrera (eds), *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, EUI 2023, available at: <https://bit.ly/3U4ii3X>, 168-169.

¹⁵⁵⁶ According to the one study, 7% of respondents offered this kind of assistance, see Baszczak, Ł., Kielczewska, A., Kukołowicz, P., Winciewicz, A., Zyzik, R., ‘Pomoc polskiego społeczeństwa dla uchodźców z Ukrainy’, Polski Instytut Ekonomiczny, July 2022, available in Polish here: <https://bit.ly/3B7tNig>, 23. According to the another study, 3% of cities’ residents offered their appartments to Ukrainian nationals, see T. Sobierajski, A. Sobestjańska, A. Sopińska and M. Kuszewska, ‘Sąsiedzka pomoc’, Unia Metropolii Polskich, August 2022, available in Polish here: <https://bit.ly/3HQ3JMk>, 12. See also O. Dziekoński, R. Matczak and R. Trzeciakowski, ‘Housing and Accommodation’, in: M. Bukowski and M. Duszczek (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 46-47, indicating that in April 2022, 47% displaced persons lived free-of-charge with family, friends or strangers, and relatively few rented appartments on their own. See also S. Jarosz and W. Klaus (eds), ‘Polska szkoła pomagania’, Konsorcjum Migracyjne, OBMF and CeBaM 2023, available in Polish here: <https://bit.ly/3pmsAB0>, 48-49.

making it more difficult for displaced persons to find affordable accommodation.¹⁵⁵⁷ A reception in private housing was not organised by Polish authorities, however, some of them created special websites and services facilitating contact between landlords and tenants.¹⁵⁵⁸ While many displaced persons were hosted by Polish society, after a couple of months, the diminishing involvement of those hosts was noticeable.¹⁵⁵⁹

Most of the persons displaced from Ukraine were living privately in Poland. In July 2022, only 357.000 out of 1.2 million special temporary protection beneficiaries lived in the collective places of accommodation.¹⁵⁶⁰ In November 2022, the Polish government informed that, in total, 1.4 million persons received accommodation from Polish families, while 416.000 were living in the reception centres. As of November 2022, 80.000 persons from Ukraine were still staying in those centres.¹⁵⁶¹

In practice, forms and conditions of accommodation provided to beneficiaries of temporary protection by the Polish authorities differed to a great extent within a country.¹⁵⁶² In the first months, places of collective accommodation, i.e. conference halls, sports centres, railway stations, and offices, that were hosting hundreds and thousands of persons at the same time, were criticized by civil society organisations and human rights institutions for low sanitary and security standards, lack of privacy, overcrowding, distant locations and management by different entities.¹⁵⁶³

Special temporary protection

Special temporary protection beneficiaries are not accommodated in the reception centres for asylum seekers. Under Article 12(1) and (4) of the Special Law, regional and other authorities *may* provide special temporary protection beneficiaries with accommodation. Until 1 March 2023, regional authorities (voivodes) were obliged to provide accommodation for at least 2 months starting with entry to Poland of a person concerned.¹⁵⁶⁴ However, in January 2023, Article 12(17) of the Special Law was amended,

¹⁵⁵⁷ Human Rights Commissioner, 'Sytuacja mieszkaniowa uchodźców z Ukrainy - posiedzenie komisji Ekspertów ds. Przeciwdziałania Bezdomności', 25 July 2022, available in Polish here: <https://bit.ly/42Ew6VS>.

¹⁵⁵⁸ See e.g. <https://bit.ly/3NOT3Bz>, Warsaw City Hall, 'Warsaw in the refugee crisis. Report for the first three months', June 2022, available at: <https://bit.ly/3NYEw6t>, 5; A. Dąbrowska, 'Lublin Social Committee to Aid Ukraine. 90 days of assistance. Report', available in English here: <https://bit.ly/3HRtMmc>, 40.

¹⁵⁵⁹ J. Mędrzecka-Stefańska, A. Petroff-Skiba and A. Wieczorek, 'Konsekwencje społeczne i psychologiczne rozwiązań mieszkaniowych dla osób uchodźczych z Ukrainy', Unia Metropolii Polskich, September 2022, available in Polish here: <https://bit.ly/3psl2eP>, 7, 20, S. Jarosz and W. Klaus (eds), 'Polska szkoła pomagania', Konsorcjum Migracyjne, OBMF and CeBaM 2023, available in Polish here: <https://bit.ly/3pmsAB0>, 41.

¹⁵⁶⁰ Baszczak, Ł., Kielczewska, A., Kukołowicz, P., Wincewicz, A., Zyzik, R., 'Pomoc polskiego społeczeństwa dla uchodźców z Ukrainy', Polski Instytut Ekonomiczny, July 2022, available in Polish here: <https://bit.ly/3B7tNig>, 23.

¹⁵⁶¹ Ministry of Internal Affairs and Administration, 'W Brukseli wiceminister Paweł Szefernaker zaprezentował raport podsumowujący działania Polski na rzecz pomocy uchodźcom wojennym z Ukrainy', 10 November 2022, available in Polish here: <https://bit.ly/3B7sTT5>.

¹⁵⁶² As regards Warsaw, see Warsaw City Hall, 'Warsaw in the refugee crisis. Report for the first three months', June 2022, available at: <https://bit.ly/3NYEw6t>; Human Rights Commissioner, 'Zastępcy RPO odwiedzili centra recepcyjne w Warszawie', 14 April 2022, available in Polish here: <https://bit.ly/44lhCpG>, and 'Wizyta przedstawicieli BRPO w centrum recepcyjnym w hali Global EXPO przy ul. Modlińskiej w Warszawie', 6 May 2022, available in Polish here: <https://bit.ly/44LdpkY>. As regards Lublin, see A. Dąbrowska, 'Lublin Social Committee to Aid Ukraine. 90 days of assistance. Report', available in English here: <https://bit.ly/3HRtMmc>. As regards Przemysł, see Human Rights Commissioner, 'Problemy uchodźców wojennych w Przemysłu. RPO ponownie pisze do wojewody. Jest odpowiedź', 23 December 2022, 25 January 2023, available in Polish here: <https://bit.ly/3VJSY43>.

¹⁵⁶³ S. Jarosz and W. Klaus (eds), 'Polska szkoła pomagania', Konsorcjum Migracyjne, OBMF and CeBaM 2023, available in Polish here: <https://bit.ly/3pmsAB0>, 26-27.

¹⁵⁶⁴ The temporal limitation with regard to accommodation was in contradiction with Article 13 of the TPD, see SIP, Letter of 30 November 2022 to the European Commission, available in English here: <https://bit.ly/3TgHaEX>, 5.

and currently, there is no obligation of any Polish authorities to provide accommodation for persons enjoying special temporary protection in Poland. It is a discretionary power of Polish authorities.

Moreover, since 1 March 2023, the cost-free accommodation is limited to 120 days. It is considered to be against Article 13 of the TPD.¹⁵⁶⁵ After this period, a temporary protection beneficiary must cover 50% of the costs of his/her accommodation, no more than PLN 40 per day per person. Since May 2023, if a person concerned lives in the accommodation organised by voivodes or other Polish authorities, he/she must cover 75% of the costs (no more than PLN 60 per day per person). The abovementioned rules do not apply to the most vulnerable temporary protection beneficiaries (see [Guarantees for vulnerable groups](#)).¹⁵⁶⁶ In 2022, benefiting from the accommodation organised by Polish authorities was not dependent on obtaining the PESEL number, but since 1 March 2023, it is required to continue accommodation beyond 120 days.

Many Ukrainian nationals and their family members enjoying special temporary protection in Poland were accommodated privately. Some of them, especially at the beginning of the war, were offered free accommodation by Polish nationals and domestic companies. The Special Law provides for a financial allowance for persons who offered a free-of-charge accommodation *and* food to special temporary protection beneficiaries. This assistance is limited to 120 days; only in particularly justified circumstances, it may be prolonged (see [Guarantees to vulnerable persons](#)). It is paid to a landlord, upon his/her motion.¹⁵⁶⁷ Since 30 April 2022, having a PESEL number by a tenant is required.¹⁵⁶⁸ In 2022, 1,211,110 applications for this financial allowance were registered. The Ministry of Digital Affairs does not have data concerning decisions on those applications,¹⁵⁶⁹ however, some difficulties in obtaining this allowance were reported.¹⁵⁷⁰ According to the UMP's study, only one-third of respondents who hosted persons displaced from Ukraine applied for this assistance.¹⁵⁷¹

General temporary protection

Under the Act on Protection, temporary protection beneficiaries have access to accommodation and food in the reception centres for asylum seekers (for more about those centres, see [Reception](#)), upon their motion and provided that they receive a certificate for temporary protection beneficiaries first.¹⁵⁷² However, if the Head of the Office for Foreigners has no possibility to offer this kind of accommodation, a financial allowance is paid instead. Then, a beneficiary must find accommodation on his/her own. A reception in private housing is not organised by Polish authorities.

In 2022, 1,054 applications for providing accommodation and food or a financial allowance were submitted to the Office for Foreigners. In total, 685 beneficiaries received this assistance (as of 31

¹⁵⁶⁵ SIP, *Letter to the Ministry of Internal Affairs and Administration*, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 3-4. S. Jarosz and W. Klaus (eds), 'Polska szkoła pomagania', Konsorcjum Migracyjne, OBMF and CeBaM 2023, available in Polish here: <https://bit.ly/3pmsAB0>, 27.

¹⁵⁶⁶ Article 12(17a-f) of the Special Law. This catalogue was considered too narrow, see SIP, *Letter to the Ministry of Internal Affairs and Administration*, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 4.

¹⁵⁶⁷ Article 13 of the Special Law.

¹⁵⁶⁸ Human Rights Commissioner stated that this change had deprived some landlords of a possibility to request an allowance for periods before 30 April 2022. Subsequently, the law was changed to enable seeking allowance for those periods. Human Rights Commissioner, 'Udzielali schronienia uchodźcom z Ukrainy - mogą nie dostać świadczenia od państwa. Interwencja Rzecznika', 16 May 2022, available in Polish here: <https://bit.ly/3MamWuN>.

¹⁵⁶⁹ Information provided by the Ministry of Digital Affairs, 1 March 2023.

¹⁵⁷⁰ See e.g. SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English here: <https://bit.ly/3B8qWFW>, 16; Human Rights Commissioner, 'Luki w przepisach specustawy o pomocy Ukraińcom dot. pieniędzy na zakwaterowanie i wyżywienie uchodźców. RPO pisze do MSWiA', 6 April 2022, available in Polish here: <https://bit.ly/3VKr73G>.

¹⁵⁷¹ T. Sobierajski, A. Sobestjańska, A. Sopińska and M. Kuszewska, 'Sąsiedzka pomoc', Unia Metropolii Polskich, August 2022, available in Polish here: <https://bit.ly/3HQ3JMK>, 16.

¹⁵⁷² Article 112 of the Act on Protection.

December 2022, 239 were still benefiting from this assistance). Most of those persons received a financial allowance (561); only 6 persons benefited from accommodation in the reception centres for asylum seekers (one family of four for almost one month in the centre in Dębak, next in Linin; one person for 3 months in Dębak, and one person for 10 days in Biała Podlaska).¹⁵⁷³

A financial allowance for temporary protection beneficiaries is the same as the one provided for asylum seekers. It amounts to PLN 25 (or less) per day, so at maximum PLN 750-775 per month per person. In practice, this allowance is not sufficient to finance all basic needs of a beneficiary, in particular to rent an apartment (for more see [Reception - Forms and levels of material reception conditions](#)). Thus, general temporary protection beneficiaries are not receiving sufficient 'means to obtain housing', against Article 13 of the TPD.¹⁵⁷⁴ However, unlike asylum seekers, temporary protection beneficiaries can work or run a business in Poland (see Access to the labour market); thus, they may have supplementary sources of income.

The assistance is provided for a period of minimum 2 months, but no longer than for the period of the validity of the certificate for temporary protection beneficiaries.¹⁵⁷⁵ This period is determined individually, in the Head of the Office for Foreigners' decision. According to the Office for Foreigners, if this period ends, a person concerned may apply for assistance to be granted again.¹⁵⁷⁶ The assistance is dependent on the financial situation of the beneficiary, however, accommodation is granted irrespective of the income of the person concerned (see Social welfare).¹⁵⁷⁷ Moreover, the assistance is not granted if a person concerned seeks asylum (then, he/she benefits from material reception conditions for asylum seekers).¹⁵⁷⁸

A temporary protection beneficiary accommodated in a reception centre for asylum seekers is entitled to some additional benefits (i.e. a financial allowance for cleaning and personal hygiene products, Polish language lessons, covering transport expenses).¹⁵⁷⁹

E. Employment and education

1. Access to the labour market

Special temporary protection

Since 24 February 2022, in addition to the previous rules concerning third-country nationals' labour in Poland,¹⁵⁸⁰ Ukrainian nationals are entitled to work in Poland, if:

- a. they enjoy special temporary protection in Poland, or
- b. they are staying legally in Poland,

and if an employer informs – online, within 14 days from the start of the work – a labour office about hiring a Ukrainian national. Work must be provided in accordance with the notice: it must be performed in no less time than indicated in the notice and paid no less than the remuneration indicated therein. The working time and remuneration can be proportionally increased.¹⁵⁸¹ Having a PESEL number is not required to work in Poland under those new rules. In 2022, 786,164 notifications have been registered

¹⁵⁷³ Information provided by the Office for Foreigners, 17 January 2023.

¹⁵⁷⁴ SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 5-6.

¹⁵⁷⁵ Article 112(1a) of the Act on Protection. This temporal limitation with regard to accommodation is in contradiction with Article 13 of the TPD, see SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 5.

¹⁵⁷⁶ Information provided by the Office for Foreigners, 17 January 2023.

¹⁵⁷⁷ Article 12(4-4f) of the Act on Protection.

¹⁵⁷⁸ Article 12(1b) of the Act on Protection.

¹⁵⁷⁹ Article 112(6-8) of the Act on Protection.

¹⁵⁸⁰ Before 24 February 2022, Ukrainian nationals already had facilitated access to labour market in Poland.

¹⁵⁸¹ Article 22(1) of the Special Law.

concerning 558.719 third-country nationals.¹⁵⁸² In February 2023, it was announced that over 970.000 Ukrainian nationals benefited from this new law aimed at facilitating access of Ukrainian nationals to the Polish labour market.¹⁵⁸³

Despite this facilitation, in practice, some employers did not notify that they employed Ukrainian nationals. For this reason, for two weeks in July 2022, employers, who had not informed labour offices about hiring Ukrainian nationals, or made some mistakes in this regard, were given another chance to fulfil this obligation.¹⁵⁸⁴

If an employer does not fulfil the informative obligation, a Ukrainian national is not fined (the exception from a general rule),¹⁵⁸⁵ however, his/her work may be considered illegal in those circumstances, which may lead to issuing a return decision.¹⁵⁸⁶ Indeed, in 2022, some Ukrainian nationals were found to have been working illegally in Poland, but it is not publicly known whether they were special temporary protection beneficiaries.¹⁵⁸⁷

Further facilitations were provided for in the Special Law with regard to Ukrainian:

- a. doctors and dentists (Articles 61-63),
- b. nurses and midwives (Article 64),
- c. psychologists (Article 64a),
- d. academic teachers and researchers (Article 46-49),
- e. school teachers' assistants if they know the Polish language (Article 57),
- f. miners (Article 23b),
- g. persons working in public offices (Article 23a),
- h. persons working in the foster care system (upon the consent of specified authorities, Article 27(9-16) of the Special Law).

Some of those facilitations apply to all Ukrainian nationals having particular qualifications, others apply only to special temporary protection beneficiaries or Ukrainian nationals legally staying in Poland.

Since 1 April 2023, special temporary protection beneficiaries can apply in a facilitated manner for a temporary residence permit related to their work. However, obtaining a temporary residence permit means losing temporary protection in Poland (Article 2(3)(1)(c) of the Special Law).

Ukrainian nationals who enjoy special temporary protection in Poland, or stay legally in Poland, can also register as unemployed person in Poland.¹⁵⁸⁸ In 2022, 78,558 Ukrainian nationals were registered as unemployed persons. As of 31 December 2022, 14,709 were registered as unemployed.¹⁵⁸⁹

¹⁵⁸² Information from the Ministry of Family and Social Affairs, 16 January 2023.

¹⁵⁸³ Ministry of Family and Social Policy, 'Polityka społeczna w cieniu wojny w Ukrainie', 24 February 2023, available here in Polish: <https://bit.ly/3MannoV>.

¹⁵⁸⁴ Ministry of Family and Social Policy, 'Umożliwienie pracodawcom złożenia zaległych, lub błędnych powiadomień', available in Polish here: <https://bit.ly/3HWryCm>.

¹⁵⁸⁵ Article 22(5c) of the Special Law.

¹⁵⁸⁶ SIP, *Letter to the Polish Parliament*, 9 December 2022, available in Polish here: <https://bit.ly/3HUXhnc>, 5-6.

¹⁵⁸⁷ See numerous posts published at the Border Guard's website about the controls of the legality of employment in Polish companies and finding out that Ukrainian nationals were employed illegally, e.g. 'Pracowali nielegalnie w Polsce', 9 November 2022, available in Polish here: <https://bit.ly/42iHXJb> (73 Ukrainian nationals found to be working illegally); 'Nielegalnie zatrudnieni w firmie budowlanej', 15 November 2022, available in Polish here: <https://bit.ly/41nU4DH>, 'Skontrolowano legalność zatrudnienia 760 cudzoziemców', 21 November 2022, available in Polish here: <https://bit.ly/3pnkmJ5> (34 Ukrainian nationals).

¹⁵⁸⁸ Article 22(6-7) of the Special Law.

¹⁵⁸⁹ Information from the Ministry of Family and Social Affairs, 16 January 2023.

The governmental and local portals have been created to facilitate contact between Ukrainian nationals seeking employment (having a PESEL number) and employers in Poland.¹⁵⁹⁰ As of 4 January 2023, 3,535 persons benefited from the governmental database.¹⁵⁹¹ IOM Poland also activated a special website - in Polish and Ukrainian language – concerning legal employment in Poland.¹⁵⁹² On many job-seeking websites, ads were published by Polish employers offering job to persons displaced from Ukraine.¹⁵⁹³

Special temporary protection beneficiaries can run a business in Poland under the same rules as Polish citizens. Having a PESEL number is required.¹⁵⁹⁴ In the period from 24 February 2022 to 23 August 2023, Ukrainian nationals running a registered business in Poland can obtain a temporary residence permit without proving that they have a sufficient income, or without fulfilling other criteria normally required in these proceedings.¹⁵⁹⁵ However, obtaining a temporary residence permit means losing temporary protection in Poland (Article 2(3)(1)(c) of the Special Law).

In the period of March-December 2022, 17.511 Ukrainian nationals (irrespective of their legal status) applied for registering their businesses in Poland.¹⁵⁹⁶ Data regarding the business activity of special temporary protection beneficiaries is not available.

According to the report published in September 2022 by EWL and Warsaw University, over 430.000 Ukrainian nationals who flew from Ukraine after 24 February 2022, found jobs in Poland. 85% of the respondents sought temporary protection in Poland. 53% of respondents did not know the Polish language, but 68% of Ukrainian nationals working in Poland could communicate in the Ukrainian language at work.¹⁵⁹⁷ According to the more recent report of EWL and Warsaw University, as of February 2023, approx. 900.000 Ukrainian nationals who flew from Ukraine after 24 February 2022, found job in Poland (82% of adults). 27% of the respondents who work in Poland found a job in the first three months upon arrival.¹⁵⁹⁸

According to another study, Ukrainian women who came to Poland after 24 February 2022 indicated that the biggest challenges in accessing the labour market, in particular running a business here, were mostly the lack of knowledge of the Polish language and the necessity to provide care for their children during the working hours. However, overall, they felt more supported by Polish authorities rather than facing difficulties.¹⁵⁹⁹ Another study conducted in 2022 identified several barriers to running a business in Poland that were recognised by Ukrainian nationals, including the lack of knowledge of Polish law

¹⁵⁹⁰ Article 22a-22h of the Special Law. See <https://bit.ly/41IMLw4> and e.g. A. Dąbrowska, 'Lublin Social Committee to Aid Ukraine. 90 days of assistance. Report', available in English here: <https://bit.ly/3HRtMmc>, 7-8.

¹⁵⁹¹ Information provided by the Ministry of Digital Affairs, 1 March 2023.

¹⁵⁹² See: <https://bit.ly/3pcF12b>.

¹⁵⁹³ A. Chłoń-Domińczak i R. Pater, 'Labour market and the economy', in: M. Bukowski and M. Duszczek (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 36.

¹⁵⁹⁴ Article 23 of the Special Law.

¹⁵⁹⁵ Article 42(12) and (12a) of the Special Law.

¹⁵⁹⁶ Information from the Ministry of Economic Development and Technology, 11 January 2023. See also Dębowska, K., Kłosiewicz-Górecka, U., Szymańska, A., Wejt-Knyżewska, A., Zybertowicz, K., 'Ukraińskie firmy w Polsce po wybuchu wojny w 2022 r.', Polski Instytut Ekonomiczny, January 2023, available in Polish here: <https://bit.ly/42laNJc>, 10-14.

¹⁵⁹⁷ EWL and Warsaw University, 'Uchodźcy z Ukrainy - aktywizacja zawodowa w Polsce i Niemczech', September 2022, available in Polish here: <https://bit.ly/42FWezK>.

¹⁵⁹⁸ EWL and Warsaw University, 'Uchodźcy wojenni z Ukrainy. Rok w Polsce', February 2023, available in Polish here: <https://bit.ly/42j18CY>.

¹⁵⁹⁹ SWPS, 'Hello Entrepreneurship 2022. Czynniki hamujące oraz wspierające przedsiębiorczość migrantek z Ukrainy, które przyjechały do Polski po eskalacji wojny 24 lutego 2022 r.', available in Polish here: <https://bit.ly/3VPavaV>, 6-7, 19.

and practices, overly complicated rules regarding staying and working in Poland, financial difficulties, and challenges in finding employees and suitable premises in Poland.¹⁶⁰⁰

General temporary protection

Third-country nationals enjoying temporary protection under the Act on Protection can work in Poland without any work permit. There are no limitations or additional obligations in this regard. They can also run a business in accordance with the rules on business activity applicable to non-Polish nationals.¹⁶⁰¹

2. Access to education

All children staying in Poland have a constitutional right to education. Education is provided to minor third-country nationals in regular schools and it is not limited by law. In general, temporary protection beneficiaries can benefit from education in public schools under the same conditions as Polish citizens until the age of 18 or the completion of higher school.¹⁶⁰² They can also benefit from additional free Polish language classes and compensatory classes, as well as be supported by a person who knows the language of their country of origin, who can be employed as a teacher's assistant by the director of the school.¹⁶⁰³ Preparatory classes can be organised too. For more details about education of third-country nationals in Poland and the intertwined challenges, see [Reception, Access to education](#). The following section describes the specific laws and practices that apply solely to temporary protection beneficiaries.

Special temporary protection

Children

While education is mandatory in Poland to the age of 18, many Ukrainian pupils staying in Poland are not attending Polish schools (e.g. 52% of Ukrainian children staying in Warsaw¹⁶⁰⁴). Some of them chose to participate in online lessons organised by Ukrainian authorities. If that is the case, a parent or another guardian must inform Polish local authorities that a child is continuing education online within the Ukrainian education system.¹⁶⁰⁵ However, some children who were supposed to be attending Ukrainian school online were not going to any school in practice. Moreover, power cuts in Ukraine hamper access to the Ukrainian education system.¹⁶⁰⁶ Other children tried to attend both Polish in-person and Ukrainian online schools.¹⁶⁰⁷

¹⁶⁰⁰ See also Dębowska, K., Kłosiewicz-Górecka, U., Szymańska, A., Wejt-Knyżewska, A., Zybertowicz, K., 'Ukraińskie firmy w Polsce po wybuchu wojny w 2022 r.', Polski Instytut Ekonomiczny, January 2023, available in Polish here: <https://bit.ly/42laNJc>, 25-31.

¹⁶⁰¹ Article 14 of the Act on Protection, Ustawa z dnia 6 marca 2018 r. o zasadach uczestnictwa przedsiębiorców zagranicznych i innych osób zagranicznych w obrocie gospodarczym na terytorium Rzeczypospolitej Polskiej, available in Polish here: <https://bit.ly/3prfy5q>.

¹⁶⁰² Article 165 (1) and (2) of Law of 14 December 2016 on education.

¹⁶⁰³ Article 165 (8) of the Law of 14 December 2016 on education.

¹⁶⁰⁴ SIP, 'Protection of unaccompanied children from Ukraine in Poland – what should be improved', 6 March 2023, available at: <https://bit.ly/3NSA1tX>.

¹⁶⁰⁵ §15 of the Minister of Education and Science on organisation of education and care of children and youth from Ukraine (Rozporządzenie Ministra Edukacji i Nauki z dnia 21 marca 2022 r. w sprawie organizacji kształcenia, wychowania i opieki dzieci i młodzieży będących obywatelami Ukrainy), available in Polish here: <https://bit.ly/42nRi2K>.

¹⁶⁰⁶ SIP, 'Protection of unaccompanied children from Ukraine in Poland – what should be improved', 6 March 2023, available at: <https://bit.ly/3NSA1tX>; Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish here: <https://bit.ly/3NUAiWg>, 2, 4.

¹⁶⁰⁷ A. Krajewska, 'Dzieci-uchodźcy z Ukrainy w polskim systemie edukacji', in: M. Fuszara (ed), *Masowa pomoc w masowej ucieczce Społeczeństwo polskie wobec migracji wojennej z Ukrainy*, Warsaw University 2022, available in Polish here: <https://bit.ly/42lJmO3>, 87-88.

In 2022, almost 200.000 new Ukrainian pupils were attending Polish schools, while approx. 500.000 were learning online within the Ukrainian education system.¹⁶⁰⁸ Some special rules were adopted to facilitate coping with this unprecedented challenge, under the Special Law and other acts of national and local authorities (in total 3.421 acts until November 2022).¹⁶⁰⁹

- ❖ The possibility to organise interschool preparatory classes, interschool additional Polish language lessons and lessons outside of schools was introduced in the Special Law for minor special temporary protection beneficiaries (Articles 51, 55 and 55b).
- ❖ Ukrainian children attending preparatory classes may not be subject to yearly or mid-term assessments.¹⁶¹⁰
- ❖ Polish language lessons for Ukrainian children are conducted individually or in groups of up to 15 children. The allowed maximum number of hours per week was abolished for Ukrainian pupils. They should participate in those lessons for no less than 6 hours/week.¹⁶¹¹
- ❖ The limit for the maximum number of children in a class was increased if Ukrainian children are attending the class.¹⁶¹²
- ❖ Some special rules concerning the participation of Ukrainian pupils in final exams and as regards ending school were established.¹⁶¹³
- ❖ In schools, where an additional class was established in order to provide education to Ukrainian pupils, teachers were given the possibility to work overtime (Article 56). The same applies to Polish language teachers in all schools (Article 56a).
- ❖ Non-Polish teachers' assistants have been allowed to perform their tasks in Polish schools if they know Polish language (Article 57).
- ❖ Additional state funding for schools has been provided for in the Special Law, in Article 50. Since January 2023, local authorities can also receive additional funding for learning materials for Ukrainian children.¹⁶¹⁴
- ❖ Special temporary protection beneficiaries are entitled to the 'Good start' allowance, i.e. PLN 300 for every child at the beginning of the school year, as well as to the lower fee for a nursery or a day care.¹⁶¹⁵ A minor special temporary protection beneficiary may also receive social welfare for pupils (Article 53).
- ❖ A free-of-charge transport of minor special temporary protection beneficiaries to schools or other places where education or childcare is provided, may be organised by local authorities (Article 52).
- ❖ Some new rules have been established to facilitate creation of nurseries by local authorities (Article 28).

Despite those changes, the Polish educational system struggled with admitting such a great number of new foreign pupils. In 2022, the main problems included: the schools' overcrowding; not a sufficient

¹⁶⁰⁸ Human Rights Commissioner, 'Okrągły stół o oświacie – konsultacje w sprawie edukacji dzieci i młodzieży z Ukrainy w Biurze RPO', 3 June 2022, available in Polish here: <https://bit.ly/3nKKGw9> ; Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish here: <https://bit.ly/3NUAiWG>, 4.

¹⁶⁰⁹ A. Krajewska, 'Dzieci-uchodźcy z Ukrainy w polskim systemie edukacji', in: M. Fuszara (ed), *Masowa pomoc w masowej ucieczce Społeczeństwo polskie wobec migracji wojennej z Ukrainy*, Warsaw University 2022, available in Polish here: <https://bit.ly/42IjmO3>, 78.

¹⁶¹⁰ §6b of the Minister of Education and Science on organisation of education and care of children and youth from Ukraine (Rozporządzenie Ministra Edukacji i Nauki z dnia 21 marca 2022 r. w sprawie organizacji kształcenia, wychowania i opieki dzieci i młodzieży będących obywatelami Ukrainy), available in Polish here: <https://bit.ly/42nRi2K>.

¹⁶¹¹ §11a *ibid*.

¹⁶¹² §7-11 *ibid*.

¹⁶¹³ §2-§6 and §6c-§6d *ibid*. For problems in this regard, see Human Rights Commissioner, 'Co z egzaminami ósmoklasisty dla dzieci z Ukrainy – pytał RPO. MEiN: będą ułatwienia i dostosowania', 13 April and 18 May 2022, available in Polish here: <https://bit.ly/3B9WNG7>.

¹⁶¹⁴ Article 50b of the Special Law.

¹⁶¹⁵ Article 26(1)⁽³⁾ and (5) of the Special Law.

number of schools and teachers; the lack of sufficient support for teachers in teaching the Polish language as a second language; the lack of adequate handbooks; difficulties in hiring Ukrainian teachers; the lack of means to support Ukrainian pupils in their online learning.¹⁶¹⁶ Hate speech and violence towards Ukrainian pupils were also reported.¹⁶¹⁷ Moreover, Ukrainian children often unexpectedly disappeared from the Polish education system, when they moved back to Ukraine or travelled to another state. Furthermore, teachers and schools were not sufficiently supported by the state.¹⁶¹⁸

In June 2022, Polish Teachers' Union (PTU) called on the Polish Prime Minister to take actions needed for the proper functioning of the Polish education system which has been overburdened after the admission of new Ukrainian pupils. It alarmed that the system is already inefficient. Over 80% of Ukrainian children joined regular classes, not the preparatory ones. In some classes, 50% of pupils were Ukrainian, 50% Polish; thus, the education was in practice bilingual, provided with the assistance of online translation tools. It was impossible to implement the curriculum in those circumstances, both for Polish and Ukrainian children. The PTU noticed also that teachers must work over their usual hours to be able to teach children not knowing the Polish language.¹⁶¹⁹

Despite the PTU's recommendation to create more preparatory classes, their number decreased in the school year 2022/2023 in comparison with the preceding year. In the year 2021/2022, there were 2.414 such classes organised in Poland that were benefited by 38.000 children. In the year 2022/2023, only 956 preparatory classes were organised for 15.000 Ukrainian nationals.¹⁶²⁰ On the other hand, more teacher's assistants seem to be hired. For example, over 200 Ukrainian and Belarusian assistants were reported to work in Warsaw schools as of June 2022, which constitutes a major increase in comparison to 2021.¹⁶²¹ In Lublin, 64 Ukrainian teachers started to work as teacher assistants in 41 schools.¹⁶²² However, the number of those assistants is still insufficient taking into account the great number of new Ukrainian pupils.¹⁶²³

¹⁶¹⁶ Human Rights Commissioner, 'Okragły stół o oświacie – konsultacje w sprawie edukacji dzieci i młodzieży z Ukrainy w Biurze RPO', 3 June 2022, available in Polish here: <https://bit.ly/3nKKGw9>; Ministry of Education and Science, Systemowe wsparcie obywateli Ukrainy – konferencja prasowa w KPRM z udziałem ministra Przemysław Czarnka, 24 May 2022, available in Polish here: <https://bit.ly/42lIdYg>.

¹⁶¹⁷ A. Gmiterek-Zabłocka, "Coraz częściej słyszę o wyzywkach i mowie nienawiści w szkołach". Pomóc mają specjaliści asystenci, Tok.fm, 7 June 2022, available here in Polish: <https://bit.ly/3pt5B7C>; HNLA, 'Przemoc fizyczna i psychiczna wobec uczniów z Ukrainy: Poradnik dla uczniów, rodziców i nauczycieli', available in Polish here: <https://bit.ly/42Cujfd>; Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish here: <https://bit.ly/3NUAiWg>, 14-15.

¹⁶¹⁸ A. Krajewska, 'Dzieci-uchodźcy z Ukrainy w polskim systemie edukacji', in: M. Fuszara (ed), *Masowa pomoc w masowej ucieczce Społeczeństwo polskie wobec migracji wojennej z Ukrainy*, Warsaw University 2022, available in Polish here: <https://bit.ly/42lJmO3>, 81, 91; Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish here: <https://bit.ly/3NUAiWg>, 2.

¹⁶¹⁹ Polish Teachers' Union, 'Interwencja ZNP: Wniosek do premiera o wprowadzenie specjalnych rozwiązań dot. kształcenia uchodźców', 2 June 2022, available in Polish here: <https://bit.ly/44HtcBs>. See also: A. Krajewska, 'Dzieci-uchodźcy z Ukrainy w polskim systemie edukacji', in: M. Fuszara (ed), *Masowa pomoc w masowej ucieczce Społeczeństwo polskie wobec migracji wojennej z Ukrainy*, Warsaw University 2022, available in Polish here: <https://bit.ly/42lJmO3>, 85-87.

¹⁶²⁰ Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish here: <https://bit.ly/3NUAiWg>, 8.

¹⁶²¹ A. Gmiterek-Zabłocka, "Coraz częściej słyszę o wyzywkach i mowie nienawiści w szkołach". Pomóc mają specjaliści asystenci, Tok.fm, 7 June 2022, available here in Polish: <https://bit.ly/3pt5B7C>; A. Mikulska, 'Lekcje polskiego to nie wszystko. Jak zadbać o integrację dzieci z Ukrainy?', OKO.PRESS, 21 March 2022, available in Polish here: <https://bit.ly/3HUKVeY>.

¹⁶²² A. Dąbrowska, 'Lublin Social Committee to Aid Ukraine. 90 days of assistance. Report', available in English here: <https://bit.ly/3HRTMmc>, 8.

¹⁶²³ A. Krajewska, 'Dzieci-uchodźcy z Ukrainy w polskim systemie edukacji', in: M. Fuszara (ed), *Masowa pomoc w masowej ucieczce Społeczeństwo polskie wobec migracji wojennej z Ukrainy*, Warsaw University 2022, available in Polish here: <https://bit.ly/42lJmO3>, 92; Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish here: <https://bit.ly/3NUAiWg>, 9-11.

PTU also noticed the difficult situation of pupils with special needs. In August 2022, the Human Rights Commissioner appreciated the Ministry of Education and Science's information for parents of children with special educational needs about their rights in Poland. However, it noticed that interpreters of the Ukrainian language are urgently needed to support the work of Polish psychologists, psychotherapists, speech therapists and other specialists working in schools.¹⁶²⁴ Moreover, schools for deaf pupils were reported to be unable to cope with the challenge of accepting new children from Ukraine.¹⁶²⁵

Adults

Ukrainian doctors, dentists, nurses and midwives can have their Polish language lessons co-financed from a state budget (Article 22i of the Special Law).

Ukrainian students enjoying special temporary protection in Poland can apply for a social scholarship and student loan (Article 41(10-12) of the Special Law). Moreover, they can be admitted to study in Poland without proper documentation confirming their education progress in Ukraine, upon verification of their achieved learning outcomes (Article 45).

National Science Centre opened special scholarship programs for Ukrainian students and researchers. In total, 151 students and researchers benefited from this assistance.¹⁶²⁶

General temporary protection

Under the Act on Protection, temporary protection beneficiaries can benefit from Polish language lessons and materials, as well as didactic materials for children attending schools.¹⁶²⁷ This is the only special rule as regards education provided in the law concerning general temporary protection beneficiaries.

In 2022, 51 general temporary protection beneficiaries received assistance only in the form of Polish language lessons and materials (as of 31 December 2022, 17 persons).¹⁶²⁸

F. Social welfare

Special temporary protection

A special temporary protection beneficiary having a PESEL number is entitled to a one-time financial allowance – PLN 300.¹⁶²⁹

Moreover, special temporary protection beneficiaries, having a PESEL number and staying in Poland with children, are, *inter alia*, entitled to:¹⁶³⁰

¹⁶²⁴ Human Rights Commissioner, 'Ukraińscy uczniowie z niepełnosprawnościami wymagają wsparcia. RPO pisze do MEiN', 20 August 2022, available in Polish here: <https://bit.ly/3BbcNI4>.

¹⁶²⁵ Human Rights Commissioner, 'Telewizja bez barier i pomoc głuchym uchodźcom z Ukrainy - posiedzenie Komisji Ekspertów ds. Osób Głuchych', 21 April 2022, available in Polish here: <https://bit.ly/3VLZOWw>.

¹⁶²⁶ Ministry of Education and Science, 'Dodatkowe stypendia NCN dla początkujących naukowców z Ukrainy', 23 February 2023, available in Polish here: <https://bit.ly/3LLq8M1>.

¹⁶²⁷ Article 112(6)⁽²⁻³⁾ of the Act on Protection.

¹⁶²⁸ Information provided by the Office for Foreigners, 17 January 2023.

¹⁶²⁹ Article 31 of the Special Law. For more information, see SIP, UNHCR, 'Świadczenia dla obywateli i obywaterek Ukrainy przybyłych do Polski po 24 lutego 2022 r.' (2023), available in Polish and Ukrainian here: <https://bit.ly/3LLYf6C>.

¹⁶³⁰ Article 26 of the Special Law.

1. Family benefits, specified in the 2003 Law on family benefits,¹⁶³¹
2. 500+ financial allowance – for every Ukrainian child under 18 years old having a PESEL number: PLN 500 per month. It may be applied for only online and is not available to Ukrainian parents of non-Ukrainian children.¹⁶³²
3. 'Good start' allowance: PLN 300 at the beginning of the school year (for more on financial support for pupils, see Access to education).

The general rules regarding those benefits apply to special temporary protection beneficiaries (the same as for Polish citizens), with some minor exceptions. For example, with regard to the benefits that are dependent on the financial situation of the beneficiary (some of the above-mentioned allowances), the income of his/her family member who is not staying in Poland (e.g. because he/she stayed in Ukraine) is not taken into account.¹⁶³³ Some of those benefits are also granted to temporary guardians.¹⁶³⁴ Since 28 January 2023, the Special Law specifies that those benefits are suspended if a person concerned leaves Poland, but may be paid upon return to Poland.¹⁶³⁵

Furthermore, special temporary protection beneficiaries, having a PESEL number, can access the general social welfare system and; thus, be granted financial and non-financial benefits in accordance with the 2004 Law on social assistance.¹⁶³⁶ Accessing the general social welfare system is dependent on the financial situation of the person/family concerned. The general rules regarding those benefits apply to special temporary protection beneficiaries (the same as for Polish citizens), with some minor exceptions.

Special temporary protection beneficiaries can also benefit from food aid within the Fund for European Aid to the Most Deprived.¹⁶³⁷ Moreover, UNHCR, in cooperation with the Polish government, offered special financial support to persons fleeing Ukraine.¹⁶³⁸

Ukrainian nationals and their family members have reported experiencing some difficulties in practice with regard to the aforementioned allowances. According to the Human Rights Commissioner, obtaining a PESEL number by Ukrainian nationals and members of their family in 2022 was sometimes possible only after a long waiting period. It hampered their possibility to access to social welfare.¹⁶³⁹ Moreover, some Ukrainian nationals lost this access upon withdrawal of 'PESEL UKR' (for more, see Movement and mobility).¹⁶⁴⁰

General temporary protection

Persons enjoying temporary protection under the Act on Protection do not have access to the general social welfare system. Beneficiaries who are unable to access accommodation and food organised by the Office for Foreigners may request a financial allowance, which may be provided at their motion.¹⁶⁴¹

¹⁶³¹ Ustawa z dnia 28 listopada 2003 r. o świadczeniach rodzinnych, available in Polish here: <https://bit.ly/41kHwgm>.

¹⁶³² SIP, UNHCR, 'Świadczenia dla obywateli i obywaterek Ukrainy przybyłych do Polski po 24 lutego 2022 r.' (2023), available in Polish and Ukrainian here: <https://bit.ly/3LLYf6C>.

¹⁶³³ Article 26(2) of the Special Law.

¹⁶³⁴ Article 26(4-4f) of the Special Law.

¹⁶³⁵ Article 26(3g-3h) of the Special Law.

¹⁶³⁶ Article 29 of the Special Law, Ustawa z dnia 12 marca 2004 r. o pomocy społecznej, available in Polish here: <https://bit.ly/3M8MjNB>.

¹⁶³⁷ Article 33 of the Special Law.

¹⁶³⁸ UNHCR Polska, 'UNHCR i Rząd RP łączą siły, żeby wesprzeć finansowo uchodźców z Ukrainy', 11 March 2022, available in Polish here: <https://bit.ly/3LJ9aOi>. See also: <https://bit.ly/42EbPQ3>.

¹⁶³⁹ Human Rights Commissioner, 'Kolejki po PESEL przyczyną nierównego dostępu uchodźców do świadczeń. RPO pisze do minister Małag. Resort odpowiada', 6 and 29 April 2022, available in Polish here: <https://bit.ly/44ECTR3>. SIP, *Submission to ECRI*, 15 June 2022, available in English here: <https://bit.ly/44Wfdle>, 7.

¹⁶⁴⁰ Human Rights Commissioner, 'Uchodźcy z Ukrainy są błędnie pozbawiani statusu uprawniającego do opieki medycznej i pomocy. Interwencja RPO', 16 March 2023, available in Polish here: <https://bit.ly/3Kg37jI>.

¹⁶⁴¹ Article 112 of the Act on Protection.

A financial allowance may be paid only upon obtaining a certificate for a person enjoying general temporary protection (see Residence permit). In 2022, 67 persons were denied medical assistance and financial allowance due to the lack of a certificate for a person enjoying temporary protection.¹⁶⁴²

The financial allowance is provided for a period of minimum 2 months,¹⁶⁴³ but no longer than for the period of the validity of the certificate for temporary protection beneficiaries. This period is determined individually, in the Head of the Office for Foreigners's decision. According to the Office for Foreigners, if this period ends, a person concerned may apply for the assistance to be granted again.¹⁶⁴⁴

Granting assistance in the form of accommodation and food, or a financial allowance, is dependent on the financial situation of the beneficiary.¹⁶⁴⁵ If a person concerned works or runs a business in Poland, his/her income is taken into account by the Office for Foreigners. If it is higher than the amount set in law for accessing the general social welfare system, the assistance may be granted only in the form of accommodation, Polish language lessons and materials, and didactic materials for children. In 2022, 35 decisions refusing access to full assistance on this account were issued.¹⁶⁴⁶ Moreover, the assistance is not granted if a person concerned seeks asylum (then, he/she benefits from material reception conditions for asylum seekers).¹⁶⁴⁷

A financial allowance for general temporary protection beneficiaries is the same as the one provided for asylum seekers. It amounts to PLN 25 (or less) per day, so at maximum PLN 750-775 per month per person. In practice, a financial allowance is not sufficient to finance all basic needs of a beneficiary, in particular to rent an apartment (for more see [Reception - Forms and levels of material reception conditions](#)). Thus, general temporary protection beneficiaries are not receiving sufficient 'means to obtain housing', against Article 13 of the TPD.¹⁶⁴⁸ However, contrary to asylum seekers, general temporary protection beneficiaries can work or run a business in Poland (see Access to the labour market); thus, they can have supplementary sources of income.

In 2022, 536 general temporary protection beneficiaries received a financial allowance and medical assistance (199 of them were benefiting from this assistance as of 31 December 2022); 25 persons were granted only a financial allowance under the Act on Protection (2 as of 31 December 2022). In 47 cases, the Office for Foreigners provided access to medical assistance but denied a financial allowance.¹⁶⁴⁹ Thus, 43% of the general temporary protection beneficiaries benefited from this allowance in 2022.

Moreover, in 2022, 51 general temporary protection beneficiaries received assistance only in the form of Polish language lessons and materials (as of 31 December 2022, 17 persons).¹⁶⁵⁰

G. Health care

Special temporary protection

Ukrainian nationals and some of their family members enjoying temporary protection can access the general healthcare system in Poland (with some minor exceptions).¹⁶⁵¹ Obtaining PESEL beforehand is not necessary, however, it may be useful: a person having 'PESEL UKR' is presumed to be entitled

¹⁶⁴² Information provided by the Office for Foreigners, 17 January 2023.

¹⁶⁴³ The temporal limitation is in contradiction with Article 13 of the TPD, see SIP, Letter of 30 November 2022 to the European Commission, available in English here: <https://bit.ly/3TgHaEX>, 5.

¹⁶⁴⁴ Information provided by the Office for Foreigners, 17 January 2023.

¹⁶⁴⁵ Article 112(4-4f) of the Act on Protection.

¹⁶⁴⁶ Information provided by the Office for Foreigners, 17 January 2023.

¹⁶⁴⁷ Article 112(1b) of the Act on Protection.

¹⁶⁴⁸ SIP, Letter of 30 November 2022 to the European Commission, available in English here: <https://bit.ly/3TgHaEX>, 5-6.

¹⁶⁴⁹ Information provided by the Office for Foreigners, 17 January 2023.

¹⁶⁵⁰ Ibid.

¹⁶⁵¹ Article 37 of the Special Law.

to medical assistance. In practice, temporary protection beneficiaries not having this number faced difficulties in accessing medical assistance.¹⁶⁵²

Additionally, special temporary protection beneficiaries *may* be provided with free-of-charge psychological assistance. Providing this assistance is at the discretion of local authorities.¹⁶⁵³ Psychological assistance is only guaranteed by law with regard to temporary guardians and unaccompanied minors under their care, who benefited from the Ukrainian foster care system.¹⁶⁵⁴ The general discretion of authorities as regards the provision of psychological assistance and the gross limitation of the personal scope of this assistance, is considered to be against Article 13(4) of the TPD.¹⁶⁵⁵

Polish authorities *may* assist special temporary protection beneficiaries with transport to medical establishments.¹⁶⁵⁶ Until 1 March 2023, regional authorities (voivodes) were obliged to provide this assistance for at least 2 months starting with the entry to Poland by a person concerned. However, in January 2023, Article 12(17) of the Special Law was amended, and currently, there is no obligation of any Polish authorities to provide persons enjoying special temporary protection in Poland with means of transport to benefit from medical assistance. They only have the discretion to provide such assistance.

Access to a labour market for Ukrainian doctors, dentists, nurses and midwives has been facilitated. Ukrainian psychologists can also provide psychological assistance to their compatriots until 24 August 2023 (see Access to labour market). Ukrainian doctors, dentists, nurses and midwives can have their Polish language lessons co-financed from a state budget.¹⁶⁵⁷

Ukrainian nationals who fled from Ukraine after 24 February 2022 can also obtain funding for medicines' purchases. It is financed by state¹⁶⁵⁸ and private donors.¹⁶⁵⁹

Practical difficulties included a language barrier. However, it was not possible to finance translation costs from the National Health Fund. To counteract this difficulty, the special application LikarPL for doctors and patients was created, available in Polish, Ukrainian, Russian and English. Moreover, Ukrainian speakers were hired to provide medical assistance remotely.¹⁶⁶⁰

Ukrainian women also struggled with accessing their reproductive rights, in particular an abortion after being raped in Ukraine.¹⁶⁶¹ The Federation for Women and Family Planning called on the international community to intervene in Poland to adequately address the sexual and reproductive health needs of women and girls affected by the war in Ukraine.¹⁶⁶²

¹⁶⁵² Human Rights Commissioner, 'Problemy opieki zdrowotnej uchodźców z Ukrainy. Resort zdrowia informuje RPO o swych działaniach', 13 April 2022, 13 May 2022, available in Polish here: <https://bit.ly/41krFyu>.

¹⁶⁵³ Article 32 of the Special Law.

¹⁶⁵⁴ Article 25(3b) of the Special Law.

¹⁶⁵⁵ SIP, Letter to the Ministry of Internal Affairs and Administration, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 18-19.

¹⁶⁵⁶ Article 12(1)₍₃₎ of the Special Law.

¹⁶⁵⁷ Articles 61-64a and Article 22i of the Special Law.

¹⁶⁵⁸ E.g. PFRON, Zaopatrzenie w wyroby medyczne - wsparcie dla uchodźców z Ukrainy, 1 April 2022, available in Polish here: <https://bit.ly/3LPbJyj>.

¹⁶⁵⁹ See e.g.: <https://bit.ly/44Mz7Fc>.

¹⁶⁶⁰ Human Rights Commissioner, 'Problemy opieki zdrowotnej uchodźców z Ukrainy. Resort zdrowia informuje RPO o swych działaniach', 13 April 2022, 13 May 2022, available in Polish here: <https://bit.ly/41krFyu>.

¹⁶⁶¹ Instytut Praw Migrantów, 'Jak radzą sobie uchodźczynie z Ukrainy, które przyjeżdżają do Polski w niechcianej ciąży? Gdzie szukają dostępu do aborcji?', 25 March 2023, available in Polish here: <https://bit.ly/41oFvjf>.

¹⁶⁶² See FEDERA, 'Stanowisko FEDERY dotyczące zwiększania się zagrożeń dla praw reprodukcyjnych i seksualnych w związku z kryzysem humanitarnym odczytane na sesji Rady Praw Człowieka ONZ', 22 March 2022, available in English here: <https://bit.ly/42G5B2k>.

General temporary protection

Under the Act on Protection, temporary protection beneficiaries have access to medical assistance, upon their motion and if they receive a certificate for temporary protection beneficiaries first.¹⁶⁶³ In 2022, 67 persons were denied medical assistance and financial allowance due to the lack of a certificate for a person enjoying temporary protection.¹⁶⁶⁴

The medical assistance is provided for a period of minimum 2 months, but no longer than for the period of the validity of the certificate for temporary protection beneficiaries. This period is determined individually, in the Head of the Office for Foreigner's decision. According to the Office for Foreigners, if this period ends, a person concerned may apply for assistance to be granted again.¹⁶⁶⁵

If a temporary protection beneficiary is entitled to access a general healthcare system due to their work or running a business in Poland, they are not covered by medical assistance organised by the Office for Foreigners.¹⁶⁶⁶ Moreover, medical assistance for temporary protection beneficiaries is not granted if a person concerned seeks asylum (then, he/she benefits from material reception conditions for asylum seekers).¹⁶⁶⁷

Health care for temporary protection beneficiaries is the same as for asylum seekers. Hence, all problems of asylum seekers in this respect apply now also to persons enjoying temporary protection under the Act on Protection (see [Reception: Health care](#)).

In 2022, 536 temporary protection beneficiaries received a financial allowance and medical assistance (199 of them were benefiting from this assistance as of 31 December 2022); 67 persons were granted only medical assistance under the Act on Protection (21 as of 31 December 2022). Additionally, six persons benefited from health care in reception centres for asylum seekers.¹⁶⁶⁸ Thus, 47% of the general temporary protection beneficiaries benefited from medical assistance organised by the Office for Foreigners in 2022.

¹⁶⁶³ Article 112 of the Act on Protection.

¹⁶⁶⁴ Information provided by the Office for Foreigners, 17 January 2023.

¹⁶⁶⁵ Information provided by the Office for Foreigners, 17 January 2023.

¹⁶⁶⁶ Article 112(4d) of the Act on Protection.

¹⁶⁶⁷ Article 112(1b) of the Act on Protection.

¹⁶⁶⁸ Information provided by the Office for Foreigners, 17 January 2023.

Portugal



CPR
CONSELHO PORTUGUÊS
PARA OS REFUGIADOS

Temporary Protection Procedure

A. General

The Temporary Protection Directive (TPD)¹⁶⁶⁹ has been **transposed** to the national legal order by Act no.67/2003, of 23 August 2003 (Temporary Protection Act).¹⁶⁷⁰

According to national law, temporary protection can be **activated** following a decision of the Council of the EU, or by decision of the national Government, with due regard for the risks to displaced persons, the need and urgency of the provision of temporary protection, and the consequences for public order and national security.¹⁶⁷¹

When a mass influx of displaced persons is predictable, the Government must create an **Interministerial Commission**, presided by the Ministry of Home Affairs.¹⁶⁷² This Commission is responsible for, inter alia, assessing reception capacity, defining the reception conditions and their provision, and coordinating the application of temporary protection.¹⁶⁷³

While the **personal scope of application** of temporary protection must be defined by decision of the Council of the EU/national Government, the Temporary Protection Act provides for the **exclusion** of certain persons.¹⁶⁷⁴ These include:

- ❖ Persons with regard to whom there are *strong reasons*¹⁶⁷⁵ to consider that they:
 - Have committed a crime against peace, a war crime or a crime against humanity, as defined in *national legislation* and in the relevant international law instruments to which Portugal is a party;¹⁶⁷⁶
 - Have committed a serious non-political crime¹⁶⁷⁷ outside national territory before they could have been admitted in Portugal as beneficiaries of temporary protection.¹⁶⁷⁸ Within this context, the severity of the criminal procedure must be proportionate to the nature of the infraction. Particularly cruel or inhuman actions may be deemed as non-political crimes even if allegedly committed with a political purpose;¹⁶⁷⁹
 - Have committed acts contrary to the objectives and principles of the United Nations.¹⁶⁸⁰
- ❖ Persons with regard to whom there are serious reasons to be considered dangerous to the national security, or that were sentenced by a final judgement for a serious non-political crime or are a *serious*¹⁶⁸¹ threat to the national community.¹⁶⁸²

¹⁶⁶⁹ 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, available at: <https://bit.ly/3kI5SRz>.

¹⁶⁷⁰ Available at: <https://bit.ly/3JhiysX>.

¹⁶⁷¹ Article 4(1) and (3) Temporary Protection Act.

¹⁶⁷² Article 4(2) Temporary Protection Act.

¹⁶⁷³ Article 5 Temporary Protection Act. In 2022, such Commission was created by the Resolution of the Council of Ministers no.29-D/2022, of 11 March 2022, par.15.

¹⁶⁷⁴ Article 6 Temporary Protection Act.

¹⁶⁷⁵ The corresponding Directive provision (article 28(1)(a)) refers to “serious reasons”(in Portuguese, “fortes razões”/“razões sérias”).

¹⁶⁷⁶ Article 6(1)(a)(i) Temporary Protection Act.

¹⁶⁷⁷ Crime punishable with a prison term of more than 3 years (article 6(5) Temporary Protection Act). This criterion is not contained in the directive’s text (article 28(1)(a)(ii)).

¹⁶⁷⁸ Article 6(1)(a)(ii) Temporary Protection Act.

¹⁶⁷⁹ Article 6(3) Temporary Protection Act.

¹⁶⁸⁰ Article 6(1)(a)(iii) Temporary Protection Act.

¹⁶⁸¹ The qualification of the threat to national community as serious, is not included in the Directive’s corresponding provision.

¹⁶⁸² Article 6(1)(b) Temporary Protection Act.

The application of the exclusion clauses must be based on the individual behaviour of the person and be proportionate.¹⁶⁸³ Exclusion is applicable to both direct participants in the crimes and instigators.¹⁶⁸⁴ The issuance of exclusion decisions is adopted by the Ministry of Home Affairs, following a reasoned opinion by SEF,¹⁶⁸⁵ and may be appealed before the administrative courts.¹⁶⁸⁶ In the absence of specific deadlines and procedures, the general rules on administrative appeals apply.¹⁶⁸⁷

Temporary protection had never been activated in Portugal before March 2022, neither by Council decision, nor by decision of the national Government.

On 1 March 2022, the Council of Ministers approved a Resolution establishing the criteria for granting of temporary protection for displaced people from Ukraine.¹⁶⁸⁸ It has been subsequently amended on 11 March and 22 December 2022, mostly changing the personal scope of temporary protection (see: Qualification). The relevant Resolutions of the Council of Ministers also determined, inter alia, that:

- ❖ *Applications* for temporary protection could be made in person or digitally, inside or outside Portuguese territory;¹⁶⁸⁹
- ❖ *Applications* for temporary protection are to be immediately referred to the relevant authorities for the issuance of national healthcare system number, tax number, and social security number;¹⁶⁹⁰
- ❖ Employment registration with the relevant national authority is automatic;¹⁶⁹¹
- ❖ Accommodation and subsistence allowances are to be granted to beneficiaries that do not have sufficient financial resources;¹⁶⁹²
- ❖ Access to social security by beneficiaries of temporary protection is processed under the rules applicable to refugees.¹⁶⁹³

In addition to an online platform for registration for temporary protection (see: [Registration](#)),¹⁶⁹⁴ the national authorities created a website gathering information on the national response to displacement from Ukraine. The website allows to request and offer help, and its contents are available in Portuguese, English, and Ukrainian.¹⁶⁹⁵

According to the information provided by SEF, temporary protection cases are analysed by a total of 12 staff members of its regional directorates.

According to the information provided by SEF, in the course of 2022, 56,599 persons requested registration for temporary protection to the Portuguese authorities.¹⁶⁹⁶ Out of these, 44,524 were Ukrainian nationals, and 12,075 third country nationals that lived in Ukraine.¹⁶⁹⁷ By the end of the year,

¹⁶⁸³ Article 6(2) Temporary Protection Act.

¹⁶⁸⁴ Article 6(4) Temporary Protection Act.

¹⁶⁸⁵ Article 6(6) Temporary Protection Act.

¹⁶⁸⁶ Articles 6(7) and 28 Temporary Protection Act.

¹⁶⁸⁷ General rules provided in the Administrative Procedure Code – CPA - (available at: <https://bit.ly/3mV8Ymn>), and in the Code of Procedure in Administrative Courts – CPTA - (available at: <https://bit.ly/3ToXKmo>). Notably, article 58(1)(b) CPTA provides for a general deadline for appeal of 3 months.

¹⁶⁸⁸ Resolution of the Council of Ministers no.29-A/2022, of March 2022, available at: <https://bit.ly/3vRYoie>.

¹⁶⁸⁹ Resolution of the Council of Ministers no.29-A/2022, of 1 March 2022, last amended by Resolution of the Council of Ministers no.135/2022, of 28 December 2022, par.7, available at: <https://bit.ly/3HWIUjU>.

¹⁶⁹⁰ Ibid, par.8.

¹⁶⁹¹ Ibid, par.9.

¹⁶⁹² Ibid, par.12.

¹⁶⁹³ Ibid, par.13.

¹⁶⁹⁴ SEF for Ukraine: <https://bit.ly/3HRgzuf>.

¹⁶⁹⁵ Portugal for Ukraine: <https://bit.ly/3RwtZ27>.

¹⁶⁹⁶ 23.480 Men, 33.119 Women; 13.961 Children, of which 752 unaccompanied.

¹⁶⁹⁷ Out of which, 645 were Russian nationals.

there were 45,613 beneficiaries of temporary protection registered in the country. SEF has also reported that 1,535 statuses were cancelled during the year.

B. Qualification for temporary protection

The personal scope of temporary protection has evolved throughout the year. On 1 March 2022, the Council of Ministers approved a Resolution¹⁶⁹⁸ that granted temporary protection, with automatic grant of a residence permit, for one year (extendable), to:

- ❖ Ukrainian nationals and their family members coming from Ukraine that could not return to the country due to the war;
- ❖ Non-Ukrainians that prove being related,¹⁶⁹⁹ married or in a civil partnership to Ukrainian nationals coming from Ukraine that could not return to the country due to the war.

Said Resolution was amended on 11 March, widening the personal scope of application of the temporary protection regime, and bringing it in line with the subsequent Council decision.¹⁷⁰⁰ The following persons became entitled to temporary protection:

- ❖ Ukrainian nationals and beneficiaries of international protection in Ukraine, coming from Ukraine, and that cannot return due to the war;
- ❖ Other third country nationals or stateless persons that are in the same conditions as those above and that can prove either that they are related to the persons referred to above, **or** that they were permanent residents in Ukraine/had a temporary residence permit in the country/had a long-term visa in order to obtain such a permit and whose durable return to their country of origin is not possible.

In December 2022, the personal scope of temporary protection in Portugal was once again redefined, this time restricting eligibility. Since then, the following persons are eligible for temporary protection:¹⁷⁰¹

- ❖ Ukrainian nationals and beneficiaries of international protection in Ukraine, coming from Ukraine, and that cannot return due to the war;¹⁷⁰²
- ❖ Third country nationals and stateless persons that prove being family members of those referred to above **or** that prove being permanent residents in Ukraine, and whose safe and lasting return to the country of nationality is not possible.¹⁷⁰³

As such, at the time of writing, third country nationals and stateless persons who were not beneficiaries of international protection in Ukraine are only eligible if they are family members of a Ukrainian national/beneficiary of international protection in Ukraine, or if they were permanent residents in the country and cannot return to their country of origin in a safe and lasting manner.

¹⁶⁹⁸ Resolution of the Council of Ministers no.29-A/2022, of 1 March 2022, available at: <https://bit.ly/3vRYoie>.
¹⁶⁹⁹ It is unclear why the resolution refers to family members twice, given that, if such family members were Ukrainian, they would be already directly included in the personal scope of temporary protection.

¹⁷⁰⁰ Resolution of the Council of Ministers no.29-D/2022, of 11 March 2022, available at: <https://bit.ly/3tlPx7b>. See also 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, available at: <https://bit.ly/3X7rIB6>.

¹⁷⁰¹ Resolution of the Council of Ministers no.135/2022, of 28 December 2022, available at: <https://bit.ly/3HTIWbf>. The fully amended text is available at: <https://bit.ly/3l9Xx9l>.

¹⁷⁰² Ibid., par.1.

¹⁷⁰³ Ibid, par.2.

According to the information provided by SEF to the AIDA report, third country nationals/stateless persons that were granted temporary protection under the prior rules will continue to benefit from temporary protection.

The amended Resolution defines family members as:¹⁷⁰⁴

- ❖ Spouses or unmarried partners in a sustainable relationship, i.e., at least 2 years of living together in conditions analogous to marriage;
- ❖ Children under 18 years old (of the Ukrainian national/beneficiary of international protection in Ukraine or of their spouse or partner);
- ❖ Other close relatives sharing a household, that are fully or significantly dependent on the Ukrainian national or beneficiary of international protection in Ukraine entitled to temporary protection.

According to the publicly available information, reiterated by SEF, family links can be proved by any available means, including witnesses.¹⁷⁰⁵

According to the information provided by SEF, in practice, persons who have left Ukraine since 1 January 2022 are eligible for temporary protection. It is unclear what is the legal basis for this cut-off date, given the wording of the relevant legislation. It was not possible to confirm this information in any of the public source available at the time of writing.

According to the information provided by SEF, in the course of 2022, 56,599 persons requested registration for temporary protection to the Portuguese authorities.¹⁷⁰⁶ Out of these, 44,524 were Ukrainian nationals, and 12,075 third country nationals that lived in Ukraine.¹⁷⁰⁷ By the end of the year, there were 45,613 beneficiaries of temporary protection registered in the country. However, SEF informed that it is not possible to provide a breakdown of beneficiaries of temporary protection on the basis of entitlement.

SEF confirmed that persons whose registration for temporary protection is refused are not issued a written decision, nor informed of the right to appeal on a systematic basis. According to the same authority, data on such refusals is not available.

C. Access to temporary protection and registration

1. Admission to territory

CPR is not aware of instances of refusal of entry at the border of people fleeing Ukraine or of difficulties impacting re-entry of people who have returned to Ukraine.

Following the TPD, the Temporary Protection Act determines that, if needed, and taking into account the urgency of the situation, the issuance of visas may be fast-tracked and simplified. This is done namely by shortening the deadlines applicable to necessary actions, and by suppressing others.¹⁷⁰⁸ Such visas are to be issued free of charge.¹⁷⁰⁹

¹⁷⁰⁴ Ibid, par.3.

¹⁷⁰⁵ See, for instance: Justiça.Gov.Pt, *Reception and Integration of Ukrainian Citizens in Portugal*, available at: <https://bit.ly/3l8sFX3>.

¹⁷⁰⁶ 23.480 Men, 33.119 Women; 13.961 Children, of which 752 unaccompanied.

¹⁷⁰⁷ Out of which, 645 were Russian nationals.

¹⁷⁰⁸ Article 10(3) Temporary Protection Act.

¹⁷⁰⁹ Article 10(4) Temporary Protection Act.

On 25 February 2022, the Prime-Minister announced that Portuguese Embassies and Consulates had been given instructions to facilitate the issuance of visas to Ukrainian nationals.¹⁷¹⁰ It is unclear how this procedure worked in practice.

The *Portugal for Ukraine*¹⁷¹¹ website contains information on leaving Ukraine. Accordingly, persons not holding a biometric passport, must contact a Portuguese Embassy in order to be issued a safe conduct to travel. The portal also directs people in need of transportation to fill in a form to facilitate regular and organised arrivals. It is unclear which type of support was/is provided to those filling it. Information on leaving Ukraine was also provided by the Portuguese authorities through the Ministry of Foreign Affairs webpage.¹⁷¹²

According to SEF, the number of people fleeing Ukraine refused entry at the border is not available.

2. Freedom of movement

The law does not provide for any restriction to the internal freedom of movement of persons entitled to and beneficiaries of temporary protection, and CPR is not aware of the application of any such restrictions in practice. CPR is also not aware of restrictions on the ability of persons entitled to and beneficiaries of international protection to move towards other EU countries.

The Temporary Protection Act regulates the transfer of residence of beneficiaries of temporary protection between EU Member States, broadly in line with article 26 of the Temporary Protection Directive.¹⁷¹³ Nevertheless, SEF informed that there is no procedure in practice for such purpose.

Data on de-registrations and onward relocations of beneficiaries to other EU Member States is not available, according to SEF. According to the same source, a total of 1.531 statuses were cancelled in 2022 (no information on the grounds).

3. Registration under temporary protection

The Resolution of the Council of Ministers approved on 1 March 2022, established that *applications* for temporary protection could be made in person or digitally, inside or outside Portuguese territory.¹⁷¹⁴ While according to the information gathered by CPR in early March 2022 the online registration platform¹⁷¹⁵ was not yet available, it became operational soon afterwards.¹⁷¹⁶ Registration, both online and in-person, is performed by the Immigration and Borders Service (SEF). According to the information provided by SEF, temporary protection cases are processed by a total of 12 staff members of its regional directorates.

Only persons over 18 years old can fully complete their registration online. For security reasons, the registration of children requires an in-person stage to be completed at SEF's offices.¹⁷¹⁷

¹⁷¹⁰ Rádio Renascença, *Costa deu instruções para concessão de vistos imediatos para cidadãos ucranianos*, 25 February 2022, available (in Portuguese) at: <https://bit.ly/3JFv5GU>.

¹⁷¹¹ *Portugal for Ukraine*: <https://bit.ly/3RwtZ27>.

¹⁷¹² Available at: <https://bit.ly/3HW2yLC>.

¹⁷¹³ Article 26 Temporary Protection Act.

¹⁷¹⁴ Resolution of the Council of Ministers no.29-A/2022, of 1 March 2022, last amended by Resolution of the Council of Ministers no.135/2022, of 28 December 2022, par.7, available at: <https://bit.ly/3HWIUjU>.

¹⁷¹⁵ On 18 March 2022, ACM and SEF organised a webinar to civil society and community-based organisations to provide information on the use of the online platform.

¹⁷¹⁶ Available at: <https://bit.ly/3HVHTYe>.

¹⁷¹⁷ See, for instance: Portugal for Ukraine, *Online temporary protection request – SEF – Borders and Immigration Service*, available at: <https://bit.ly/3X2hwEp>.

While according to the legal framework registration can be performed before entry into national territory, CPR received reports that the online platform requires individuals to insert a date of arrival prior to registration. Nevertheless, SEF confirmed that it is possible to register from abroad.

The law does not establish any time limits for registration, and CPR has no indication that such limitations exist in practice.

The law does not clearly establish how to prove eligibility for temporary protection. According to the available information, any document proving eligibility (such as a passport or ID) must be presented. The procedure adopted by the authorities regarding undocumented persons is unclear (according to SEF, any kind of proof is accepted).

Registered persons are issued a *Certificate of preliminary registration on the temporary protection application platform* (Declaração comprovativa de registo prévio na Plataforma de pedido de protecção temporária), proving that their *application* for temporary protection has been recorded. The document bears no reference to the rights attached to it or to its validity. Beneficiaries of temporary protection are subsequently issued a certificate of temporary protection by SEF (*certificado de concessão de autorização de residência ao abrigo do regime de proteção temporária*, See Content of Temporary Protection). The Temporary Protection Act only provides for a right to appeal in case of exclusion or of refusal of a family reunification request.¹⁷¹⁸

While any decision issued by national administrative authorities in practice can be challenged according to the general administrative rules, SEF confirmed that persons whose registration for temporary protection is refused are not issued a written decision, nor informed of the right to appeal on a systematic basis.

4. Legal assistance

The Temporary Protection Act does not contain provisions on access to legal assistance and legal aid by persons entitled to temporary protection.

According to CPR's experience, there was no widespread awareness of the advantages of **legal assistance** within the context of temporary protection eligibility, a fact that is likely related to the features of the regime. CPR provides legal information on access to temporary protection on a needs-basis. Furthermore, upon request, the organisation assists beneficiaries of temporary protection with regard to integration-related matters, such as the rights attached to their status, and access of children born in Portugal to Portuguese nationality.

General provisions on access to **legal aid**, establish that foreigners and stateless persons are entitled to free legal aid if they have a valid residence permit (in an EU Member State), and prove not to hold sufficient income.¹⁷¹⁹ Foreigners not holding a residence permit are entitled to free legal aid if there is reciprocity in the legislation of their countries of nationality.¹⁷²⁰

The Immigration Act also provides for the right to free legal aid to foreigners not admitted into national territory,¹⁷²¹ to victims of human trafficking/actions to facilitate illegal immigration,¹⁷²² to long term residents with a judicial expulsion decision,¹⁷²³ and to persons intending to judicially challenge a coercive removal decision.¹⁷²⁴

¹⁷¹⁸ Article 28 Temporary Protection Act.

¹⁷¹⁹ Article 7(1) Access to Law and to Courts Act, available at: <https://bit.ly/3TsIFjB>.

¹⁷²⁰ Ibid, article 7(2).

¹⁷²¹ Article 40(2) Immigration Act, available at: <https://bit.ly/3JJjVjI>.

¹⁷²² Ibid, article 112(4).

¹⁷²³ Ibid, article 136(4).

¹⁷²⁴ Ibid, article 150(3).

In February 2022, the Lawyers' Bar announced the creation of lists of voluntary lawyers available to provide free legal assistance to displaced Ukrainians.¹⁷²⁵

According to the information provided by CSTAF, no appeals were filed in the Administrative Courts by Ukrainian applicants for temporary protection. A search of the publicly available jurisprudence of TCA South, TCA North and STA for temporary protection and Ukraine did not provide relevant results.

5. Information provision and access to NGOs

According to the Temporary Protection Act, beneficiaries of temporary protection must be provided a document stating the rights and duties attached to their status. Such document is to be written in a language they understand.¹⁷²⁶ The Temporary Protection Act does not contain further provisions on access to information and to NGOs.

Within the context of displacement from Ukraine, the national authorities launched a website, available in Portuguese, English and Ukrainian, containing information on eligibility for temporary protection and relevant procedures, as well as the rights attached to the status.¹⁷²⁷

The High Commissioner for Migration (*Alto Comissariado para as Migrações*, ACM) created a specific email address to provide information related to displacement from Ukraine.¹⁷²⁸ ACM also listed a number of resources to persons displaced from Ukraine in its website.¹⁷²⁹

Following the beginning of the war in Ukraine, a vast mobilisation for support was observed in Portugal, both within civil society, municipalities and other groups, providing varied assistance. According to the information provided by UNHCR, the entity and IOM organised information sessions to municipalities.

D. Guarantees for vulnerable groups

While the Temporary Protection Act, explicitly refers to the need to provide medical and other assistance to beneficiaries of temporary protection with special needs, such as unaccompanied children, victims of torture, violations or other serious forms of moral, physical or sexual violence,¹⁷³⁰ it does not provide for a mechanism for the identification of specific needs emerging from vulnerabilities.

As mentioned in [Asylum Procedure: Guarantees for vulnerable groups](#), such a mechanism is also not in place within the asylum system. According to the available information, there was also no mechanism in place in practice to identify and address such needs within the context of temporary protection.

With regards to particularly vulnerable groups, the Temporary Protection Act only refers to specific measures to adopt regarding **unaccompanied children**.¹⁷³¹ Accordingly, unaccompanied children:

- ❖ Must be provided with the necessary legal representation;
- ❖ Must be accommodated with adult family members, in foster families, in specialised reception centres or other appropriate locations, or with the person who took care of them during flight for the duration of the temporary protection.

¹⁷²⁵ Ordem dos Advogados, *Apoio aos Cidadãos Ucranianos | Lista de Advogados Voluntários*, 28 February 2022, available at: <https://bit.ly/3LppmWj>.

¹⁷²⁶ Article 11 Temporary Protection Act.

¹⁷²⁷ *Portugal for Ukraine* website, available at: <https://bit.ly/425MsYa>.

¹⁷²⁸ sosucrânia@acm.gov.pt

¹⁷²⁹ Alto Comissariado para as Migrações, *SOS Ucrânia*, available at: <https://bit.ly/3l3xMI9>.

¹⁷³⁰ Article 15(5) Temporary Protection Act.

¹⁷³¹ Article 18 Temporary Protection Act.

While this provision is broadly in line with article 16 of the TPD, it failed to transpose into national law the last paragraph of the Directive's provision. As such, it does not refer to the agreement of the adult(s) concerned, and to the need to take into account the child's opinions, considering their age and development.

For security reasons, the registration of children must be completed at SEF's offices. This is done in order to perform security checks and to verify parental responsibilities.¹⁷³²

An email address and telephone line were created for the identification of unaccompanied children and of availability for reception and transportation.

The government also established a multidisciplinary group to monitor the protection of unaccompanied children reaching Portugal within this context (ChildCareUKR). The group is composed by representatives of the Ministry of Labour, Solidarity and Social Security, Ministry of Justice, SEF and ACM.¹⁷³³ According to the information provided by SEF, this group aims to facilitate communication between relevant state services and entities, and has allowed to determine more appropriate and efficient responses for integration. SEF has informed that this group meets regularly, and shares digital platform that facilitates communication between services and persons in need of specific assistance.

According to the information provided by SEF, a total of 752 applicants for temporary protection were identified as vulnerable, all of whom unaccompanied children.

A specific guide on prevention of trafficking in human beings has been produced and is available in Portuguese, English and Ukrainian.¹⁷³⁴

¹⁷³² See, for instance: Portugal for Ukraine, *Online temporary protection request – SEF – Borders and Immigration Service*, available at: <https://bit.ly/3X2hwEp>.

¹⁷³³ Portugal for Ukraine, *Registering and protecting displaced Ukrainian children*, available at: <https://bit.ly/3l7YAa3>.

¹⁷³⁴ Comissão para a Cidadania e a Igualdade de Género, *Know the signs for your safety and protection*, available at: <https://bit.ly/3Y14591>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--|--------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | 1 year |
| 2. How many residence permits ¹⁷³⁵ were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2022? | 47,782 |

Beneficiaries of temporary protection are entitled to a temporary protection residence permit to be issued free of charge.¹⁷³⁶ According to the law, such temporary residence permits must be issued in the EU uniform format for residence permits.¹⁷³⁷ The temporary protection residence permit is valid for one year, and can be renewed for the same period of time.¹⁷³⁸

According to the publicly available information, following registration for temporary protection, SEF performs the necessary checks, and shares the individual's data with the ISS, health and tax services so that the corresponding user numbers are issued. Beneficiaries of temporary protection are then issued a certificate of temporary protection by SEF (*certificado de concessão de autorização de residência ao abrigo do regime de proteção temporária*). Following the collection of biometric data, the residence permit (card) should be issued.¹⁷³⁹

Despite this information, according to CPR's experience beneficiaries of temporary protection have not been issued the residence permit (card), at least on a systematic basis. SEF confirmed that this is the case and that the non-issuance of residence permits was determined by the Ministry of Home Affairs.¹⁷⁴⁰

This is not only a doubtful practice, but may also bear adverse consequences for beneficiaries of international protection.

Notably, in the course of 2022, CPR received reports according to which SEF and the Institute of Registries and Notary (*Instituto de Registos e Notariado*, IRN) deemed the certificate of temporary protection as insufficient to prove legal residence of parents for the purposes of children born in Portugal to acquire Portuguese nationality at birth, as they are supposed to according to the Nationality Act (see: [AIDA Country Report - Content of Protection – Naturalisation](#)).

Furthermore, the certificate is not included in the List of Residence Permits issued by Member States published by the European Commission,¹⁷⁴¹ which may lead to issues regarding the recognition of the document across Member States and the crossing of external borders.

According to SEF, a total of 47,782 certificates of temporary protection were issued in 2022. Data on withdrawal is not available.

¹⁷³⁵ See infra.

¹⁷³⁶ Article 10(1) and (4) Temporary Protection Act.

¹⁷³⁷ Ministerial Order no.1432/2008, of 10 December, amended by Ministerial Order no.105-A/2022, of 1 March 2022.

¹⁷³⁸ See, for instance: Justiça.Gov.Pt, *Acolhimento e integração de cidadãos ucranianos em Portugal*, available at: <https://bit.ly/3k9b7cC>.

¹⁷³⁹ Justiça.Gov.Pt, *Acolhimento e integração de cidadãos ucranianos em Portugal*, available at: <https://bit.ly/3k9b7cC>.

¹⁷⁴⁰ It was not possible to request further information on this aspect to the Ministry of Home Affairs before the publication of this report.

¹⁷⁴¹ Available at: <https://bit.ly/3JGfqXj>.

According to the information provided by the authorities, access to the full array of rights attached to temporary protection only occurs following the issuance of the certificate of temporary protection by SEF. ISS informed, however, that those waiting may have their socioeconomic situation assessed and receive occasional financial support.

According to the information provided by SEF, there is no information on how long does it take on average from the moment the person registers in the platform, until they are effectively registered as beneficiaries of international protection. SEF further informed that Ukrainian nationals' registrations are automatically accepted, while registrations by third country nationals/stateless persons require a verification.

2. Access to asylum

Article 3 of the Temporary Protection Act explicitly states that the application of the temporary protection regime is without prejudice to the recognition of refugee status according to the Refugee Convention.¹⁷⁴² Access to the asylum procedure is specifically addressed in articles 19-21 of the Temporary Protection Act.

Beneficiaries of temporary protection can apply for asylum.¹⁷⁴³ If the analysis of the asylum application is not concluded before the end of the temporary protection, it must be completed afterwards.¹⁷⁴⁴ The law further determines that beneficiaries of temporary protection remain as such until their asylum application is accepted, and that the refusal of such application does not affect access to or continuation of temporary protection.¹⁷⁴⁵

In practice, according to the information available to CPR, the number of asylum applications filled by Ukrainian citizens since the activation of the temporary protection is residual. It is unclear whether this is due to lack of interest/need, lack of information or other obstacles in accessing asylum.

The information available to CPR also indicates that at least a significant number of asylum applications filed by Ukrainians after 24 February 2022 but before the activation of the temporary protection regime were, according to SEF, "transposed to temporary protection". It is unclear if this amounts to a withdrawal of the asylum applications by the persons concerned, and the content of information provided in such cases (namely regarding the possible co-existence of asylum procedures and temporary protection).

SEF stated that Ukrainian nationals may apply to both regimes. However, the entity also confirmed that persons registering/registered for temporary protection are not systematically informed of their right to apply for international protection. According to SEF, in the course of 2022, 9 Ukrainian nations decided to apply for international protection instead of temporary protection in the course of 2022. Furthermore, SEF stated that the national authorities did not suspend the analysis of asylum applications made by Ukrainian nationals.

¹⁷⁴² Article 3 Temporary Protection Act.

¹⁷⁴³ Article 19(1) Temporary Protection Act.

¹⁷⁴⁴ Article 19(2) Temporary Protection Act.

¹⁷⁴⁵ Article 21 Temporary Protection Act.

B. Family reunification

The Temporary Protection Act establishes a specific family reunification regime for persons whose separation was connected to the massive influx of persons in need of protection. Within this context, the following persons are deemed as family members:¹⁷⁴⁶

- ❖ Spouse;
- ❖ Unmarried children under 18 years old (of the beneficiary of temporary protection or of their spouse);
- ❖ Other close relatives sharing a household, that were fully or significantly dependent on the beneficiary when the facts leading to the massive influx occurred.

Spouses and unmarried children who are beneficiaries of temporary protection in another EU Member State are to be reunified, with due regard to their wishes.¹⁷⁴⁷ If such family members are not yet in EU territory, they must be reunified if the family members are in need of protection.¹⁷⁴⁸

Reunification of other close relatives listed in the law may occur, following an individual analysis of the challenges that may arise due to the separation.¹⁷⁴⁹

Decisions on family reunification under this regime are adopted by the Minister of Home Affairs, based on a proposal of the Inter-ministerial Commission (see: [General](#)).¹⁷⁵⁰ Refusals may be appealed before the administrative courts.¹⁷⁵¹

Family members are issued with temporary protection residence permits.¹⁷⁵²

C. Movement and mobility

The law does not provide for any restriction to the internal freedom of movement of persons entitled to and beneficiaries of temporary protection, and CPR is not aware of the application of any such restrictions in practice. CPR is also not aware of restrictions on the ability of persons entitled to and beneficiaries of international protection to move towards other EU countries.

Nevertheless, as mentioned in Residence Permit, beneficiaries of temporary protection are not issued an actual residence permit (card), and the certificate of temporary protection issued systematically by the Portuguese authorities is not included in the List of Residence Permits issued by Member States published by the European Commission,¹⁷⁵³ which may lead to issues regarding the recognition of the document across Member States and the crossing of external borders.

¹⁷⁴⁶ Article 17(1) Temporary Protection Act.
¹⁷⁴⁷ Article 17(2) Temporary Protection Act.
¹⁷⁴⁸ Article 17(3) Temporary Protection Act.
¹⁷⁴⁹ Article 17(4) Temporary Protection Act.
¹⁷⁵⁰ Article 17(6) Temporary Protection Act.
¹⁷⁵¹ Article 28 Temporary Protection Act.
¹⁷⁵² Article 17(7) Temporary Protection Act.
¹⁷⁵³ Available at: <https://bit.ly/3JGfqXj>.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres? Not applicable
2. Number of beneficiaries staying in reception centres as of December 2022: Not available
3. Number of beneficiaries staying in private accommodation as of December 2022: Not available

According to the Temporary Protection Act, adequate housing must be provided to beneficiaries of temporary protection.¹⁷⁵⁴ The Temporary Protection Act does not provide further elements on needs assessment or on what constitutes *adequate* housing, not allocates such competency.

Specific legislative measures were enacted in order to facilitate access to the national programme on urgent housing by beneficiaries of temporary protection (e.g., simplification of bureaucratic requirements, and exemption of verification of availability of financial resources for eligibility for assistance).¹⁷⁵⁵

Beneficiaries of this support receive a financial allowance for housing expenses. The support has a duration of 18 months and can be extended up to 36 months.¹⁷⁵⁶

According to the information available at the *Portugal for Ukraine* portal, assistance can be requested either online, to the relevant municipality or to the High Commissioner for Migration (ACM).¹⁷⁵⁷ According to the same source, in order to benefit from this support, the following documents must be presented:¹⁷⁵⁸

- ❖ Identification of the family/declaration of temporary protection;
- ❖ Lease contract and building registration or identification of the accommodation facility and invoice.

While it is unclear whether these measures resulted in easier access in practice, a newspaper article from August 2022 reported challenges for beneficiaries of temporary protection in accessing the housing support programme. According to the article, while, by the end of July 2022, 95 municipalities had joined the programme, there were no figures concerning the number of beneficiaries of temporary protection covered.¹⁷⁵⁹

According to ISS, the entity structures a network of collective accommodation facilities to assist those in need (with 276 places by the end of the year). This is a temporary response, applied until an intervention plan is designed. According to the same source, in order to access this response, beneficiaries of temporary protection must contact the district branches of ISS. ISS reported that, by the end of 2022, 266 persons were accommodated in such facilities.

¹⁷⁵⁴ Article 15(1) Temporary Protection Act.

¹⁷⁵⁵ Article 5 Decree-Law no.24-B/2022, of 11 March 2022, available at: <https://bit.ly/3la6RL1>. See also Decree-Law no.29/2018, of 4 May 2018, available at: <https://bit.ly/3ZCQky5>.

¹⁷⁵⁶ Article 14 Decree-Law no.29/2018, of 4 May 2018, available at: <https://bit.ly/3ZCQky5>; see also Portugal for Ukraine, *Alojamento*, available at: <https://bit.ly/3LmcNuP> (in Portuguese).

¹⁷⁵⁷ Portugal for Ukraine, *FAQs*, available at: <https://bit.ly/3TtSb6h> (section on Housing); and Portugal for Ukraine, *Alojamento*, available at: <https://bit.ly/3LmcNuP> (in Portuguese).

¹⁷⁵⁸ Portugal for Ukraine, *Alojamento*, available at: <https://bit.ly/3LmcNuP> (in Portuguese). Portugal for Ukraine, *Alojamento*, available at: <https://bit.ly/3LmcNuP> (in Portuguese).

¹⁷⁵⁹ Público, *Refugiados da Ucrânia esperam entrada em casas prometidas há meses por programa de apoio*, 1 August 2022, available at: <https://bit.ly/3mSukAZ> (in Portuguese; access to the article is restricted by a paywall).

Since the beginning of the response to the displacement from Ukraine, private citizens could flag availability to host displaced persons.¹⁷⁶⁰ It is unclear what kind of verification and supervision the public authorities conduct in the case of private offers of housing. By mid-2022, reports of abuse of Ukrainian citizens hosted by private citizens emerged in the press. According to the response provided by ACM in the case of one woman, the housing provision was not framed by an institutional agreement/referral.¹⁷⁶¹

According to UNHCR, the municipality of Cascais designed a specific reception model that included initial short-term accommodation in a reception centre, followed by accommodation in dedicated apartments and, finally, accommodation provided by volunteer families for a minimum of 6 months. According to the same source, the model included a vetting process of host families (including an interview and on-site visit to the accommodation), and subsequent provision of assistance by the municipality to those involved in the programme.

Throughout the year, a number of civil society organisations, such as CPR, were also involved in the provision of housing to beneficiaries of temporary protection.

E. Employment and education

1. Access to the labour market

The Temporary Protection Act establishes that beneficiaries of temporary protection have the right to work.¹⁷⁶² The law further determines that access to work by beneficiaries of temporary protection cannot be to detriment to that of EU nationals and nationals from associated States and that of foreign residents receiving unemployment benefits.¹⁷⁶³

In principle, the only restriction on employment enshrined in the law impacting beneficiaries of temporary protection consists in limiting access to certain categories of the public sector for all third-country nationals.¹⁷⁶⁴ Furthermore, beneficiaries of temporary protection benefit from the same conditions of employment as nationals, including regarding salaries and working hours.¹⁷⁶⁵ The law provides, however, for specific formalities in the case of employment contracts of third-country nationals such as the need for a written contract and its (online) registration with the Authority for Labour Conditions (*Autoridade para as Condições do Trabalho*, ACT).¹⁷⁶⁶

Following the activation of the temporary protection regime, a number of legislative provisions were enacted regarding the recognition of qualifications and competencies of beneficiaries of temporary protection.¹⁷⁶⁷ Accordingly, such requests have priority, and are exempted of a number of bureaucratic requirements such as legalisation of documents issued by foreign entities, certification of copies, and recognition of translations. Applicants are also exempted of the payment of fees.

¹⁷⁶⁰ The online form asks questions such as: name, telephone, email address, type of housing (room, apartment, house); is the housing shared; duration of the availability; location; further information (open answer without specific requirements).

¹⁷⁶¹ See, for instance: RTP, *Prova dos Factos. Ucraniana alvo de abusos na família que a acolheu em Portugal*, 6 May 2022, available at: <https://bit.ly/3YK6Db5>.

¹⁷⁶² Article 14(1) Temporary Protection Act.

¹⁷⁶³ Article 14(2) Temporary Protection Act. It is unclear if this limitation is being applied in practice and how.

¹⁷⁶⁴ Article 15(2) Constitution and Article 17(1)(a) and (2) Act 35/2014.

¹⁷⁶⁵ Article 4 Labour Code.

¹⁷⁶⁶ Article 5 Labour Code.

¹⁷⁶⁷ Article 6 Decree-Law no.24-B/2022, 11 March 2022, available at: <https://bit.ly/3la6RL1>.

A subsequent Decree-Law,¹⁷⁶⁸ further regulated the recognition of professional qualifications of beneficiaries of temporary protection, establishing, inter alia, procedures for situations of insufficient documentation due to the war.¹⁷⁶⁹

Specific measures were also adopted regarding recognition and exchange of driving licences and professional driver's certifications.¹⁷⁷⁰

According to the information available in the *Portugal for Ukraine* website, beneficiaries of temporary protection who wish to receive employment-related support, must register in the Employment and Vocational Training Institute (*Instituto do Emprego e Formação Profissional*, IEFP), either in person or by filling an online form.¹⁷⁷¹

Data on the number of beneficiaries of temporary protection registered in IEFP or employed by the end of the year was not available at the time of writing.

Registration in IEFP also enables beneficiaries of temporary protection to certified Portuguese courses.¹⁷⁷² Data on the number of beneficiaries of temporary protection that had access to such courses was not available at the time of writing.

2. Access to education

According to the Temporary Protection Act, child beneficiaries of temporary protection are entitled to access public education under the same conditions as nationals.¹⁷⁷³

A Ministerial Order of the Ministry of Work, Solidarity and Social Security issued in May, established special measures for the integration of children displaced from Ukraine in **kindergarten** and other leisure facilities, determining, inter alia, that the regular capacity of facilities may be exceptionally extended to ensure integration, and that such children are entitled to attend kindergarten free of charge.¹⁷⁷⁴

DGE also reported that informal settings to promote the integration of children not attending other national services are also being developed. The so-called *Learn, Play, Grow Groups* are aimed at children up to 4 years old, accompanied by a caregiver, and may be implemented by entities such as municipalities and civil society organisations with the support of DGE.¹⁷⁷⁵

In March 2022, the Directorate General for Education (*Direção-Geral de Educação*, DGE), adopted a circular-letter clarifying a number of aspects related to the swift integration of children displaced from Ukraine in the **national education system**.¹⁷⁷⁶ Notably, with regard to equivalences and school placement, it was determined that ensuring access and immediate integration is the priority, and that the rules established for asylum seekers are applicable. Additionally, the conversion tables of Ukrainian school system to the Portuguese school system apply. The circular-letter also reinforced that schools may adopt specific measures in order to support children whose first language is not Portuguese, also in line with what is established for applicants for international protection (see: [AIDA Country Report, Reception Conditions – Access to Education](#)).

¹⁷⁶⁸ Decree-Law no.28-B/2022, of 25 March 2022, available at: <https://bit.ly/400F6mE>.

¹⁷⁶⁹ Ibid, article 4.

¹⁷⁷⁰ Article 4 Decree-Law no.24-B/2022, 11 March 2022, available at: <https://bit.ly/3la6RL1>.

¹⁷⁷¹ Portugal for Ukraine, FAQs, available at: <https://bit.ly/3UNnJVI>(section on Employment).

¹⁷⁷² Further information on identification of relevant courses and opportunities is available at: Portugal for Ukraine, FAQs, available at: <https://bit.ly/3Lnv5t> (Learning Portuguese section).

¹⁷⁷³ Article 16 Temporary Protection Act.

¹⁷⁷⁴ Ministerial Order no. 138/2022, of 8 April 2022, available at: <https://bit.ly/3Jiou34>.

¹⁷⁷⁵ For more information, see: <https://bit.ly/41UnOZD>.

¹⁷⁷⁶ DGE, *Ofício-Circular 10976/2022/DGE-DSDC-ECE*, 16 March 2022, available at: <https://bit.ly/3mlqxpw>.

DGE published guides on integration of Ukrainian children in pre-school education and in subsequent school levels.¹⁷⁷⁷ With regards to integration in the school system, the guidance establishes, inter alia, that:

- ❖ Regarding students whose parents/legal representative choose to follow Ukrainian remote learning
 - No equivalences or certification is granted;
 - Students must be present in a Portuguese school during the online activities provided by Ukrainian schools;
 - Students must attend Portuguese non-native language classes, as defined by the relevant school;
 - Students are provided with the necessary resources such as IT equipment and work space;
 - The specifics of the implementation are defined by schools.
- ❖ Regarding students fully integrated in the Portuguese education system
 - As mentioned above, the rules established for access to education by asylum seeking children are applicable to this group;
 - Their activities may be complemented by resources provided by the Ukrainian National Online School.

The implementation of the specific measures related to Education is monitored by a group composed of different bodies of the Ministry for Education, ACM, and others.¹⁷⁷⁸

DGE also reported that language resources on Portuguese language for non-native speakers were made available through the public radio and television.¹⁷⁷⁹

At the time of writing, no evaluation of the adopted measures was publicly available.

With regard to higher education, Decree-Law no.24-B/2022, of 11 March 2022,¹⁷⁸⁰ established that beneficiaries of temporary protection may request the application of the “student in an emergency situation for humanitarian reasons” status (see: XXX).¹⁷⁸¹ Access to such status was clarified by Decree-Law no.28-A/2022, of 25 March,¹⁷⁸² establishing inter alia, that:

- ❖ Requests may be presented at any time to the relevant higher education institutions;
- ❖ Students in this situation may require registration in a higher education institution/degree congeneric to the one previously attended (same academic level and equivalent training);
- ❖ The integration of student beneficiaries of temporary protection is not limited by *numerus clausus* regularly applicable, and may occur in all levels of higher education, including in the field of Medicine;

¹⁷⁷⁷ DGE, *Integração de crianças refugiadas na educação pré-escolar*, 15 March 2023 (guidance for pre-school integration), available at: <https://bit.ly/3ZOabua> (in Portuguese); DGE, *Orientações para o acolhimento, a integração e a inclusão de crianças e jovens ucranianos*, April 2023 (guidance for subsequent education levels), available at: <https://bit.ly/4067mV3>.

¹⁷⁷⁸ Portugal for Ukraine, *Educação*, available at: <https://bit.ly/3Fpa1kK> (in Portuguese).

¹⁷⁷⁹ RTP Ensina, *Português para Ucranianos*, available at: <https://bit.ly/41we1sU>.

¹⁷⁸⁰ Article 3.

¹⁷⁸¹ Article 8-A Decree-Law no.36/2014, of 10 March 2014, added by Decree-Law no. 62/2018, of 6 August 2018, available at: <https://bit.ly/3FoqvcT>.

¹⁷⁸² Article 2.

- ❖ If documentary evidence of the qualifications is not available, the higher education institutions may resort to alternative verification methods;¹⁷⁸³
- ❖ Student beneficiaries of temporary protection that were already enrolled in higher education may also request the “student in an emergency situation for humanitarian reasons” status.

The same Decree-Law also establishes that beneficiaries of temporary protection holding foreign certificates or diplomas that are not sufficient for recognition in Portugal must be ensured access to a higher education institution granting a degree in the same field, upon request, as well as the rules applicable to such procedures.¹⁷⁸⁴

The Directorate-General for Higher Education (*Direção-Geral do Ensino Superior*, DGES), and the national ERASMUS+ Agency, both published resources with information on access to higher education in Portugal, social support in higher education, and recognition of academic degrees and diplomas, both in Portuguese and Ukrainian.¹⁷⁸⁵

Requests for “student in an emergency situation for humanitarian reasons” status, must be filled with proof that the applicant is a beneficiary of temporary protection.¹⁷⁸⁶ Admission to higher education institutions may be granted with exemption of some of the regular admission requirements, such as knowledge of the teaching language, and specific academic qualifications.¹⁷⁸⁷

Students with this status may also request financial support to attend higher education, with exceptional conditions, such as a simpler process to determine eligibility, applying.¹⁷⁸⁸

As mentioned in Access to the Labour Market,¹⁷⁸⁹ requests for the recognition of qualifications of beneficiaries of temporary protection have priority, and are exempted of a number of bureaucratic requirements such as legalisation of documents issued by foreign entities, certification of copies, and recognition of translations. Applicants are also exempted of the payment of fees.

In June, it was reported in media outlets that Medical Schools were granting differentiated treatment to Ukrainian and non-Ukrainian beneficiaries of temporary protection. According to the reports, while Ukrainian beneficiaries were integrated in the institutions, non-Ukrainian beneficiaries were not given swift answers and the institutions claimed that the situation of those two groups was not similar, and that there were capacity limitations to consider. According to the same article, the ministry of Higher Education claimed that it did not consider that the legal framework allowed such a differential treatment.¹⁷⁹⁰

At the time of writing, no evaluation of the adopted measures was publicly available.

¹⁷⁸³ Such as interviews and tests while the national authorities finalize accession to the European Qualifications Passport for Refugees. See Agência Nacional ERASMUS+, *Nota Estudantes em situação de emergência humanitária*, p.2, available at: <https://bit.ly/3ZDYnL3>.

¹⁷⁸⁴ Article 3 Decree-Law no.28-A/2022, of 25 March 2022, available at: <https://bit.ly/3Fn4F9V>.

¹⁷⁸⁵ Available at: <https://bit.ly/3FnosFX> and <https://bit.ly/3ZDYnL3>, respectively.

¹⁷⁸⁶ Request for registration for temporary protection is not sufficient. See: Agência Nacional ERASMUS+, *Nota Estudantes em situação de emergência humanitária*, p.2, available at: <https://bit.ly/3ZDYnL3>.

¹⁷⁸⁷ Ibidem.

¹⁷⁸⁸ Ibid, p.4.

¹⁷⁸⁹ Article 6 Decree-Law no.24-B/2022, 11 March 2022, available at: <https://bit.ly/3la6RL1>.

¹⁷⁹⁰ Público, *Há escolas de Medicina que só estão a aceitar alunos ucranianos e excluem outros refugiados*, 19 June 2022, available at: <https://bit.ly/3TgboLi> (in Portuguese; access to the article is restricted by a paywall).

According to DGES, until September 2022, a total of around 330 requests for recognition of academic degrees were filed by Ukrainian citizens, of which around 100 belonged to beneficiaries of temporary protection.¹⁷⁹¹

F. Social welfare

The Temporary Protection Act provides for the right of beneficiaries of temporary protection to access social welfare benefits and means of subsistence in the absence of personal resources.¹⁷⁹²

The Council of Ministers determined that such benefits are to be granted to beneficiaries of temporary protection that do not have sufficient resources, and that beneficiaries of temporary protection must receive treatment equal to that granted to refugees in accessing non-contributory social welfare benefits.¹⁷⁹³ In particular, beneficiaries of temporary protection with insufficient resources may access the Social Reinsertion Revenue (*Rendimento Social de Inserção*, RSI), and child-related allowances (see [AIDA Country Report, Content of Protection – Social Welfare](#)). Requests for such allowances must be filled in the Social Security Institute (*Instituto de Segurança Social*, ISS).

Additionally, an extraordinary support allowance for particularly vulnerable families displaced from Ukraine was created in March 2022.¹⁷⁹⁴ According to the law, was meant to support families that are particularly exposed to the increase of food prices.¹⁷⁹⁵ It consisted of a one-time allowance of 60€ per family unit, paid in April 2022.¹⁷⁹⁶ It was automatically granted by ISS based on the information available to the entity.¹⁷⁹⁷

Beneficiaries of temporary protection may also access support provided by a social worker, and may resort to the Social Emergency Hotline¹⁷⁹⁸ in case of need.¹⁷⁹⁹

According to the information provided by ISS, by the beginning of December 2022, a total of 49.233 social security identification numbers (NISS) had been granted to beneficiaries of temporary protection (out of a total of 50.225 requests). ISS also reported that 20.455 beneficiaries had been approved for some measure of social welfare assistance (general system), with 19.255 already receiving them at the time. ISS further reported that, by the same date, 7.672 beneficiaries had been granted an extraordinary allowance for vulnerable families, and 13.481 beneficiaries had been granted an extraordinary allowance for persons whose income relied on social welfare allowances.

G. Health care

The Temporary Protection Act provides for the right of beneficiaries of temporary protection to medical assistance, comprising emergency care and primary health care.¹⁸⁰⁰ It further determines the provision of assistance (medical and other) to beneficiaries of temporary protection with special needs such as

¹⁷⁹¹ RTP Madeira, *Portugal já reconheceu qualificações académicas de 100 refugiados ucranianos*, 25 November 2022, available at: <https://bit.ly/42g2Fds>.

¹⁷⁹² Article 15(2) Temporary Protection Act

¹⁷⁹³ Resolution of the Council of Ministers no.29-A/2022, of 1 March 2022, last amended by Resolution of the Council of Ministers no.135/2022, of 28 December 2022, par.12 and 13, available at: <https://bit.ly/3HWIUjU>.

¹⁷⁹⁴ Articles 4-8 Decree-Law no.28-A/2022, of 25 March 2022, available at: <https://bit.ly/3Fn4F9V>.

¹⁷⁹⁵ Ibid, article 4.

¹⁷⁹⁶ Ibid, article 6.

¹⁷⁹⁷ Ibid, article 7.

¹⁷⁹⁸ A 24h/day line, reachable by dialling 144.

¹⁷⁹⁹ Portugal for Ukraine, *Apoio Social*, available at: <https://bit.ly/3TfrbXY> (in Portuguese).

¹⁸⁰⁰ Article 15(4) Temporary Protection Act.

unaccompanied children, victims of torture, violations or other forms of moral, physical or sexual violence.¹⁸⁰¹

The Resolution of the Council of Ministers concerning temporary protection determines that the grant of protection is communicated to the national health services *ex officio* by SEF, and a National Healthcare System number is automatically granted to each beneficiary.¹⁸⁰² According to the information publicly available, the issuance of the user number entitles beneficiaries of temporary protection to access all the services provided by the National Healthcare System.¹⁸⁰³

In order to have a family doctor assigned, beneficiaries of temporary protection must then register in the health care unit of their area of residence.¹⁸⁰⁴ According to the information provided in the Portugal for Ukraine website, a specific medical service for children coming from Ukraine was set up, with referrals made by phone. According to the same source, these appointments were supported by an interpreter, and allowed to perform the necessary referrals.¹⁸⁰⁵

Regarding vaccination, in March 2022, the Directorate-General for Health (*Direção-Geral de Saúde*, DGS), published a technical note on vaccination of persons within the context of displacement from Ukraine. It reinforces the right of all persons present in Portugal to access vaccination in line with the National Plan (including Covid-19 vaccines), establishes technical criteria for administration of vaccines and defines priorities considering the epidemiologic situation in the country of origin.¹⁸⁰⁶

¹⁸⁰¹ Article 15(5) Temporary Protection Act.

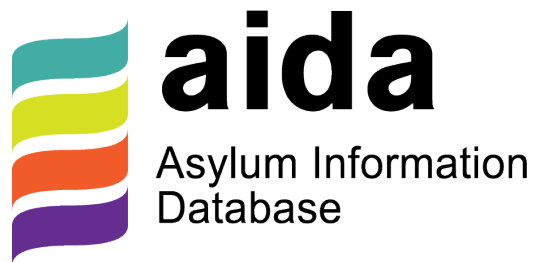
¹⁸⁰² Resolution of the Council of Ministers no.29-A/2022, of 1 March 2022, last amended by Resolution of the Council of Ministers no.135/2022, of 28 December 2022, par.8, available at: <https://bit.ly/3HWIUjU>.

¹⁸⁰³ Portugal for Ukraine, *Saúde*, available at: <https://bit.ly/3LqyNfc> (in Portuguese). It is worth mentioning that access to the Portuguese health care system is mainly free.

¹⁸⁰⁴ Ibidem.

¹⁸⁰⁵ Ibidem.

¹⁸⁰⁶ DGS, *Norma n.º 003/2022*, 19 March 2022, available at: <https://bit.ly/3YIBdlq> (in Portuguese).



Romania



Temporary Protection Procedure

A. General

The Romanian Asylum Act provides that temporary protection is granted in case the Council of the European Union establishes the existence of a massive flow of displaced persons.¹⁸⁰⁷ Romania may propose the issuance of a decision stating the existence of a massive flow of displaced persons to the Council of the European Union. The proposal should include a description of the specific groups of persons to whom the temporary protection will apply, the date on which the temporary protection would take effect and an estimate of the scale of movements of the displaced persons.¹⁸⁰⁸

In case temporary protection is granted by a decision of the Council of the European Union, the Romanian Government, at the proposal of the IGI, issues a decision with the concrete conditions for ensuring the temporary protection of displaced persons on its territory will be provided, as well as the source of financing the expenses to provide temporary protection.¹⁸⁰⁹

Soon after the aggression started in Ukraine a taskforce was set up at government level to monitor the situation and coordinate measures. After meetings on 26 and 27 February, it was concluded that amendments to the existing legal framework were necessary in order to ensure the capacity to respond to the situation on the ground. Consequently, on 27 February 2022 the Government adopted the Emergency Ordinance 15/2022, which was amended by Government Ordinance 20/2022.

On 18 March 2022, according to the provision of the Asylum Act, based on Council Decision (EU) 2022/382, the Romanian Government issued Government Decision No. 367/2022 regarding the establishment of conditions for ensuring temporary protection, as well as for the amendments of some normative acts in the field of foreigners.

On the most essential applicable laws in force concerning temporary protection in Romania, see the following table:

Title (EN)	Original Title (RO)	Web Link
Act No. 122 of 4 May 2006 on Asylum in Romania <i>Last updated: 3 September 2016</i>	Legea nr. 122 din 4 mai 2006 privind azilul in Romania Formă actualizată: 3 septembrie 2016	http://bit.ly/2g3FTjf (RO)
Government Emergency Ordinance No. 15/2022 regarding the mechanisms of support and humanitarian assistance by the Romanian state to foreign citizens or stateless persons in special situations, coming from Ukraine 27 February 2022	ORDONANȚĂ DE URGENȚĂ nr. 15 din privind acordarea de sprijin și asistență umanitară de către statul român cetățenilor străini sau apatrizilor aflați în situații deosebite, proveniți din zona conflictului armat din Ucraina 27 februarie 2022	https://bit.ly/3BMIEjL (RO)
Government Ordinance No. 20/2022 regarding the support and humanitarian assistance to children,	ORDONANȚĂ DE URGENȚĂ nr. 20 privind modificarea și completarea unor acte normative, precum și pentru	https://bit.ly/3lwLQ5F (RO)

¹⁸⁰⁷ Art. 131 para. 1 Asylum Act

¹⁸⁰⁸ Art. 131 para. 2 Asylum Act

¹⁸⁰⁹ Art. 131 para. 4 Asylum Act

adults, people with disabilities, and all Ukrainians who come to Romania 8 March 2022	stabilirea unor măsuri de sprijin și asistență umanitară 8 Martie 2022	
Government Decision No. 367/2022 on Temporary Protection <i>TP Decree</i> 18 March 2022 Last modified: 2 September 2022 by Decision no. 1.077/2022	HOTĂRÂRE nr. 367 din 18 martie 2022 privind stabilirea unor condiții de asigurare a protecției temporare, precum și pentru modificarea și completarea unor acte normative în domeniul străinilor HOTĂRÂRE nr. 1.077 din 31 august 2022 pentru modificarea și completarea Hotărârii Guvernului nr. 367/2022 privind stabilirea unor condiții de asigurare a protecției temporare, precum și pentru modificarea și completarea unor acte normative în domeniul străinilor	https://bit.ly/3ICAjIn (RO)
Government Decision no. 336/2022 for establishing the mechanism by which natural persons, who host Ukrainian refugees, benefit from the reimbursement of food expenses 11 March 2022	HOTĂRÂRE nr. 336 din 11 martie 2022 privind stabilirea mecanismului de decontare din bugetul inspectoratelor județene pentru situații de urgență /Inspectoratului pentru Situații de Urgență București-Ilfov a cheltuielilor cu hrana cetățenilor străini sau apatrizilor aflați în situații deosebite, proveniți din zona conflictului armat din Ucraina, găzduiți de persoane fizice, precum și pentru alocarea unei sume din Fondul de rezervă bugetară la dispoziția Guvernului, prevăzut în bugetul de stat pe anul 2022, pentru suplimentarea bugetului Ministerului Afacerilor Interne 11 Martie 2022	https://bit.ly/3OzGTg0 (RO)
Government Decision no. 337/2022 on the granting of gratuities and facilities for the transport of foreign nationals or stateless persons in special situations from the area of armed conflict in Ukraine 12 March 2022	Hotararea 337/2022 privind acordarea de gratuități și facilități pentru transportul cetățenilor străini sau apatrizilor aflați în situații deosebite, proveniți din zona conflictului armat din Ucraina 12 martie 2022	https://bit.ly/3ICBbGF (RO)
Ministry of Education Order no. 3325/2022 on the recognition and award of transferable study credits for Ukrainian students with no documents that prove their studies 3 March 2022	ORDIN nr. 3.325 din 2 martie 2022 privind completarea anexei la Ordinul ministrului educației nr. 5.140/2019 pentru aprobarea Metodologiei privind mobilitatea academică a studenților 3 martie 2022	https://bit.ly/3BRH2UH (RO)
Government Emergency Ordinance no. 100 regarding the approval and implementation of the National Plan of Measures regarding the protection and inclusion of displaced persons	ORDONANȚĂ DE URGENȚĂ nr. 100 din 29 iunie 2022 privind aprobarea și implementarea Planului național de măsuri cu privire la protecția și incluziunea persoanelor strămutate din Ucraina, beneficiare de protecție	https://bit.ly/3MuemWO (RO)

from Ukraine, beneficiaries of temporary protection in Romania 29 June 2022	temporară în România, precum și pentru modificarea și completarea unor acte normative	
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According to JRS representative in Galati there was no significant number of other nationalities who were displaced directly or indirectly by the conflict. IGI-DAI reported that 1,036 other nationalities (non-Ukrainians) have registered for temporary protection in Romania.

According to UNHCR's Operational Data Portal the top 5 nationalities of third-country nationals are Russian Federation - 354, Moldova - 292, Azerbaijan - 64, Belarus - 47, Armenia - 43.¹⁸¹⁰

According to the Border Police, 3,179,309 Ukrainian citizens entered the country and 3,073,467 left Romania in 2022.¹⁸¹¹ According to a UNHCR report from December 2022, 106,000 people who had fled from Ukraine remained in Romania.¹⁸¹² As of 31 December 2022, the total number of individuals registered for temporary protection in the country was 101,076.¹⁸¹³

IGI implements the temporary protection procedure in Romania. They reported that a large number of employees was involved in registering beneficiaries of temporary protection, at least for part of 2022. Employees were assigned to this task, including through changes to their job description. Furthermore, the number of responsible staff was dependent on the number of beneficiaries who wanted to register, so an exact number of staff involved in this procedure cannot be provided.

IGI-DAI underlined that in the case of temporary protection, persons are considered beneficiaries of this type of protection based on Council Decision 382/2022 and not based on any request lodged. As of 31 December 2022, the total number of individuals registered for temporary protection in the country was 101,076. The total number of individuals who registered for temporary protection who were present on the territory at the end of 2022 was unclear. IGI-DAI has reported that their duty is to register the beneficiaries and not to manage border crossings. According to a UNHCR report from December 2022, 106,000 people who had fled from Ukraine had remained in Romania.¹⁸¹⁴ As of 24 May 2023, 132,362 individuals had registered for temporary protection, according to UNHCR, of whom 131,095 were Ukrainians and 1,267 TCNs.¹⁸¹⁵

B. Qualification for temporary protection

Until 2 September 2022, in line with the Council Implementing Decision, the Temporary Protection Decree¹⁸¹⁶ provided that the following persons may apply for temporary protection:

- (a) Ukrainian nationals residing in the territory of Ukraine before 24 February 2022;
- (b) stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection (for example, having a refugee status) or equivalent national protection in Ukraine before 24 February 2022;

¹⁸¹⁰ UNHCR, 'Operational Data Portal, Romania: Overview of TPD', available in English at: <https://bit.ly/42gnBPW>.

¹⁸¹¹ Border Police, 'Summary of the Border Police activities carried out in 2022', 23 February 2023, available in Romanian at: <https://bit.ly/3JFZYKE>.

¹⁸¹² UNHCR-Inter-Agency Operational Update > Romania / December 2022.

¹⁸¹³ Information provided by IGI-DAI, 22 February 2023.

¹⁸¹⁴ UNHCR-Inter-Agency Operational Update > Romania / December 2022.

¹⁸¹⁵ UNHCR, 'Operational Data Portal for the Ukraine Refugee Situation', available in English at: <https://bit.ly/45qo8Sk> and <https://bit.ly/3BXx1Fj>.

¹⁸¹⁶ Art. 1 para 2 a), b) and c) and para. 2[^]1 and para. 2[^]2 TP Decree.

- (c) family members of the persons referred to in points (a) and (b)
- (d) stateless persons, and nationals of third countries other than Ukraine, who can prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit issued in accordance with Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin.
- (e) other close relatives who lived together as part of the family unit at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent on a person referred to in point (a) or (b) at the time.

The following persons shall be considered as family members: spouses, minor children who have not reached the age of 18, unmarried, without distinction as to whether they were born in or out wedlock or adopted. Close relatives, in the sense of point c), are the ascendants and descendants up to the second degree, respectively collateral relatives up to the third degree.

As of 2 September 2022, when the Temporary Protection Decree was amended by the Decision 1077/2022, the scope of temporary protection was broadened as follows:

- (a) Ukrainian citizens, regardless of the time of arrival in Romania, and their family members;
- (b) third-country nationals non-Ukrainians or stateless persons who benefited in Ukraine before 24.02.2022 from international protection or an equivalent national form of protection, regardless of the time of arrival in Romania, and their family members;
- (c) third-country nationals non-Ukrainians or stateless persons who left Ukraine on or after 24.02.2022 and who prove that they have legal residence in Ukraine, based on a permanent residence permit issued in accordance with Ukrainian legislation, and who are unable to return in safe and durable conditions to their country or region of origin and their family members - if the sponsor is recognised by the Romanian authorities as a beneficiary of temporary protection.¹⁸¹⁷

Family members of the persons referred to in letter a) and b) are, regardless of their nationality:

- ❖ spouses (legally married);
- ❖ unmarried minor children of the beneficiaries or of the spouse, whether they were born in or out wedlock or adopted;
- ❖ other close relatives who lived together, as part of the family, when the events that led to the massive influx of displaced persons took place and who were at that time totally or mainly dependent on the person provided for in a) or b) who benefit from temporary protection;
- ❖ Other close relatives who lived together, as part of the family, when the events that led to the massive influx of displaced persons took place and on whom the person provided for in a) or b) was at that time totally or mainly dependent, and who cannot return, under safe and stable conditions, to their country or region of origin. In this situation, kinship in the direct line up to the second degree (parents, grandparents, children, grandchildren) is considered, respectively kinship in the collateral line up to the third degree (brothers, sisters, uncles, aunts, nephews of brothers).¹⁸¹⁸

People fleeing Ukraine who do not fall under the scope of the temporary protection regime may make an asylum application.

Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a massive 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 was extended until 4 March 2024. Permits issued

¹⁸¹⁷ IGI, Information on the new legislative provisions regarding the expansion of the categories of persons, refugees from Ukraine, who can be granted temporary protection, available in Romanian at: <https://bit.ly/430M7Gg>.

¹⁸¹⁸ Ibid.

to beneficiaries of temporary protection in Romania are valid for the entire period of application of the EU Decision, thus they will be automatically extended, no request in this regard being necessary.

Third-country nationals who left Ukraine after 24 February 2022 due to Russia's aggression and who requested temporary protection from the Romanian state, were also allowed to enter the country, even if they were not in possession of a valid travel document pursuant to Council Implementing Decision (EU) 2022/382.

1,036 other nationalities (non-Ukrainians) have registered for temporary protection in Romania.

C. Access to temporary protection and registration

1. Admission to territory

There are no reports or testimonies in 2022 suggesting that anyone fleeing Ukraine was refused entry at the Ukrainian-Romanian border crossing points in 2022. The Border Police reported that the highest influx of third-country nationals who arrived (directly or indirectly through the territory of the Republic of Moldova) from the conflict zone was recorded in the first month after the beginning of the war in Ukraine, and they were allowed to enter the country, without requiring an entry visa, regardless of the type of document held, for humanitarian reasons, in accordance with the provisions of Article 6(5) of Regulation (EU) 2016/399. This situation was also applicable to those in transit.

Third-country nationals, who left Ukraine after 24 February 2022, due to Russia's aggression, and who requested temporary protection from the Romanian state, were also allowed to enter the country, even if they were not in possession of a valid travel document pursuant to Council Implementing Decision (EU) 2022/382. Thus, the Border Police ensured access to asylum/temporary protection procedures for all persons who requested it (at border crossing points or in the border area/green border - in the case of persons who fraudulently crossed the state border) as a form of protection from the Romanian state. In addition, the Border Police emphasised that, in the context of Russia's aggression against Ukraine, the application of the Agreement between the European Union and Ukraine on readmission has been suspended, which means that there were no return procedures carried out for any persons detected by the border police, in connection with the unauthorised crossing of the state border from Ukraine in Romania.

2. Freedom of movement

There are no reports that individuals entitled to temporary protection not holding a biometric passport or biometric travel document experienced any issue in moving within the country territory or while attempting to continue their journey towards other European countries.

3. Registration under temporary protection

The authority responsible for registering the temporary protection application in Romania is IGI. At the time of presenting themselves to the authorities, the following steps will be undertaken:

- ❖ signing a consent form regarding the processing of personal data;
- ❖ the personal documents they present are photocopied;
- ❖ the personal documents are verified;
- ❖ the person is photographed;
- ❖ the following personal data are recorded: surname and first name, date of birth, citizenship, sex, identity, civil status, family situation, family ties, address in Romania (if known);

- ❖ the persons receives a residence permit in Romania with a personal numerical code ('*cod numeric personal / CNP*' in Romanian)

There is no need to present a proof of the address where the person lives in Romania, if this is not possible.

Each person to be registered needs to be physically present, in order to be photographed. Children must be present in order to be identified, photographed and registered.

Persons are considered beneficiaries of temporary protection under Council Decision 382/2022 and not based on a request that is further assessed like an asylum request. However, there are two exceptions, when temporary protection is assessed, namely: for an assessment of return to the country of origin for some categories of non-Ukrainian citizens and in cases of exclusion from temporary protection, when a decision may be appealed against. IGI-DAI reported there were no such cases in 2022.

IGI-DAI reported that all beneficiaries registered are communicated to the EU Platform.

At the beginning of the conflict, Ukrainian citizens did not express the intention to apply for temporary protection, because they believed that within 90 days the conflict would end and there would be no need to register. During this period, IGI-DAI provided information on temporary protection to persons accommodated in public owned spaces, such as schools. NGOs also provided them with information on this. Persons living in cities with no IGI-DAI centre to register temporary protection, were provided with transport by the government to register.

Ukrainian citizens and third-country nationals fleeing Ukraine, who entered Romania with any kind of documents, can remain legally in Romania for up to 90 days, even if they do not register as a beneficiary of temporary protection. They may register as a beneficiary of temporary protection in Romania throughout the period of validity of the temporary protection.

The relevant documents for registration as a beneficiary of temporary protection are, depending on the situation, the following:

- ❖ identity documents (identity card, driving license, travel document or any other authentic document with a photograph);
- ❖ documents which prove the status of the person in Ukraine (for example, permanent residence permit, document issued to beneficiaries of international protection, etc.);
- ❖ documents which prove the family ties (for example, family card, birth / marriage certificate, etc.).

Upon registration the person receives a residence permit in Romania with a personal numerical code ('*cod numeric personal / CNP*' in Romanian).

No problems were reported with registration. Registration was done swiftly, no delays reported.

Foreigners who have been excluded from the granting of temporary protection or family reunification can appeal against the rejection decision issued by the IGI-DAI. The decision may be challenged within 10 days from the communication. The court renders a definitive decision within 30 days.¹⁸¹⁹ No such cases were reported.

60,935 women and 40,141 men registered for temporary protection in Romania. 34,741 minors, including 773 unaccompanied minors applied. 1,036 other nationalities (non-Ukrainians) registered for temporary protection in Romania.

¹⁸¹⁹ Art. 142 Asylum Act.

4. Legal assistance

In order to ensure the most complete information about the legal regime of refugees in Ukraine, the National Union of Romanian Bars (UNBR) and the bars in the country provide a bilingual Romanian-Ukrainian Guide, a hotline dedicated exclusively to Ukrainian citizens for legal information and a list (continuously updated) of lawyers who can provide free legal assistance, speaking English, French, Italian, Spanish, Hungarian, Russian and Ukrainian.

The Equality and Human Rights Action Centre (ACTEDO), a human rights organisation from Romania stands in solidarity with Ukraine and the Ukrainian people and provides pro bono legal assistance to people affected by the war started by Russia, joining the campaign "Lawyers for refugees " of the National Union of Romanian Bar Associations.

ACTEDO, through collaborating lawyers, members of the Pro Bono Network for Human Rights, offers legal assistance by e-mail, telephone or in person for refugees from Ukraine in issues such as obtaining refugee status or solving various legal problems of a civil or administrative nature, which the respective persons will encounter during their stay in Romania. The National Union of Romanian Bars has published a bilingual Romanian-Ukrainian guide, created a hotline dedicated exclusively to Ukrainian citizens (+40374.025.000) and a list of lawyers who can provide legal assistance to refugees.¹⁸²⁰

Through the project "Advocacy for access to the territory, information on international protection, child protection and the integration of refugees", funded by UNHCR Romania, CNRR has a special department for the provision of legal assistance for persons displaced from Ukraine following the outbreak of the armed conflict - Beneficiaries of Temporary Protection.

IOM Romania also provides information and counselling to people fleeing from Ukraine.

5. Information provision and access to NGOs

The Asylum Act provides the right for beneficiaries to be informed, in writing, in a language they are expected to understand, of the provisions relating to temporary protection.¹⁸²¹

To facilitate refugees' access to response services, one-stop centres, such as Blue Dots and the integrated support hub at RomExpo in Bucharest have been established and provide a comprehensive set of services and support, from registration to material items to information and counselling. Help lines and information websites were also launched.¹⁸²²

Dopomoha (Help) is a web support and information platform for migrants fleeing the war in Ukraine, where they may find up to date information in Romanian, Ukrainian English and Russian on entry requirements, education, labour and other useful information. The website was created by Code for Romania in partnership with the Department for Emergency Situations(DSU), UNHCR, IOM and CNRR ING Bank.

The government also established an information website in Romanian and Ukrainian with detailed information upon arrival in Romania, education, health, labour, legal assistance and others.¹⁸²³

¹⁸²⁰ For more information, see ACTEDO, available at: <https://bit.ly/3WLh3YO>.

¹⁸²¹ Art.133 para. (1) b) Asylum Act.

¹⁸²² UNHCR, *Regional Refugee Response Plan - 2023 Romania Chapter*, 28 February 2023, available at: <https://bit.ly/45BX9Dr>.

¹⁸²³ Romanian Government, Department for accountability social community and vulnerable groups, available at: <https://bit.ly/3IQ1Nns>.

IGI-DAI also published useful information for people fleeing from Ukraine on their website.¹⁸²⁴

A call centre supported by IOM, UNHCR, UNICEF and WHO, was also established. It is available on weekdays (Mon-Fri, 8:00 – 16:00) and provides information on rights and services in the following areas: health, education, social protection and labour.¹⁸²⁵

CNRR organised community consultations in Rădăuți, Iași and Botoșani, providing additional information on access to the medical system, on possible changes in the housing support scheme, banking services, and on the available employment opportunities (including through the county employment agencies).¹⁸²⁶

AIDRom also implements a project providing support to Ukrainian refugees, funded by UNHCR Romania. The AIDRom Timișoara Counseling Center aims to provide assistance according to the needs of Ukrainian refugee families, with an emphasis on vulnerable people: single-parent families, people with disabilities, elderly people, people with medical and mental illnesses, children, people belonging to minorities, pregnant women, etc.

The services provided cover social assistance, medical assistance, material support in the form of social vouchers, psycho-social support through group or individual sessions, educational and professional training, including Romanian and English language courses, cultural-recreational activities, and market integration work. Vocational training courses will be organised in order to ensure the acquisition of skills relevant to the needs of the local labor market.

According to the Border Police after the completion of the border formalities, depending on the support needed, persons fleeing Ukraine were referred to representatives of the local authorities, county council, NGOs and volunteers present in the vicinity of the crossing points.¹⁸²⁷

D. Guarantees for vulnerable groups

According to UNHCR reports mechanisms have been in place since the early days of the refugee influx to identify and refer vulnerable refugees at the border points, including unaccompanied and separated children, persons with disabilities and persons with serious medical needs, to specialised NGOs and services.¹⁸²⁸

Based on UNHCR reporting unaccompanied and separated children were referred to the government family tracing and reunification services, received appropriate support family and community alternative care arrangements, and legal counselling on access to relevant services and guardianship procedures.¹⁸²⁹

There was also an open-source software, Primero, helping outreach workers identify and register refugee children, including unaccompanied and separated children, and to refer them to specialised services as needed. By the end of January 2023, the National Authority for the Protection of Child Rights and Adoption (NAPCRA) reported that 18,782 children had been registered. This is now seen as a good

¹⁸²⁴ See in Romanian: <https://bit.ly/3NeP4O5>.

¹⁸²⁵ UNHCR, Inter-Agency Operational Update, March 2023.

¹⁸²⁶ UNHCR, Inter-Agency Operational Update, March 2023.

¹⁸²⁷ Border Police, 'Summary of Border Police activities carried out in 2022', available in Romanian at: <https://bit.ly/3WGQQKl>.

¹⁸²⁸ UNHCR, *Regional Refugee Response Plan - 2023 Romania Chapter*, 28 February 2023, available at: <https://bit.ly/45BX9Dr>.

¹⁸²⁹ Ibid.

practice in the region with potential for developing cross-border case management and referral mechanisms.¹⁸³⁰

Mental health and psychosocial support services are provided by several NGOs, such as IOM Romania, Terre des Hommes, Save the Children, World Vision and also WHO.¹⁸³¹ IOM Romania provides mental health and psychosocial support in several cities across Romania, including Bucharest, Brasov, Cluj-Napoca and Iasi, through a team of psychologists, caseworkers, and other specialised personnel from IOM and Implementing partners (IPs). In December, IOM organised individual counselling sessions for adults and children, group sessions, family counselling, formal and non-formal activities. The Migrant Integration Center, with support of the Danish Refugee Council, developed a mobile team to assist communities outside of the City of Brasov.

UNHCR reported that there is a lack of availability of critical mental health and psycho-social support services for children and adolescents continues to be a key service gap.¹⁸³²

60,935 women and 40,141 men registered for temporary protection in Romania. 34,741 minors, including 773 unaccompanied minors applied. IGI-DAI has no statistics on vulnerable persons and categories of vulnerable persons.

¹⁸³⁰ Ibid

¹⁸³¹ UNHCR, Inter-Agency Operational Update, March 2023.

¹⁸³² UNHCR, *2022 Final Report Regional Refugee Response Plan for the Ukraine Situation (March – December 2022)*, 28 March 2023, available at: <https://bit.ly/43Bslv8>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--|------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | 04.03.2024 |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2022? | 101,076 |

The General Inspectorate for Immigration issues the beneficiaries of temporary protection with a residence permit on the territory of Romania and assigns a personal identification number (*cod numeric personal* / *CNP* in Romanian). The residence permit and the personal numerical code are used in the interaction with the Romanian authorities in order to enjoy the specific rights attached to temporary protection.

Permits issued to beneficiaries of temporary protection in Romania are valid for the entire period of the application of the EU Decision, so they will be extended automatically, without the need for a request in this regard.

IGI-DAI reported that based on the guidelines of the EU Commission, beneficiaries of temporary protection enjoy freedom of movement, if they meet the legal travel conditions. Therefore, they have the possibility to register in more than one Member State, nonetheless they may only benefit from the afforded rights in one country. A beneficiary of temporary protection may not relinquish his/her status, only the related rights afforded in a Member State.

There are two possibilities for renouncing the related rights:

1. Relinquishment or renunciation may be the result of an express request from the beneficiary made at one of the IGI structures. In this case he/she will be issued a document attesting this.
2. If the person is not physically present in Romania, such a request may be lodged at the Romanian Embassy or Consulate where he/she is present. After the administrative procedure the Embassy or Consulate will issue the above-mentioned document.

IGI-DAI mentioned that relinquishment of related rights does not imply a de-registration of the respective person. There have been no re-registrations of temporary protection status following return from Ukraine to Romania.

101,076 residence permits were issued to beneficiaries of temporary protection in 2022. No permits have been withdrawn from temporary protection beneficiaries.

2. Access to asylum

Beneficiaries of temporary protection can lodge an application for asylum at any time. If a person fleeing Ukraine makes an asylum request and, at the end of the asylum procedure, he/she is not granted a form of international protection (refugee status or subsidiary protection), he/she will continue to enjoy temporary protection until the expiry of the period for which it was granted.

4,398 Ukrainians made an asylum claim between 24 February 2022 and 31 December 2022.

B. Family reunification

The Asylum Act prescribes that in cases where families were already formed in the country of origin and were separated due to the circumstances during the mass flow, the following persons will be considered family members of the beneficiary of temporary protection:

- (a) wife/husband;
- (b) the unmarried minor of the beneficiary or of his/her spouse, without distinguishing whether he/she is born out of wedlock or adopted.

When one or some of the family members of the beneficiary of temporary protection are not yet in Romania, family reunification will be carried out if it is found that they need protection and are not in one of the cases provided for exclusion from temporary protection.¹⁸³³

The national legislation does not include material requirements on accommodation, income or health insurance.

Family members are issued documents granting them permission to stay on the territory of Romania. The same residence permit as the beneficiary of temporary protection.

C. Movement and mobility

IGI-DAI reported that based on the guidelines of the EU Commission, beneficiaries of temporary protection enjoy freedom of movement, if they meet the legal travel conditions. Therefore, they have the possibility to register in more than one Member State, nonetheless they may only benefit from the afforded rights in one country. A beneficiary of temporary protection may not relinquish his/her status, only the related rights afforded in a Member State.

IGI-DAI reported that based on the guidelines of the EU Commission, beneficiaries of temporary protection enjoy freedom of movement, and can travel towards other EU MS once they are registered if they meet the legal travel conditions.

D. Housing

Indicators: Housing

- | | |
|--|----------------|
| 1. For how long are temporary protection beneficiaries entitled to stay in collective centres? | Not applicable |
| 2. Number of persons fleeing Ukraine staying in collective centres as of 12/22 | 7,700 |
| 3. Number of beneficiaries staying in private accommodation as of 12/22 | Not available |

Over 90% of Ukrainian refugees under temporary protection (TP) lived in urban and peri-urban areas, primarily in private accommodation within the host communities. Based on the Multi-sector Needs Assessment conducted in October 2022, nearly 70% of respondent refugee households in Romania benefited from the governmental 50/20 programme, through which 50 RON (EUR 10) / per person / day were provided for accommodation and 20 RON (EUR 4) / per person / day for food. Around 7,700 persons fleeing the war in Ukraine lived in accommodation centres managed by the Government of

¹⁸³³ Art. 135 Asylum Act.

Romania.¹⁸³⁴ According to UNHCR there is a lack of data on the exact locations where beneficiaries of TP reside in Romania.¹⁸³⁵

People fleeing the war in Ukraine have been provided with housing in collective sites - public buildings such as schools, community services, where assistance, services and protection are available. There is a total capacity of 51,258 of places in the collective sites, the highest number being in Constanta county with 10,084 places. According to the interviews conducted by IOM Romania and the records of the places available in the collective centres, most of them accommodate people in transit, but they are prepared to receive new arrivals any time in case they need short term accommodation.¹⁸³⁶

The 50/20 Programme was initiated by the Romanian Government through the adoption of Government Emergency Ordinance no 15/2022 on 27 February. The programme aims to ensure the provision of accommodation and food to the refugees residing in the country by facilitating the payment of RON 50/person/day for accommodation and RON 20/person/day for food to Romanian citizens hosting refugees fleeing the conflict in Ukraine.

Qualitative research conducted by IOM Romania shows that Long term accommodation was always available to most of the respondents, but varied from 77% in March to 83% in April and then back to 70% in June and July. While short term has been organised by the government and centrally coordinated, long term accommodation depends also on the stock of houses available on the real estate market, which goes beyond the control of the organisations coordinating the humanitarian response. Thus, as more Ukrainian refugees found long term accommodation, the stock available went down.¹⁸³⁷

Within this government programme, persons receiving citizens who are fleeing the war in Ukraine receive monthly cash payments from the state budget:

- ❖ for housing - 50 lei per person per day,
- ❖ for meals - 20 lei per person per day.¹⁸³⁸

Payments are received by the owner or person who has the right to use the residential premises.

Temporary protection status or refugee status is not a requirement. All Ukrainians who arrived in the country in search of protection can use the programme, regardless of their residence status.

The application is submitted by the owner of the premises, or the person entitled to use it. The appeal is submitted at the beginning of the month for the previous month.

IGI-DAI has no responsibilities for accommodation for beneficiaries of temporary protection. In Romania the 50/20 program officially operates, which is aimed at finding housing long-term.

UNHCR undertook a survey to evaluate the impact, use of and satisfaction with the programme. The findings of this survey show a high degree of satisfaction among temporary protection beneficiary respondents with the 50/20 programme, with nearly 90% being satisfied or very satisfied with it.¹⁸³⁹

IGI-DAI has no statistics on the number of temporary protection beneficiaries staying in private accommodation.

¹⁸³⁴ UNHCR, Operational Data Portal – Romania: Overview on Sites and Locations, 23 June 2022, available at: <https://bit.ly/3OOFvGC>.

¹⁸³⁵ UNHCR, *Regional Refugee Response Plan - 2023 Romania Chapter*, 28 February 2023, available at: <https://bit.ly/45BX9Dr>.

¹⁸³⁶ IOM Romania, *Ukraine Response Romania Evolution of Needs Report*, available at: <https://bit.ly/43gz6T>.

¹⁸³⁷ Ibid.

¹⁸³⁸ Article 1 (10) Decree 15/2022.

¹⁸³⁹ UNHCR Romania, *Rapid Survey of the 50-20 Programme - UNHCR Romania Thematic Report*, December 2022-January 2023, available at: <https://bit.ly/3Bkg0VH>.

E. Employment and education

1. Access to the labour market

Ukrainian citizens who do not have documents proving their professional qualification or experience wishing to work in Romania do not need a work permit for a period of 12 months, with the possibility of extension, by periods of 6 months, for a maximum of one year. They have to provide an affidavit of their professional qualification and experience and that they do not have a criminal record that is incompatible with the activity they carry out or are going to carry out in Romania.¹⁸⁴⁰ They have to register with the territorial agencies for employment and have the right to be employed under the same conditions as Romanian citizens.

The provision mentioned before does not apply to Ukrainian citizens, who wish to access or practice in Romania, independently or as an employee, the professions of doctor, dentist, pharmacist, general medical assistant, midwife, doctor veterinarian and architect.¹⁸⁴¹

Based on temporary protection, they are issued a residence permit for a period of 12 months, with the possibility of extension, which also allows them to work. Ukrainian citizens who want to work in Romania do not need a work permit or visa.

Access to the labour market is guaranteed under the conditions provided by law for Romanian citizens, although temporary protection beneficiaries cannot be employed in jobs that require Romanian citizenship or of an EU Member State or in public institutions with attributions and responsibilities in national security sector.

As of the 30 December 2022, 2,666 individuals and 1,312 employers in Romania had registered on the Jobs4Ukraine platform, and 323 job matches (mutually expressed interest between job seeker and employer) had been facilitated. Throughout the region, including Romania, the platform has registered a total of 7,616 unique job seekers, 2,116 unique employers and has facilitated a total of 3,553 interactions which include job applications, invitations to apply sent by employers and matches of expressed mutual interest between job seekers and employers.

According to the ANOFM National Employment Services by the end of December 2022, a total of 1,357 Ukrainians had registered to receive employment assistance services and 725 of those individuals registered in the system had earned and maintained an active formal employment contract.¹⁸⁴²

2. Access to education

The Asylum Act prescribes that beneficiaries of temporary protection have the right to have access to the state education system under the conditions provided by law for Romanian citizens, in the case of beneficiaries of temporary protection who have not reached the age of 18.¹⁸⁴³

GEO 15/2022 further expands on the right to education providing that minor children fleeing Ukraine have the right to education in educational institutions in Romania under the same conditions and with funding from the same budgets as for Romanian pre-schoolers and school aged children.

They have the right to free accommodation in boarding schools, food allowance, the right to receive school supplies, clothing, footwear, textbooks.¹⁸⁴⁴

¹⁸⁴⁰ Art. VI para. (3) GEO 20/2022.

¹⁸⁴¹ Art. VI para. (6) GEO 20/2022

¹⁸⁴² UNHCR-Inter-Agency Operational Update > Romania / December 2022.

¹⁸⁴³ Art.133 para. 1 g) Asylum Act

¹⁸⁴⁴ Art.10 para. (1) a) and b) GEO 15/2022.

As of 16 December 2022, 4,008 Ukrainian children were officially enrolled in the national education system, 1,431 at pre-primary level, 1,331 at primary level, and 1,246 at secondary level. Out of these, 78% were enrolled in the ‘audience’ format.¹⁸⁴⁵ This means that children are enrolled in normal classes together with Romanian children as observers for the first year. Being an observer means that the child is not listed in the class book and he or she does not receive grades.

As of 17 March 2023, 4,990 Ukrainian refugee children were officially enrolled in the national education system, (79 % participate as observers): 1,789 at pre-primary level, 1,729 at primary level, and 1,472 at secondary level. Enrolments have continuously increased for many reasons including the situation of power shortage in Ukraine, which makes it difficult for children to follow classes offered through the Ukrainian online learning platform.¹⁸⁴⁶

According to UNHCR, there are increasing concerns on the actual capacity of the Romanian education system to absorb and meet the educational needs of all Ukrainian refugee children and adults. While alternative and complementary learning modalities (e.g. education hubs) have been established to reduce the burden on schools and help children transition progressively to Romanian schools over the past few months, UNHCR partners are now facing serious difficulties to secure funding for continuing their operations beyond the current school year, hence facing the risk of having to discontinue the provision of such services from September 2023 onwards, unless additional resources are made available.¹⁸⁴⁷

IOM Romania noted that children drop out of school because they do not understand the Romanian language.¹⁸⁴⁸

Before enrolment, the state of health of children is examined in the educational facility and they are issued a medical document. If they are not vaccinated, they can benefit from the vaccination scheme according to the National Vaccination Program carried out by the Ministry of Health.

The GEO 15/2022 provides that after acquiring the status of observers, children with mobility impairments have the right to education or with chronic diseases in complex medical assistance units.¹⁸⁴⁹

Beneficiaries of temporary protection may participate in free vocational training courses¹⁸⁵⁰ organised by the National Employment Agency (ANOFM), if they are registered with one of the territorial employment agencies. Registration at the county employment agencies is done on the basis of the identity card, passport or any other document that certifies their identity.¹⁸⁵¹

For students or PhD candidates who cannot prove they have completed their studies with documents issued by the higher education institution he/she previously attended in Ukraine, the Romanian higher education institution evaluates their level based on its own criteria and respecting the best international practices, learning outcomes, competencies and skills and decides on the recognition and award of transferable study credits. The student or PHD candidate has to provide their diplomas before he/she finalises their studies in Romania.¹⁸⁵²

¹⁸⁴⁵ UNHCR, Inter-Agency Operational Update > Romania / December 2022.

¹⁸⁴⁶ UNHCR, Inter-Agency Operational Update > Romania, March 2023.

¹⁸⁴⁷ Ibid.

¹⁸⁴⁸ IOM Romania, Ukraine Response Romania Evolution of Needs Report, available at: <https://bit.ly/43gzh6T>.

¹⁸⁴⁹ Art. 11 para. (6) b) GEO 15/2022.

¹⁸⁵⁰ Art 133 para. (1) c) Asylum Act.

¹⁸⁵¹ Romanian Government, Work in Romania, available in Romanian and Ukrainian at: <https://bit.ly/3lJLA3q>.

¹⁸⁵² Art. 3 paras (2) and (3) of the Minister of Education Order no. 3325/2022.

In the academic years 2021-2022 and 2022-2023, Ukrainian nationals, may benefit from funding from the state budget or other sources, through the Ministry of Education and, respectively, higher education institutions.¹⁸⁵³

F. Social welfare

Access to free of charge social welfare is ensured for persons with disabilities accompanied or unaccompanied, elderly persons who come from the area of the armed conflict in Ukraine. The persons accompanying them also benefit from social services under the same conditions.¹⁸⁵⁴

Local public administration authorities may hire, without competition, social workers or other specialised personnel, as appropriate, within the public social assistance services at local and county level and within the social services in which there are beneficiaries who come from the armed conflict area of Ukraine, depending on their needs, for a specific period of not more than 3 years.¹⁸⁵⁵

Public providers of social services, accredited under the law, can set up day care and public and private residential centres for adults with disabilities coming from Ukraine, depending on their needs, for a determined period, but not more than 3 years. These social services may be established in an urgent manner.¹⁸⁵⁶

The authority responsible for granting social assistance is DGASPC- Directorate-General for Social Assistance and Child Protection.

According to a JRS representative, the state child allowance is not granted to Ukrainian children because the Temporary Protection document issued does not include their area of residency. As for other social welfare they have to prove that they are not receiving the respective benefits in the country of origin.

Based on a survey with refugees from Ukraine conducted by IOM Romania between March 2022 and February 2023 the main challenges encountered when accessing basic benefits were the language barrier mentioned by 62% of those interviewed, while 61% consider that the benefits provided were not enough to cover their needs. In addition, a lack of information regarding the benefits they were entitled to, such as the complexity of the system, or having no knowledge on how to apply were also issues mentioned by temporary protection beneficiaries.¹⁸⁵⁷

According to an Inter-Agency Operational report, one of the most pressing gaps is the limited availability of services for refugee children with disabilities and special needs. Children with disabilities have been further referred by government authorities to third party social services providers (NGOs) due to limited capacity of state authorities, mainly DGASPC.¹⁸⁵⁸

UNHCR quotes difficulties in measuring services awarded to refugees from Ukraine because the Temporary Protection document in the country does not include refugees' area of residency. Noting the following: 'this also hinders the state from being able to carry out proper social welfare monitoring and assessments to ensure vulnerable refugees (e.g., older persons and persons with disabilities) are

¹⁸⁵³ Art. 10 para. 4 of the Minister of Education Order no. 3325/2022.

¹⁸⁵⁴ Art. 2[^]1 paras (1) and (2) and art. 2[^]3 of the Government Emergency Ordinance 15/2022.

¹⁸⁵⁵ Art. 2[^]5 of the Government Emergency Ordinance 15/2022.

¹⁸⁵⁶ Art. 2[^]7 paras (1) and (2) of the Government Emergency Ordinance 15/2022.

¹⁸⁵⁷ IOM, Ukraine Reponse, 2022-2023, Romania – Survey with refugees from Ukraine, available at: <https://bit.ly/45BCPSH>.

¹⁸⁵⁸ UNHCR, Regional Refugee Response for the Ukraine Situation, Inter-Agency Operational Update, March 2023.

included in these schemes. Documents issued by authorities to confirm residence are not always accepted by service deliverers at local level.¹⁸⁵⁹

G. Health care

Foreign nationals or stateless persons coming from the area of armed conflict in Ukraine benefit from medical services, medical supplies, medicines, medical devices and medical services included in the national curative health programmes, like Romanian citizens who are insured, without paying contributions to the social health insurance system, the personal contribution for the medicines granted in the outpatient treatment and with exemption from co-payment. Medical services in specialised outpatient healthcare are provided without the need to present a referral from the doctor (a form used in the social health insurance system).¹⁸⁶⁰

According to the UNHCR, Inter-Agency Operational Update, access to primary health care services is difficult for Ukrainian children and caregivers, due to language, information, financial and administrative barriers. A study done by WHO, among refugees shows that access to information and the language barrier remain the two biggest issues. However, efforts are made to promote the employment of medical interpreters.¹⁸⁶¹

It was also reported that access to the Romanian healthcare system through registration with a family doctor is still a need. Family doctors are unable to get reimbursed by National Health Insurance House for all the services they have provided to children and adults and those who had previously agreed to take on refugee patients have started to report overwhelming amounts of work, which has made them gradually refuse new registrations.¹⁸⁶²

Another issue that may hinder access to family doctors is the fact that the Temporary Protection document in the country does not include beneficiaries' area of residency, which causes delays and challenges. This precludes state authorities to conduct proper social welfare monitoring to ensure that vulnerable temporary protection beneficiaries are included in these schemes. It was also noted that documents issued by authorities to confirm residence are not always accepted by service deliverers at local level.¹⁸⁶³

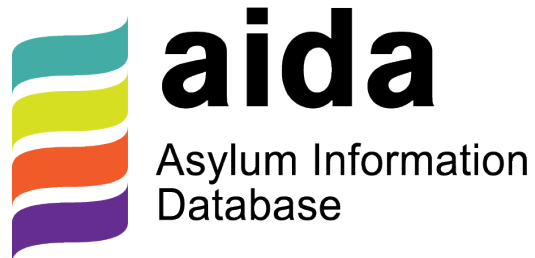
¹⁸⁵⁹ UNHCR, *2022 Final Report Regional Refugee Response Plan for the Ukraine Situation (March – December 2022)*, 28 March 2023, available at: <https://bit.ly/43Bslv8>.

¹⁸⁶⁰ Article 1 para.(1) d) and article 1 para. (4) Decree 15/2022, more details on/ <https://bit.ly/3OOMBtBY>.

¹⁸⁶¹ UNHCR, Inter-Agency Operational Update, March 2023.

¹⁸⁶² Ibid.

¹⁸⁶³ UNHCR, *2022 Final Report Regional Refugee Response Plan for the Ukraine Situation (March – December 2022)*, 28 March 2023, available at: <https://bit.ly/43Bslv8>.



Sweden



Temporary Protection Procedure

A. General

The Temporary Protection Directive¹⁸⁶⁴ was implemented in the Swedish Aliens Act on 1 January 2003. The legislative process of implementation of the TPD mainly consisted of the Governmental Bill 2001/02:185 Residence Permit with temporary protection at mass flight.¹⁸⁶⁵ In 2006 the Aliens Act underwent substantial changes, and the relevant provisions for temporary protection were moved to a separate chapter. Chapter 21 of the Aliens Act refers to the TPD stating that temporary protection according to the Directive is regulated in that chapter. The provisions in chapter 21 state that those within the personal scope of a decision on temporary protection shall be granted a temporary residence permit. The Government may extend the personal scope of temporary protection to others that have fled for the same reasons. Family members to a person who has been granted temporary protection may also be granted temporary residence (see Qualification for temporary protection). An application for refugee status must be assessed at the latest as soon as possible after the temporary protection permit has elapsed. The temporary residence permit shall be combined with a work permit. On 1 January 2003 the Act on reception of asylum-seekers was adjusted to include persons with temporary protection within the personal scope of the law.¹⁸⁶⁶

National legislation on temporary protection was in place when the European Union adopted its decision to implement the Temporary Protection Directive for displaced persons from Ukraine on 4 March 2022 (Council implementing decision).¹⁸⁶⁷ However, during 2022 a few amendments to the relevant national legislation were made.

In April the Government decided to extend the personal scope of temporary protection to include persons who had travelled to and stayed in Sweden during the period 30 October 2021 – 23 February 2022, if they belong to the categories of persons mentioned in article 2.1 and 2.2 of the Council implementing decision.¹⁸⁶⁸

On 1 July 2022, the Act on Reception of asylum-seekers and others was adjusted so that those who had applied for temporary protection (not only those granted temporary protection) should be included in the personal scope of the law.

In 2022, the SMA (Swedish Migration Agency) registered 50,357 applications for temporary protection. Of those applications, 49,275 were Ukrainian nationals, and 203 were Russian nationals. The remaining applications came from third country nationals from over 20 different countries, including 88 from Azerbaijan and 69 from Armenia.

SMA took decisions in 49,266 of these applications, and of those tried on the merits 47,310 (i.e. 100%) were granted a residence permit. 167 applications were rejected, 1,546 applications were dismissed, 242 applications were annulled due to double registrations.

In addition to the applications registered for temporary protection, the SMA registered 1,976 applications for asylum from Ukrainian nationals, and 746 for Russian nationals.¹⁸⁶⁹ As explained in Access to Asylum, no decisions have been taken.

¹⁸⁶⁴ 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 [2001] OJ L 212/12, available at: <http://bit.ly/409uJhu>.

¹⁸⁶⁵ Proposition 2001/02:185 Uppehållstillstånd med tillfälligt skydd vid massflykt, 21 May 2002, available in Swedish at: <https://bit.ly/3ncp5Mm>.

¹⁸⁶⁶ Lag (1994:137) om mottagande av asylsökande m.fl., available in Swedish at: <http://bit.ly/3ncmdz5>, 1 §.

¹⁸⁶⁷ 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 [2022] OJ L 71/1, available at: <https://bit.ly/3EztVsR>.

¹⁸⁶⁸ Aliens Act Ordinance, (2006:97) Chapter 4 Section 19 h.

¹⁸⁶⁹ Migration Agency, monthly statistical report December 2022.

B. Qualification for temporary protection

According to its article 2.1 the Council implementing decision applies to the following categories of persons displaced from Ukraine on or after 24 February 2022, as a result of the military invasion by Russian armed forces that began on that date:

- (a) Ukrainian nationals residing in Ukraine before 24 February 2022;
- (b) stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022; and
- (c) family members of the persons referred to in points (a) and (b).

According to article 2.2. Member States shall apply either the Temporary Protection Directive or adequate protection under their national law, in respect of stateless persons, and nationals of third countries other than Ukraine, who can prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit, and who are unable to return in safe and durable conditions to their country of origin.

The persons included in article 2.1 of the Council decision were immediately included in the personal scope for temporary protection. However, for most of 2022, the SMA did not grant temporary protection to those included in the latter group (article 2.2.) but registered their applications as asylum applications.¹⁸⁷⁰

On 7 April 2022 the Government decided to widen the application of temporary protection to include persons who had travelled to and stayed in Sweden during the period 30 October 2021 – 23 February 2022, and if they belong to the categories of persons mentioned in article 2.1 and 2.2 of the implementation directive. It could also be noted that this provision excludes persons that left Ukraine shortly before 24 February but entered Sweden on or after 24 February. However, it did also refer to persons included in article 2.2 of the Council decision.

In November, the SMA provided new guidance saying that also persons included in article 2.2 of the Council decision shall be included in the personal scope of temporary protection (nationals of other third countries with permanent residency in Ukraine who resided in Ukraine before 24 February 2022 and who are unable to return in safe and durable conditions to their country of origin). The new guidance also stated that children who are born in Sweden and whose parents are Ukrainian citizens with temporary protection shall also be granted temporary protection. Further, the new guidance stated that all those within the personal scope of article 2.1 and 2.2 who had entered Sweden on 30 October 2021 or later should be entitled to temporary protection. However, as for persons mentioned in article 2.2, the SMA must examine in each case if the applicant is unable to return in safe and durable conditions to their country of origin. This means that their applications will be assessed within the framework of the ordinary asylum procedure.¹⁸⁷¹

Residence permits due to temporary protection are valid until 4 March 2023, one year after the Council Implementation Decision. They then have to be renewed (see Residence Permit).

On 24 February 2022 the SMA decided to halt all deportations to Ukraine due to the security situation in the country. This position still applies as of January 2023. Therefore, until this decision is lifted, persons will not be deported to Ukraine irrespective of being granted temporary protection or not. On the same date the SMA decided to halt decision-making in ordinary asylum cases concerning applications for protection in relation to Ukraine, due to the difficulties to assess the situation in Ukraine and the protection needs. In April the SMA adjusted its legal position so that in cases where it is clear

¹⁸⁷⁰ SMA, Legal Position RS 004/2022, April 2022

¹⁸⁷¹ SMA, Legal Position RS 004/2022 version 2,0, November 2022, available in Swedish at: <http://bit.ly/40lYJpZ>.

that protection should be granted, and the applicant could face a legal loss if the decision should be postponed, a positive decision may be made. This position applied throughout 2022.¹⁸⁷²

Family members are those set out in the Council Implementing decision 2022/382, article 2.4:

For the purposes of paragraph 1, point (c), the following persons shall be considered to be part of a family, in so far as the family was already present and residing in Ukraine before 24 February 2022:

- ❖ the spouse of a person referred to in paragraph 1, point (a) or (b), or the unmarried partner in a stable relationship, where the legislation or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its national law relating to aliens;
- ❖ the minor unmarried children of a person referred to in paragraph 1, point (a) or (b), or of his or her spouse, without distinction as to whether they were born in or out wedlock or adopted;
- ❖ other close relatives who lived together as part of the family unit at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent on a person referred to in paragraph 1, point (a) or (b) at the time.

The Governmental Bill Residence Permit with temporary protection at mass flight made it clear that unmarried partners and registered partners (former national legislation on same-sex marriage) should be treated on an equal basis with married couples in the Aliens Act. Therefore, unmarried partners are also included in the personal scope of family members mentioned in article 2.1.¹⁸⁷³

There are no additional requirements such as income or accommodation if the applicant would qualify for temporary protection according to article 2.1. c of the Council decision.

Family members to those granted temporary protection due to the nationally extended personal scope (persons that left Ukraine from 30 October 2021 until 23 February 2022) have the same right to temporary protection as those whose family member is included in the personal scope of the Council decision.

The Aliens Act states that certain family members may be granted temporary protection permits. The relevant provision does not exclude family members that may fall outside the definition on the Council decision. The family members explicitly mentioned in the provision include: married or unmarried partner, unmarried children to the person with temporary protection status or his/her partner, other closer relatives if there is a particular dependency.¹⁸⁷⁴

The SMA has stated that children who are born in Sweden with a parent who has temporary protection should be considered as a family member and be granted temporary protection according to the national provision, even if the child and parent had not lived together in Ukraine before 24 February 2022.

It should be noted that the provisions on temporary protection are given priority to other grounds for residence permit. This means that a person who would have the right to residence permit due to family ties (to a person residing in Sweden without temporary protection) would not be granted residence permit on grounds for family reunification but instead a temporary protection permit if they should qualify for temporary protection. The content of temporary protection in terms of social rights and validity time of the permit could be seen as less beneficial than a permit due to family reunification.

¹⁸⁷² SMA, Legal Position RS 004/2022 version 2,0, November 2022, available in Swedish at: <http://bit.ly/40YJpZ>.

¹⁸⁷³ Aliens Act Chapter 21, Section 4, and Governmental Bill 2001/02:185 Residence Permit with temporary protection at mass flight, available in Swedish at: <https://bit.ly/3LU7mUI>, 46.

¹⁸⁷⁴ Aliens Act Chapter 21 Section 4.

C. Access to temporary protection and registration

1. Admission to territory

The Government on 23 March 2022 decided to implement expanded identity checks for certain ferry travels to Sweden. For passenger ferry travels surpassing 20 nautical miles, the transport company are legally obliged to control that all passengers have valid identity cards with photo. A person without such identity card shall not allowed to board the ferry. Children who travel with a parent who can show an identity card are exempted from the obligation to provide an identity card. The changes were introduced on 28 March and initially valid until 1 September 2022, then extended until 31 December 2022. A transport company that does not perform this control is subject to a fine.¹⁸⁷⁵ However, there were no cases of such fines reported in 2022. Both the European Commission and UNHCR have recommended that states do not introduce penalties for transport companies that accepts persons without proper travel documents, who need protection.

On 15 March the Government proposed a temporary law in order to allow for identity checks for travels with bus, train, and all passenger ferries to Sweden.¹⁸⁷⁶ However, this proposal was withdrawn.

Sweden continues to have temporary internal border controls since November 2015. The Government extended the temporary controls in May and November 2022, which currently run until 11 May 2023.¹⁸⁷⁷ The Swedish Police is responsible for deciding at what place and time these controls should be conducted.

There are no reports that people fleeing from Ukraine have been refused entry at the border to Sweden. There are also no reports of difficulties to re-enter in Sweden for persons who returned to Ukraine.

2. Freedom of movement

It has not been reported that movement in general has been a problem for persons without a biometric passport or biometric travel document. However, some travel companies offered free travels for Ukrainian passport holders, which therefore excluded those entitled to temporary protection without a Ukrainian passport to benefit from this offer.¹⁸⁷⁸

3. Registration under temporary protection

The SMA (Swedish Migration Agency) is responsible for registering applications for temporary protection. Applications may be submitted in person at SMA offices or using an online application form. There are no specific time-limits for applying for temporary protection, other than the fact that Ukrainian nationals may only stay in Sweden legally during 90 days, following which they need a legal basis to remain.

The SMA started to register applications for temporary protection immediately after the Council decision to activate the Temporary Protection Directive. Asylum applications that had been previously registered

¹⁸⁷⁵ Ministry of Rural Affairs and Infrastructure, 'Obligatorisk identitetskontroll vid resa med passagerarfartyg', 15 July 2022, available in Swedish at: <https://bit.ly/3msSvFV>.

¹⁸⁷⁶ Promemorian "Särskilda åtgärder vid allvarlig fara för den allmänna ordningen eller den inre säkerheten i landet till följd av Rysslands aggression mot Ukraina" (dnr I2022/00657)

¹⁸⁷⁷ Ministry of Justice, 'Reintroduced temporary internal border controls', 11 November 2022, available at: <http://bit.ly/3EWvPnS>.

¹⁸⁷⁸ Svt Nyheter, 'Flyktingar från Ukraina får resa gratis med Västtrafik', 9 March 2022, available in Swedish at: <http://bit.ly/3nnjqmY>; Storstockholms Lokaltrafik, 'Ukrainian passport or ID = a valid ticket for public transport in Stockholm', available at: <https://bit.ly/3K9Elgz>.

by persons who are included in the personal scope of the temporary protection were processed as applications for temporary protection.

On 16 March 2022 the Swedish Public Radio reported that there were long queues outside the Migration Agencies offices with persons who were waiting to register their applications for temporary protection. It was reported that some persons were standing in line for a full day without getting the opportunity to hand in their application. Within a week thereafter the online application system was launched, and since then there has not been any reported difficulties to register applications.¹⁸⁷⁹

On 22 March 2022, the SMA opened up the possibility to apply for temporary protection using an online application form. Only Ukrainian nationals with a valid passport or other identity documents may apply online. A copy of passport or id-cards should be attached to the application. Applications can still also be submitted in person before the SMA in certain cities.¹⁸⁸⁰ Unaccompanied children must apply in person.

In January 2023, SMA informed on its website that from 1 February until 4 March 2023 it is possible to apply for an extension of the residence permit for temporary protection status holders, using an e-service application form. It is not necessary to attach passport copies or other documents. After having registered the application for extension, applicants are given an appointment at an SMA office to provide fingerprints and be photographed.

The issue of a TPD rejection decision is not entirely clear regarding legal avenues to contest this decision. If the SMA takes a decision on deportation, such decision can be appealed. However, if an applicant for temporary protection is considered to be outside the personal scope of the temporary protection, the person is advised to seek asylum and the application will be handled as an ordinary asylum application by the SMA. If this is done, no deportation decision is taken. On 24 February 2022 SMA decided to halt decision-making in ordinary asylum cases concerning applications for protection in relation to Ukraine. This position continues to apply.

4. Legal assistance

Persons who are entitled to temporary protection are not assigned a legal representative by the SMA. There is no general free legal assistance available, but several NGOs and lawyers have provided legal assistance to temporary protection status holders. The processing time at the SMA from registration to decision has been short, on average 19 days.¹⁸⁸¹

The Swedish Bar Association arranged free legal advice in some cities to Ukrainian nationals.¹⁸⁸² The Government decided on a budget of SEK 68,8 million on grants to civil society organisations working with support (support in general, not only legal support) to persons from Ukraine seeking protection in Sweden. Grants were awarded by the Swedish Agency for youth and society. Among the organisations who received such grants were Sweden City missions, Swedish Red Cross, and Swedish Refugee Law Center.¹⁸⁸³

¹⁸⁷⁹ SverigesRadio, 'Långa köer för att komma in till Migrationsverket', 16 March 2022, available in Swedish at: <http://bit.ly/3moT1Vf>.

¹⁸⁸⁰ Boden – Service Centre, Gothenburg/Kålleröd – Arrival Unit, Malmö, Norrköping – Service Centre, Stockholm - Solna, Sundsvall – Service Centre.

¹⁸⁸¹ Migration Agency, monthly statistical report December 2022.

¹⁸⁸² The Swedish Bar Association, 'Swedish Lawyers' Aid for Ukraine', available at: <http://bit.ly/42KbV9S>.

¹⁸⁸³ MUCF, 'Insatser för människor från Ukraina som söker skydd i Sverige', available in Swedish at: <http://bit.ly/3YqTEuX>.

5. Information provision and access to NGOs

The 1994 Ordinance on the Reception of Asylum Seekers states that the SMA must inform the applicants of organisations that provide services to asylum seekers.¹⁸⁸⁴ There is no specific national legislation on information to temporary protection applicants or beneficiaries.

SMA has information on its website on how to apply for temporary protection status, how to apply for financial support and assistance with accommodation, and information on the right to work, attend school and access health care. The information is available in English, Ukrainian, and Russian. The information is available in writing and audio for all three languages.¹⁸⁸⁵

There is no restriction in access to NGOs, although some accommodations are located in remote areas which could make it more difficult to physically access NGO services.

D. Guarantees for vulnerable groups

In 2022, 771 applications for temporary protection were registered for unaccompanied minors.¹⁸⁸⁶ The online application form was not available to unaccompanied minors, who instead needed to apply in person at SMA offices. Housing for unaccompanied minors is under the responsibility of a municipality designated by the SMA. The municipality will appoint a guardian for an unaccompanied minor (see [General Report on Sweden, Legal representation of unaccompanied minors](#)).

Swedish civil society organisations have expressed concern that screening of vulnerability of children, to identify special needs and support is not carried out for children falling under the Temporary Protection Directive. According to a report from UNICEF Sweden, many children who arrive in Sweden from Ukraine need some form of trauma treatment. As psychiatric care in Sweden was already under great pressure, the organisations behind the report are concerned that children fleeing the war in Ukraine are not getting the psychiatric treatment they need in time.¹⁸⁸⁷

The Swedish Gender Equality Agency has launched a portal dedicated to those fleeing Ukraine with information about human trafficking in English and in Ukrainian.¹⁸⁸⁸

¹⁸⁸⁴ Section 2a Ordinance on the reception of asylum seekers.

¹⁸⁸⁵ SMA, 'Apply for protection under the Temporary Protection Directive for the first time', available at: <http://bit.ly/3F4jeij>.

¹⁸⁸⁶ Migration Agency, monthly statistical report December 2022.

¹⁸⁸⁷ UNICEF Sweden, Appendix 2, Report on reception of refugees from Ukraine, 2022, available at: <https://bit.ly/3YoPJyw>.

¹⁸⁸⁸ Swedish Gender Equality Agency, 'To you fleeing Ukraine', available at: <http://bit.ly/3FMO8w7>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--|--|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | Until 4 March 2023, renewals and applications thereafter until 4 March 2024. |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2022? | 47,310 |

The SMA is the authority responsible for registering, assessing, and granting applications for temporary protection. The SMA started to register these applications immediately after the EU Council decision to activate the Temporary Protection Directive. Asylum applications that had previously been registered by persons who are included in the personal scope of the temporary protection were processed as applications for temporary protection.

On 22 March 2022, SMA opened the possibility to apply for temporary protection using an online application form. Applications can still also be submitted in person before SMA in certain cities.

The temporary residence permit was issued until 4 March 2023, and beneficiaries were issued a residence card valid until that date.

In January 2023, SMA informed on its website that from 1 February until 4 March 2023 it is possible to apply for extension of residence permit for temporary protection beneficiaries, using an e-service application form. It is not necessary to attach passport copies or other documents. After having registered the application for extension, applicants are given an appointment at the Migration Agency to provide fingerprints and be photographed.¹⁸⁸⁹

Persons over 16 years old with temporary protection status have the right work once they receive their residence permit decision. It is necessary to register with the Swedish Tax Agency if you find work. This can be done by individuals or employers. Beneficiaries of temporary protection who are employed are eligible for social security related to employment, such as loss of income due to sickness or accident

Beneficiaries of temporary protection only have access to emergency health care and necessary dental care. However, children are entitled to every type of health and dental care.¹⁸⁹⁰

Persons who are granted temporary protection have right to a daily allowance in accordance with the same legal provisions as asylum-seekers.¹⁸⁹¹ A single adult will receive SEK 24 or 71, depending on whether food is also provided with accommodation. A couple is entitled to SEK 61 per day and children SEK 12 per day.

Beneficiaries of temporary protection have the right to accommodation.¹⁸⁹² SMA is initially responsible but may assign the responsibility regarding accommodation for a person with temporary protection to a municipality.

¹⁸⁸⁹ SMA, 'Extending a residence permit under the Temporary Protection Directive', available at: <http://bit.ly/3z7juK7>.

¹⁸⁹⁰ Section 4, 5, and 6 § Act on health care of asylum-seekers and others (2008:344).

¹⁸⁹¹ Act on the Reception of Asylum Seekers and others.

¹⁸⁹² Act on the Reception of Asylum Seekers and others.

Regarding persons with temporary protection that might seek temporary protection in another EU member, the SMA states on its website that all EU countries share information about people receiving protection under the Temporary Protection Directive in a common database. If a person is granted a residence permit under the Temporary Protection Directive in another EU country, the Swedish Migration Agency will receive information about this, and will then stop providing accommodation and financial support. However, the temporary residence permit in Sweden will not be revoked should the permit holder leave Sweden and get a residence permit in another EU country.

A person who already has been granted temporary protection in another EU member state may apply and be granted temporary protection in Sweden as long as they fall within the personal scope applied in Sweden.¹⁸⁹³

2. Access to asylum

According to the Aliens Act (Chapter 21 Section 5) an application for residence permit as a refugee may be examined even if the applicant has been granted temporary protection. This applies also concerning application for refugee status and travel document. Such application may be postponed if there are particular reasons for this, but must be examined, by the latest, as soon as possible after the temporary protection has ceased.

Persons that are eligible for temporary protection in Sweden are granted residence permits due to temporary protection. Applications for asylum from these persons will be treated as an application for international protection status. On 24 February 2022 the SMA decided to halt all deportations to Ukraine due to the security situation in the country. This position still applied as of January 2023.¹⁸⁹⁴ Therefore, until this decision is lifted, persons will not be deported to Ukraine irrespective of being granted temporary protection or not. On the same date the SMA decided to halt decision-making in ordinary asylum cases concerning applications for protection in relation to Ukraine, due to the difficulties to assess the situation in Ukraine and the protection needs. In April the SMA adjusted its legal position so that in cases where it is clear that protection should be granted, and the applicant could face a legal loss if the decision should be postponed, a positive decision may be made. This position applied throughout 2022.¹⁸⁹⁵ A report by Swedish Refugee Law Center published in June 2022 analysed a number of issues regarding the implementation of the Temporary Protection Directive.¹⁸⁹⁶

B. Family reunification

Temporary protection beneficiaries are not considered as residents in Sweden. For this group it is not possible to apply for family reunification referring to the provisions in place for residents and persons with other international protection statuses.

Family members of temporary protection beneficiaries will in general fall within the personal scope of article 2.1. c of the Council implementing decision and would therefore qualify for temporary protection themselves. Thus, family members are referred to the possibility to apply for temporary protection (see Qualification for temporary protection). However, it is only possible to apply for temporary protection for

¹⁸⁹³ SMA, 'Frequently asked ques-tions about the Tempo-rary Protec-tion Directive for you from Ukraine', available at: <http://bit.ly/3nlHwyo>.

¹⁸⁹⁴ SMA, Legal Position RS 004/2022 version 2,0, November 2022, available in Swedish at: <http://bit.ly/40lYJpZ>.

¹⁸⁹⁵ SMA, Legal Position RS 004/2022 version 2,0, November 2022, available in Swedish at: <http://bit.ly/40lYJpZ>.

¹⁸⁹⁶ Swedish Refugee Law Center, *Massflyktsdirektivet aktiveras – Tillfälligt skydd i Sverige*, 2022, available in Swedish at: <https://bit.ly/3Zhfq4F>.

persons in Sweden. There are no additional requirements such as income or accommodation if the applicant would qualify for temporary protection according to article 2.1. c of the Council decision.

C. Movement and mobility

There are no restrictions of movement within Sweden and beneficiaries may leave Sweden.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres? ¹⁸⁹⁷	1 month
2. Number of beneficiaries staying in reception centres ¹⁸⁹⁸ as of 02/2023	981
3. Number of beneficiaries staying in private accommodation in 2022	18,942 ¹⁸⁹⁹

Temporary protection beneficiaries are included in the personal scope of the Act on reception of asylum-seekers and others.¹⁹⁰⁰ According to this law, the SMA is responsible for providing accommodation for these persons. Housing for unaccompanied minors is under the responsibility of a municipality designated by the SMA. At the time of implementation of the Temporary Protection Directive, persons who had applied for temporary protection but not yet been granted protection were not covered by the law on reception of asylum-seekers. The SMA notified on its website in May 2022 that applicants for temporary protection could nevertheless get assistance with accommodation. On 1 July 2022, the Act on Reception of asylum-seekers and others was amended so that applicants for temporary protection are covered explicitly by the law.

Those in need of accommodation can contact the Migration Agency for support at any time; also if they had previously chosen to find an accommodation on their own. Those who decide to arrange their accommodation on their own might not be entitled to financial support if they live in residential areas with social and economic challenges. Persons who are covered by the law on reception of asylum-seekers are not entitled to general assistance according to the Social Service Act.

The amendments in the law on reception of asylum-seekers on 1 July 2022 also included a provision that the SMA may assign a municipality to be responsible for providing accommodation for those in need of temporary protection.¹⁹⁰¹ After this date the SMA started to assign responsibility to municipalities according to a defined list of numbers of protection beneficiaries to be received per municipality. Most beneficiaries could stay in the municipality they lived in at that time, of those relocated most could move to a nearby municipality.¹⁹⁰²

Regarding the different forms of housing, the SMA offers short term reception accommodation with staff employed, and long-term accommodation, usually in the form of apartments which are shared with

¹⁸⁹⁷ 1 month following the designation of a municipality as a reception municipality by the SMA.

¹⁸⁹⁸ Information provided in e-mail from SMA on February 2023

¹⁸⁹⁹ This is the average number of temporary protection beneficiaries who were staying in private accommodation not offered by SMA during 2022, according to the SMA, Annual report 2022, available in Swedish at: <https://bit.ly/3nF5K6W>.

¹⁹⁰⁰ Section 1 Act on Reception of Asylum-seekers and others.

¹⁹⁰¹ Regulation (2022:1008) Förordningen om anvisning av en kommun som ska ordna boende för vissa utlänningar.

¹⁹⁰² SMA, 'Regulation (2022:1008) Förordningen om anvisning av en kommun som ska ordna boende för vissa utlänningar', 30 August 2022, available in Swedish at: <http://bit.ly/40AmYR3>.

other asylum-seekers. Housing provided by the SMA or a municipality is also organised through public procurement, where private property owners – companies not private individuals – provide the accommodation.

There has not been any State organised or subsidised private accommodation. Nevertheless, private individuals and organisations have arranged accommodation for persons fleeing from Ukraine. The SMA did not at any time state that they did not have any accommodation to offer those seeking temporary protection who requested accommodation. In March and April 2022, short term accommodation solutions were jointly organised by the SMA, County Administrative Boards, and Municipalities.

E. Employment and education

1. Access to the labour market

A person who is granted temporary protection permit will also be granted a work permit.¹⁹⁰³ In general, all persons over 16 years have the right to work if they have fulfilled their mandatory education, but particular restrictions regarding working hours applies for those under 18 years.¹⁹⁰⁴ It is necessary to register with the Swedish Tax agency before starting to work. This can be done by individuals or employers.

Temporary protection beneficiaries must be assigned a coordination number at the Swedish Tax Agency. A coordination number is needed in order to pay taxes in Sweden, and it could also be a condition for opening a bank account. In April 2022 the Tax Agency stated that processing time for applications for tax registry was up to 16 weeks.¹⁹⁰⁵ Individuals may apply for coordination number themselves, and in August 2022 the SMA started to systematically apply for coordination numbers for temporary protection beneficiaries to facilitate and speed up the process.¹⁹⁰⁶

Those beneficiaries of temporary protection who are employed are eligible for social security related to employment (such as loss of income due to sickness or accident).¹⁹⁰⁷

Temporary Protection beneficiaries may register at the Public Employment Agency (Arbetsförmedlingen), and may benefit from the existing forms of subsidised employment contract. However, no particular labour market integration measures have been designed for temporary protection beneficiaries from Ukraine in Sweden.¹⁹⁰⁸

The private adult education organisation Folkuniversitetet launched a free programme, 'Work for Ukrainians', in several places across the country. The programme is co-funded by the European Social Fund. The programme includes individual coaching, skills mapping, language training, skills development and validation, as well as matching with employers.¹⁹⁰⁹

¹⁹⁰³ Aliens Act, Chapter 21 section 7.

¹⁹⁰⁴ Work Environment Act, Chapter 5 Section 2.

¹⁹⁰⁵ Information from the Tax Agency website on 28 April 2022, see Swedish Refugee Law Center, *Massflyktsdirektivet aktiveras – Tillfälligt skydd i Sverige*, 2022, available in Swedish at: <https://bit.ly/3Zhfq4F>.

¹⁹⁰⁶ SMA, 'The Swedish Migration Agency will request coordination numbers', 1 August 2022, available at: <http://bit.ly/40EFg3s>.

¹⁹⁰⁷ Governmental Bill 2001/02:185 Residence Permit with temporary protection at mass flight, available in Swedish at: <https://bit.ly/3LU7mUI>, 80.

¹⁹⁰⁸ Also see Nordic Council of Ministers, *Implementation of temporary protection for refugees from Ukraine – A systematic review of the Nordic countries*, available at: <http://bit.ly/40vi4oi>.

¹⁹⁰⁹ Folkuniversitetet, 'Work for Ukrainians', available at: <http://bit.ly/3JMSMLM>.

The Swedish Council for Higher Education evaluates foreign qualifications in order to provide support for people looking for work in Sweden, people who wish to continue studying, or for employers who wish to employ someone with foreign qualification.¹⁹¹⁰

2. Access to education

Children who are granted temporary protection have a right, but – contrary to children with other international protection status – not an obligation, to attend school. Thus, they have the same right to education as asylum-seeking children.¹⁹¹¹ Children also have the right to lessons in their own mother tongue on a regular basis, if there are more than 5 pupils with the same language in the area. Itinerant mother tongue teachers are employed for that purpose.

Children between 16 and 18 years have the right to secondary education or vocational education. However, they may first have to attend a preparatory course to improve their Swedish language skills. Persons who are over 18 upon arrival in Sweden have no right to access secondary education.

Adults and persons over 16 years have no right to attend the introduction courses in Swedish for immigrants (SFI), which are offered to new immigrants residing in a municipality.

A community education course is available online and offered by the SMA ‘Swedish from day one’, which is run by folk high schools and adult education organisations, such as ABF and Folkuniversitetet. Other courses designed for asylum-seekers by municipalities are also available for refugees from Ukraine. However, these courses are limited in time and are not available everywhere across the country.¹⁹¹² Folkuniversitetet organise courses in Swedish language for temporary protection beneficiaries.¹⁹¹³

Adults may apply for higher education and be accepted if they fulfil the criteria for the particular course or program. Persons with residence permit on other grounds than study permit are not obliged to pay study fees to universities.¹⁹¹⁴

The Swedish National Agency for Education conducted a survey asking all municipalities to provide information about the number of children aged 6–17, that have fled Ukraine, that are enrolled in or have applied for a place in school by the beginning of September 2022. According to the municipalities close to 6,800 children aged 6–17 that have fled Ukraine, had by the beginning of September 2022 enrolled in or had applied for a place in preschool class, compulsory school, compulsory school for pupils with learning disabilities, upper secondary education, or upper secondary school for pupils with learning disabilities. In conclusion four out of five children from Ukrainian refugee families attend or have applied for a place in schools in Sweden. About half of the municipalities responded that overall, they have access to teachers or other personnel with knowledge in Ukrainian, Russian, or other relevant language in pre-school and compulsory school.¹⁹¹⁵

¹⁹¹⁰ For further information, see their website: <http://bit.ly/42xFF9I>.

¹⁹¹¹ Chapter 7 Section 2, Chapter 8 Section 3 Swedish Education Act (skollag (2010:800)).

¹⁹¹² Nordic Council of Ministers, *Implementation of temporary protection for refugees from Ukraine – A systematic review of the Nordic countries*, available at: <http://bit.ly/40vi4oi>.

¹⁹¹³ Folkuniversitetet, ‘SFI for Ukrainians’, available at: <http://bit.ly/3z2VgRj>.

¹⁹¹⁴ Section 2 and 5 of Ordinance 2010:543 (Förordning om anmälningsavgift och studieavgift vid universitet och högskolor), available in Swedish at: <http://bit.ly/3ZerPpP>.

¹⁹¹⁵ Skolverket, *Children from Ukraine in Swedish compulsory and upper secondary school, the situation as of early September 2022*, 2022, short summary in English available at: <http://bit.ly/3FVq8H5F>

In a report published by UNICEF Sweden, prepared by several civil society organisations, concerns were raised over information that many children from Ukraine had not started school within one month or longer after their arrival.¹⁹¹⁶

It has been reported to be common that children with temporary protection who attend Swedish school also continue to attend Ukrainian school classes online. The curricula between Sweden and Ukraine elementary school differs which is reported to affect the learning process adversely.¹⁹¹⁷

F. Social welfare

Persons who are granted temporary protection are covered by the Act on reception of asylum-seekers and others. They have a right to daily allowance in accordance with the same legislation as asylum-seekers.¹⁹¹⁸ Temporary protection beneficiaries are not entitled to financial or other assistance according to the Social Service Act which covers persons residing in Sweden. The level of daily allowance is considerably lower than the financial support granted to Swedish residents in accordance with the Social Services' Act. The level of daily allowance has not been adjusted since 1994. A single adult will receive SEK 24 or SEK 71 (SEK 2,130 /EUR 187 per month), depending on whether food is also provided with accommodation. A couple is entitled to SEK 61 per day and children SEK 12 per day. Persons who can support themselves are not entitled to daily allowances. Those who decide to arrange their accommodation on their own might not be entitled to financial support if they live in residential areas with social and economic challenges.¹⁹¹⁹ Both SMA and Social service in municipalities may take decisions to grant daily allowances in accordance with the Act on Reception of asylum-seekers.¹⁹²⁰

At the time of implementation of the Temporary Protection Directive on 4 March 2022, persons who had applied for temporary protection but not yet been granted protection were not covered by the law on reception of asylum-seekers. The Government decided on 24 May 2022 that those who apply for protection under the Temporary Protection Directive and have no money of their own can apply for financial support from the SMA while a decision is being issued on their residence permit. The aid would be granted at the earliest from the day the application is submitted. On 1 July 2022, the Act on Reception of asylum-seekers and others was amended so that applicants for temporary protection are covered explicitly by the law.

Persons who are covered by the Act on reception of asylum-seekers are not entitled to assistance according to the Social Service Act. Temporary protection beneficiaries are not registered as residents in Sweden and are therefore not entitled to financial support that are based on residency, such as a child benefit and housing allowance.

¹⁹¹⁶ UNICEF Sweden, Appendix 2, Report on reception of refugees from Ukraine, 2022, available at: <https://bit.ly/3YoPJyw>.

¹⁹¹⁷ UNHCR presentation at the seminar Temporary protection for refugees from Ukraine in the Nordic countries – From emergency reception to longer-term sustainable response on 8 December 2022.

¹⁹¹⁸ Act on Reception of asylum-seekers and others.

¹⁹¹⁹ For further information, see AIDA Country Report Sweden – 2022 Update, March 2023, available at: <https://bit.ly/40LjcF6>.

¹⁹²⁰ Information in Swedish on the website of The Swedish Association of Local Authorities and Regions (SALAR), see <http://bit.ly/42DJGJV>.

The low level of financial support for asylum-seekers in general has been criticised by Save the Children¹⁹²¹ and the UN Committee of the rights of the child rights.¹⁹²² According to Save the Children the level of available support is not sufficient to ensure basic needs like food, winter clothing and hygiene products, nor to cover transport costs to work, school or health care.

G. Health care

Persons who are granted temporary protection have the same right to health care as asylum seekers. This means that children should be offered full health and dental care at the same level as Swedish residents. Adults are only offered such health care, including dental care, that cannot wait, maternal health care and care in case of abortion.¹⁹²³ Temporary protection beneficiaries are offered health examination at Public Health Clinics.¹⁹²⁴

According to a report from UNICEF Sweden, many children who arrive in Sweden from Ukraine need some form of trauma treatment. As psychiatric care in Sweden was already under great pressure, the organisations behind the report are concerned that children fleeing the war in Ukraine are not getting the psychiatric treatment they need in time.¹⁹²⁵

The restrictions on the right to health care for asylum-seeking in adults in general have been criticised from NGOs, The Swedish Medical Association, and the National Board of Health and Welfare.¹⁹²⁶ In practice, access to health care may vary since it is ultimately the caregiver who determines if the care intervention may or may not wait.

¹⁹²¹ Save the Children, *Rädda Barnens yttrande över utkast till lagrådsremiss "Åtgärder för en jämnare fördelning av boende för vissa skyddsbehövande"*, 29 April 2022, available in Swedish at: <http://bit.ly/40xPv9M>.

¹⁹²² Committee on the Rights of the Child, *Concluding observations on the fifth periodic report of Sweden*, 6 March 2016, available at: <https://bit.ly/3JNfofd>, s. 10-11.

¹⁹²³ Section 4 § Act on health care of asylum-seekers and others (2008:344).

¹⁹²⁴ Section 7 § Act on health care of asylum-seekers and others (2008:344).

¹⁹²⁵ UNICEF Sweden, Appendix 2, Report on reception of refugees from Ukraine, 2022, available at: <https://bit.ly/3YoPJyw>.

¹⁹²⁶ Medecins Sans Frontieres, 'Ge asylsökande och papperslösa vård på lika villkor', 28 January 2018, available at: <http://bit.ly/3TLjcSH>; Socialstyrelsen, *Vård för papperslösa. Vård som inte kan anstå, dokumentation och identifiering vid vård till personer som vistas i landet utan tillstånd*, 2014, available in Swedish at: <https://bit.ly/40gKmU3>, 27.

Slovenia



Temporary Protection Procedure

A. General

Following the Council of the EU adopting the Council Implementing Decision (EU) 2022/382¹⁹²⁷ (hereinafter: Council Decision) on 4 March 2022 to activate the Council Directive 2001/55/EC (hereinafter: Temporary Protection Directive or TPD),¹⁹²⁸ providing immediate and temporary protection to persons displaced from Ukraine on or after 24 February 2022 due to the military invasion of the Russian armed forces, the Government of the Republic of Slovenia adopted the Decision establishing temporary protection for persons displaced from Ukraine (hereinafter: Government Decision)¹⁹²⁹ on 9 March 2022, which entered into force on 10 March 2022. With this, the Temporary Protection of Displaced Persons Act,¹⁹³⁰ adopted in 2005 in the Republic of Slovenia, which transposes the TPD, was activated. The Act regulates the introduction, duration and termination of the temporary protection of displaced persons (hereinafter: temporary protection), the conditions and procedures for obtaining temporary protection and the termination thereof, and the rights and obligations of persons enjoying temporary protection. In accordance with the Government Decision, temporary protection was introduced from the date of entry into force of the decision, lasting for one year,¹⁹³¹ with the possibility of extension a maximum of two times for the period of six months each.¹⁹³²

After termination of temporary protection, the provisions of the Foreigners Act¹⁹³³ apply to persons who were enjoying temporary protection as to their leaving the Republic of Slovenia.

Main legislative acts on temporary protection

Title (EN)	Original Title (HU)	Abbreviation	Web Link
Temporary Protection of Displaced Persons Act, Official Gazette of RS, no. 16/17	Zakon o začasni zaščiti razseljenih oseb, Uradni list RS, št. 16/17		https://bit.ly/3ac7w8T (SI)

¹⁹²⁷ 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 L 71/1, available at: <http://bit.ly/3EHe8lw>.

¹⁹²⁸ 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 [2001] OJ L 212/12, available at: <http://bit.ly/409uJhu>.

¹⁹²⁹ Decision establishing temporary protection for persons displaced from Ukraine, Official Gazette of RS, No. 32/22.

¹⁹³⁰ Temporary Protection of Displaced Persons Act, Official Gazette of RS, No. 16/17.

¹⁹³¹ Article 11 of the Temporary Protection of Displaced Persons Act vaguely stipulates that the duration of temporary protection shall be one year and may be extended no more than twice, each time for a period of six months. Further, duration of temporary protection was determined in the Government Decision, which states it is introduced for one year from the date of entry into force of the decision, which could be misunderstood as lasting until 10 March 2023, considering the date when the Decision was entered into force. It is expected that greater clarity in this regard will be ensured de lege ferenda (as already included in some proposed amendments to the Act) with a reference to the enforcement of the Council Decision and by clarifying that the duration of temporary protection is tied to the enforcement of the Council Decision and not to the enforcement of the Government Decision from Article 10 of the Temporary Protection of Displaced Persons Act in line with the Commission Communication on operational guidelines for the implementation of Council Implementing Decision (EU) 2022/382 of 4 March 2022 (Official Journal of the EU, No. C 126 I/01). In any case, individual decisions on granting temporary protection, issued by administrative units since 10 March 2022, have been granting temporary protection until 4 March 2023 (initially; before the temporary protection was extended) in accordance with the duration of TP in line with Council Decision.

¹⁹³² Article 2 Government Decision.

¹⁹³³ Foreigners Act, Official Gazette of RS, No. 91/21 and subsequent amendments.

Main implementing decrees, guidelines and regulations on temporary protection

Title (EN)	Original Title (HU)	Abbreviation	Web Link
Decision establishing temporary protection for persons displaced from Ukraine, Official Gazette of RS, No. 32/22	Sklep o uvedbi začasne zaščite za razseljene osebe iz Ukrajine, Uradni list RS, št. 32/22	Government Decision	http://bit.ly/3jDcuQQ (SI)
Decree on the methods for ensuring rights of persons enjoying temporary protection, Official Gazette of RS, No. 42/22 and 151/22	Uredba o načinu zagotavljanja pravic osebam z začasno zaščito, Uradni list RS, št. 42/22 in 151/22		https://bit.ly/3Mt2UcH (SI)
Rules on the application for granting temporary protection and on the identity card of persons enjoying temporary protection, Official Gazette of RS, No. 43/22	Pravilnik o vlogi za začasno zaščito in izkaznici osebe z začasno zaščito, Uradni list RS, št. 43/22		http://bit.ly/3jxNMRR (SI)
Decision determining the allowance for private accommodation, Official Gazette of RS, No. 41/14	Sklep o določitvi denarnega nadomestila za zasebno nastanitev, Uradni list RS, št. 41/14		http://bit.ly/3GpCDeU (SI)
Rules on the procedure concerning transferal of persons enjoying temporary protection, Official Gazette of RS, No. 110/05	Pravilnik o postopku premestitve oseb z začasno zaščito, Uradni list RS, št. 110/05		http://bit.ly/3WPiOCO (SI)
Instructions on the procedure and method of dealing with persons illegally entering the Republic of Slovenia during the period when covered by temporary protection, Official Gazette of RS, No 34/06 and 58/22.	Navodilo o postopku in načinu ravnanja z osebami, ki v času trajanja začasne zaščite nezakonito vstopijo v Republiko Slovenijo, Uradni list RS, št. 34/06 in 58/22.		http://bit.ly/3vmlLOy (SI)

Article 10 of the Temporary Protection of Displaced Persons Act, which regulates the introduction of temporary protection in Slovenia, stipulates that when the Council of the EU determines that a situation threatening people, such as war, has arisen in a third country or region, the Government shall adopt a resolution introducing temporary protection specifying in particular the number of persons to be given temporary protection by the Republic of Slovenia, the conditions in which this quota of persons may be exceeded, particularly when it comes to exercising the right to family reunification or when vulnerable groups of people are involved, the date of the introduction and duration of temporary protection and the time limit by which persons enjoying temporary protection shall be required to leave the Republic of Slovenia after temporary protection has come to an end. The Government shall also inform the Council of the EU of the accommodation capacities of the Republic of Slovenia available for the reception of displaced persons.

With the Government Decision introducing temporary protection in the Republic of Slovenia for persons displaced from Ukraine on or after 24 February 2022 as a result of the military invasion by the Russian Armed Forces that began on that date, the categories of persons to whom the Republic of Slovenia temporarily allows temporary protection, the duration of temporary protection and the rules applicable to the persons concerned after termination of temporary protection were specified. However, the

Decision lacks an essential provision in accordance with the aforementioned Article 10 of the Temporary Protection of Displaced Persons Act: the number of people to whom Slovenia will offer temporary protection. The government's explanation from 10 March 2022¹⁹³⁴ as to why the number was not included was that it was impossible to estimate the number of persons to whom the Republic of Slovenia will provide temporary protection and to assess the reception facilities at the time of adopting the Decision and that the vast majority of displaced persons from Ukraine was at that time housed at private addresses, which was expected to change in the following days, causing reception capacities to be increased accordingly. Further explanation was that the exact number of persons is also not specified in the implementing decision of the Council of the EU, even though the directive requires, under the third paragraph of Article 5, that the decision also include, inter alia, data received from the Member States on their reception capacities. According to the Minister of the Interior at the time, Slovenia could provide a temporary home for approximately 180,000 to 200,000 refugees from Ukraine altogether at the time of the said statement.¹⁹³⁵ So far, no further information on the estimated number of persons to whom the Republic of Slovenia will provide temporary protection was made known.

Further, on 24 March 2022 the recent Decree on the methods for ensuring the rights of persons enjoying temporary protection¹⁹³⁶ was adopted and entered into force on 25 March 2022. It specifies how to ensure the rights of persons with temporary protection and applicants for temporary protection in more detail.

The Temporary Protection of Displaced Persons Act, which is currently still in force, has proven to be deficient and outdated in practice. The Act was adopted in 2005 and amended in 2017, however only from the point of view of the separation of powers between the Government Office for the Support and Integration of Migrants (hereinafter: Government Office) and the Ministry of the Interior (hereinafter: Ministry), not taking into consideration all the changes in the development of international protection, which is essentially comparable to the institution of temporary protection. The Act also imperfectly transposed the Temporary Protection Directive. For this reason, there were several attempts to amend the Act with the following proposed legislation:

- ❖ the Act on Intervention Measures for Comprehensive Regulation of the Situation of Displaced Persons from Ukraine and for Assistance to the Economy of the Republic of Slovenia Due to the Consequences of the Ukrainian Crisis,¹⁹³⁷ proposed by the Government in May 2022, which was not adopted,
- ❖ the Act on Intervention Measures for Comprehensive Regulation of the Situation of Displaced Persons from Ukraine and for Assistance to the Economy of the Republic of Slovenia Due to the Consequences of the Ukrainian Crisis,¹⁹³⁸ proposed by a group of members of the National Assembly (Parliament) in September 2022, which was not adopted,
- ❖ a new Temporary Protection of Displaced Persons Act (ZZZRO-1);¹⁹³⁹ the last available information at the time of writing this report is from 27 October 2022, stating that the text of the proposed act has been submitted for inter-ministerial coordination and to the Government Office for Legislation.

In order to address individual deficiencies comprehensively, thoroughly, and sustainably, it would be necessary to address systemic deficiencies in the areas to which they relate. Therefore, it would be

¹⁹³⁴ 24ur.com, *Število oseb, ki jim bo Slovenija nudila začasno zaščito, trenutno ni omejeno*, 10 March 2022, available in Slovenian at: <https://bit.ly/3juGgYg>.

¹⁹³⁵ MMC RTV Slovenija, *Hojs: Slovenija je pripravljena sprejeti do 200.000 beguncev iz Ukrajine*, 27 February 2022, available in Slovenian at: <https://bit.ly/3Yi0t23>.

¹⁹³⁶ Decree on the methods for ensuring rights of persons enjoying temporary protection, Official Gazette of RS, No. 42/22 and 151/22.

¹⁹³⁷ The proposed act is available in Slovenian at: <https://bit.ly/3HrtMIU>.

¹⁹³⁸ The proposed act is available in Slovenian at: <https://bit.ly/3wRJfNg>.

¹⁹³⁹ The proposed act is available in Slovenian at: <http://bit.ly/3jwlkie>.

most appropriate to regulate and adjust the identified deficiencies through legislative changes in the sectoral laws and not through an intervention law.

Statistics

According to the official statistics, provided by the General Police Directorate, in 2022 a total of 7,556 applications for temporary protection were submitted to the Police. Of these, 7,480 were Ukrainian citizens, 34 were Russian citizens, and the rest were of other nationalities (citizens of Belarus, etc). There was also a large number of people who were displaced – directly or indirectly – by the conflict present in the country but beyond the scope of TPD. According to the findings of the General Police Directorate of the Republic of Slovenia, for example, Russian citizens who avoided the declaration of partial mobilization, which Russian president Putin declared on 21 September 2022, also sought protection in the Republic of Slovenia. In 2022, 1,886 Russian citizens expressed intentions to apply for international protection at the Police. In the entire year 2022, Russian citizens also expressed 73 renewed intentions to apply for international protection (i.e. subsequent applications).¹⁹⁴⁰ However, not all applicants apply for temporary protection at the Police, as they may also apply directly at the territorially competent administrative units, which are the authority deciding on granting temporary protection. In accordance with the statistics of the Ministry of Interior, between 24 February 2022 and 31 December 2022, 8,445 persons applied for temporary protection in the Republic of Slovenia. Of these 8,340 were Ukrainian citizens. In the same period citizens of Ukraine submitted 194 applications for international protection. In 2022, temporary protection was granted altogether to 7,666 persons, out of which 7,588 were citizens of Ukraine, while international protection was granted to 158 citizens of Ukraine. In the same period 85 applications for temporary protection were rejected.¹⁹⁴¹

B. Qualification for temporary protection

The general definition of the specific groups of displaced persons to whom temporary protection applies in the national context is as follows. The displaced persons to whom temporary protection applies are defined in the Temporary Protection of Displaced Persons Act, Article 3, as third-country nationals or stateless persons who have had to leave their country or region of origin or have been evacuated, in particular in response to an appeal by international organisations, and are unable to undertake a safe and durable return due to the situation prevailing in that country or region, who may fall within the scope of the Convention Relating to the Status of Refugees or other regulations giving international protection, in particular:

- ❖ persons who have fled areas of armed conflict or endemic violence;
- ❖ persons at serious risk of, or who have been the victims of, systematic or generalised violations of their human rights.

As per the Government Decision introducing temporary protection in the Republic of Slovenia for persons displaced from Ukraine on or after 24 February 2022 due to the military invasion by the Russian Armed Forces,¹⁹⁴² the following categories of persons residing in Ukraine before 24 February 2022 are eligible for temporary protection¹⁹⁴³:

- ❖ citizens of Ukraine,
- ❖ stateless persons and third-country nationals who are not citizens of Ukraine and who were granted international protection or other equivalent national protection in Ukraine,
- ❖ family members of the persons referred to in the first and second indents of this paragraph, as defined in Article 36 of the Temporary Protection of Displaced Persons Act, i.e.:

¹⁹⁴⁰ Official statistics provided by the General Police Directorate, February 2023.

¹⁹⁴¹ Official statistics provided by the Ministry of the Interior, May 2023.

¹⁹⁴² Article 1(1) Government Decision.

¹⁹⁴³ Article 1(2) Government Decision.

- a spouse or a person who had lived with the person who was granted temporary protection before their arrival in the Republic of Slovenia, for at least one year, in a domestic community that is equal in legal consequences to a marriage pursuant to the Family Code;¹⁹⁴⁴
 - the children of the person granted temporary protection, as long as the person is obliged to support them;¹⁹⁴⁵
 - stepchildren if they support their stepfather or stepmother, and a stepmother or stepfather if they support their stepchildren;¹⁹⁴⁶
 - grandchildren and nephews of the person granted temporary protection, in so far as that person is supporting the grandchildren or nephews who are without parents;
 - other close relatives of the person granted temporary protection, if they had lived together as a family before their arrival in the Republic of Slovenia and were supported by the person who has obtained temporary protection,
- ❖ stateless persons and third-country nationals who are not citizens of Ukraine and who resided in Ukraine on the basis of a valid permanent residence permit and who are unable to return to their country or region of origin in a safe and sustainable or lasting manner.

Despite the Council Decision allowing for Member States to extend temporary protection to additional categories of displaced persons beyond those to whom the Decision applies,¹⁹⁴⁷ which may also include extending temporary protection to those persons who fled Ukraine not long before 24 February 2022 as tensions increased or who found themselves in the territory of the EU just before that date and who, as a result of the armed conflict, cannot return to Ukraine, in the Republic of Slovenia in general only persons fulfilling the condition of leaving Ukraine on or after 24 February 2022 are considered eligible for temporary protection. Persons that are not eligible for temporary protection can however apply for international protection.

The definition of persons to whom temporary protection applies in accordance with the Government Decision has been interpreted very narrowly by the competent authorities in Slovenia in a sense that individuals who otherwise fall into one of the listed categories, however were not physically located on the territory of Ukraine at the time of the outbreak of war on 24 February 2022, despite residing in Ukraine before the date, are not entitled to temporary protection. Strictly basing eligibility for temporary protection on the date when persons left Ukraine has shown to be problematic (considering some specific circumstances), despite such persons being able to apply for international protection as an alternative.¹⁹⁴⁸

¹⁹⁴⁴ Family Code, Official Gazette of the Republic of Slovenia, no. 15/17 and subsequent amendments.

¹⁹⁴⁵ The notion of 'obligation to support' in family relations is regulated in the Family Code, which stipulates that parents are obliged to support their minor children, i.e. until they reach the age of 18, or until the age of 26, as long as they are enrolled into school as regular students.

¹⁹⁴⁶ Ibid.

¹⁹⁴⁷ Where those persons are displaced for the same reasons and from the same country or region of origin as referred to in the Decision.

¹⁹⁴⁸ See for example: N1info, *Ukrajinski kolesarji v Kočevju: raje turistični vizum kot pridobivanje azila*, 2 April 2022, available in Slovenian at: <http://bit.ly/3IFUcHg>, regarding Ukrainian cyclists, members of the youth Ukrainian mountain biking team, who wanted to apply for temporary protection in Slovenia, however they were considered ineligible as they left Ukraine in January, i.e. before the start of the war, to compete abroad. They estimated that obtaining international protection would have some disadvantages for them, especially as applicants for international protection are not allowed to leave the municipality in which they have an address of temporary residence while waiting for their application to be approved (except in certain cases decided by an authorised official). Applicants for temporary protection, on the other hand, can move freely around Slovenia and it is also, in principle, not prohibited by law for them to leave the country. As reported, this would have been a problem for the members of the Ukrainian national mountain biking team, as they had competitions abroad, therefore they decided to stay in Slovenia based on the allowed short-term stay (visa-free regime; for up to 90 days within any 180 days).

Third country nationals and stateless persons

As stipulated in the Government Decision, besides citizens of Ukraine, stateless persons and third-country nationals who were granted international protection or other equivalent national protection in Ukraine, and stateless persons and third-country nationals who resided in Ukraine on the basis of a valid permanent residence permit and who are unable to return to their country or region of origin in a safe and sustainable or lasting manner, are entitled to temporary protection. Another category of third country nationals and stateless persons that are eligible for temporary protection are family members as defined in the Government Decision with reference to Article 36 of the Temporary Protection of Displaced Persons Act, where the families were already residing in Ukraine before 24 February 2022 and provided they have themselves been displaced on or after 24 February 2022. When presenting themselves to the competent authorities in the Republic of Slovenia, family members of an Ukrainian national or of a stateless person or third-country national who was granted international protection or other equivalent national protection in Ukraine, need to prove that they were displaced on or after 24 February 2022 and provide documentary evidence attesting family relationship or family unity and that the family was present and residing in Ukraine before 24 February 2022.

In accordance with the TPD, Member States may also extend temporary protection to all other stateless persons or nationals of third countries other than Ukraine residing legally in Ukraine who are unable to return in safe and durable conditions to their country or region of origin, which could include third-country nationals who were studying or working in Ukraine on a short-term basis at the time of the events leading to the mass influx of displaced persons. However, in Slovenia this option has so far not been exercised and is not reflected in the Government Decision. Third country nationals and stateless persons who are eligible as per the Government Decision need to be able to prove that they fulfil the eligibility criteria by presenting the relevant documents to the competent authorities (i.e., either to the Police, who then submit the application for temporary protection and supporting documents to the competent administrative unit, or to the latter authority directly). Other groups, such as for example students that were staying in Ukraine only on a short-term basis and do not have permanent residence permit, are therefore not included under this scope.

In accordance with the Temporary Protection of Displaced Persons Act, temporary protection is also granted to a new-born whose parent or parents enjoy temporary protection.¹⁹⁴⁹

People fleeing Ukraine, who do not fall under the scope of the temporary protection regime, including family members that are not eligible for temporary protection considering the criteria of having been displaced on or after 24 February 2022 and providing documentary evidence of family relationship, can apply for international protection in line with the International Protection Act (IPA).¹⁹⁵⁰ In practice this has caused issues to nationals of Ukraine and their family members who are not included under the scope of persons eligible for temporary protection, as they have to apply in separate procedures for different types of protection, i.e. temporary and international protection, in order to be able to legally stay in Slovenia, which also entails certain differences in their rights and being subject to restrictions or not (e.g. applicants for international protection are in general not allowed to leave the municipality in which they have an address of temporary residence while waiting for their application to be approved).

Extension of TPD

In accordance with the Government Decision, the duration of temporary protection was determined to be for one year from the date of entry into force, that is until 4 March 2023, reflecting the Council Implementing Decision (EU) 2022/382, with the possibility of being extended for a maximum of two times for periods of six months each.

¹⁹⁴⁹ Article 19(4) Temporary Protection of Displaced Persons Act.

¹⁹⁵⁰ International Protection Act, Official Gazette of RS, No. 16/17 and subsequent amendments.

On 4 March 2023, temporary protection for displaced persons from Ukraine in Slovenia, activated in March 2022 for an initial period of one year, was automatically extended until 4 March 2024 in accordance with the decision of the European Commission.

In the case of persons who have already been granted temporary protection, the administrative units will ex officio issue a new identity card of a person with temporary protection valid until 4 March 2024, which will replace the current identity card valid until 4 March 2023. In all procedures on granting temporary protection in which a decision has not yet been made, in the event of a positive decision, the administrative units will issue a temporary protection identity card valid until 4 March 2024.

C. Access to temporary protection and registration

1. Admission to territory

No reports by NGOs, media or testimonies collected by PIC or any other organisation on people fleeing Ukraine that would be refused entry at the border were made public.

It was also reported to PIC by the General Police Directorate in February 2023 that no displaced persons from Ukraine were refused entry at the border in 2022, as they were granted access to temporary protection.

Further, there have been no officially reported cases or any evidence of issues for people who returned to Ukraine and sought to re-enter Slovenia. However, there have been some mentions made to PIC lawyers, when providing informing and counselling on temporary protection in various municipalities and reception/accommodation centres in Slovenia, of people who had issues at the Hungarian and other borders, even though they had been granted and still enjoyed active temporary protection in Slovenia.

For citizens of Ukraine, entry into Slovenia is lawful on several bases. Firstly, if they enter with a valid biometric passport at designated border crossing points, they do not require a visa to enter Slovenia and are legally able to stay in the country for up to 90 days within a 180-day period. After the expiration of the allowed short-term residence their stay in the country is illegal unless they obtain another basis for residence in Slovenia.

Some flexibility on entry conditions was established on humanitarian grounds according to the information from the Government of the Republic of Slovenia,¹⁹⁵¹ explaining that that if residents of Ukraine enter the Republic of Slovenia without proper documents, for example only with internal documents (Ukrainian passports) that are not biometric and without a visa, given the war situation on Ukrainian territory, the Police take into account the individual circumstances and in general issue only warnings and do not fine the person. In usual circumstances, such actions are considered an offense under the Foreigners Act. However, such persons then do have to promptly obtain a legal basis for residence in Slovenia.

People fleeing from Ukraine can also apply for temporary or international protection in Slovenia after their other legal basis for residence in Slovenia (e.g., short-term visa-free stay) expires or immediately when crossing the border. A person who expresses their intention to seek temporary or international protection in the Republic of Slovenia should be treated as an applicant by the law (International

¹⁹⁵¹ The official Government website: Republic of Slovenia, *Support for Ukrainian Nationals in Slovenia*, available at: <https://bit.ly/3HvxxNh>.

Protection Act and Temporary Protection of Displaced Persons Act) and shall therefore be permitted to enter the country.

In accordance with Article 7 of the Temporary Protection of Displaced Persons Act, a displaced person as referred to in the Act who, during the period of temporary protection and until the quota determined by the Government has been filled, makes an illegal entry into the Republic of Slovenia may seek temporary protection from the competent authority as long as they do so within three days of entering the Republic of Slovenia. A displaced person who enters the Republic of Slovenia outside a border crossing point and who seeks temporary protection from the competent authority within the mentioned time limit in accordance with the Article 7 shall not be deemed to have committed a minor offence pursuant to the Act governing state border control.

Moreover, with regard to the waiving of customs duties and measures to facilitate the entry of pet animals travelling with their owners from Ukraine, one of the proposed measures in the Providing operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders, published by the Slovenian Administration for Food Safety, Veterinary Sector and Plant Protection (AFSVSPP)¹⁹⁵² on 28 February 2022 was that due to the emergency situation in Ukraine, the entry of pet animals was provisionally authorised on the basis of a completed application and under the conditions set out in the application to ensure that the entry of these animals into the EU does not pose a risk of rabies introduction/transmission. A contact point has been established at the headquarters of AFSVSPP to accept applications. However, as of 1 March 2023, the AFSVSPP no longer allows the entry of pet animals from Ukraine under the simplified procedure, based on Article 32 of Regulation (EU) 576/2013 on the non-commercial movement of pet animals, meaning dogs, cats and ferrets in the context of a non-commercial movement from Ukraine to Slovenia must comply with the conditions set in the Regulation.¹⁹⁵³

2. Freedom of movement

Persons entitled to temporary protection who do not hold a biometric travel document do not experience any particular issues when moving within the territory of Slovenia or while attempting to continue their journey towards other European countries. However, persons not entitled to temporary protection will be restricted in their movements if they apply for international protection (see [General Report – Freedom of movement](#)), which may also impact persons entitled to temporary protection of the same family unit.

Entry into the national territory and moving within the country was also facilitated for persons fleeing from Ukraine. Moreover, vehicles with a maximum permissible weight of up to 3.5 tonnes (most passenger cars and light combination vehicles) with Ukrainian number plates are, until further notice, exempt from tolls on toll roads (purchasing the e-vignette), but only for the purpose of entering or crossing the Republic of Slovenia in transit. If the drivers of these vehicles stay in the Republic of Slovenia and use toll roads during their stay in the country, they must obtain an appropriate e-vignette for their vehicles.

3. Registration under temporary protection

In Slovenia registration occurs when the application is submitted to the competent authority.

As stipulated in Article 16 of the Temporary Protection of Displaced Persons Act,¹⁹⁵⁴ upon entry into the Republic of Slovenia, an applicant shall complete an application for temporary protection with the

¹⁹⁵² Republic of Slovenia, *Derogation for non-commercial movements of pets due to the exceptional situation in Ukraine*, available at: <https://bit.ly/3I7SJl6>.

¹⁹⁵³ Republic of Slovenia, *Termination of simplified procedure for non-commercial movements of pets due to the exceptional situation in Ukraine*, available at: <https://bit.ly/3FKrMv9>.

¹⁹⁵⁴ Article 16(3)-(4) Temporary Protection of Displaced Persons Act.

authority responsible for border crossing control, which is the Police, and shall present all the evidence at their disposal which is relevant for the decision on granting temporary protection. The Police shall then immediately submit the application and supporting documents to the competent authority for processing and deciding on granting temporary protection, which is the administrative unit in the territory where the applicant is staying.

Displaced persons making an illegal entry into the Republic of Slovenia and those already present in the Republic of Slovenia shall, without delay and within three days at the latest, complete an application for temporary protection and submit it to the local police office located in the area where the person in question is staying or to the administrative unit in the area where the person is staying together with all documents held by them that are relevant to deciding on the granting of temporary protection.¹⁹⁵⁵ If in these two cases the application is submitted to the police, the police shall forward it without delay to the administrative unit where an applicant for temporary protection is staying.

Administrative units then process and decide on whether an applicant fulfils the conditions to be granted temporary protection determined by this Act in a summary fact-finding procedure. In case of a positive decision a person receives an identity card, which also serves as a permit for temporary residence in the Republic of Slovenia.¹⁹⁵⁶ In case of a decision dismissing or withdrawing temporary protection or rejection order rejecting the application, the persons receive a written decision which indicates the time limit by which the person must have left the country. A person failing to leave the Republic of Slovenia by the determined time limit is subject to the provisions on the removal of foreigners of the Foreigners Act.¹⁹⁵⁷

With the proposed legislative changes in 2022, which were not yet adopted at the time of writing the report, the procedure of applying for temporary protection would be simplified by referring only to the administrative units as the responsible authority to accept an application for temporary protection and no longer also the Police. There may be an issue with such provision in practice, as in most cases the first authority that persons entering Slovenia come in contact with is the Police, and from this point of view it is easiest and most reasonable to file an application for temporary protection, together with any supporting documents, with the Police, which the Police then forward to the competent administrative unit. It is also important to point out that persons who are just entering the Republic of Slovenia are not familiar with our state bodies and their powers (they are unfamiliar with, for example, the concept of administrative units), they face a lack of information, as seen in practice, and as a result, the implementation of such a provision in practice may lead to certain uncertainties and ambiguities.

Time limit for application

As aforementioned, in accordance with the Article 16 of Temporary Protection of Displaced Persons Act, applicants making an illegal entry into the Republic of Slovenia and applicants already present in the Republic of Slovenia shall, without delay and within three days at the latest, complete an application for temporary protection. The law on temporary protection does not however stipulate any consequence for exceeding the determined time limit and no consequences have been detected by PIC in practice so far.

A time limit that also needs to be considered is that of the allowed short-term stay (visa-free regime) for citizens of Ukraine for up to 90 days within the 180-day period, as after the expiration of the allowed short-term residence they need to obtain another legal basis for residence in Slovenia in order to be able to lawfully stay in the country.

¹⁹⁵⁵ Article 16(5) Temporary Protection of Displaced Persons Act.

¹⁹⁵⁶ Article 19(1)-(3) Temporary Protection of Displaced Persons Act.

¹⁹⁵⁷ Article 19(5) Temporary Protection of Displaced Persons Act.

Evidence

When applying for temporary protection, the applicants are required to provide evidence in order to prove they fall under the scope of temporary protection, however, the law regulating temporary protection does not further define the said evidence. In general, the relevant documentation is considered to include documentary evidence that can help in establishing identity, residence of the person and moment when the person left Ukraine as a determining factor for being eligible for temporary protection and documentation attesting family relationship or family unity and dependency with close relatives.

The authority that receives the application and supporting documents issues a written acknowledgement of receipt of application to the applicant.

Issues in registration for TPD

As the mobile blue dot from PIC, consisting of lawyers and a translator, was informed of by some applicants and beneficiaries of temporary protection while providing information and counselling to people fleeing Ukraine in various municipalities and reception/accommodation centres, some were waiting for the decision on granting temporary protection to be issued by the administrative units well over the determined time limit for issuing and serving a decision. Administrative units, as the competent authority, decide on granting of temporary protection in a summary fact-finding procedure¹⁹⁵⁸ and must therefore issue and serve the decision as soon as possible or at the latest within one month from the day of receiving a complete application for initiating an administrative procedure in accordance with the Article 222, paragraph 1, of the General Administrative Procedure Act.¹⁹⁵⁹ The reasons for the delays may in some cases be incomplete applications, however the backlogs can mostly be attributed to administrative units being overloaded with applications that they were not able to process in time as they were not fully prepared from an organisational standpoint, especially in the first few months of activating temporary protection in Slovenia, as observed by PIC. Administrative units are also unequal both in terms of size and workload, which affected as to how long the applicants were waiting to be granted temporary protection, in view of which administrative unit was processing their applications, and consequently to be able to enjoy the rights that are granted under temporary protection such as the right to work, financial assistance etc. If the administrative unit fails to issue a decision and serve it to the applicant in due time, they have the right of appeal as if their claim has been refused in accordance with the General Administrative Procedure Act.¹⁹⁶⁰

In 2022, the average number of days from the receipt of an application to the issuance of a decision was 21.7 days, varying from administrative unit to administrative unit, with the longest average being 45.5 days in administrative unit Ptuj, and the shortest being 7 days in Jesenice.¹⁹⁶¹

Another issue was that until June 2022 written administrative decisions were issued instead of identity cards. The procedure has been simplified and faster since the start of issuing identity cards. Some beneficiaries of temporary protection have also mentioned having issues at the borders when traveling to Ukraine and then back to Slovenia, for example at the Hungarian border, as the authorities responsible for border crossing control supposedly did not recognise the document, i.e., the written administrative decision, as it was not in the form of an identity card, despite the decision granting the person the status of temporary protection in Slovenia and all the related rights and obligations.

¹⁹⁵⁸ Article 19(2) Temporary Protection of Displaced Persons Act.

¹⁹⁵⁹ General Administrative Procedure Act Official Gazette of RS, No. 24/06 and subsequent amendments .

¹⁹⁶⁰ Article 222(4) General Administrative Procedure Act.

¹⁹⁶¹ Official statistics provided by the Ministry of the Interior, March 2023.

An appeal may be filed against a decision on granting temporary protection issued by the competent authority, i.e. administrative unit, within 15 days of the date of service. An appeal stays the execution of the decision and is decided on by the Ministry.¹⁹⁶²

4. Legal assistance

In accordance with Article 37 of the Temporary Protection of Displaced Persons Act, persons enjoying temporary protection enjoy the right to free legal aid in accordance with the act governing free legal aid.

However, this right is granted only to persons that have already been granted temporary protection. For the applicants there is no free legal aid (neither for first nor second instance procedures, for example when appealing a decision on granting temporary protection) that would be funded through the state budget. PIC provides legal assistance to applicants as well as to persons granted temporary protection, which includes familiarising applicants for temporary protection with their rights and obligations in Slovenia, representing applicants at application submissions, providing relevant information and offering legal advice, all within the project funded by United Nations High Commissioner for Refugees (UNHCR)-Counselling and representing asylum applicants in Slovenia. Legal assistance by PIC is provided through regular visits to reception/accommodation centres, organised with a permission from the Government Office, according to a set schedule (for example every two weeks in **Logatec**, once a month in **Debela Rtič** etc., with the frequency adjusted considering the need and the approximate number of inquiries). PIC lawyers, together with a translator, also visit municipalities to provide legal counselling for applicants for temporary protection and beneficiaries of temporary protection. For the first several months such meetings also included providing information for representatives of various institutions as stakeholders, dealing with displaced persons from Ukraine in different areas, together with a representative from the Government Office. PIC lawyers are also available by phone and e-mail every working day during working hours and individual (in person in PIC's office and online) legal counselling can be arranged as needed (applications are collected online via a form).

The Faculty of Law of the University of Ljubljana has also been offering free legal assistance to Ukrainian citizens who apply for protection in Slovenia. Legal information is provided within the Legal Clinic for Refugees and Foreigners, in which participate students of the Faculty of Law, sometimes consulting with other individuals and institutions involved in providing assistance to refugees. Consulting is mainly provided via e-mail.¹⁹⁶³

As for persons enjoying temporary protection, free legal aid is available in accordance with the Legal Aid Act.¹⁹⁶⁴ It can be granted for legal advice, legal representation and other legal services specified by law, for all forms of legal protection before all courts of general jurisdiction and specialised courts in the Republic of Slovenia, before the Constitutional Court of the Republic of Slovenia and before all authorities, institutions or persons in the Republic of Slovenia, which are responsible for the out-of-court settlement of disputes and as an exemption from paying the costs of court proceedings. Free legal aid is also granted for proceedings before international courts or arbitrations, if the right to free legal aid is not regulated by the rules of the international court or arbitration, or if the individual is not entitled to it according to the rules on free legal aid.

A person is entitled to free legal aid if, given their material situation and the material situation of their family, they would not be able to afford the costs of court proceedings or the costs of providing legal aid without jeopardising their social situation and the social situation of their family.¹⁹⁶⁵

¹⁹⁶² Article 20(1)-(2) Temporary Protection of Displaced Persons Act.

¹⁹⁶³ University of Ljubljana, *Brezplačni pravni nasveti in pomoč ukrajinskim državljanom*, available at: <https://bit.ly/3Um6ydg>.

¹⁹⁶⁴ Legal Aid Act, Official Gazette of RS, No. 96/04 and subsequent amendments.

¹⁹⁶⁵ Article 13(1) Legal Aid Act.

One of the issues for persons entitled to temporary protection in accessing (free) legal assistance is the lack of information as to how to access free legal aid (i.e. through filling out the form at the competent court). For PIC's legal assistance, one practical obstacle has been arranging the informing/legal counselling in various municipalities for everybody in need, as some municipalities were more prepared to assist in arranging such meetings and sending information to all potential interested parties that are staying in the municipality than others, especially as many applicants and beneficiaries of temporary protection have settled in private accommodations since entering Slovenia and it has been more challenging to access them with invitations to the said meetings. However, a number of persons staying in each municipality has been provided. Legal informing and counselling for persons in reception/accommodation centres and other state facilities has not been an issue, as all the needed information was provided by the Government Office and the frequent, regular visits are arranged in cooperation with the said accommodations.

5. Information provision and access to NGOs

The Temporary Protection of Displaced Persons Act stipulates in Article 15, dealing with procedural rights, that an applicant for temporary protection shall be provided all information concerning the procedure for the granting of temporary protection in a language that they understand and shall have the right to follow the procedure and participate therein in a language that they understand. An applicant may, at any time, contact non-governmental, international and other organisations for assisting refugees. By law the Government Office shall provide applicants the mentioned information through information booklets and by establishing an information service.¹⁹⁶⁶

The right to be informed is regulated in Article 38 of the Temporary Protection of Displaced Persons Act, stipulating that persons enjoying temporary protection must be informed of the rights and obligations arising from this Act in a language they understand. The Government Office shall provide them the necessary information, in particular regarding accommodation, claiming financial assistance, health care, education and employment, in a language they understand. Moreover the Decree on the methods for ensuring the rights of persons enjoying temporary protection stipulates in Article 2, paragraph 3, that the Government Office shall provide information to applicants for temporary protection by issuing informative brochures in electronic and printed form and by organising an information service and in Article 24 that Government Office shall organise the briefing of persons with temporary protection on their rights and duties, as determined by law, in electronic and printed form or in another appropriate way.

In practice, this has been realised by the Government Office setting up a government call centre, through which information is provided about the assistance that Slovenia provides to displaced persons from Ukraine, about entry and residence in Slovenia, about the procedure for recognising temporary protection and information on how individuals or organisations can provide financial or material assistance, in a language they can understand. The call centre works every day of the week from 8 a.m. to 4 p.m. The Government Office has also established a special email address for any inquiries. Current information and contact numbers are also published on the official website in Slovenian and Ukrainian language.¹⁹⁶⁷ As pointed out to PIC by users of the website, some had issues with finding the needed information, especially the forms that need to be filled out for example for applying for financial support. On the Government Office's website is also available a brochure in Ukrainian language, containing information on temporary protection, however, the applicants did not receive physical information booklets/brochures upon completing the application (at the Police or administrative units), as per the latest information available in 2022. Consequently, some have reported to PIC lawyers that they were not sufficiently informed especially on the difference between different forms of protection,

¹⁹⁶⁶ Article 15(1)-(3) Temporary Protection of Displaced Persons Act.

¹⁹⁶⁷ The official Government website: Republic of Slovenia, *Support for Ukrainian Nationals in Slovenia*, available at: <https://bit.ly/3HvxxNh>.

i.e. temporary and international protection (which led some to regret submitting applications for international protection or to submit applications for both forms of protection at the same time at the Police). The main issue with this was also that, as some reported to PIC, the Police already indicated to persons entering Slovenia to which form of protection they are supposedly entitled and directed them to applying for that form of protection without providing full information. It is within the rights of a person announcing they are in need of protection to decide which procedure to start in this regard and for the competent authority to then decide on the eligibility of the person on the basis of the provided relevant documentation.

Persons that are accommodated in reception/accommodation centres can also turn to social workers for help with basic information regarding their rights and for some practical questions (e.g. how to obtain a tax number).

A significant part of providing important information was taken upon by several non-governmental organisations, such as PIC, that organised and utilised PIC mobile unit/blue dot that has been, beside visiting reception/accommodation centres, also travelling to various cities in Slovenia and meeting with persons fleeing Ukraine in different locations (in principle, in cooperation with representatives of municipalities that offered their premises for such meetings) to provide key information related to the temporary protection in Slovenia. Such meetings have mostly consisted of a lengthy presentation, prepared by the PIC lawyers and carried out in Ukrainian language, followed by the lawyer(s) answering any related (legal) questions. Information on the dates of informing by PIC is regularly published also on the Government Office's website. Moreover, PIC has also prepared and handed out information booklets (in reception/accommodation centres and other state facilities and on other occasions, namely on the mentioned organised informing events) with all the vital information regarding rights and obligations under temporary protection and explanations with respect to some of the most frequent questions. Presentation by the mobile blue dot was also updated to include the more current inquiries regarding further integration into Slovenian society, such as more detailed information on the Slovenian healthcare system, working in Slovenia (different types of contracts under which a person can work, workers' rights in Slovenian labour law etc.), on legal bases for residing in Slovenia after temporary protection ceases (for example regarding obtaining a single residence and work permit and family reunification), acquisition of citizenship and return to the country of origin. In 2022, 1,118 displaced persons from Ukraine were assisted by the PIC mobile blue dot. Other non-governmental organisations have also been providing information in several fields, among them for example the [Slovene Philanthropy](#), which has been offering key information and certain legal help, mainly related to the stay in the Republic of Slovenia, informing about other types of help available in Slovenia etc.¹⁹⁶⁸ Information provided by the Slovene Philanthropy has also been available in the form of informative videos with Ukrainian subtitles to help persons with temporary protection familiarize themselves with their rights and obligations, as also explained on the Government Office's website. The assistance by the Slovene Philanthropy in this regard was carried out under a project financed by the Fund for Bilateral Relations, lasting until 31 December 2022, which included providing information on the rights and duties of persons with temporary protection and a 12-hour orientation program, which took place online and in person.¹⁹⁶⁹ Other NGOs, supported by UNHCR, also carried out several programmes in 2022, namely [Slovenian Red Cross](#) that provided useful information to assist people fleeing Ukraine (on their website and in person when visiting reception/accommodation centres and by organising workshops) and assistance by offering interpretation of the Ukrainian language in order to facilitate access to services for people fleeing Ukraine, as well as providing humanitarian aid,¹⁹⁷⁰ [Institute EMMA](#), providing psycho-social counselling and support, focusing on victims of gender-based violence and [Society Ključ – Centre for Fight against Trafficking in Human Beings](#). Society Ključ implemented a project ("Pogum") in 2022,¹⁹⁷¹

¹⁹⁶⁸ Slovene Philanthropy, *REFUGEES FROM UKRAINE*, available at: <https://bit.ly/3Y7hkox>.

¹⁹⁶⁹ Government Office, *Osnovna podpora pri integraciji za razseljene osebe iz Ukrajine z začasno zaščito v Sloveniji*, available at: <https://bit.ly/3jEXn9J>.

¹⁹⁷⁰ Slovenian Red Cross, *Pomoč Ukrajini in informacije za begunce ter njihove svojce*, available at: <https://bit.ly/3FU0YZu>.

¹⁹⁷¹ Society Ključ, *Pogum*, available at: <https://bit.ly/3GRDAfC>.

the activities of which were aimed at alleviating the hardships of applicants and persons with international protection, implemented in Ljubljana, Logatec, Debeli Rtič, Postojna and Kranj, however among 101 people that were involved in the activities, displaced persons from Ukraine (it was also possible for TP beneficiaries to attend and not just persons with international protection) were only involved in the activities in Ljubljana, in the premises of the Slovenian Philanthropy (about 10 people) within the framework of funding from the Ministry of Labour, Family, Social Affairs and Equal Opportunities and later PIC. Then, with UNHCR funds, Society Ključ also provided informing to newly arrived persons from Ukraine about human trafficking in certain accommodation capacities.

Risks of exploitation and human trafficking

On the Government website¹⁹⁷² a special emphasis is placed on persons fleeing the war in Ukraine being at risk of becoming victims of trafficking or other forms of exploitation, explaining that many people are offering Ukrainian nationals help, including offering private accommodation, work and transportation to other regions or other countries and that certain offers and apparent willingness to help may in fact be traps in which persons can fall victims to traffickers. It is also emphasized that women and children are a particularly vulnerable group in terms of human trafficking and anybody who would detect any suspicious circumstances or believe they could be a victim of trafficking, is encouraged to call the police, or get in touch with anti-trafficking non-governmental or humanitarian organisations at the listed contact telephone numbers or e-mail addresses ([Caritas Slovenia](#), [Society Ključ – Centre for Fight against Trafficking in Human Beings](#), [Slovene Philanthropy](#), which also provide some information regarding posing risks for displaced persons from Ukraine). Some NGOs also participate in the inter-departmental working group for the fight against human trafficking, which brings together ministries and government departments as well as non-governmental organisations.

It was specifically pointed out on the Government website that in the accommodation facilities in **Logatec** and **Debeli Rtič**, cases were detected where individuals were looking for or attempting to establish contacts with women refugees from Ukraine, also offering marriage arrangements and accommodation in private apartments in exchange for providing sexual services and performing various household chores. A suspicious ad for a job in the fashion industry was also detected.¹⁹⁷³ The National Working Group on Combating Trafficking in Human Beings therefore warns about the risks posed by the crisis in Ukraine in relation to human trafficking.¹⁹⁷⁴

Information provision at the border

The authority responsible for border crossing control, i.e. the Police, orally provide information on the procedure for temporary protection (basic information on the process and the rights and obligations of applicants and beneficiaries) and the person can complete an application for temporary protection and submit the relevant documents at the Police upon entry into the Republic of Slovenia. In practice, PIC has noticed that many applicants were lacking basic information regarding the continuation of the temporary protection procedure (e.g., deadline for issuing a decision) and relating to the rights of applicants and temporary protection beneficiaries, when they first came in contact with PIC.

¹⁹⁷² Government of the Republic of Slovenia, *Combating trafficking in human beings*, available at: <https://bit.ly/3x1tzHC>.

¹⁹⁷³ See for example the articles explaining several examples of potential abuses people fleeing Ukraine are exposed to: N1, “*Na mejo po novo ženo*”: vojna odpira prostor za izkoriščanje ljudi v stiski, 15 March 2022, available in Slovenian at: <https://bit.ly/3XjHAe5> and N1, *Zloraba begunk? Oglas v Logatcu v ruščini ponuja manekensko delo*, 12 April 2022, available in Slovenian at: <https://bit.ly/3RJuaar>.

¹⁹⁷⁴ Government of the Republic of Slovenia, *Combating trafficking in human beings*, available at: <https://bit.ly/3x1tzHC>.

D. Guarantees for vulnerable groups

Categories of people considered to be vulnerable are defined in the Temporary Protection of Displaced Persons Act as persons with special needs, in particular unaccompanied minors, persons with disabilities, elderly persons, pregnant women, unaccompanied women, single parents with minor children, victims of sexual abuse and victims of torture or organised violence.¹⁹⁷⁵

As explained by the General Police Directorate,¹⁹⁷⁶ determining potential vulnerability is said to be an essential part of migrant care and registration processes. The Police determine it individually and record it as well. Depending on the type of vulnerability, they provide assistance and care to migrants. The mark that it is a vulnerable person and that such a person needs to be treated with special care is entered into the database and is removed only when (if) the vulnerability is eliminated. No statistical data for beneficiaries of temporary protection was collected by the General Police Directorate and provided to PIC in this regard. However, as stated by the Ministry, vulnerability assessment is in fact not carried out as part of the application process for temporary protection, as the competent authority for identifying vulnerabilities in the context of ensuring the rights and adequate care of applicants for temporary protection is the Government Office.¹⁹⁷⁷

Further, as described by the Government Office,¹⁹⁷⁸ help and support in case of vulnerability is available to all applicants (regardless of whether they are applying for temporary or international protection). Throughout the entire process, it is possible to evaluate or detect/recognise potential vulnerability. The first option is a medical examination at the reception centre; another possibility is when they apply for a temporary protection or international protection, and they have a conversation/interview with an official during the process of obtaining the protection. In addition, it is possible for people to confide in social workers who are available 14 hours a day in the accommodation centres and branches. Psychosocial support (psychologist and psychotherapist) is available for vulnerable people, a psychiatrist also comes to the Asylum Home once a week. In 2022, a total number of 4,165 persons were identified as vulnerable, however this number comprises the number of all migrants, without further defining the number of international and temporary protection beneficiaries.

It is especially worth mentioning that the vast majority of people fleeing Ukraine and applying for temporary protection in Slovenia have been women with children,¹⁹⁷⁹ who are very vulnerable to potential abuses, therefore, effective informing, systematic assessment and an accessible and effective system of assistance that would prevent them from becoming victims of various forms of abuse is necessary.

In practice, there has been a difference between persons accommodated in accommodation centres and those in private accommodations, as those in accommodation centres can turn to social workers, available in the centres, in case of need, who then communicate this further to the competent authorities or organisations.

When working with applicants and beneficiaries of temporary protection, PIC has paid special attention to persons with indicators of a vulnerable person, keeping statistics on such persons through regular weekly UNHCR reports and providing them with the necessary information and help to get in touch with the Police and the NGOs, dealing with specific groups of vulnerable persons.

¹⁹⁷⁵ Article 3 Temporary Protection of Displaced Persons Act.

¹⁹⁷⁶ Official statistics provided by the General Police Directorate, February 2023.

¹⁹⁷⁷ Official statistics provided by the Ministry of the Interior, March 2023.

¹⁹⁷⁸ Official statistics provided by the Government Office, February 2023.

¹⁹⁷⁹ As per the official statistics provided by the Ministry of the Interior, March 2023, in the period from 24 February 2022 until 31 December 2022, a total of 8,445 persons applied for temporary protection in the Republic of Slovenia, of which 5,615 were women.

Unaccompanied minors

The procedure for treating unaccompanied minors, as one of the categories of vulnerable persons, is regulated in Temporary Protection of Displaced Persons Act, Article 22, that stipulates that an unaccompanied minor shall be appointed a legal statutory representative prior to the initiation of a procedure for obtaining temporary protection. In a procedure involving an unaccompanied minor, the competent authority shall take into consideration the minor's opinion, in accordance with their age and degree of maturity. Applications for temporary protection lodged by unaccompanied minors shall be examined as a matter of priority.

Further, Article 41 specifies that a minor person shall be appointed a guardian in accordance with the regulations governing guardianship by a Social Work Centre. During the period of temporary protection, unaccompanied minors shall normally be placed:

- ❖ with adult relatives;
- ❖ with a foster family;
- ❖ in accommodation centres or other lodging facilities suitable for minors;
- ❖ with a person who looked after the child upon arrival in the Republic of Slovenia.

The Social Work Centre with territorial jurisdiction shall be the centre located in the area where the unaccompanied minor is accommodated. When accommodating an unaccompanied minor, the competent Social Work Centre shall take into consideration the minor's opinion, in accordance with their age and degree of maturity.¹⁹⁸⁰

Other than the described procedure no special measures have been implemented in 2022, adapted specifically to the needs of non-accompanied minors who are entitled to temporary protection.

Persons suffering from mental health problems

In 2022 no specific programme was introduced to address the needs of beneficiaries suffering from mental health problems, including torture survivors and other traumatised persons. Specialised treatment for them is only organised through certain programmes by NGOs and other actors.

Some psychosocial support has been available in accommodation centres based on the recognised need of accommodated persons by the social workers.

¹⁹⁸⁰ Article 41(3) Temporary Protection of Displaced Persons Act.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--|---|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | Same as duration of the temporary protection, i.e. initially one year and then as extended. |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2022? | 7,666 |

A person enjoying temporary protection is issued an identity card by the competent administrative unit that also serves as a permit for temporary residence in the Republic of Slovenia, valid for the period of temporary protection.¹⁹⁸¹ The decision/identity card must be issued within one month at the latest from the day of receiving a complete application for initiating the procedure in accordance with the Article 222, paragraph 1, of the General Administrative Procedure Act.

The duration of temporary residence permits is the same as that of temporary protection, i.e. initially one year and then as extended. The permit is automatically prolonged, and beneficiaries are issued new identity cards by the administrative units ex officio.

Regarding difficulties see Registration under temporary protection.

The residence permit granted to temporary protection beneficiaries is a *temporary* residence permit. In general, in accordance with the Foreigners Act, after five years of uninterrupted legal stay in Slovenia on the basis of a temporary residence permit, foreigners may obtain a permanent residence permit. However, the law stipulates that the period of residence of a foreigner in the Republic of Slovenia as a person with temporary protection cannot be counted towards the required five-year period for issuing a permanent residence permit, which is important for the persons that would decide to stay in Slovenia on a different basis (such as, e.g., single residence permit and work permit) after temporary protection ceases and would plan on eventually obtaining permanent residence permit.¹⁹⁸²

A person who wishes to renounce temporary protection due to returning to Ukraine (or going to another country) must unequivocally notify (in any way, including by e-mail) the competent administrative unit that granted temporary protection to the person. If a person has already been issued a card of a person with temporary protection, they must return it to the administrative unit that issued it. The administrative unit issues a decision on termination of temporary protection, which also specifies the deadline by which the person must leave the country. As explained by the Ministry of the Interior, people who wish to apply for temporary protection in Slovenia while having received temporary protection in another country, first need to renounce the temporary protection in the other country and provide proof of the renouncement when applying for temporary protection in Slovenia, as at the moment of writing the report, there is still no valid legal basis in respect of personal data protection for data exchange, which is why the Republic of Slovenia does not participate in the EU platform for registration to be able to check such information.

A person that has renounced temporary protection in Slovenia is not prevented from applying for temporary protection again in the future.

¹⁹⁸¹ Article 42(2) Temporary Protection of Displaced Persons Act.

¹⁹⁸² Article 52(1) Foreigners Act.

2. Access to asylum

Persons enjoying temporary protection may seek asylum during the period of temporary protection or after the termination thereof. The examination of an asylum application not processed before the end of the period of temporary protection, after the protection ends. Until a final decision on the asylum application is reached, such persons shall be subject to the regulations governing asylum.¹⁹⁸³ Temporary protection beneficiaries applying for international protection still enjoy the rights under temporary protection until a positive decision on international protection has been issued.

B. Family reunification

In accordance with the Temporary Protection of Displaced Persons Act, Article 36, which deals with the right to family reunification, the right to temporary protection under this Act shall also be enjoyed by members of the immediate family of a person granted temporary protection. The following are deemed as immediate family members pursuant to this Act:

- ❖ a spouse or a person who had lived with the person who was granted temporary protection before their arrival in the Republic of Slovenia, for at least one year, in a domestic community that is equal in legal consequences to a marriage pursuant to the Family Code;¹⁹⁸⁴
- ❖ the children of the person granted temporary protection, as long as the person is obliged to support them;¹⁹⁸⁵
- ❖ stepchildren if they support their stepfather or stepmother, and a stepmother or stepfather if they support their stepchildren;¹⁹⁸⁶
- ❖ grandchildren and nephews of the person granted temporary protection, in so far as that person is supporting the grandchildren or nephews who are without parents;
- ❖ other close relatives of the person granted temporary protection, if they had lived together as a family before their arrival in the Republic of Slovenia and were supported by the person who has obtained temporary protection.

Further, the Decree on the methods for ensuring the rights of persons enjoying temporary protection stipulates in Article 23 that to exercise the right to family reunification, the provisions of the Rules on the procedure concerning the transfer of persons enjoying temporary protection¹⁹⁸⁷ shall be applied *mutatis mutandis*.

In accordance with the Rules, family reunification is thus applied through the system of relocation, which begins on the basis of a case-by-case agreement between Slovenia and another EUMS. In the process of transfer from another Member State to Slovenia, the Ministry, based on data provided by the competent authority of the other Member State, determines whether a person enjoying temporary protection in another Member State has any of the reasons for ineligibility to temporary protection in accordance with Article 5 of the Temporary Protection of Displaced Persons Act (i.e. there are reasonable grounds for suspecting that the person has committed a criminal offence against humanity and international law as determined by the Criminal Code; has committed a serious non-political criminal offence elsewhere than in the Republic of Slovenia before they were admitted to the country as an applicant for temporary protection; has committed a criminal offence contrary to the purposes and

¹⁹⁸³ Article 8(1)-(2) Temporary Protection of Displaced Persons Act.

¹⁹⁸⁴ Family Code, Official Gazette of the Republic of Slovenia, no. 15/17 and subsequent amendments.

¹⁹⁸⁵ The notion of 'obligation to support' in family relations is regulated in the Family Code, which stipulates that parents are obliged to support their minor children, i.e. until they reach the age of 18, or until the age of 26, as long as they are enrolled into school as regular students.

¹⁹⁸⁶ Ibid.

¹⁹⁸⁷ Rules on the procedure concerning transfer of persons enjoying temporary protection, Official Gazette of RS, No. 110/05.

principles of the United Nations and other binding international treaties implementing these purposes and principles; poses a threat to the constitutional order of the Republic of Slovenia or has been convicted by final decision of a criminal offence in the Republic of Slovenia and imposed an unsuspended sentence of imprisonment longer than one year and whose conviction has not been expunged), and thus cannot obtain temporary protection in Slovenia.¹⁹⁸⁸

However, as the general system of relocation has not been put in place thus far, in practice this right cannot be realised yet. Temporary protection beneficiaries cannot benefit from the rules on family reunification applicable to beneficiaries of international protection (see [General Report – Family Reunification](#)).

C. Movement and mobility

The only restriction of movement of applicants for temporary protection is where an applicant's identity is not known or if there is doubt as to their identity. In such case the applicant may be required to stay, for a limited period of time, within an accommodation centre. Such restriction of movement shall be decided on by the Ministry by a procedural decision. The restriction may last for as long as the reasons exist, but for no longer than one month. If the reasons for the restriction persist thereafter, the restriction may be extended by another month. An appeal may be filed against a procedural decision restricting an applicant's movement before the Administrative Court of the Republic of Slovenia within three days of its service; the court shall decide on the case within three days of a preliminary oral hearing.¹⁹⁸⁹

Other than the mentioned restriction, beneficiaries of temporary protection have freedom of movement within the State and are not subjected to territorial restrictions.

Beneficiaries of temporary protection also have the freedom of movement towards other EUMS once they are registered.

The main issue experienced by beneficiaries of temporary protection who wished to temporarily return to Ukraine, as mentioned to PIC lawyers, was that some reportedly faced issues (mostly) at the Hungarian boarder when trying to return to Slovenia, however other than that in Slovenia no restrictions have been implemented and persons can re-enter the country when returning from Ukraine. The only practical issue can be that the decision on temporary protection needs to be served to the applicant directly once issued and there is a time limit of 15 days from the date of service for lodging/filing an appeal against the decision. Persons may also be asked to supplement the application and if they do not send the supplement in time, the decision is made on the basis of the evidence received.

¹⁹⁸⁸ Articles 2(1) and 7(1) Rules on the procedure concerning transferal of persons enjoying temporary protection.

¹⁹⁸⁹ Article 21 Temporary Protection of Displaced Persons Act.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?	Unlimited
2. Number of beneficiaries staying in State provided accommodation as of 12/2022	545
3. Number of beneficiaries staying in private accommodation as of 12/2022	Not available

In accordance with the Temporary Protection of Displaced Persons Act, the Government Office for the Support and Integration of Migrants is responsible for ensuring that persons with temporary protection are properly accommodated. The Government Office is obliged to organise the transfer of applicants to the nearest reception centre, where identification, collection of information relevant to the granting of temporary protection and a medical examination take place. Applicants may be placed in accommodation centres pending the final decision on their application. The centres are established by the Government and managed by the Government Office.¹⁹⁹⁰ Further, the Decree on the methods for ensuring the rights of persons enjoying temporary protection stipulates in Article 2 that until the final decision on an application for temporary protection is made, the applicant for temporary protection may stay in accommodation centres where they are provided with adequate food. The Government Office organises transport of the applicant for temporary protection to the nearest reception centre, but if they have their own transport or are provided with transport in another way, the applicant for temporary protection can take themselves to the nearest reception centre.

In line with the Decree, vulnerable groups of persons as referred to in the act governing temporary protection are accommodated in accommodation centres separately from other persons with temporary protection, whereby their special needs are taken into account based on an individual assessment.¹⁹⁹¹

In practice, the reception of applicants for temporary protection is carried out in the **Asylum Home Branch Facility Logatec**, which serves as an accommodation centre for applicants for temporary protection and beneficiaries of temporary protection with accommodation capacity for 350 persons,¹⁹⁹² and from there they are accommodated (usually only after receiving temporary protection) in the available capacities of other accommodation centres. Once an accommodation facility is fully occupied, the next available one is used. In the accommodation centre in **Logatec** some are placed in buildings and some in containers due to lack of capacity, to be placed in available accommodation facilities as soon as possible. Individuals can freely move on the premises of the centre and are allowed to leave the premises after informing the social workers. Where they are accommodated in **Logatec** (in buildings or in containers) and where and when they are moved next is decided by the social workers based on the individual circumstances (e.g. family, unaccompanied minor, single woman, other detected vulnerabilities etc.) of the applicants, as well as availability. Special attention was afforded to individuals assessed as vulnerable, for example women with children were put in separate rooms from men and the containers hosted mostly accommodated single men. However, as PIC pointed out in a complaint to the Human Rights Ombudsman of the Republic of Slovenia lodged in the name of a beneficiary of temporary protection, accommodated in the container with several other men, the containers are not an appropriate and humane long-term solution, especially considering the living conditions in different weather conditions (heat, cold) and lack of privacy.

¹⁹⁹⁰ Article 17(1)-(3) Temporary Protection of Displaced Persons Act.

¹⁹⁹¹ Article 4 Decree on the methods for ensuring rights of persons enjoying temporary protection.

¹⁹⁹² Official statistics provided by the Government Office, February 2023.

Applicants and beneficiaries of temporary protection are also housed in the accommodation centres in **Debeli Rtič** and in **Postojna**.¹⁹⁹³ Once these facilities were fully occupied, the Government Office has also began accommodating persons into student dormitories (e.g. in **Kranj**, **Nova Gorica**, **Radenci**) and other suitable state-owned and other facilities (such as apartments of the Ministry of Defence, apartments of the Public Housing Fund, Integration Houses etc.). In the future, the Government Office is also planning to use the facilities in **Jelšane**, **Gornja Radgona** and **Velenje**. Currently, the accommodation capacities in **Velenje** are intended only for people who are travelling to other countries and just need a short-term accommodation in Slovenia.¹⁹⁹⁴ Orphans, aged one to seven years, that were relocated from the Luhansk orphanage in Ukraine were placed in the village of Slavina near Postojna in a house that is owned by the municipality of Postojna.

One of the accommodations provided by the Government office in 2022 were also accommodation capacities obtained on the basis of a public call (Bohinjska Bistrica and Novo Mesto) that fulfilled certain requirements (such as at least 20 beds, the possibility of washing clothes and bedding, specifying all costs in the application) determined for the potential providers.¹⁹⁹⁵

With regard to housing, applicants for temporary protection and temporary protection holders are entitled to accommodation and meals in accommodation centres and (after being granted TP) an allowance or financial assistance for private accommodation (if they do not reside in accommodation centres), that are granted only to those beneficiaries that are not receiving any income or cash benefits and who are unable to rely on a person who is obligated to and capable of supporting them in accordance with the regulations of the Republic of Slovenia.¹⁹⁹⁶ The Government Office awards monthly allowance in the amount of 30 percent of the basic minimum monthly income,¹⁹⁹⁷ which in 2022 amounted to EUR 126.57 per month, to persons with temporary protection based on a signed statement that they are without their own means of subsistence.¹⁹⁹⁸

So far, applicants and TP holders have been able to stay in accommodation centres free of charge, regardless of whether they have their own means of subsistence or another source of livelihood and any income only affects their right to receive the allowance or financial assistance and financial assistance for private accommodation (when living in private accommodation).

No provision on temporary protection specifically mentions material support in accommodation centres (such as clothing, footwear and hygiene supplies), however PIC has observed that material support has been available to applicants for temporary protection and to TP holders, considering their needs, despite receiving an allowance that should supposedly cover such costs.

There is also no specific provision on how long beneficiaries of temporary protection are entitled to stay in reception centres. In general, they stay in the reception/accommodation centre in **Logatec** for a shorter period and are then moved to other accommodation centres and state facilities if they do not decide to reside in a private accommodation.

In 2022 (as of 31 December 2022) altogether in all the mentioned forms of accommodation provided for temporary protection beneficiaries the capacity (in some of them together for asylum applicants, international protection holders and TP beneficiaries) was 929 persons, with 545 TP beneficiaries effectively residing in these places at the end of the year. More specifically, just in

¹⁹⁹³ Republic of Slovenia, *Z nastanitvenim centrom v Postojni pridobili 120 novih namestitev*, available at: <https://bit.ly/3lnSwdL>.

¹⁹⁹⁴ Republic of Slovenia, *Support for Ukrainian Nationals in Slovenia*, available at: <https://bit.ly/3HvxxNh>.

¹⁹⁹⁵ MMC RTV Slovenija, *Objavljen poziv za nastanitvene objekte za begunce iz Ukrajine*, 6 March 2022, available in Slovenian at: <https://bit.ly/3L3UQ3T>.

¹⁹⁹⁶ Article 23 and Article 35(1) Temporary Protection of Displaced Persons Act.

¹⁹⁹⁷ Article 35(2) Temporary Protection of Displaced Persons Act.

¹⁹⁹⁸ Article 22(1) Decree on the methods for ensuring rights of persons enjoying temporary protection.

reception/accommodation centres, the number of places and persons at the end of 2022 was as follows: Asylum Home Branch Facility Logatec (used as reception and accommodation centre for TP applicants and holders) with capacity for 350 persons, accommodating 80 TP beneficiaries; Accommodation centre Debeli Rtič with capacity for 90 persons, accommodating 92 TP beneficiaries; and Accommodation centre Postojna with capacity for 120 persons, accommodating 103 TP beneficiaries.¹⁹⁹⁹

Applicants for temporary protection and temporary protection holders can also reside in private accommodation (without requesting authorisation to do so to the competent authority as is needed with applicants for international protection), which they can find by themselves or with help from some non-governmental and humanitarian organisations (Slovene Philanthropy, Red Cross/Caritas and some others), as well as with assistance of some local communities. Since the beginning of the war, applications from private individuals as well as companies offering accommodation to persons fleeing the war in Ukraine have also been collected at the Government Office, that then matches them with applicants for temporary protection and temporary protection holders looking for private accommodation, considering any specific needs. The issue with this was, however, that the conditions in the offered private accommodations had not been personally checked by the Government Office and the only safeguard has been largely based solely on the assessment of the employees at the Office as to whether the offered accommodations were inappropriate or could possibly pose even a risk (in communication through the telephone or via an e-mail), having in mind vulnerability of the refugees. Another issue with private accommodation that has eventually become apparent is also that initially there was a lot of interest to help accommodate Ukrainian refugees, which gradually subsided and it has become quite challenging for them to be able to find an appropriate private accommodation, especially long-term (for a year or more). In cases of free of charge hosting by private individuals, no financial compensation or financial support for private households housing persons fleeing Ukraine has been introduced by the State. Financial aid is only provided to TP beneficiaries. This caused some dissatisfaction among the providers mostly in the first months after the introduction of temporary protection in Slovenia, as reported to PIC. However, financial assistance for private accommodation, which is granted for paying rent and/or utility costs (when there is a signed rental agreement or agreement on the use of the real estate property) can also be submitted directly to the account of the landlord with a written consent by both, the landlord and the TP beneficiary as a tenant. In this respect some issues with landlords were also reported to PIC regarding temporary protection beneficiaries not being able to immediately pay the rent, as they were waiting for the financial assistance for private accommodation that is provided by the Government Office (sometimes past the time limit for issuing a decision on granting financial aid due to limited capacities for processing a big number of applications). Many temporary protection beneficiaries have also found accommodation with their friends or relatives. Slovenia did not collect statistics on the use of accommodation in private households in 2022.

PIC did not so far detect any issues with temporary protection beneficiaries being able to access reception conditions provided by the State. However, in general, the main challenges in relation to housing and accommodation were uncertainty in case of private hosting (free of charge) as they were mostly provided for a short period of time and the persons having to move to a reception/accommodation centre when the accommodation became unavailable, as well as shortage of affordable private accommodations and their temporary nature, meeting the specific needs of vulnerable groups and the risk of exploitation in private accommodation.

The Slovenian Ombudsman visited Logatec in 2022 due to reports of overcrowding and bad conditions. During the visit asylum seekers, TP holders and people waiting to lodge the application were accommodated in Logatec, in rooms and containers. Regarding the rooms the Ombudsman noted that they are in line with the accommodation standards set in EASO/EUAA guidelines. People had a lot of outdoor activities; the rooms could be locked and the whole centre was properly cleaned. However based on the visit the Ombudsman concluded that accommodation conditions in Logatec does not

¹⁹⁹⁹ Official statistics provided by the Government Office, February 2023.

reach the minimal standards set out by the EASO/EUAA guidelines when overcrowded. In the report the Ombudsman noted that the situation is especially concerning regarding the right to personal dignity, the right to privacy and the right to personal security. In the opinion of the Ombudsman the conditions to a certain extent contributed to the high absconding rate. Therefore, the conditions also violated the right to asylum enshrined in Article 18 of the Charter. The Ombudsman concluded that the conditions were the consequence of lack of capacity. He recommended that additional capacity be guaranteed together with additional staff. The Ombudsman also recommended that the containers should not be used.²⁰⁰⁰

E. Employment and education

1. Access to the labour market

Persons enjoying temporary protection enjoy the right to work to the same degree as refugees, in accordance with the regulations governing the employment and work of foreigners (see [General Report – Access to the labour market](#)). Persons enjoying temporary protection may participate in training programmes or enter into a traineeship in accordance with regulations. Costs incurred as a result of exercising these rights are borne by the employer. Persons enjoying temporary protection may exercise the said rights only during the period of temporary protection.²⁰⁰¹

Displaced persons from Ukraine who have been granted temporary protection have free access to the labour market, which means that they are employed in Slovenia under the same conditions as Slovenian nationals and their employers are not required to obtain work permits in order to be able to employ them. When entering the labour market, Ukrainian nationals and other TP beneficiaries are entitled to the same range of statutory employment rights and obligations as other active job seekers and employees. It is important to point out that due to their lacking language skills and lack of familiarity with the system itself and their rights under the labour law and other relevant legislation, foreigners are a particularly vulnerable group in and around the labour market. The Employment Service of the Republic of Slovenia provides foreigners with tailored career counselling and programmes to speed up their labour market integration. TP beneficiaries are encouraged to register with the Employment Service, as each unemployed person is assigned a career counsellor with whom they draw up an employment plan and plan how to take further steps to speed up their labour market integration. The Employment Service also provides assistance to the unemployed by enrolling them in active employment policy programmes which may help them acquire the necessary knowledge, skills and competences to improve their employment opportunities. Foreigners who do not speak Slovenian language and have no experience with the Slovenian labour market are provided with special tailor-made programmes organised by the Employment Service. In addition to Slovene language courses, these programmes also include on-the-job trainings for beneficiaries of international and temporary protection and foreigners, as well as workshops on "Labour market integration" and "Supporting vulnerable groups in the labour market". Another benefit of registering at the Employment Service is that the Employment Service is responsible for monitoring and verifying employers whose job vacancies have been publicly advertised.²⁰⁰²

Any person with TP can also at any point turn to PIC with questions regarding their employment rights and obligations and for PIC lawyers to inspect employment contracts etc.

In 2022, 101 persons with temporary protection status were employed.²⁰⁰³

²⁰⁰⁰ Ombudsman, *Poročilo z obiska nastanitvenega centra v Logatcu*, 7.0-4/2022-4-NAB (9. 11. 2022).

²⁰⁰¹ Article 28(1)-(4) Temporary Protection of Displaced Persons Act.

²⁰⁰² Republic of Slovenia, *Employment of Ukrainian nationals living in Slovenia*, available at: <https://bit.ly/3Yz1dAa>.

²⁰⁰³ Official statistics provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities, May 2023.

2. Access to education

In accordance with the Temporary Protection of Displaced Persons Act,²⁰⁰⁴ persons under the age of 18 enjoying temporary protection are entitled to enjoy the same rights under the same terms as citizens of the Republic of Slovenia as regards:

- ❖ admission to and completion of primary education and
- ❖ admission to and completion of short-term and secondary vocational and secondary technical and general education for the acquisition of state-approved education in public and private schools financed through public sources if, upon enrolment, they are below the age of 18 and meet the admissions requirements.

The costs of education for TP beneficiaries under the age of 18 are to be covered by the ministry responsible for education, to the same degree and under the same terms as applicable to citizens of the Republic of Slovenia,²⁰⁰⁵ which means that their education is free of charge.

Persons enjoying temporary protection who are older than 18 years of age may participate in education as described for persons under the age of 18 under the same conditions that apply to participants in adult education (meaning with tuition fee); they may also take part in higher vocational and higher or university-level education in accordance with the regulations governing these education programmes.²⁰⁰⁶

The inclusion of persons enjoying temporary protection in education is arranged by the Government Office in cooperation with the Ministry of Education.²⁰⁰⁷

Kindergartens are open to children from the age of 11 months until they start primary school,²⁰⁰⁸ however, before enrolling their child into kindergarten, parents must provide a certificate issued by a paediatrician stating that the child has been vaccinated (against measles, mumps and rubella), otherwise the inclusion is refused.²⁰⁰⁹ This may represent issues to some, who did not bring the necessary documentation with them when fleeing Ukraine to be able to prove whether the child has had all the necessary vaccinations.

In Slovenia, in accordance with the Basic School Act, primary education lasts nine years and is compulsory. A pupil fulfils the primary school obligation after nine years of education.²⁰¹⁰ So far it has been considered the children with temporary protection are fulfilling their obligation to attend elementary education, that is as aforementioned compulsory in Slovenia, even when they are still attending Ukrainian school online. There has so far been no obligation for those attending online Ukrainian school to also attend Slovenian school.

In accordance with the regulations on the basic education programme, children are usually enrolled in the school located in the school district where they reside. The first of primary school are dedicated to getting to know the school environment and learning Slovene; and a pupil with temporary protection can also take part in the extended curriculum and in the extra-curricular activities provided by the school. Moreover, pupils with temporary protection are entitled to have extra Slovene language lessons. As the language barrier is one of the main issues, in the first year of their schooling, the emphasis is placed on language empowerment and a condensed approach to beginner Slovene language lessons. Pupils

²⁰⁰⁴ Article 29(1) Temporary Protection of Displaced Persons Act.

²⁰⁰⁵ Article 29(3) Temporary Protection of Displaced Persons Act.

²⁰⁰⁶ Article 29(2) Temporary Protection of Displaced Persons Act.

²⁰⁰⁷ Article 29(5) Temporary Protection of Displaced Persons Act.

²⁰⁰⁸ Article 20(2) Kindergartens Act, Official Gazette of RS, No. 100/05 and subsequent amendments.

²⁰⁰⁹ Article 51.a Communicable Diseases Act, Official Gazette of RS, No. 33/06 and subsequent amendments.

²⁰¹⁰ Article 3 Basic School Act, Official Gazette of RS, No. 23/05.

should also be offered various forms of support (supplementary teaching, individual and group assistance, adaptations to teaching methods and approaches) and are entitled to have the option of adjusting their assessment during the school year.²⁰¹¹

In order to enrol in elementary school and upper secondary schools (general education, vocational education, and technical education), candidates must meet the entry requirements, while the programme and the enrolment process are the same as the enrolment of candidates who have previously studied abroad, i.e. through a process of recognising foreign education with a view to continue their studies. Applicants must submit appropriate documentation of their studies abroad. Completion of primary school is the basic entry requirement for enrolment in the initial year of secondary school, while admission to higher secondary-school year(s) is decided by the selected secondary school after reviewing the candidate's previous certificates and comparing the subject curricula of both countries.²⁰¹² The selected school decides regarding the enrolment of a person with temporary protection who is unable to prove their previous education by submitting appropriate documents or certificates, following the guidelines of the National Education Institute Slovenia, which set out the elements of the initial interview that is to be carried out at the school as well as possible ways of assessing prior knowledge. Due to the enrolment of persons with temporary protection who apply for programmes with enrolment restrictions, additional places may be provided.²⁰¹³

If the child beneficiary has special needs, these are addressed and appropriate arrangements are available as for the nationals.

In comparison with beneficiaries of international protection for which it is stipulated in the International Protection Act that they are entitled to state scholarships,²⁰¹⁴ in the act regulating temporary protection no provision determines entitlement to state scholarships for persons with temporary protection, therefore the Scholarship Act²⁰¹⁵ alone applies in this regard. This act, that defines several forms of scholarships that are awarded in the Republic of Slovenia besides state scholarships, stipulates in Article 12 that (in principle) scholarship is awarded to citizens of the Republic of Slovenia, to third-country nationals who have acquired long-term resident status or to those with another relevant status as stipulated in this article. As not being entitled to state scholarships represents an issue to many TP beneficiaries, there was also a public call in 2022 by the School Student Organisation of Slovenia and Slovenian Student Union for the Public Scholarship, Development, Disability and Maintenance Fund of the Republic of Slovenia to hold an extraordinary tender for pupils and students from Ukraine, the costs of which would be covered by the competent ministry,²⁰¹⁶ however, no action has been made in this direction so far.

It has been however, in practice, made possible for TP beneficiaries to be accommodated in student dormitories under the same conditions as nationals, even though this right is not regulated in the Temporary Protection of Displaced Persons Act. To cover the cost, they can also apply for financial assistance for private accommodation.

In 2022, altogether 244 children were enrolled in kindergartens, 907 in elementary schools, 8 in elementary schools with a specially adapted programme, 2 in institutions for education of children and youth with special needs and 200 in upper secondary schools.²⁰¹⁷

²⁰¹¹ Republic of Slovenia, *Providing education to Ukrainian children living in Slovenia*, available at: <https://bit.ly/3Xi1rup>.

²⁰¹² Republic of Slovenia, *Providing education to Ukrainian children living in Slovenia*, available at: <https://bit.ly/3Xi1rup>.

²⁰¹³ Article 17(1)-(2) and (4) Decree on the methods for ensuring rights of persons enjoying temporary protection.

²⁰¹⁴ Article 101(2) International Protection Act.

²⁰¹⁵ Scholarship Act, Official Gazette of RS, No. 56/13 and subsequent amendments.

²⁰¹⁶ Študentska organizacija Slovenije, *Javni poziv k zagotovitvi sredstev in izvedbi izrednega razpisa za štipendije dijakom in študentom, prizadetih zaradi ukrajinske krize*, available at: <https://bit.ly/3L8BD0y>.

²⁰¹⁷ Official statistics provided by the Ministry of Education, February 2023.

The main obstacles detected by PIC with regard to access to education for temporary protection beneficiaries have been the language barrier, the difference in education system in comparison to Ukraine and lack of free spaces during the year for the TP beneficiaries to be included as soon as possible.

F. Social welfare

The law provides for access to social welfare for temporary protection beneficiaries in various forms, i.e. financial assistance and financial assistance for private accommodation (for persons who stay in places other than accommodation centres and who do not receive any income or cash benefits and who are unable to rely on a person who is obligated to and capable of supporting them in accordance with the regulations of the Republic of Slovenia), which in 2022 was financed by the Government Office for the Support and Integration of Migrants, and some other forms of social assistance, subsidies and reduced payments that they can claim at their local Social Work Centre such as first social aid, personal social aid, child benefit, kindergarten subsidy (kindergarten is free of charge for TP beneficiaries who are receiving the allowance or financial assistance, while employed persons can apply for the kindergarten subsidy), parental allowance, childbirth grant, allowance for a large family, partial payment for lost income.

Applications for financial assistance and financial assistance for private accommodation have to be sent by post or submitted in person during office hours at the Government Office, using the prescribed form. The amount of financial assistance and financial assistance for private accommodation depends on the number of family members and their incomes and is measured as a percentage of the basic amount of the minimum income, as determined by the regulations governing social assistance. In 2022 financial assistance was EUR 421.89 for the first adult person or claimant (this is the 100% benchmark), 70% for every additional adult person in the family; 30% for every child under the age of 18; 100% for an unaccompanied minor; for minors staying in the Republic of Slovenia with only one parent the financial assistance is increased by 30% of the basic amount of the minimum income.²⁰¹⁸

As for the financial assistance for private accommodation the amount in 2022 was EUR 421.89 for 1 person (100%), for 2 people 130%, 3 people 160% etc. If a lower amount of rent and utilities altogether is specified in the rental agreement, the contractual amount is considered instead of the stated amounts. The decision to grant financial assistance for private accommodation was first issued for a period of three months which was extended to 6 months after the Decree on the methods for ensuring rights of persons enjoying temporary protection was amended (amendments in force since 3 December 2022) and financial assistance is also issued for 6 months. If beneficiaries want to continue to receive funds, they must submit a new request before the expiry of the valid decision.

There are some differences in social welfare that is provided to temporary protection beneficiaries in comparison to nationals mainly in terms of the competent authority for granting social assistance, while the conditions are the same as for nationals, since entitlement to different forms of social welfare (including for financial assistance and financial assistance for private accommodation that is granted by the Government Office) is determined in line with regulations governing social assistance. With the most recent legislative proposal, authority to grant financial assistance would be transferred from the Government Office to the Centres for Social Work, which is the main authority for granting social assistance under the national social security system. There are also some differences in the percentages for financial assistance that TP beneficiaries are entitled to in comparison with financial social assistance (social assistance benefit) for the nationals, as for a person enjoying temporary protection the amount of financial assistance is determined in amounts as stated above, while financial social assistance for the nationals is determined in relation to the basic amount of the minimum income

²⁰¹⁸ Article 32 Temporary Protection of Displaced Persons Act.

as follows: 100% for the first adult person or claimant; 57% for every additional adult person in the family; 59% for every child under the age of 18; 18% increase for each child in a single-parent family.²⁰¹⁹ Other forms of social assistance, subsidies and reduced payments are claimed at the local Social Work Centre, the same as for Slovenian citizens.

Temporary protection beneficiaries are given a *temporary* residence permit. The type of residence (temporary or permanent) is important in obtaining rights to social security; for example, dependence allowance, allowance for foreign care and help, home care assistant, funeral payment and death grant etc. are connected to permanent residence. Moreover, in case when a person does not meet the conditions to be included in compulsory (health, pension and disability) insurance, i.e. when they are unemployed and are therefore not registered in compulsory social security by an employer, they can only be included in insurance voluntarily (paying contributions themselves) in accordance with the Health Care and Health Insurance Act²⁰²⁰ and Pension and Disability Insurance Act²⁰²¹ under the condition that they have a permanent residence in Slovenia.²⁰²²

The provision of social welfare is not specifically tied to a requirement to reside in a specific place or region.

As explained by the Ministry of Labour, Family, Social Affairs and Equal Opportunities, the right to family benefits and allowances is based on permanent or temporary residence in the Republic of Slovenia and actual residence in the Republic of Slovenia, therefore the statuses of beneficiaries (legal basis for their residence) are not monitored in the Social Work Centres' records. Recipients of child benefits are monitored according to citizenship. Based on the number of citizens of Ukraine who have temporary or permanent residence, and a change after May 2022 (implementation of Parental Protection and Family Benefits Act for persons with temporary protection), conclusions can be drawn about the number of persons with temporary protection, who are recipients of child benefits. For recipients of parental allowance, childbirth grant, allowance for a large family, childcare allowance, the record does not include citizenship. Between January and April 2022, there were an average of 255 children with Ukrainian citizenship entitled to child benefits, in April 2022 the number increased by 40% to 357, in December 2022, however, was a total increase of 650% compared to the baseline value at the beginning of the year, as there were 1,659 recipients of child benefits with Ukrainian citizenship.²⁰²³

The main obstacles that TP beneficiaries face in accessing social assistance in practice is mainly the language barrier and, especially in the first few months of activating temporary protection, long waiting periods until the decision on granting certain forms of social welfare was issued and the payment was executed, as the Government Office and the local Social Work Centres were overloaded with requests, while there was an apparent lack of staff.

G. Health care

The Temporary Protection of Displaced Persons Act stipulates that persons enjoying temporary protection have the right to:

- ❖ emergency medical care and emergency transport and the right to emergency dental care;
- ❖ emergency treatment upon a decision of the attending physician,
- ❖ specialist and clinical health care emergencies;

²⁰¹⁹ Article 26 Social Assistance Payments Act, Official Gazette of RS, No. 61/10 and subsequent amendments.

²⁰²⁰ Health Care and Health Insurance Act, Official Gazette of RS, No. 72/06 and subsequent amendments.

²⁰²¹ Pension and Disability Insurance Act, Official Gazette of RS, No. 48/22.

²⁰²² European Commission, *Employment, Social Affairs & Inclusion: Slovenia - Habitual residence*, available at: <https://bit.ly/3LX2eNP>.

²⁰²³ Official statistics provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities, February 2023.

- ❖ health care for women encompassing contraception; abortion and health care during pregnancy and while giving birth;
- ❖ compulsory medical examinations before inclusion in education and during the period of education while attending primary or secondary school, to the same degree as citizens of the Republic of Slovenia.²⁰²⁴

In addition to the above, a medical committee appointed by the Head of the Government Office for the Support and Integration of Migrants may, in justified cases, approve a larger scope of health services based on an application from the TP beneficiary,²⁰²⁵ along with any supporting documents required. In 2022, 33 requests for a larger scope of health services were considered, 26 requests were approved for and 1 request was rejected.²⁰²⁶

Healthcare costs are covered by the Government Office for the Support and Integration of Migrants.

If the persons are employed in the Republic of Slovenia, they have all the rights arising from compulsory and (if paid) complementary health insurance (the same as Slovenian nationals). This includes the right to have a personal doctor and dentist, which TP beneficiaries without compulsory health insurance do not have.

Minors from Ukraine enjoy the same (full) medical care as children that are Slovenian citizens as approved by the Health Commission for children, as provided for in the Decree on the methods for ensuring rights of persons enjoying temporary protection.²⁰²⁷

In practice, the main problems that beneficiaries faced with regard to effective access to health care have been language barrier, the lack of information within providers of medical care regarding the scope of health care for TP beneficiaries, especially children as they have the same full medical care as Slovenian citizens, lacking medical documentation from Ukraine or having to provide an official translation of the documentation, which creates costs and takes time. A significant issue has also been the number of available medical staff as there is in general a major shortage of health workers and there is consequently a long waiting period for any health care that is not considered emergency medical care. TP beneficiaries also cannot have a personal doctor, unless they are employed and are in this case covered under the compulsory health insurance (in which they can also include their family members), as the condition for an unemployed person to be able to pay for the compulsory health insurance is having permanent residence in Slovenia.

²⁰²⁴ Article 27(1) Temporary Protection of Displaced Persons Act.

²⁰²⁵ Article 27(2) Temporary Protection of Displaced Persons Act.

²⁰²⁶ Official statistics provided by the Government Office, February 2023.

²⁰²⁷ Article 13(5) Decree on the methods for ensuring rights of persons enjoying temporary protection.

United Kingdom



Response to the displacement of Ukrainian nationals

A. General

The United Kingdom's Ukraine visa schemes available to support persons displaced were as follows:

❖ Ukraine Family Scheme

This scheme is for Ukrainians and their family members seeking to join someone in the UK to whom they are related (including extended family members and their spouse/partner). The UK based member must be a UK citizen, settled, EEA pre-settled status or a beneficiary of refugee status/Humanitarian Protection. It was launched on 4 March 2022. No financial support is provided to host family members. There is a three-year visa for those coming to the UK with access to all public funds. There is no fee for the visa, applications can only be made from outside of the UK. Applicants must have been residing in Ukraine on or immediately before 1 January 2022.

❖ Sponsorship Scheme (Homes for Ukraine)

The four nations of the UK all fundamentally have the same system with some differences but the same eligibility for visa/checking of hosts/eligibility for the main public services. Again a three-year visa is provided. Those arriving in the UK receive a £200 payment to fill the gap until welfare benefits/work are available. Hosts receive £350 per week as a 'thank you' payment for the first 12 months, increased to £500 after the first year, up to a maximum of two years. The local authority is required to check and approve accommodation with further checks if a child is being hosted. The local authority receives funding for each arrival.

There is no fee for the visa, applications can only be made from outside of the UK. Applicants must have been residing in Ukraine on or immediately before 1 January 2022.

❖ Ukraine Extension Scheme

This is for Ukrainians and/or family members of Ukrainians who were in the UK with permission to enter (or stay) in the UK on 18 March 2022 or between 22 March 2022 and 16 May 2023. The exceptions are if they were in the UK with permission immediately before 1 January 2022 and that permission has since expired, or if they are a child born in the UK to parents who qualify.²⁰²⁸

❖ Any other support made available since September 2022

None of the Ukraine visa support schemes provide a pathway for permanent settlement status. Additionally, any time spent on the Ukraine visa extension scheme will not be counted in any future application for settlement.²⁰²⁹

There is no cap on numbers for any of the schemes. 'Super sponsor' schemes established by the Welsh and Scottish governments, which required no individual to apply to sponsor/host were both closed to new applications in June and July respectively.

Protection under the visa support schemes generally extends to immediate family members who were part of the family before 1 January 2022 or born after that date.

²⁰²⁸ Home Office, 'Immigration Rules Appendix Ukraine Scheme', last updated 13 April 2023, available at: <https://bit.ly/3WG13XV>.

²⁰²⁹ UK Visas and Immigration and Home Office, 'Apply to stay in the UK under the Ukraine Extension Scheme', last updated 13 May 2023, available at: <https://bit.ly/3Mx70I6>.

The schemes are only open to Ukrainian nationals although their family members do not need to be nationals themselves.

Ukraine schemes as of 27 December 2022			
Scheme	Applications	Grants	Arrivals
Ukraine Family Scheme	80,158	64,976	44,200
Ukraine Sponsorship Scheme	176,771	144,853	110,300
Ukraine Extension Scheme	Not available	15,169	Not applicable.

Source: Home Office, 'National statistics – Statistics on Ukrainians in the UK', 23 February 2023, available at: <https://bit.ly/42ex0rx>.

In addition, in 2022, the following visas were granted to Ukrainians:

Visa Type	2022
Other, Family and Dependents Joining or Accompanying	906
Study	695
Visitor	19,821
Work	8,751
Seasonal Workers	7,318

Source: Home Office, 'National statistics – Statistics on Ukrainians in the UK', 23 February 2023, available at: <https://bit.ly/42ex0rx>.

The Homes for Ukraine Scheme offers a one off £200 payment to cover essential costs on arrival. Sponsors (hosts) receive a £350 per week 'thank-you' payment for the first six months, increasing to £500 after the first year, up to a total of two years.

Local authorities receive £10,500 for each arrival, out of which they pay the initial £200 but not the £350 weekly payment (this is reimbursed by central government).²⁰³⁰ In December 2022, an additional £150 million of funding was announced for local authorities across the UK to support Ukrainians where the current hosting arrangement could not continue. A further £500 million was announced for local authorities in England to obtain housing across all protection schemes.²⁰³¹

²⁰³⁰ Home Office, 'Homes for Ukraine: council guides', last updated 3 April 2023, available at: <https://bit.ly/45OjZrN>.

²⁰³¹ Department for Levelling Up, Housing and Communities, 'New over £650 million support package for Ukrainians sees increased 'thank you' payments for longer-term hosts', 14 December 2022, available at: <https://bit.ly/3WC1T84>.

B. Qualification for Ukraine Family Scheme visa

The person applying to come to the UK must be coming to join a family member in the UK (see below), one of the applicants must be Ukrainian (family members accompanying the main applicant do not need to be) and have been living in Ukraine on or immediately before 1 January 2022. Applications can be made from outside of Ukraine and may be made after arriving in the UK as long as other eligibility requirements are met.

The UK based family member must be a UK citizen, settled, EEA pre-settled status or a beneficiary of refugee status/Humanitarian Protection.

A 'UK family member' must be a:

- ❖ spouse or civil partner
- ❖ unmarried partner (who must have been living together in a relationship for at least 2 years)
- ❖ child who is under 18
- ❖ parent (if applicant is under 18)
- ❖ fiancé(e) or proposed civil partner

'UK extended family members', include a:

- ❖ parent (if you are over 18)
- ❖ child who is over 18
- ❖ grandparent
- ❖ grandchild or your partner's grandchild
- ❖ brother or sister
- ❖ aunt or uncle
- ❖ niece or nephew
- ❖ cousin
- ❖ mother-in-law or father-in-law
- ❖ grandparent-in-law
- ❖ or brother-in-law or sister-in-law

Applicants must use the online application form and register biometrics at a specific centre. A government telephone helpline is provided for those in need of assistance.

Non-Ukrainian nationals residing in Ukraine and displaced by the war can only benefit from the visa scheme if they are immediate family members of an applicant who is Ukrainian.

In support of their application, applicants must provide evidence of nationality – either a passport (applicants with a valid passport do not have to separately provide biometrics before arriving in the UK) or other evidence such as a Ukrainian national identity card, a combination of official documents – for example, a photo driving licence and birth certificate or an emergency certificate issued by a Ukrainian authority since March 2022. Such documents are not mandatory but applicants are informed that it will assist the application to have them.²⁰³²

Applicants are entitled to remain in the United Kingdom for three years as part of the Ukraine Family Scheme.

For the Family visa scheme, 80,158 applications had been made, with 64,976 grants and 44,200 arrivals by 31 December 2022.

²⁰³² UK Visas and Immigration and Home Office, 'Apply for a Ukraine Family Scheme visa', last updated 31 January 2023, available at: <https://bit.ly/3qk1quY>.

C. Qualification for Ukraine Sponsorship Scheme visa

Government information about the Homes for Ukraine Scheme states: To apply to the Ukraine Sponsorship Scheme you must be Ukrainian, or the immediate family member of a Ukrainian national who has been granted permission under, or is applying to and qualifies for, the Homes for Ukraine Sponsorship Scheme.

You must also:

- ❖ have been residing in Ukraine on or immediately before 1 January 2022 (including those who have now left Ukraine)
- ❖ be outside of the UK
- ❖ have an **eligible UK-based sponsor**, or you can choose the Scottish or Welsh Government as your sponsor (see below).

The scheme is for individuals to be named as sponsors. Sponsors must be British citizens or have permission to live in the UK for at least six months. Sponsors must not have a criminal record. Sponsors are asked to make the accommodation available for six months although some agreements have ended before this time period.²⁰³³

The accommodation offered must be approved by the local authority. Local authorities must approve the arrangement.

For individual sponsor arrangements the rules are the same in England, Wales, Scotland and Northern Ireland. Wales and Scotland announced their plans on 13 March 2022²⁰³⁴ to open 'super sponsor' schemes which meant an individual could apply to be sponsored and the governments of those countries would match them to accommodation. However, the schemes were both paused; in June (in Wales) and July (in Scotland).

In support of this application, the evidence required includes evidence of eligibility on nationality and recent residence in Ukraine if not arriving directly. For children travelling alone, consent of parents/guardians (notarised by officials of guardianship service or Ukraine consulate) is required.

If the people being sponsored are to share the accommodation with the host the local authority must conduct safeguarding checks as part of the approval process. For all households to which this applies, the local authority will facilitate a basic check by the Disclosure and Barring Service (DBS) of all members of the household aged 16 or over.

- ❖ If the guests include children, an enhanced DBS check (including a check of the children's barred list) will be undertaken, for all those who are 16 or over in the sponsor household who are not related to the guest.
- ❖ If the sponsor is applying to host a child who is not travelling with or joining their parents/legal guardian, enhanced DBS checks will be carried out before their arrival into the UK
- ❖ If the local authority decides, while undertaking other checks, that an adult guest requires additional support due to age, disability or illness then the local authority may ask for an enhanced DBS check (including a check of the adults' barred list) to be undertaken on any such members of this household.

As with other programmes the visa for the Ukraine sponsorship scheme is valid for three years.

²⁰³³ Department for Levelling Up, Housing and Communities, 'Homes for Ukraine: sponsor guides', last updated 3 April 2023, available at: <https://bit.ly/427YSgJ>.

²⁰³⁴ Scottish Government, 'Ukraine refugee sponsorship', 13 March 2022, available at: <https://bit.ly/3IH1cEL>.

176,771 applications had been made to the Ukraine sponsorship scheme by 31 December 2022, with 144,853 grants and 110,300 arrivals

D. Qualification for Ukraine Extension Scheme visa

Those eligible for the Ukraine Extension Scheme include:

- ❖ Ukrainians who previously held permission to be in the UK and that permission expired on or after 1 January 2022 or who held permission to be in the UK on or between 18 March 2022 and 16 May 2023 – the permission does not need to cover the whole period;
- ❖ Non-Ukrainians who are immediate family members of a Ukrainian national are the only third country nationals eligible.

There are no other specific visa options aimed at Ukrainians available to displaced persons who otherwise do not qualify for the Ukraine Extension Scheme.

Evidence of the previously held visa is required in support of the application.

If applying as an immediate family member (spouse, civil partner, partner, child) evidence of relationship with the Ukrainian national is required.

15,169 extensions had been granted as of 31 December 2022.

It should be noted that Ukrainians holding seasonal worker or temporary HGV/pork butcher worker visas automatically had their visas extended to the end December 2022 therefore did not need to apply to the extension scheme immediately.²⁰³⁵

Outside of the three visa schemes that persons displaced by the war may benefit from Ukrainians can claim asylum if they are present in the UK. No special arrangements have been made to process such claims. Government statistics show an increase in asylum claims in 2022, noting that there was a sharp rise in between the outbreak of the Russian invasion and the opening of the visa extension scheme.²⁰³⁶

E. Access to visa support schemes

1. Admission to territory and practical challenges

There are no reports of people fleeing from Ukraine being refused entry at the United Kingdom border although admissions tables show that in the first quarter of 2022, 337 Ukrainian nationals were stopped at the border (276 at juxtaposed controls and 61 at UK ports). There were reports of people waiting long periods for visas to be issued, including people in France. Border officials have the power to grant leave to enter into the UK when travelling across the border but there are no statistics indicating the numbers of Ukrainians who have benefitted from this.

Initially the rules required all applicants to register their biometrics at a visa application centre outside of the UK. This requirement was dropped (from 15 March)²⁰³⁷ for holders of Ukrainian passports which resulted in fewer people 'queuing' for access to the scheme.

²⁰³⁵ Home Office, 'Home Secretary announces visa concessions for Ukrainians', 24 February 2022, available at: <https://bit.ly/3N1XyYA>.

²⁰³⁶ UK Visas and Immigration, 'Ukraine Family Scheme, Ukraine Sponsorship Scheme (Homes for Ukraine) and Ukraine Extension Scheme visa data', updated 25 May 2023, available at: <https://bit.ly/3N4BMne>.

²⁰³⁷ UK Visas and Immigration and Home Office, 'Home Secretary update on support for Ukrainians', 10 March 2022, available at: <https://bit.ly/43qYkDG>.

Applications to the three schemes are considered by the Home Office.²⁰³⁸ The family scheme and homes for Ukraine scheme require an application from outside of the UK. When an application is agreed, the applicant is granted entry clearance through the issuing of a visa or in some circumstances a 'permission to travel' letter issued by the Home Office. Once in the UK the visa holder is required to register biometrics if they have not done so as part of their application and subsequently collect their Biometric Residence Permit.²⁰³⁹

No fees are required to apply.

Discretion allows border officials at any port or at the land border with Ireland to grant entry clearance in the form of leave outside of the rules, although it is not widely advertised. Advice to officials states that those who arrive at a UK port without the correct entry clearance but who meet the family relationship requirements set out in UKR 5.1-5.4 of the Rules should be considered for leave outside the rules for six months. These applicants can then apply to switch onto the Ukraine Scheme from the UK and be granted permission to stay if they meet the eligibility requirements and were resident in the Ukraine on or before 1 January 2022.

Generally, rules require that applications are made before leave expires, so applications for the extension scheme should be made before the current visa expires. Visas for Ukrainians already in the UK were automatically extended until the end of December 2022.

The visa decision making is a non-devolved matter (UK government controlled) so the issue of delays affected people applying to each of the four nations. Reports in the media²⁰⁴⁰ and debates in parliament included some acknowledgment of this by government²⁰⁴¹ although public statistics are more generic.²⁰⁴²

There is no right of appeal in any of the three specific visa schemes. Refused applicants may present unlimited subsequent applications.

2. Legal assistance

In England and Wales there is no provision of free immigration advice funded by government even where an applicant has insufficient funds. Only asylum advice is publicly funded and that applies to people in the UK only.

A group of lawyers established a pro bono project.²⁰⁴³ The Scottish government funded a project to provide free legal advice for Ukrainians seeking to apply to live in Scotland.²⁰⁴⁴

²⁰³⁸ Home Office, *Ukraine Scheme – Version 4.0*, 11 March 2022, available at: <https://bit.ly/3BXtze9>.

²⁰³⁹ Home Office et al, 'Move to the UK if you're coming from Ukraine', last updated 22 February 2023, available at: <https://bit.ly/43e2vTI>.

²⁰⁴⁰ See for example Diane Taylor, 'Homes for Ukraine hosts protest over Home Office visa delays', 25 April 2022, *The Guardian*, available at: <https://bit.ly/3N1XOqw>; Mark Easton and Callum May, 'Ukraine refugees: Patel apologises for UK visa delays', 8 April 2022, *BBC News*, available at: <https://bit.ly/3WG5W31>.

²⁰⁴¹ UK Parliament, 'Hansard - Homes for Ukraine: Visa Application Centres', 28 April 2022, available at: <https://bit.ly/3MGmgwd> and UK Parliament, 'Hansard – Ukraine Refugee Visas', 31 March 2022, available at: <https://bit.ly/3qfsdsq>.

²⁰⁴² UK Visas and Immigration, 'Visa processing times: applications outside the UK', 22 May 2023, available at: <https://bit.ly/3IHRFNC>.

²⁰⁴³ Ukraine Advice Project UK, 'Free UK immigration advice for people fleeing Ukraine', available at: <https://bit.ly/3IL3hPS>.

²⁰⁴⁴ JustRight Scotland, 'Ukraine Advice Scotland', available at: <https://bit.ly/42hqhwS>.

Northern Ireland is part of the UK schemes although information about the action taken if people cross the border from the Republic of Ireland (largely unstaffed) with no prior leave to enter the UK, is issued by the UK government²⁰⁴⁵.

The only free legal advice for visa schemes is via the pro bono project above, which has limited value if applicants are not aware of its existence.

3. Information provision and access to NGOs

The government's online information is provided in English, Ukrainian and Russian.

When the scheme for unaccompanied children opened in July 2022 specific guidance was published, as well as a welcome guide for children themselves.²⁰⁴⁶

Information is provided from a mixture of NGO and government advice. Some government advice signposts to NGO information but there is relatively good translated information aimed at Ukrainians compared to other migrants. There are a number of difficulties generally with regard to information for asylum seekers at different stages of the asylum procedure but it is not clear at the moment which would be applicable specifically to Ukrainians.

The main relevant border crossing point is the Irish border which is largely unstaffed. No information appears to be available at ports specific to the schemes as the intention is for people to apply before arriving at the UK border.

F. Guarantees for vulnerable groups

For vulnerable groups there is only one specific process for unaccompanied children applying to be sponsored/hosted by someone who is not a parent or guardian. This application must be accompanied by specific consent forms and be approved by the local authority in whose area the sponsor lives.²⁰⁴⁷

In June 2022, an announcement was made that visa applications made already and put on hold as applicants were under 18s who were not accompanied or joining a parent/guardian, would begin to be processed.²⁰⁴⁸ New applications were permitted from 10 August.²⁰⁴⁹

Mental health support and support for torture survivors and traumatised beneficiaries is mainly provided by NGOs although some of it is funded by government. The government in England signposts to support from organisations such as Barnardo's.²⁰⁵⁰

²⁰⁴⁵ UK Visas and Immigration and Immigration Enforcement, 'Right to work checks: an employer's guide', last updated 28 March 2023, available at: <https://bit.ly/45teQoC>.

²⁰⁴⁶ Department for Levelling Up, Housing and Communities, 'Homes for Ukraine: welcome guide for Ukrainian children under 18', last updated 16 January 2023, available at: <https://bit.ly/45Doh56>.

²⁰⁴⁷ UK Visas and Immigration and Home Office, 'Apply for a visa under the Ukraine Sponsorship Scheme (Homes for Ukraine)', last updated 13 April 2023, available at: <https://bit.ly/3INCfHQ>.

²⁰⁴⁸ Department for Levelling Up, Housing and Communities and Department for Education, 'Homes for Ukraine scheme to begin processing applications from unaccompanied children', 22 June 2022, available at: <https://bit.ly/43tBjA8>.

²⁰⁴⁹ Department for Levelling Up, Housing and Communities, 'Homes for Ukraine: Guidance for sponsors (children and minors applying without parents or legal guardians)', last updated 16 January 2023, available at: <https://bit.ly/42cAquP>.

²⁰⁵⁰ Department for Education, 'Resources to help support children and young people arriving from Ukraine', updated 28 September 2022, available at: <https://bit.ly/43t34Ja>.

A briefing aimed at parliamentarians summarises the barriers and challenges faced by refugees and asylum seekers, including specific mention of those fleeing Ukraine.²⁰⁵¹

²⁰⁵¹ UK Parliament, 'Refugee mental health and the response to the humanitarian crisis in Ukraine', 7 July 2022, available at: <https://bit.ly/3qdcEI4>.

Content of Protection under Ukraine Visa Schemes

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of the Ukraine visa schemes?
3 years
2. How many residence permits have been issued under the Ukraine visa schemes up to 31 December 2022?
 - ❖ Ukraine Family Scheme
80,158 applications had been made, with 64,976 grants and 44,200 arrivals
 - ❖ Ukraine Sponsorship Scheme
176,771 applications had been made, with 144,853 grants and 110,300 arrivals
 - ❖ Ukraine Extension Scheme
15,169 extensions granted²⁰⁵²

There have been no reports of difficulties accessing Biometric Residence Permits (BRP) after arrival in the UK. The process is explained in information on the government's official website.²⁰⁵³ Depending on whether biometrics were given as part of the application, beneficiaries either collect their BRP or register to give biometrics, after which a BRP will be produced. This must be done within six months of arrival in the UK.

All schemes offer a three-year visa.

All beneficiaries have access to work and public funds. There is no requirement to pay the surcharge (as most visa beneficiaries do) to access the NHS²⁰⁵⁴.

2. Access to asylum

It is possible to apply for asylum but no special provisions have been introduced to deal with asylum applications from Ukrainians.

B. Movement and mobility

There are no restrictions on freedom of movement within the UK.

No specific information has been issued relating to this visa route on whether persons granted visas have the right to leave the UK and return. Rules are not exactly the same for all UK visa holders but most visas allow for the holder to be absent for 180 days in a year.

²⁰⁵² Home Office, 'National statistics – Statistics on Ukrainians in the UK', 23 February 2023, available at: <https://bit.ly/42ex0rx>.

²⁰⁵³ UK Visas and Immigration and Home Office, 'Apply for a visa under the Ukraine Sponsorship Scheme (Homes for Ukraine) – After you've applied', last updated 13 April 2023, available at: <https://bit.ly/3INCfHQ>.

²⁰⁵⁴ Minister of State at the Department of Health and Social Care, 'Outcome of the review of the NHS Charging Regulations exemption from Ukrainians', 24 October 2022, available at: <https://bit.ly/3oyyxf>.

There have been no reported issues for people wishing to temporarily return to Ukraine as the visa is not issued under a protection route.

C. Housing (Sponsorship Scheme/Homes for Ukraine)

Indicators: Housing

1. For how long are persons granted a sponsorship visa entitled to stay in a UK household?
Sponsors were asked to agree that the person/s sponsored could stay for a minimum of six months but there is no guarantee.
2. How many displaced people are benefiting from the Ukraine sponsorship scheme?
As of 28 December 2022, 176,771 applications had been made, with 144,853 grants and 110,300 arrivals

The government surveyed sponsors in July 2022 and published experimental statistics which showed that 92% of accommodation places were in the host's home living with the host.²⁰⁵⁵

There is no guaranteed entitlement for length of stay. Sponsors are asked to commit to six months' minimum stay although this is not enforced. Sponsors of unaccompanied children are asked to commit to the entire three years or until the child reaches 18 years of age.

Under the 'super sponsor' schemes in Scotland and Wales the government can identify accommodation of the beneficiary, whereas the overall scheme requires the offer (and acceptance) of accommodation by an individual host before the visa is issued. Both super sponsor schemes have remained suspended since June 2022 (Wales) and July (Scotland).

Beneficiaries of the sponsor scheme and family scheme may turn to a local authority for assistance if the placement is no longer able to provide appropriate accommodation for them. Statistics on Ukraine visa beneficiaries presenting as homeless to local authorities in England is published on a regular basis²⁰⁵⁶.

In Scotland beneficiaries are hosted by individuals but also through the super sponsor scheme, into 'welcome' and longer-term accommodation. Statistics have been produced relating the accommodation provision in Scotland²⁰⁵⁷.

Reception and accommodation was provided by the state in Wales and Scotland under the 'super sponsor' schemes. Private accommodation is assessed for suitability by the relevant local authority. A 'thank-you' payment of £350 per week is paid to the host for the first year, which then increases to £500. Hosts were asked to commit to a six-month minimum stay but this is not enforced. Some NGOs have been approved as suitable to 'match' sponsors and hosts²⁰⁵⁸; this was established following reports of irresponsible and inappropriate matching often using social media.²⁰⁵⁹

²⁰⁵⁵ Office for National Statistics, 'Experiences of Homes for Ukraine scheme sponsors, UK: 7 to 14 July 2022', 10 August 2022, available at: <https://bit.ly/3WDY6ql>.

²⁰⁵⁶ Department for Levelling Up, Housing and Communities, 'Homelessness management information – Ukrainian nationals: England', last updated 4 May 2023, available at: <https://bit.ly/3WCTQYs>.

²⁰⁵⁷ Scottish Government, 'Ukraine Sponsorship Scheme in Scotland: statistics – September 2022', 17 November 2022, available at: <https://bit.ly/3ovjwKf>.

²⁰⁵⁸ Department for Levelling Up, Housing and Communities, 'Recognised Providers: Organisations who can help UK citizens become sponsors', 6 May 2022, available at: <https://bit.ly/3N2CtXi>.

²⁰⁵⁹ Rajeev Syal, 'Stop matching lone female Ukraine refugees with single men, UK told', 13 April 2022, *The Guardian*, available at: <https://bit.ly/43vyMp5>.

D. Employment and education

1. Access to the labour market

Visa beneficiaries are permitted to work in the UK.

Some employers made statements welcoming Ukrainians²⁰⁶⁰ and developed specific schemes.²⁰⁶¹ The UK government assisted with information and some matching.²⁰⁶²

Persons granted visas are entitled to equal treatment to nationals with regard to employment. There is no information on the number of persons granted Ukraine visas who had accessed the labour market as of 31 December 2022.

2. Access to education

Access to education up to age 18 is provided under the terms of the visa under the same conditions as nationals.

In England data was published in October 2022²⁰⁶³ showing 20,500 children had been offered a school place. Although the data was from a limited number of local authorities, it was also shown as a percentage of applications made to those local authorities (92%).

Data is not available from the other nations.

There are no limitations to accessing education in law. Resources have been developed for the purpose of assisting children to access education²⁰⁶⁴ and funding is provided to local authorities in England.²⁰⁶⁵ Information for those wishing to access the Ukrainian curriculum are signposted towards the document produced by Ukraine's Parliament.²⁰⁶⁶

The law provides access to education and vocational training for adults/ young people but differences in provision occur according to local factors e.g. availability of ESOL classes.

Beneficiaries of the visa schemes can access higher education as 'home students' i.e. equal eligibility to UK citizens) in all nations of the UK.²⁰⁶⁷

Regional variations can apply to ease of access to education post 18, particularly as some beneficiaries may be hosted in areas with little specialist provision.

²⁰⁶⁰ HR World, 'Four in five businesses welcome applications from Ukrainian refugees, 6 April 2022, available at: <https://bit.ly/3IKotWe>.

²⁰⁶¹ Financial Times, 'UK companies join scheme helping Ukrainian refugees find jobs', available at: <https://bit.ly/3WGoQH7>.

²⁰⁶² Department for Levelling Up, Housing and Communities, 'Guidance for businesses offering work to people coming from Ukraine', 6 May 2022, available at: <https://bit.ly/3MXL5oJ>.

²⁰⁶³ UK government, 'School placements for children from outside of the UK', 13 October 2022, available at: <https://bit.ly/3ovkfer>.

²⁰⁶⁴ Department for Education, 'Resources to help support children and young people arriving from Ukraine', 28 September 2022, available at: <https://bit.ly/43t34Ja>.

²⁰⁶⁵ Department for Levelling Up, Housing and Communities and Department for Education, 'Homes for Ukraine education and childcare grant conditions of funding', 24 February 2023, available at: <https://bit.ly/3N1ZYGE>.

²⁰⁶⁶ Child.Wales, *Information education sources for Ukrainian children*, March 2022, available at: <https://bit.ly/3MZXiInJ>.

²⁰⁶⁷ House of Commons Library, 'Support for students from Ukraine in UK higher education', 20 December 2022, available at: <https://bit.ly/43tqrSS>.

E. Social welfare

The law provides access to public funds including access to social welfare, in all four nations.

The law was changed to exempt Ukraine visa scheme beneficiaries from the 'habitual residence test' which can restrict access to those arriving in the UK from overseas for the initial months of their residence.

The Department for Work and Pensions administers Universal Credit and other financial assistance. Housing is granted through local authorities.

Language limitations and unfamiliarity with systems can impede access although it is notable that there is much more advice aimed specifically at Ukrainians including translated information, than for other non-UK nationals. Sponsors and hosts are also encouraged to assist.

There is no information on the number of persons granted visas under the Ukraine schemes who had accessed different forms of social welfare as of 31 December 2022.

F. Health care

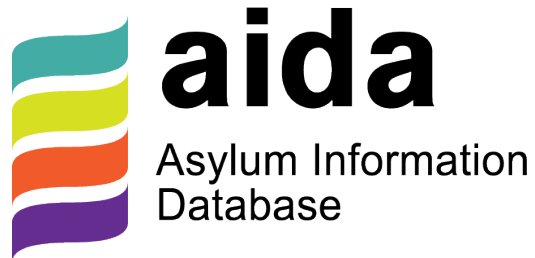
Persons granted support under the Ukraine visa schemes have access to all health care in England other than assisted conception services.²⁰⁶⁸

Access is the same as nationals in whichever country the beneficiary resides e.g. everyone living in Wales has free prescriptions. Dental charges have been waived for Ukrainians displaced and living in Scotland.

Gaps in health provision e.g. waiting times for treatment, timely access to mental health support, vary across regions and whilst displaced Ukrainians may face additional barriers, additional help e.g. the establishment of mental health helplines and translated information²⁰⁶⁹ are examples of good practice.

²⁰⁶⁸ Minister of State at the Department of Health and Social Care, 'Outcome of the review of the NHS Charging Regulations exemption for Ukrainians', 24 October 2022, available at: <https://bit.ly/3oyyxef>.

²⁰⁶⁹ NHS inform, 'A guide to NHS Scotland Services for displaced persons from Ukraine (Ukrainian)', last updated 6 April 2022, available at: <https://bit.ly/45yBiga>; NHS England, 'Meeting the initial health needs of people arriving in the UK from Ukraine', last updated 6 October 2022, available at: <https://bit.ly/3MD9FK9>.



Switzerland



Temporary Protection Procedure

A. General

Swiss asylum law provides the possibility to grant temporary protection (“protection provisoire”, “S permit”) to persons in need of protection during a period of serious general danger, in particular during a war or civil war as well as in situations of general violence.²⁰⁷⁰ This instrument – introduced in the aftermath of the conflicts in the former Yugoslavia – should enable the Swiss authorities to react in an appropriate, quick and pragmatic manner to situations of mass exodus. It was activated for the first time in the context of the war in Ukraine by the Federal Council on 11 March 2022.²⁰⁷¹ The status shows some parallels to the EU Temporary Protection Status.²⁰⁷² It is provided to a certain category of persons (see Qualification for Status S) without undergoing an asylum procedure. Only in obvious cases of asylum grounds (it remains to be seen what “obvious” means), access to the asylum procedure is granted. The status allows immediate access to the labour market as well as freedom of movement within Europe.²⁰⁷³

In addition to the more than 78,000 protection statuses granted, the Confederation also awarded several aid packages totalling CHF 1.3 billion relief measures.²⁰⁷⁴

The SEM was not able to tell if there are significant numbers of people who were displaced – directly or indirectly – by the conflict present in the country but beyond the scope of Status S because there is no characteristic apart from status S to differentiate between people affected by the Ukraine war and other refugees.²⁰⁷⁵

In the inquiries to the Swiss Refugee Council, three main groups of refugees who do not fall within the scope of protect can be identified:

- ❖ Students from African or Asian countries who have fled from Ukraine to Switzerland.
- ❖ Binational couples. In practice, they are not granted protection status S in Switzerland if they could return to their second home without danger. However, this practice is still under judicial review.
- ❖ Persons who lived outside Ukraine for a few weeks or months before the outbreak of war and cannot return to Ukraine.

At the end of 2022, there had been 74,959 applications for status S registered before the SEM. 72,611 applications resulted in a positive decision. During 2022, 7,621 persons ended their status S protection and as of 31 December, termination of status was being examined for 1,542 persons. As of 31 December 2022, 62,820 persons were benefitting from status S in Switzerland.²⁰⁷⁶

²⁰⁷⁰ Art. 66 – 79(a) AsylA.

²⁰⁷¹ Federal Council, *Ukraine: le Conseil Fédéral active le statut de protection S pour les Ukrainiens*, press release, 11 March 2022, available in French (and German and Italian) at: <https://bit.ly/3XaEDgK>.

²⁰⁷² 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 [2001] OJ L 212/12, available at: <http://bit.ly/409uJhu>.

²⁰⁷³ Art. 75 para 2 AsylA and decision of the Federal Council, *Ukraine : le Conseil fédéral active le statut de protection S pour les Ukrainiens*, press release, 11 March 2022, available in French (and German and Italian) at: <https://bit.ly/3xkmSQY>.

²⁰⁷⁴ Federal Council, *One year of war against Ukraine: Federal Council takes stock of its engagement and request new aid package*, 22 February 2023, available at: <https://bit.ly/3C2r3TH>.

²⁰⁷⁵ Information provided by the SEM, 17 May 2023.

²⁰⁷⁶ SEM, *Statistique en matière d'asile 2022*, 13 February 2023, available in French at: <https://bit.ly/3C48aje>, 9.

B. Qualification for Status S

Protection status S applies to the following categories of persons according to the Decision of the Federal Council on 11 March 2022.²⁰⁷⁷

- a. Ukrainian citizens seeking protection and their family members (partners, underage children and other close relatives and who were fully or partially supported at the time of the escape) who were resident in Ukraine before 24 February 2022;
- b. Persons seeking protection of other nationalities and stateless persons as well as their family members as defined in letter a who have applied for international or national protection status in Ukraine prior to 24 February 2022;
- c. Protection seekers of other nationalities and stateless persons as well as their family members as defined in letter a, who are in possession of a valid short stay or residence permit giving them a valid right of residence in Ukraine and who cannot be returned to their home countries in safety and permanently.

If someone has received protection status in another safe country, they in principle cannot receive further protection status S in Switzerland because they are not considered as in need of protection.²⁰⁷⁸ This also applies to persons who have renounced their protection status in another EU/EFTA state, unless the EU/EFTA state that granted the protection status is a state particularly affected by the Ukraine crisis (e.g. Poland).²⁰⁷⁹ The SEM examines all applications for protection and makes a decision on a case-by-case basis. In addition, persons who have a second citizenship in addition to Ukrainian citizenship do not receive protection status. This practice was confirmed by the Federal Administrative Court.²⁰⁸⁰

Persons who entered Switzerland before 24 February 2022 will not receive protection status S. In accordance with the practice of the SEM, these persons receive a temporary admission status.²⁰⁸¹

In addition to Ukrainian nationals and their family members, the wording of the Federal Council's decision also includes stateless persons and third-country nationals and their family members, if they had protection status in Ukraine prior to 24 February 2022 (category b) or cannot return to their home countries in safety and permanently (category c). A family is defined as spouses, life partners, underage children and persons in need of care for whom the person seeking protection cared before 24 February 2022.

Regarding family members, including of Ukrainians, the decision does not mention any further criteria regarding their nationality. Thus, binational families would fall under the category "a" of the Federal Council decision (compare B.1.). In practice, however, binational families are often denied protection status S as a use case on category "c", if they could return to their second home. Appeals are currently underway against such refusals. Some Court decisions criticising this practice are available.

People who are not eligible to status S may apply for asylum if individual persecution can be credibly substantiated. In addition, in the case of a refusal of protection status S, temporary admission is possible until a negative asylum decision can be executed.²⁰⁸²

²⁰⁷⁷ Federal Council, *Ukraine: le Conseil Fédéral active le statut de protection S pour les Ukrainiens*, press release, 11 March 2022, available in French (and German and Italian) at: <https://bit.ly/3XaEDgK>.

²⁰⁷⁸ Federal Administrative Court, Decision D-3584/2022, 9 March 2023, available in German at: <https://bit.ly/42Xqp5k>.

²⁰⁷⁹ Practice-based observation by the Swiss Refugee Council, January 2023.

²⁰⁸⁰ Federal Administrative Court, Decision E-3638/2022, 5 December 2022, available in German at: <https://bit.ly/41DKIE3>.

²⁰⁸¹ Article 42 AsylA and Article 83 FNIA.

²⁰⁸² Article 69 AsylA.

The Federal Council decided on 9 November 2022 that the protection status S will be maintained at least until March 2024.²⁰⁸³ If protection status is not revoked after five years, a residence permit may be issued. If protection status is not revoked after ten years, a settlement permit can be issued.²⁰⁸⁴

C. Access to temporary protection and registration

1. Admission to territory

To the knowledge of the Swiss Refugee Council there were no problems with entry at the Swiss borders for persons fleeing from Ukraine.

However, persons who had returned to Ukraine and sought to re-enter Switzerland did experience difficulties at the border; especially if they returned to renew an expired passport and then lived in Ukraine for more than 15 days. According to Article 78 AsylA, to stay in the country of origin for a long time or repeatedly is a reason for revocation the protections status. The SEM has in practice decided that a “long time” is 15 days.

In general, access to the Swiss territory was facilitated for anybody claiming to flee Ukraine.

2. Freedom of movement

Persons entitled to status S but not holding a biometric passport or travel documents experienced issues in travelling to other European States. This was especially the case during the first six months, as the Swiss S status was not recognised as a residence permit in the other Schengen states. Many persons entitled to S status were denied entry in other countries. However, entry into Switzerland was always possible, even without a biometric passport.

3. Registration under temporary protection

The SEM is responsible for registering status S applications. The application can be submitted either online²⁰⁸⁵ or at one of the [federal asylum centres](#). If a person expresses their intention to apply for temporary protection at the border, they will be referred to the nearest federal asylum centre. There they can register and apply for protection status S.

After the 90 days (including the time in other Schengen states) which they are allowed to stay in the Schengen area visa-free, they would be obliged to leave the Schengen area. This means that an application has to be done before those 90 days are over, otherwise the person would be staying illegally in Switzerland. According the practice-based observation by the Swiss Refugee Council, they can still apply for S status and receive the S status, but could in theory be subject to a criminal procedure for illegal stay.

To prove they are eligible to status S, displaced persons all need identity documents. If someone is in possession of a Ukraine passport, it is assumed that the person resided in Ukraine before and no other documents are needed to proof residence in Ukraine before 24 February 2022. Persons without a passport have to prove with other means that they resided in Ukraine before 24 February 2022. Other documents are requested on a case-by-case basis, e.g. marriage certificate for married couples. If they are accommodated privately, they need to provide a confirmation of the accommodation with a copy of

²⁰⁸³ Federal Council, *No lifting of protection status S*, press release, 9 November 2022, available in English (as well as French, German and Italian) at: <https://bit.ly/3iElxkf>.

²⁰⁸⁴ Articles 76 and 74 AsylA.

²⁰⁸⁵ SEM, *RegisterMe help* / *Допомога* / *Помощь*, available at: <https://bit.ly/3ZxP5k4>.

the ID of the host. If minors travel without their parents, they need official documents or written confirmations from their parents. Further useful documents such as for example birth and marriage certificates, medical documents in case of pre-existing illness, animal passports and driver's licenses and vehicle registration documents are also desired.

Upon registration of their claim, the applicants are provided with a confirmation of the registration of their application for temporary protection for persons from Ukraine. As soon as the authority has decided that a S status will be granted, those seeking protection will also receive an address/directions and public transport ticket for the way to the allocated canton, and the S-decision (which includes the cantonal allocation decision).

Especially at the beginning of the implementation of status S, many of the persons who moved to Switzerland could stay at private houses with people they knew. Thus, they already had accommodation before they had received a protection status. With the registration and the granting of the S-status, however, they were then assigned to a specific canton according to the distribution key (see General Report – Dispersal across cantons). This caused chaos at the beginning. Due to the unequal distribution at the beginning and the strict enforcement of the distribution key today, there are always problems with "new arrivals" who want to live with their relatives/acquaintances or have already organised a job in a certain canton before their arrival.

Applicants who are denied status S can lodge an appeal to the Federal Administrative Court within 30 days.²⁰⁸⁶

If the refusal of S status remains valid and there are indications of reasons for asylum in the protection procedure, an asylum procedure must be started ex officio.²⁰⁸⁷ Otherwise, an asylum procedure can be started if the person wishes so.

4. Legal assistance

Access to free legal advice is guaranteed in the Federal Asylum Centres. As soon as those seeking protection are distributed to the cantons or accommodated with host families, free legal advice is no longer guaranteed. This is currently being discussed politically but in the context of an evaluation.²⁰⁸⁸

In the federal asylum centres there are legal advice offices that are financed by the state (see also [General Report – Regular procedure – Legal assistance](#)). Otherwise, NGOs in particular provide legal assistance to those seeking protection.

Persons who stay with acquaintances or relatives and are not staying in federal asylum centres have little access to free legal assistance.

5. Information provision and access to NGOs

Regarding provision of information, the same legal provisions apply as in the asylum procedure (see [General report – Provision of information on the procedure](#)). All government information is available in Switzerland in the three official languages (German, French and Italian). Information regarding status S is also available in Russian and partly also in Ukrainian.

²⁰⁸⁶ Articles 72, 105 and 108 AsylA.

²⁰⁸⁷ Pursuant to Article 69(4) AsylA, Federal Administrative Court, Decision E-2877/2022, 6 July 2022, available in German at: <https://bit.ly/3Jm6o1N>.

²⁰⁸⁸ Federal Department of Justice and Police, *Ukraine : le groupe d'évaluation du statut S présente ses premières conclusions*, press release, 1 December 2022, available in French (and German and Italian) at: <https://bit.ly/3H81N1G>.

The information provided is specifically tailored to the need of vulnerable individuals;²⁰⁸⁹ especially in the area of trafficking in human beings²⁰⁹⁰ or unaccompanied minors.²⁰⁹¹

In practice, information is provided through the websites, E-mails, Hotline of the Federal Office for Migration,²⁰⁹² the Swiss Refugee Council,²⁰⁹³ Caritas,²⁰⁹⁴ Swiss Red Cross²⁰⁹⁵ and websites of all cantonal authorities²⁰⁹⁶. The Swiss Refugee Council²⁰⁹⁷ and the Swiss Red Cross²⁰⁹⁸ also have Telegram-channels. All information is provided in the national languages German, French and Italian as well as Russian, Ukrainian and English.

The Federal Office for Customs and Border Security claims to employ many people who speak several languages, and thus can ensure provision of information on how to apply for status S at border-crossing points. They also direct persons to the information provided by the SEM. But there is no interpretation available at the border crossings.²⁰⁹⁹

D. Guarantees for vulnerable groups

There are no specific identification mechanisms in place to systematically identify persons entitled to status S who need specific procedural safeguards because of their vulnerability, either before or after their registration as beneficiaries of status S.

However, there was a special procedure introduced specifically adapted to the needs of non-accompanied minors entitled to Status S. They are only accommodated for a short time in federal asylum centres and then enter special accommodation with special care. In Switzerland, however, there is a shortage of staff in the care sector.²¹⁰⁰

No specific programme was introduced to address the needs of individuals fleeing from Ukraine suffering from mental health problems, including torture survivors and traumatised beneficiaries. Specialised treatment for victims of torture or traumatised beneficiaries or people with mental health problems is not available in practice.

²⁰⁸⁹ SEM, *Information on the Ukraine crisis*, available at: <https://bit.ly/3QKcESP>.

²⁰⁹⁰ Swiss Platform against Human Trafficking, available at: <https://bit.ly/3EqRkNp>; SEM, *Protect yourself!*, available at: <https://bit.ly/40Q87CZ>.

²⁰⁹¹ Swiss Refugee Council, *Ukraine: Helpful information for people seeking protection*, available at: <https://bit.ly/40VkWvF>.

²⁰⁹² SEM, *Information on the Ukraine crisis*, available at: <https://bit.ly/3QKcESP>.

²⁰⁹³ Swiss Refugee Council, *Ukraine*, available at: <https://bit.ly/3iO4ZGp>.

²⁰⁹⁴ Caritas, *assistance for the victims of the war in Ukraine*, available at: <https://bit.ly/3HZzCBc>.

²⁰⁹⁵ Swiss Red Cross, *Helpful*, available in French, German, Italian, Russian and Ukrainian at: <https://bit.ly/3luJoNz>.

²⁰⁹⁶ Conference of Cantonal Directors of Social Services, *Ukraine, available in French and German at: https://bit.ly/3XtfUnt*; for example, Bern Canton, available in French and German at: <https://bit.ly/3RTEDQm>.

²⁰⁹⁷ SwissHelp Telegram Channel, available at: <https://bit.ly/3Wft3uL>.

²⁰⁹⁸ Red Cross UA bot, available at: <https://bit.ly/3XBT90L>.

²⁰⁹⁹ Federal Office for Customs and Border Security, *Entering Switzerland: Information for refugees from Ukraine*, available at: <https://bit.ly/3XCu7Pp>.

²¹⁰⁰ Compare also: Bern Canton, *Regional partners and partners for unaccompanied minors*, available at: <https://bit.ly/3ZCiaqV>.

Content of Status S

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--|---------------|
| 1. What is the duration of residence permits granted to Status S beneficiaries? | 1 year |
| 2. How many residence permits were issued to Status S beneficiaries from its introduction in the national system until 31 December 2022? | Not available |

The SEM is responsible for the procedure for granting an S residence permit. The procedure from the registration (application for S status) to the decision (granting of S status and allocation to a canton) takes about 14 days. Then those seeking protection are distributed to the cantons. (see Registration under temporary protection).

The Federal Council decided on 9 November 2022 that the protection status S will be maintained at least until March 2024.²¹⁰¹ The cantons extend the documents annually; after the Federal Council's decision now until at least March 2024. If protection status is not revoked after five years, a residence permit may be issued. If protection status is not revoked after ten years, a settlement permit can be issued.²¹⁰²

Those who receive status S are entitled to social benefits and universal health insurance. In addition, the freedom to travel (in Switzerland and for 2 months also abroad, except to Ukraine)²¹⁰³ is guaranteed. Anyone who finds a job in Switzerland is allowed to work. Self-employment is also possible. However, the salary is then credited to the social benefits.²¹⁰⁴

There are many requests from persons who have received protection status in an EUMS and wish to travel on to Switzerland and receive status S. Reasons for this are:

- ❖ Expiry of the protection program in the EUMS;
- ❖ No guaranteed accommodation;
- ❖ No work;
- ❖ Acquaintances and relatives with protection status in Switzerland;
- ❖ Climatic conditions.

But anyone who has protection status in another EUMS does currently not receive protection status S in Switzerland. However, this decision is currently reviewed by the courts.

According to Art. 78 AsylA, protection status S may be revoked by the SEM if the person in need of protection receives a legal right of residence in a third country where they may return. The person in need of protection shall notify the SEM of his departure. Then the S status is cancelled.

2. Access to asylum

No asylum procedure will be carried out for persons entitled to status S. Ongoing asylum procedures are suspended.²¹⁰⁵ The exceptions are obvious asylum grounds, i.e. clear and rare case constellations (VIP cases), which can be clearly identified by means of a short interview in the status S procedure. In

²¹⁰¹ Federal Council, *No lifting of protection status S*, press release, 9 November 2022, available in English (as well as French, German and Italian) at: <https://bit.ly/3iElxkf>.

²¹⁰² Articles 76 and 74 AsylA.

²¹⁰³ Practice of the SEM regarding Article 79 AsylA and Article 78(1)(c) AsylA.

²¹⁰⁴ Article 85 AsylA.

²¹⁰⁵ Article 69(3) AsylA.

these cases, a transfer to the asylum procedure takes place. If the S status is revoked or not granted, the persons concerned are free to apply for asylum. In such a subsequent asylum procedure, a new cantonal distribution takes place and there is no entitlement to distribution to the same canton as in the previous protection procedure.

B. Family reunification

According to the Federal Council's decision, spouses, partners and minor children as well as persons for whose care the beneficiary of status S was responsible also receive status S. However, this was not implemented in practice for binational families (see Qualification for status S).

There are no material requirements for family reunification for persons with status S.

When applying for status S, family members must indicate the identity of their family member beneficiary of status S. They are then assigned to the canton concerned.

Family members receive the same status as the person they are joining.

C. Movement and mobility

Beneficiaries of status S can travel freely in Switzerland and also work in any canton. For social benefits, housing and compulsory schooling, however, they are tied to the canton to which they were allocated.

They can travel without authorisation in EU member States.²¹⁰⁶ Further they are allowed to live in EU countries for 2 months per year. In case they live abroad for more than 2 months, a transfer of the centre of life is presumed and protection status S can be withdrawn according to Art. 7 AsylA. However, withdrawal of status will be examined on a case-by-case basis.

Those who have received protection status S are allowed to return to Ukraine for 15 days per quarter.²¹⁰⁷ If they stay for longer, they experience issues at the border, particularly if they returned for renew expired passports. Those who have not yet received protection status S and still return to Ukraine have problems in practice at customs or at airports regarding their re-entry. Those seeking protection can enter Switzerland without a visa. However, there is no provision for multiple entry possibilities.

D. Housing

Indicators: Housing

1. For how long are Status S protection beneficiaries entitled to stay in reception centres?	No limit
2. Number of beneficiaries staying in reception centres as of 1 May 2023	311
3. Number of beneficiaries staying in private accommodation as of 12/2022	Not available

The main forms of accommodation provided to beneficiaries of status S are asylum centres, host families, and private accommodation with relatives and acquaintances.

²¹⁰⁶ Article 9(8) Ordonnance on the issue of travel documents for foreign persons (RDV).

²¹⁰⁷ Article 78 AsylA and AO1.

Beneficiaries of status S are entitled to the same reception conditions as asylum seekers (see [General Report – Reception conditions](#)).

First, the federal government are responsible for the provision of reception to beneficiaries of status S in the federal asylum centres. Then, with the distribution of those seeking protection among the cantons, the cantons concerned are responsible and, if the canton offers host families, the Swiss Refugee Council is responsible for reception with the host family programme.²¹⁰⁸

Beneficiaries of status S can remain in a federal asylum centre until they are distributed to the cantons. This should be possible within a few days, maximum 2 weeks. They then remain in the cantonal centre either until the S status is lifted or until they move on to a host family or self-financed accommodation. According to the SEM, reception places are used in a flexible way for asylum seekers and persons with Status S (for further details see [General Report – Housing](#)).²¹⁰⁹

If a canton does not have enough space in collective accommodation, it can use private accommodation such as hotels, private apartments, host families, etc.²¹¹⁰

In practice, many difficulties have arisen with regard to access to reception conditions. Initially most asylum seekers were directly attracted to private individuals and were not officially distributed to the cantons via federal asylum centres. These people thus were after 90 days illegally in Switzerland and had no opportunity to receive social benefits or work legally. In addition, this led to an unequal distribution in terms of the foreseen quantity of protection seekers in the regions²¹¹¹, which had to be compensated with redistribution.

Reception in private accommodation is not directly organised by the State. The Swiss Refugee Council arranges private accommodation in cantons that have mandated the organisation for this purpose. There are also cantons that look for civil accommodation without the homestay programme. The Swiss Refugee Council has no information about any criteria in these cases.

On behalf of the SEM, the host family project of the Swiss Refugee Council places people seeking protection from the centres with host families.²¹¹² The host families are carefully selected in advance (visits to the apartment, criminal records, etc.) and then closely supervised during the accommodation of the guests. Contracts are concluded between host families and guests for, depending on the canton, at least 3 or 6 months. If these 3 or 6 months cannot be met, the Swiss Refugee Council will support in finding a new solution.

The Swiss Refugee Council selected host families taking into account the extract from the criminal record and by conducting personal interview. This took quite a long time, and some families withdrew their willingness or housed displaced persons with them in an unofficial way. Regarding the protection of status S beneficiaries from risks of work exploitation, contracts must be submitted to and approved by the cantonal employment office. At the beginning of the Ukraine war, many displaced persons from Ukraine went to work without a contract or with an unauthorised contract and did not receive a salary.

²¹⁰⁸ For more information in French (and German), see Swiss Refugee Council, *Familles d'accueil pour personnes réfugiées d'Ukraine*, available in French (and German) at: <https://bit.ly/3ZAFsRO>.

²¹⁰⁹ Information provided by the SEM, 1 May 2023.

²¹¹⁰ For example the canton of Bern, *Coordination of Ukraine Aid*, available at: <https://bit.ly/3ZHMcgP>.

²¹¹¹ According to the cantonal distribution key, see [General Report – Dispersal across cantons](#).

²¹¹² For more information see Swiss Refugee Council, *Familles d'accueil pour personnes réfugiées d'Ukraine*, available in French (and German) at: <https://bit.ly/3ZAFsRO>.

E. Employment and education

1. Access to the labour market

Persons with protection status can work immediately after obtaining S status.²¹¹³ To do this, they must obtain a permit from the cantonal employment office. The employment office checks whether the job offer is serious and whether the wage payments are appropriate. It is also possible to work as self-employed. The place of work is not tied to the place of residence. The salary is credited to any social benefits.

There are state and private Internet platforms with job offers for status S beneficiaries. In addition, those seeking protection and status S beneficiaries are supported by state social workers in their search for work.²¹¹⁴

In contrast to asylum seekers persons with status S have the same rights as nationals.

Of 37,403 persons eligible for work (age 18-64), 5,245 were actually employed on 3 January 2023. A breakdown per sector of employment does not exist.²¹¹⁵

2. Access to education

Children between 4 and 15 years must attend compulsory school. Children over 15 can participate voluntarily.²¹¹⁶ Beneficiaries of status S are entitled to education under the same conditions as nationals.

Of the 19,805 children who received Status S until 31 December 2022, 14,978 are between 4 and 15 years old and therefore must have access to compulsory school.²¹¹⁷

There are no restrictions in accessing the education. The problem is that, depending on the canton of residence, different language lessons are mandatory. For example, children in southern Switzerland have first to learn Italian and German or French as a second national language, French in French-speaking Switzerland and German as a second national language, and German in German-speaking Switzerland and French as the second national language. To the knowledge of the Swiss Refugee Council, this leads to many absences, as those seeking protection and beneficiaries of status S are not willing to learn the respective languages due to a lack of prospects of staying. Among other things, this also means that some people seeking protection and beneficiaries of status S want to change their canton of residence and move to a canton that speaks a different language.

In addition, there is the problem that some persons seeking protection and beneficiaries of status S want to continue learning in home schooling at Ukrainian schools, but cannot do so during compulsory schooling in Switzerland.

Accommodation of special needs of children and alternative arrangements varies depending on the canton or municipality. Compulsory education is municipal autonomy. There are very different offers and supports.

²¹¹³ Article 53(1) Ordonnance on admission, residence and employment; Federal Council, *Ukraine: le Conseil Fédéral active le statut de protection S pour les Ukrainiens*, press release, 11 March 2022, available in French (and German and Italian) at: <https://bit.ly/3XaEDgK>.

²¹¹⁴ See for example Randstad, *Jobs for ukrainians. Робота для українців*, available at: <https://bit.ly/3XAuvOo>; and Jobrapido, available at: <https://bit.ly/3CT0Nw2>.

²¹¹⁵ Data and information provided by the SEM, 1 May 2023.

²¹¹⁶ Article 80(4) AsylA. See also the recommendations of the Federal Commission on Migration FCM: *Recommandations de la CFM en matière d'enseignement obligatoire des enfants et des jeunes réfugiés*, 24 March 2022, available in French (and German and Italian) at <https://bit.ly/3wkdfFaZ>.

²¹¹⁷ Data provided by the SEM, 1 May 2023.

Access to higher education is guaranteed. It requires the same prerequisites as foreigners who want to study in Switzerland. There are various specific information portals for status S beneficiaries at colleges and universities.²¹¹⁸

Language and distance are major obstacles to accessing vocational training or education for beneficiaries of status S having passed the age of mandatory education. With regard to language, however, free language instruction is available to all beneficiaries (in German, French or Italian, depending on the canton).

In addition, it is difficult to find an apprenticeship if it is not clear how long the apprentice can stay in Switzerland due to the uncertain duration of the status S. In order to solve this problem, the head of the federal Department of Justice and Security decided on 1 March 2023 to give young people between the ages of 15 and 20 the opportunity to start and complete an apprenticeship in Switzerland, even if the protection status S should be lifted before the end of the apprenticeship.

F. Social welfare

Anyone under status S is granted social welfare in accordance with Art. 81 and 82 AsylA. Social welfare is provided to beneficiaries of status S under the same conditions and on the same level as for national or as legally residing third country nationals. Assets/income are counted towards social benefits; also the accommodation costs.

The cantons and the communes are responsible for granting social assistance.²¹¹⁹ Social benefits are paid by the housing municipality. Anyone who leaves this must officially re-register with another municipality. Changes of municipality and canton can be approved by the authorities.

The amount of social benefits is often a problem, according to the persons who approach the Swiss Refugee Council, who report that it is insufficient. In addition, most people seeking protection and status S beneficiaries are not aware that assets and wages are credited to social benefits.

The most recent figures from the social assistance statistics are for 2021, and the figures for 2022 will not be available until the end of 2023.²¹²⁰

G. Health care

Compulsory universal health care service is guaranteed.²¹²¹ This means every person living in Switzerland must be insured against illness,²¹²² and therefore has access to the basic health system. Cantons may limit the choice of insurers and of physicians and hospitals for protection and asylum seekers and temporarily admitted persons. Apart from this restriction, the basic insurance and the covered treatments do not depend on the status but on the needs. Mental health problems are also covered if a psychiatrist (not psychologist) is involved; however, there are limited capacities for adequate treatment in some fields.

²¹¹⁸ See for example Perspectives – Studies, available at: <https://bit.ly/3XHjryF> ; ZHAW, *Admission of students from Ukrainian universities as visiting students at the ZHAW*, available in English at: <https://bit.ly/3Xm2avy> and <https://bit.ly/40VpQZB>.

²¹¹⁹ Articles 80-84 AsylA.

²¹²⁰ Information provided by the SEM, 17 May 2023.

²¹²¹ Article 80(4)4 AsylA.

²¹²² Article 3 Health Insurance Act (HIA).

Specialised treatment for victims of torture or traumatised persons or people with mental health problems is available, but the capacity is far too small. There is not only a lack of specialised psychiatrists but the number of interpreters and funding for interpretation for this purpose are insufficient. Especially intercultural interpretation would be needed for specialised treatment of mental health problems.

Beneficiaries of status S are entitled to the same health care as nationals or legally residing third country nationals.

Compulsory health insurance does not cover all benefits. Often people with protection status S are not aware of what is being paid. This sometimes leads to treatment refusals in hospitals and doctors' practices, according to the persons concerned as well as host families.

Serbia



Temporary Protection Procedure

A. General

The Asylum and Temporary Protection Law²¹²³ defines **temporary protection** as a form of protection granted on the basis of the decision of the Government of the Republic of Serbia (Government) in case of a mass influx of displaced persons who cannot be returned to their country of origin or country of habitual residence.²¹²⁴

The Asylum Act more specifically defines temporary protection as a form of protection that is provided in the extraordinary procedure, in the case of a **mass influx of displaced persons** who cannot be returned to their country of origin or habitual residence if there is a risk that, due to such mass influx, it will not be possible to effectively carry out individual asylum procedures and in order to protect the interests of displaced persons and other persons seeking protection.²¹²⁵ A decision on the provision of temporary protection is taken by the Government.

The term **displaced persons** is related to foreign nationals who have been forced to leave their area or country of origin or habitual residence, or who have been evacuated, and who are unable to return to durable and safe living conditions due to the situation that is prevalent in that country, in particular:

- 1) persons who have left an area of armed conflict or localised violence.
- 2) persons who face a serious threat of mass violations of human rights or who have been victims of such violations.²¹²⁶

Temporary protection may also be granted to persons who legally resided in the Republic of Serbia (Serbia) at the time of the adoption of the Government's Decision, which basically means that the Serbian Asylum Act also recognises *sur place* beneficiaries of temporary protection.²¹²⁷ The protection of *sur place* refugees who benefit from temporary protection is also related to those foreigners whose right to residence had expired before the decision on temporary protection was revoked.²¹²⁸

In accordance with the decision, persons who have been granted temporary protection are registered in accordance with Article 35 of the Asylum Act.²¹²⁹ Accordingly, they are issued with a registration certificate on the intention to lodge a request for temporary protection (**registration certificate**). The decision granting temporary protection is taken for each applicant individually.²¹³⁰

On 18 March 2022, on the basis of Article 74 (2) of the Asylum Act and Article 43 (1) of the Law on the Government,²¹³¹ for the first time in the history of the Serbian asylum system, the Government adopted the Decision on Providing Temporary Protection in the Republic of Serbia to Displaced Persons Coming from Ukraine.²¹³² The scope of temporary protection is related to '**persons displaced from Ukraine**' who were forced to leave Ukraine as their country of origin or country of habitual residence or who were evacuated from Ukraine and who cannot return to permanent and safe living conditions because of the current situation prevailing in that country.²¹³³

²¹²³ *Official Gazette*, no. 24/18, available in English at: <https://bit.ly/3tK8WLG>, hereinafter: Asylum Act.

²¹²⁴ Article 2 (1-9) Asylum Act.

²¹²⁵ Article 74 (1) Asylum Act.

²¹²⁶ Article 74 (3) Asylum Act.

²¹²⁷ Article 74 (3) Asylum Act.

²¹²⁸ Article 74 (4) Asylum Act.

²¹²⁹ Article 74 (5) Asylum Act.

²¹³⁰ *Ibid* and Point 3 TP.

²¹³¹ *Official Gazette*, nos. 55/05, 71/05 - correction, 101/07, 65/08, 16/11, 68/12 - CC, 72/12, 7/14 - US, 44/14 and 30/18 - etc. the law, available in Serbian at: <https://bit.ly/424S5os>, hereinafter: Government Act.

²¹³² *Official Gazette*, no. 36/2022, available in Serbian at: <https://bit.ly/44b1MDV>, hereinafter: TP.

²¹³³ Point 1 TP.

The phrase displaced persons encompasses the following categories:

1. citizens of Ukraine and their family members who resided in Ukraine;
2. asylum seekers, stateless persons and foreign nationals who have been granted asylum or equivalent national protection in Ukraine and their family members who have been granted residence in Ukraine.
3. foreign nationals who have been granted valid permanent residence or temporary residence in Ukraine and who cannot return to their country of origin under permanent and long-term circumstances.²¹³⁴

Temporary protection is also granted to citizens of Ukraine and their family members, who at the time of the activation of TP already legally resided in Serbia, but whose right to stay expired before the revocation of the decision on temporary protection.²¹³⁵ The notion of 'family members' in terms of the Asylum Act to which the TP explicitly refers to,²¹³⁶ implies the following individuals:

1. spouses, but only if the marriage was concluded before the arrival in Serbia and their minor children born in legal or in common-law marriage, minor adopted children, or minor step-children.
2. extramarital partner and their minor children born in common-law marriage, minor adopted children, or minor step-children. The extramarital partnership needs to meet the criteria set out in Article 4 of the Family Law²¹³⁷ which outlines that common-law marriage represents the permanent cohabitation of man and woman, between whom there are no marriage obstacles which creates an obligation of mutual support and the right to joint property of common-law partners.²¹³⁸

Exceptionally, the status of family member may also be granted to other persons, taking into account particularly the fact that they had been supported by the person who has been granted refugee status, subsidiary or temporary protection. Special circumstances which should be considered are their age and psychological dependence, as well as health, social, cultural, or other similar circumstances.²¹³⁹

Temporary protection introduced through the TP lasts one year from the date of entry into force of this decision.²¹⁴⁰ In this way, Serbia has joined almost all European countries in providing temporary protection to millions of Ukrainian citizens and other types of residents from this country impacted by the international armed conflict.

On 16 March 2023, the Government extended temporary protection to displaced people through the Decision on Supplementing of the TP which will be valid until 18 March 2024.²¹⁴¹

The armed conflict in Ukraine caused by Russian aggression triggered also the mass movement of Russian nationals who arrived in Serbia due to the free-visa regime between these two countries, in place since 7 March 2008.²¹⁴²

²¹³⁴ Point 2, paragraph 1 TP.

²¹³⁵ Point 2, paragraph 2 TP.

²¹³⁶ Point 2, paragraph 3 TP.

²¹³⁷ *Official Gazette*, nos. 18/2005, 72/2011 – other law and 6/2015, available in English at: <https://bit.ly/3vZUH76>, hereinafter: Family Act.

²¹³⁸ Article 2-1-12 Asylum Act.

²¹³⁹ Article 2-1-12-2 Asylum Act.

²¹⁴⁰ Point 5 TP.

²¹⁴¹ *Official Gazette*, nos. 36/2022 and 21/2023, available in Serbian at:

²¹⁴² Decision on Cancellation of Visas for the Citizens of the Russian Federation, *Official Gazette*, no. 27-931/2008, available in Serbian at: <https://bit.ly/3LI8Tej>.

Even though it is hard to get an accurate number of Russian citizens who arrived in Serbia after the end of February 2022, some sources indicate that more than 200,000 Russians resided in Serbia in 2022,²¹⁴³ while other sources indicate that this number goes up to 300,000 but that 50,000 of them were granted different forms of temporary residency²¹⁴⁴ under Article 40 of the Law on Foreigners Act.²¹⁴⁵

According to Radio Television Serbia, 100,000 Russians had moved their residency in Serbia in November 2022.²¹⁴⁶ Maybe the most accurate information was obtained by Radio Free Europe which published that between 25 February 2022 and 21 December 2022, the Ministry of Interior (Mol) recorded a total of 219,153 arrivals of Russian nationals in Serbia, but it remains unclear how many remained in Serbia.²¹⁴⁷

The arrival of Russian citizens occurred in two waves. The initial one started right after the beginning of the conflict in February 2022, when mostly Russian citizens who were employed in foreign companies and mainly in the IT sector decided to come to Serbia and register their companies. According to Radio Free Europe, just in 2022, a total of 4,187 Russian companies and entrepreneurship were registered in the Agency for Business Registers (*Agencija za privredne registre* - APR).²¹⁴⁸ In 2021, the total number of registered Russian companies in the APR was only 159.²¹⁴⁹ Thus, the first wave mainly included people who had their own financial resources to come to Serbia, to rent or buy real estate and continue their own business. This caused an increase in average rent prices of at least 30%, even though the price of rents in Belgrade and Novi Sad, the country's two main cities, doubled or – in some instances – tripled.²¹⁵⁰

The second wave of arrivals was registered in September 2022, after the announcement of military mobilisation by Russian President Vladimir Putin.²¹⁵¹ In this wave, the first asylum applicants arrived in Serbia. In other words, 99% of the Russian citizens who moved their residency regularised their stay in line with the Foreigners Act, while in the last quarter of 2022, and the first quarter of 2023, people who claimed to have fled military mobilisations started to arrive to Serbia. What is also interesting to outline is that these people have weaker financial status and are accommodated in the Asylum Centre (AC) in Krnjača.

Thus, in terms of asylum seekers coming from Russia, the following statistical overview can depict the changes which impacted the asylum system in Serbia.

According to the available statistics provided through UNHCR cooperation with the Mol, between 2009 and 2023, a total of 80 Russian citizens lodged their asylum applications in Serbia.

²¹⁴³ Euronews, *U Srbiju je prošle godine došlo oko 200.000 Rusa, a sa njima i brojne promene koje su mnogi već osetili - u novčaniku*, 16 January 2023, available at: <https://bit.ly/3nCsjcO> or ABC News, *In pro-Putin Serbia, liberal-minded Russians seek a home*, 6 February 2023, available in English at: <https://bit.ly/3VH3M2J>.

²¹⁴⁴ Labour grounds, educational grounds, family grounds, humanitarian grounds, etc.

²¹⁴⁵ *Official Gazette*, no. 24/2018 and 31/2019, available in English at: <https://bit.ly/3bxcWrF>.

²¹⁴⁶ N1, RTS: *100,000 Russians and 18,000 Ukrainians in Serbia*, 16 November 2022, available in English at: <https://bit.ly/44A8eEA>.

²¹⁴⁷ Radio Free Europe, *Utica rata u Ukrajini na Srbiju u brojkama*, 2 January 2023, available in Serbian at: <https://bit.ly/3B1InI3>.

²¹⁴⁸ Radio Free Europe, *Русски на svakom koraku u Beogradu*, 18 January 2023, available at: <https://bit.ly/3HKMBYp>.

²¹⁴⁹ *Ibid.*

²¹⁵⁰ Radio Free Europe, *Utica rata u Ukrajini na Srbiju u brojkama*, 2 January 2023, available in Serbian at: <https://bit.ly/3B1InI3>.

²¹⁵¹ The Guardian, *Putin announces partial mobilisation and threatens nuclear retaliation in escalation of Ukraine war*, 21 September 2022, available in English at: <https://bit.ly/3NMhfo1>.

Breakdown of Russian asylum seekers in the period 2009-2023

Year	Number of asylum applications lodged
2009	2
2011	2
2015	13
2016	4
2018	6
2019	4
2020	3
2021	3
2022	20
2023 (first 4 months)	25
Total	69

It is reasonable to assume that all asylum procedures initiated up to 2020 have become final and executive, and the final outcome of these procedures is only 3 decisions on refugee status granted to 3 LGBTQI+ applicants from Chechnya.²¹⁵² In the period 2021-2023, there were 48 asylum applications lodged by Russian citizens before the Serbian asylum authorities. According to statistical data from UNHCR, the 3 asylum applications lodged in 2021 ended with a decision on discontinuing the asylum procedure due to absconding.

The available statistics indicate that a total of 20 asylum applications were lodged in 2022 and an additional 25 in 2023. Accordingly, a total of 45 asylum applications were lodged in the given period.

Russian asylum seekers in the period January 2022 - April 2023

Month	Number of Russian asylum seekers	Number of Hearings	Number of abscondings of 2022 and 2023 applicants
January 2022	0	0	0
February 2022	0	0	0
March 2022	0	0	0
April 2022	0	0	0
May 2022	1	0	0
June 2022	3	1	0
July 2022	6	0	0
August 2022	0	0	0
September 2022	1	0	6
October 2022	0	0	0
November 2022	7	0	0
December 2022	2	0	1
January 2023	5	0	0
February 2023	3	1	0

²¹⁵² Asylum Office, Decisions Nos. 26-1216/18, 26-1217/18 and 26-1218/18, 12 February 2019.

March 2023	4	5	0
April 2023	13	1	0
Total	45	8	7

Out of these 45 applicants, 7 absconded from the procedure, which means that on 30 April 2023, a total of 38 applications were pending.

Many applicants claim risk of persecution on the basis of their political beliefs, public opposition to the Russian Government's actions (including military actions),²¹⁵³ risk of forced recruitment into the Russian military and draft evasion.²¹⁵⁴

According to the Serbian Commissariat for refugees, from 24 February 2022 until 24 February 2023, around 148,000 Ukrainian citizens were recorded entering Serbia, while around 26,000 were granted some form of temporary residency.²¹⁵⁵

The support of the Commissariat for Refugees and Migrations is provided to around 4,500 Ukrainian residing on a private address and to around 70 to 80 refugees from Ukraine accommodated in the AC in Vranje.²¹⁵⁶ It is not possible to have statistics as to nationals of other countries eligible for temporary protection under the TP.²¹⁵⁷

The following tables provide a statistical overview of the number of Ukrainian citizens and other nationals eligible for temporary protection under the TP who were registered and granted temporary protection.

Registration certificates issued to applicants for temporary protection in the period March 2022 -April 2023

Months	Ukraine	Russia	Other ²¹⁵⁸	Total	Male	Female	Children
March 2022	51	3	0	54	15	39	23
April 2022	278	5	2	285	88	197	74
May 2022	255	6	6	267	75	192	59
June 2022	165	1	9	175	50	116	48
July 2022	93	2	0	95	65	30	24
August 2022	58	2	1	61	20	41	12
September 2022	44	0	1	45	15	30	9
October 2022	55	2	6	63	28	35	13
November 2022	53	1	0	54	17	37	11
December 2022	66	5	3	74	31	43	22
January 2023	50	1	0	51	20	31	8

²¹⁵³ Law of 4 March 2022 No.31, Law of 25 March 2022 No. 62, Law of 18 March 2023 No. 57, Law of 4 March 2022 No. 32, Law of 25 March 2022 No. 63, Law of 18 March 2023 No. 58, description and explanation of these regulations is available in English at: <https://bit.ly/3M3woQz>.

²¹⁵⁴ Decree No. 647 of 21 September 2022, available in English at: <https://bit.ly/3HNidga>.

²¹⁵⁵ RTS, *Kroz Srbiju prošlo 148.000 državljana Ukrajine, a 26.000 prijavilo boravište*, 24 February 2023, available in Serbian at: <https://bit.ly/3HLWsNw>.

²¹⁵⁶ Data extracted from monthly statistical overviews provide on the monthly basis by the UNHCR office in Serbia.

²¹⁵⁷ *Ibid.*

²¹⁵⁸ China, Latvia, Bosnia and Hercegovina, Belarus, Georgia, Uzbekistan and Armenia.

February 2023	14	0	0	14	4	10	1
March 2023	33	0	0	33	13	20	5
April 2023	22	0	0	22	7	15	4
Total	1,237	28	28	1,293	453	840	313

Total number of persons granted temporary protection in the period March 2022 - April 2023

Months	Ukraine	Russia	Other	Total
March 2022	0	0	0	0
April 2022	0	0	0	0
May 2022	314	7	3	324
June 2022	381	8	6	395
July 2022	96	2	0	98
August 2022	72	2	0	74
September 2022	49	0	2	51
October 2022	49	2	1	52
November 2022	61	1	5	67
December 2022	51	3	0	54
January 2023	64	2	3	69
February 2023	29	1	0	30
March 2023	18	0	0	18
April 2023	25	0	0	25
Total	1,209	28	20	1,257

The number of persons granted the extension of temporary protection in the period March - April 2023

Months	Ukraine	Russia	Other	Total
March 2023	219	5	4	228
April 2023	424	14	5	443
Total	643	19	9	671

Between March 2022 and April 2023, the total number of persons registered in line with the TP was 1,293. Out of that number, 1,237 were Ukrainian nationals, 28 were Russian nationals and 28 were of other nationalities (China, Latvia, Bosnia and Herzegovina, Belarus, Georgia, Uzbekistan and Armenia). A total of 840 registered individuals were female, 453 male. Out of 1,293 registered individuals, 313 were children.

Out of 1,293 registered individuals, 1,257 were granted temporary protection. In the period March-April 2023, 671 persons' temporary protection was extended.

There was only one instance in which the request for temporary protection was rejected based on national security grounds. The Asylum Office did not provide the reasons outlined in the security

assessment.²¹⁵⁹ This decision was confirmed by the Asylum Commission²¹⁶⁰ and the case is currently pending before the Administrative Court. This case further illustrates unreasoned security assessments of the Security Information Agency (BIA).²¹⁶¹

B. Qualification for temporary protection

According to the TP, the following categories are eligible for temporary protection:

1. citizens of Ukraine and their family members who resided in Ukraine;
2. asylum seekers, stateless persons and foreign nationals who have been granted asylum or equivalent national protection in Ukraine and their family members who have been granted residence in Ukraine.
3. foreign nationals who have been granted valid permanent residence or temporary residence in Ukraine and who cannot return to their country of origin under permanent and long-term circumstances.²¹⁶²

It is not possible to categorise beneficiaries of temporary protections under categories no. 2 or no. 3, but it is reasonable to assume that most of the applicants who are not Ukrainian nationals were categorised under the first category as family members of Ukrainian citizens.

There is no specific procedure envisaged for persons eligible for the TP who were in the *sur place* situation. As it has already been outlined, temporary protection may be granted also to persons who legally resided in Serbia at the time of the adoption of the Government's Decision, which basically means that the Serbian Asylum Act also recognises *sur place* beneficiaries of temporary protection.²¹⁶³ The protection of *sur place* refugees who benefit from temporary protection is also related to foreigners whose right to residence expired before the decision on temporary protection was revoked.²¹⁶⁴

It cannot be determined how many beneficiaries of temporary protection Serbia benefited from *sur place* temporary protection, in line with Point 2, paragraph 1 of the TP.

Point 2, paragraph 1 of the TP explicitly covers asylum seekers, stateless persons and foreign nationals who have been granted asylum or equivalent national protection in Ukraine. The definition of family members is outlined in [General](#).

Refugees from Ukraine have unhindered access to the asylum procedure, as well as a variety of alternative statuses such as different forms of temporary residency. According to the Serbian Commissariat for refugees, from 24 February 2022 until 24 February 2023, around 148,000 Ukrainian citizens were recorded entering Serbia, while around 26,000 were granted some form of temporary residency.²¹⁶⁵

It is important to note that several Ukrainian nationals applied for asylum. In 2022, a total of 6 Ukrainians applied for asylum – one 3-member family and 3 individuals. The family and one journalist from Ukraine were granted subsidiary protection and refugee status respectively, while the remaining two cases are still pending. The first 4 applicants (family and journalists) were treated with priority and were granted

²¹⁵⁹ Asylum Office, Decision No. 26–1658/22, 23 June 2022.

²¹⁶⁰ Asylum Commission, Decision No. AĐ 20/22, 12 August 2022.

²¹⁶¹ See more in AIDA, *Country Report: Serbia, 2022 Update*, available at: <https://bit.ly/3l5K6Qr>.

²¹⁶² Point 2, paragraph 1 TP.

²¹⁶³ Article 74 (3) Asylum Act.

²¹⁶⁴ Article 74 (4) Asylum Act.

²¹⁶⁵ RTS, *Kroz Srbiju prošlo 148.000 državljana Ukrajine, a 26.000 prijavilo boravište*, 24 February 2023, available in Serbian at: <https://bit.ly/3HLWsNw>.

international protection within the statutory 3 months deadline in the case of the family and 4 months for the journalist. This indicates that Ukrainian applicants in these two cases were prioritized compared to applicants from Syria, Afghanistan, Burundi, Cuba, etc whose asylum procedure lasts from 8 to 12 months on average, and sometimes even longer.²¹⁶⁶ On the other hand, the other two applicants have been waiting for their first instance decision for more than three months and their cases were still pending at the time of writing.

No.	Case File No.	Date of Asylum Application	Date of hearing	Date of 1 st instance decision	Length of asylum procedure	Number of applicants
1.	26-462/22	24.03.2022	May	15.06.2022	83 days	3
2.	26-	24.03.2022	April	22.08.2022	120 days	1
3.	X.	August	September	Pending	Pending	1
4.	X.	November	February	Pending	Pending	1
Total	4					6

The temporal scope of temporary protection was initially set for 1 year, and was then extended for another year, all in line with Article 74 of the Asylum Act. Article 74 foresees that temporary protection may be granted for a period of maximum one year. If the grounds for providing temporary protection continue to exist, temporary protection may be extended for a further six months, and for a maximum of one year.²¹⁶⁷ Temporary protection shall cease upon the expiry of the period for which it was granted, or when the grounds based on which it was granted have ceased to exist, as specified in a decision taken by the Government.²¹⁶⁸

The first TP was taken on 18 March 2022, and extended on 16 March 2023 until 18 March 2024. The question that remains open is what will happen to Ukrainian refugees after 18 March 2024. According to the current legal framework, the asylum procedure but also different forms of temporary procedure would be available to them. In case a significant number of Ukrainian refugees decided to apply for asylum in 2024, this could cause an unsurmountable challenge for the Asylum Office which is operating at a limited capacity.²¹⁶⁹

C. Access to temporary protection and registration

1. Admission to territory

There were no reports or recorded incidents regarding people fleeing Ukraine being denied access to the territory in line with Article 15 of the Foreigners Act (refusal of entry) or though the well documented practice of pushbacks and other forms of collective expulsions which has been intensively ongoing since 2016.²¹⁷⁰ Thus, the positive practice of the Serbian authorities when it comes to assistance to and treatment of persons displaced from Ukraine at the border should be used as an example for the treatment of persons in need of international protection arriving to Serbia from other countries.

Additionally, there were no recorded cases of returnees from Ukraine being subjected to any kind of formal or informal forcible removals from the Serbian territory such as readmission, pushbacks, expulsion or refusal of entry.

²¹⁶⁶ See more in Country Report: Serbia, 2022 Update.

²¹⁶⁷ Article 74 (2) Asylum Act.

²¹⁶⁸ Article 74 (3) Asylum Act.

²¹⁶⁹ See more in AIDA, *Country Report: Serbia, 2022 Update*, available at: <https://bit.ly/3l5K6Qr>.

²¹⁷⁰ See more in AIDA, *Country Report: Serbia, 2022 Update*, available at: <https://bit.ly/3l5K6Qr>.

In October 2011, the Law on Ratification of the Agreement between the Government of the Republic of Serbia and the Cabinet of Ministers of Ukraine on the cancellation of visas for their citizens was adopted in the Parliament on Serbia,²¹⁷¹ introducing the free visa regime which has been in force ever since.

Thus, Ukrainian citizens face no obstacles in accessing Serbian territory and remaining for up to 90 days. This legal possibility has been used by the vast majority of persons in need of international protection displaced from Ukraine to transit through Serbia towards the EU countries.

2. Freedom of movement

All persons meeting the requirements set out in the TP, regardless of them having or not having biometric passports or biometric travel documents have had unhindered access to the territory of Serbia and to move freely within the territory of Serbia. There were no reported obstacles for the more than 100,000 displaced persons from Ukraine that left Serbia towards European Union countries such as Hungary, Croatia or Romania.

3. Registration under temporary protection

The Mol – the Administration for Border Police (ABP) and relevant Regional Border Centres within ABP, as well as all Police Departments who have their immigration units, are tasked with registering persons claiming to meet the requirements set out in the TP and in line with the Article 35 of the Asylum Act.

Foreigners may express the intention to lodge the request for temporary protection to the competent police officers at the border or within the territory either verbally or in writing,²¹⁷² including in places such as border posts, police stations or even the Detention Centre for Foreigners in **Padinska Skela, Dimitrovgrad and Plandište**.²¹⁷³ Unaccompanied and separated children (UASC) cannot express the intention to seek asylum until a social welfare centre appoints a temporary legal guardian.²¹⁷⁴ However, there were no UASCs from Ukraine recorded since the introduction of the TP.

Regional Border Centres within ABP can issue them with the registration certificate on the spot. There is no need for further referrals and the procedure is fairly simple and implies directing these people to AC Vranje if necessary, or just simple allowance to continue towards their destination country – hotels, hostels and private addresses. All persons registered for temporary protection are also given the information leaflet drafted in Ukrainian which contains all necessary information, including relevant contact numbers of the Commissariat for Refugees and Migration (CRM), UNHCR, CSOs and others.

An authorised police officer shall photograph and fingerprint the person (identification),²¹⁷⁵ who will thereafter be issued a certificate on registration as a foreigner who has expressed the intention to lodge a temporary protection application in Serbia ('registration certificate - registration').²¹⁷⁶ The manner and procedure of registration, as well as the content of the registration certificate, are defined in the Rulebook on Registration. This Rulebook prescribes the design and content of registration certificates.

Pursuant to the Rulebook, registration certificates shall be issued in two copies, one of which is handed to the foreigner and the second one is to be archived in the Mol organisational unit where the officer who issued the registration certificate is employed.²¹⁷⁷

²¹⁷¹ Official Gazette, no. 8/2011 and 17/2021, available in Serbian at: <https://bit.ly/3VFh2i>.

²¹⁷² Article 35(1) Asylum Act.

²¹⁷³ Article 35(2) Asylum Act.

²¹⁷⁴ Article 11 Asylum Act.

²¹⁷⁵ Article 35(5) Asylum Act.

²¹⁷⁶ Article 35(12) Asylum Act.

²¹⁷⁷ Article 8 Rulebook on Registration.

Every person who claims to be in need of international protection can express their intention to apply for asylum or temporary protection. It is possible that people displaced from Ukraine could have overstayed in Serbia (more than 90 days); while in theory they could be penalized for the misdemeanour of illegal residency on the territory of Serbia,²¹⁷⁸ such cases were not reported. The bottom line is that there is no deadline for them to be registered or to apply for temporary protection.

There are no reports which could indicate that persons displaced from Ukraine have been denied access to the territory, registration and temporary protection procedure due to lack of personal documents. Such persons are issued with a decision on allowing access to the territory. The same rule applies to persons who are not Ukrainian citizens, but had legal residence in Ukraine and cannot return to their country of origin.²¹⁷⁹ All potential beneficiaries of temporary protection are issued with registration certificates in line with the Article 35 of the Asylum Act.

In practice, no problems related to registration of applications for temporary protection were recorded on national territory and at the borders.

There is no appeal against the informal decision not to issue a registration certificate to a person who claims temporary residency. However, there were no instances in which such a problem was reported, and it can be safely assumed that all persons displaced from Ukraine were effectively allowed to access the temporary protection procedure.

4. Legal assistance

The Free Legal Aid Act (FLA) explicitly guarantees free legal aid to asylum seekers (including persons applying for temporary residency),²¹⁸⁰ refugees and persons granted subsidiary protection.²¹⁸¹ However, the Free Legal Aid Fee Schedule Regulation (FLA Regulation)²¹⁸² foresees free legal aid only for administrative dispute procedures conducted before the Administrative Court. This means that asylum seekers, including those who are applying for temporary protection, could apply for State funded free legal aid only if they reach the third instance authority. So far, not a single asylum seeker has used State funded free legal aid, including persons displaced from Ukraine.²¹⁸³ However, there was one case in which the applicant from Ukraine was rejected in merits, based on national security grounds, and enjoys free legal aid from CSOs.

The right to free legal aid is also guaranteed by the Asylum Act, as well as the right to receive information concerning asylum.²¹⁸⁴ The Asylum Act further provides that an asylum seeker shall have access to free legal aid and representation by UNHCR and CSO whose objectives and activities are aimed at providing free legal aid to refugees. In practice, the vast majority of persons who submit an asylum application in Serbia use the services of CSO lawyers before both national and international bodies. Their work and assistance are not state, but project funded and the main donors are UNHCR, EU and other donors. CSOs represent asylum seekers in all three instances and in front of the Constitutional Court.

²¹⁷⁸ Article 122 and Article 123 Foreigners Act.

²¹⁷⁹ UNHCR, Temporary Protection in Serbia, available at: <https://bit.ly/3M6q376>.

²¹⁸⁰ Article 4 (2-6) FLA.

²¹⁸¹ Article 4 (2-7) FLA.

²¹⁸² Free Legal Aid Fee Schedule Regulation (*Uredba o tarifi za pružanje besplatne pravne pomoći*), Official Gazette of the RS No. 74/2019.

²¹⁸³ This conclusion is drawn from the fact that legal representatives in all Administrative Court judgments were CSOs.

²¹⁸⁴ Article 56(3)-(4) Asylum Act.

Asylum Protection Center (APC), the Belgrade Center for Human Rights (BCHR) and the Center for Research and Social Development IDEAS (IDEAS) provided free legal aid and legal information and orientation to refugees from Ukraine. Still, the attitude of the MoI in terms of applicants for temporary protection, but also those who applied for temporary residency was impeccable, allowing people to fully enjoy their rights in line with the TP regardless of them having legal representatives or not. Assistance was also provided by the CRM.

There were no reported cases in which persons entitled to temporary protection were faced with obstacles in obtaining legal aid in their temporary residence procedure.

5. Information provision and access to NGOs

A foreigner who has expressed their intention to apply for temporary protection in Serbia, as well as a person who has lodged their request for temporary protection, shall have the right to be informed about their rights and obligations throughout the temporary protection procedure.²¹⁸⁵

The provision of relevant information, as well as something which can be considered as legal orientation are a primary task of the State and relevant police stations and police departments in which foreigners who might be in need of international protection are registered. Still, reality has shown that information for refugees and migrants is provided by an entire set of state and non-state actors including CRM and CSOs.

All relevant NGOs have developed informational leaflets, as well as UNHCR,²¹⁸⁶ but also CRM²¹⁸⁷ and MoI.²¹⁸⁸ Also, several dozen CSOs provided information in various different locations, including at reception facilities. What is also important to note is the fact that the Asylum Office provided information leaflets to all refugees from Ukraine who received decisions on granting temporary protection on their rights and responsibilities.

There is no data on special leaflets designed for displaced people from Ukraine such as UASC, survivors of trafficking in human beings, torture victims and others. Still, there were no recorded obstacles regarding information provision. The MoI provides information leaflets specially designed for Ukrainian refugees during registration, including at the border, but also after they are distributed in the temporary protection procedure.

D. Guarantees for vulnerable groups

The Asylum Act explicitly foresees that, in the course of the asylum, but also temporary protection procedure, the specific circumstances of certain categories requiring special procedural or reception guarantees will be taken into consideration. This category includes minors, unaccompanied minors, persons with disabilities, elderly persons, pregnant women, single parents with minor children, victims or survivors of trafficking in human beings, severely ill persons, persons with mental disorders, and persons who were subjected to torture, rape, or other serious forms of psychological, physical or sexual violence, such as women who were victims of female genital mutilation.²¹⁸⁹

However, as with asylum seekers, it remains unclear how in practice and in which kind of specific procedure relevant asylum authorities are conducting vulnerability assessments, what kind of decision

²¹⁸⁵ Article 56(1) Asylum Act.

²¹⁸⁶ UNHCR, Temporary Protection in Serbia, available at: <https://bit.ly/3M6q376>.

²¹⁸⁷ CRM, Information, available at: <https://bit.ly/3nFOvTf>.

²¹⁸⁸ *Ibid.*

²¹⁸⁹ Article 17(1) and (2) Asylum Act.

they render and how they design special and individualised programmes to meet the special needs of the above-enlisted categories in different contexts (accommodation, provision of psycho-social support, provision of medical support, in asylum or integration procedure, etc.).

What is important to note is that most vulnerabilities are determined by relevant CSOs, UNHCR, but also CRM, but access to specific rights and safeguards is predominately done by CSOs.²¹⁹⁰

Still, the positive attitude, but also very simple approach towards granting temporary protection allows the author of this Report to safely assume that all categories of persons displaced from Ukraine have effective access to temporary protection.

There were no special procedures introduced for UASCs which can be considered as different than the one provided to UASCs who apply for asylum in the regular procedure. However, there were no UASCs from Ukraine registered in the period of 13 months.

There are no institutionally established programmes for vulnerable categories of refugees, asylum seekers and migrants, including refugees coming from Ukraine, in Serbia. Thus, beneficiaries of temporary protection are in an identical situation as other refugees and asylum seekers. These services are provided by PIN, IAN, ATINA and other CSOs who have narrow expertise in providing support to vulnerable applicants from Ukraine.²¹⁹¹

²¹⁹⁰ See more in AIDA, *Country Report: Serbia, 2022 Update*, available at: <https://bit.ly/3l5K6Qr>.

²¹⁹¹ See more in AIDA, *Country Report: Serbia, 2022 Update*, available at: <https://bit.ly/3l5K6Qr>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--|--------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | 1 year |
| 2. How many residence permits were issued to beneficiaries from the activation of temporary protection until 31 December 2022? | 1,173 |

Despite their right to permanent residence under the Asylum Act,²¹⁹² recognised refugees are not issued a separate document of residence, as they are considered *ipso facto* to be entitled to reside in the country. The same rule applies for beneficiaries of temporary protection. The right to reside in Serbia shall be approved per a decision on granting temporary protection and shall be proven by an identity card for persons who have been granted the right to temporary protection.²¹⁹³ ID cards for persons granted temporary protection are valid for one year.

The content of this document is simple, and the ID card is a plasticised document containing a photo of the person, their surname and first name, gender, date and place of birth, country of origin, address, as well as the document number and date of issue and expiration. The document is filled out by hand by an Asylum Office official and the only proof that the document has been issued by a state administration body is a stamp of the Ministry of Interior.

ID cards that are issued to beneficiaries of temporary protection create an entire set of everyday obstacles. The first problem is that this document cannot prove the identity and legal status of beneficiaries of temporary protection. While ID cards issued to Serbian citizens and foreigners granted temporary or permanent residency contain the unique personal number of the citizen (JBMG) or the foreigner's registration number (EBS), this document, due to lack of its biometric features does not contain any of these data. Thus, the current ID card for beneficiaries of temporary protection does not contain the EBS, which further causes bureaucratic obstacles to enjoy other rights such as obtaining a work permit, opening bank accounts and other everyday needs which can be met only with the additional documentation issued by the Asylum Office, such as confirmation on obtaining international protection in Serbia or an EBS confirmation document.

ID cards for persons granted temporary protection are valid for one year and should be renewed for all beneficiaries who remained in Serbia after the TP was extended.

Article 76 of the Asylum Act envisages the following rights for temporary protection beneficiaries:

- ❖ the right to legally reside for a period of one year since March 18th 2022,
- ❖ the right to have a personal document confirming their status,
- ❖ the right to health care as other foreigners, in line with the Law on Health Protection,
- ❖ the right to access the labour market (in accordance with the Law on Employment of Foreigners),
- ❖ the right to primary and secondary education free of charge,
- ❖ the right to free legal aid,
- ❖ the right to freedom of religion,
- ❖ the right to stay in collective accommodation in designated facilities,

²¹⁹² Article 60 Asylum Act.

²¹⁹³ Article 90 Asylum Act.

- ❖ the right to special support for persons with specific needs, like children, unaccompanied or separated children, persons with disabilities, elderly persons, pregnant women, single parents with children, victims of human trafficking, persons with serious medical conditions including mental health issues, victims of torture, rape, or exposed to any form of serious psychological, physical, or sexual violence,
- ❖ the right to submit an asylum claim and in justified cases the right to family reunification.

There were no instances in which TP holders wanted to transfer their residence in EU Member States, nor were there recorded instances in which applicants who received temporary protection in other countries applying for temporary protection to Serbia.

2. Access to asylum

As already outlined, persons displaced from Ukraine have unhindered access to the asylum procedure, regardless of if they were previously holders of temporary protection or not, as has already been outlined in General.

B. Family reunification

A beneficiary of temporary protection has the right to reunification with their family members.²¹⁹⁴ Family members are the spouse, provided that the marriage was contracted before the arrival in Serbia, the common law partner in accordance with the regulations of Serbia, their minor children born in legal or in common law marriage, minor adopted children, or minor step-children.

Exceptionally, the status of family member may also be granted to other persons, taking into account particularly the fact that they had been supported by the person who has been granted asylum or subsidiary protection, their age and psychological dependence, including health, social, cultural, or other similar circumstances.²¹⁹⁵ A family member for whom there exist grounds to be excluded from asylum shall not have the right to family reunification.²¹⁹⁶

The Foreigners Act prescribes that family reunification is related to the so called 'nuclear family' which covers: spouses, civil partners, their minor children born in or out of wedlock, minor adopted children or minor stepchildren, who have not married.

The general requirements for any kind of temporary residency are the following:

- ❖ Valid travel document
- ❖ Evidence of means for subsistence during the planned stay
- ❖ Registered address of residence in the Republic of Serbia
- ❖ Evidence of health insurance during the planned stay (around 300 EUR per year)
- ❖ Proof of payment of the prescribed administrative fee (around 135 EUR)

Only temporary residence granted on humanitarian grounds does not require an individual to meet the general criteria. Article 61 of the Foreigners Act provides that temporary residence may be granted to a foreigner meeting general criteria when other circumstances exist that require special consideration in relation to:

²¹⁹⁴ Articles 70(1) and 9(2) Asylum Act.

²¹⁹⁵ Article 2(2) and (12) Asylum Act.

²¹⁹⁶ Article 70(4) Asylum Act.

- ❖ Their family, cultural or social ties with Serbia, recent level of integration of the foreigner in the society of the Republic of Serbia, particularly with regard to their education, work activities or language skills;
- ❖ Delay of forced removal of a foreigner referred to Article 84 of this Law, over a period of one year or longer;
- ❖ A foreigner who is a victim of a serious criminal offence, including persons who have been involved in actions to enable irregular migration and who cooperate with the police and the judiciary, and whose presence is necessary in the criminal proceedings or who is participating in an investigation as witness or plaintiff;
- ❖ A minor foreigner who has been abandoned, who is a victim of organised crime or has for other reasons lost parental care or company;
- ❖ Serious and legitimate personal reasons of humanitarian nature, existing interests of the Republic of Serbia or international commitments made.

The MoI shall also grant temporary residence for humanitarian reasons if they determine that the circumstances based on which the application was made are founded, even if the general criteria referred to above are not met for legitimate reasons.²¹⁹⁷

Temporary residence for humanitarian reasons shall be granted for a minimum of six months and a maximum of one year and may be extended, if the circumstances that the temporary residence was based on still exist.²¹⁹⁸

The family reunification procedure is regulated by the Foreigners Act. Foreigners Act explicitly foresees that family members of persons granted asylum have to apply for a visa in the diplomatic-consular representation of Serbia in the country of origin or a third country. They also have to provide evidence of their family ties with a person granted asylum in Serbia. People granted visas to arrive in Serbia will be granted temporary residence for the purpose of family reunification in line with Article 55 of the Foreigners Act.

In practice, there were no cases of family reunification procedures realised, which could indicate if family members of beneficiaries of temporary protection would obtain the same form of temporary protection or temporary protection on humanitarian grounds.

C. Movement and mobility

Beneficiaries of temporary protection have equal rights to free movement as permanently residing foreigners in Serbia.²¹⁹⁹

There were no recorded cases in which beneficiaries of temporary protection were denied access to EU Member States.

²¹⁹⁷ Article 61 (2) Foreigners Act.

²¹⁹⁸ Article 61 (3) Foreigners Act

²¹⁹⁹ Article 62 Asylum Act.

D. Housing

Indicators: Housing

- | | | |
|----|--|--------------------------------|
| 4. | For how long are temporary protection beneficiaries entitled to stay in reception centres? | For as long as TP is in force. |
| 5. | Number of beneficiaries staying in reception centres as of 04/23 | 78 |
| 6. | Number of beneficiaries staying in private accommodation as of 30/23 | Approx. 26,000 |

The vast majority of beneficiaries of temporary protection is accommodated at a private address, while between 70 to 80 on average have been accommodated in the AC Vranje, designated solely for people displaced from Ukraine.

Beneficiaries of temporary protection are entitled to access reception facilities governed by the CRM for as long as they enjoy such protection. The CRM is the main state authority in charge of accommodating refugees, asylum seekers, persons seeking temporary protection and beneficiaries of temporary protection.

The AC in Vranje has been designated in particular as being dedicated to beneficiaries of temporary protection. On 3 January 2023, a total of 83 beneficiaries of temporary protection resided in the AC Vranje while its maximum capacity is of 150 beds.

The Serbian asylum system does not recognise any reception schemes except the 19 asylum and reception centres. Taking into consideration that the number of Ukrainian refugees in Serbia who opted for temporary protection is less than 1,300 and that there is no accurate data as to how many of them remained in Serbia, it can be safely said that the AC in Vranje covers the needs of those refugees who cannot afford private accommodation. The remaining beneficiaries live in private addresses at their own cost. There were no instances in which beneficiaries of temporary protection were denied access to reception facilities.

In May 2017, the Reception Centre in Vranje (220 places) was opened in a motel at the entrance of the town. The conditions in Vranje may be described as satisfactory bearing in mind their provisional nature, but realistic capacity which would guarantee human dignity and longer stay are several dozen less. In June 2021, this facility became an asylum centre, accommodating Ukrainian families (28 persons in total) at the end of March 2022, and 40 persons in mid-April. The living conditions in the AC Vranje are of the highest standards and this facility was completely refurbished and equipped with new furniture for Ukrainian refugees. In January 2023, the AC in Vranje accommodated 83 refugees from Ukraine. They are provided with food, health care, clothes and occasional cash cards. There were no reported incidents or challenges related to access to State reception facilities nor there were reports on inappropriate housing.

There are no private hosting models designated for refugees from Ukraine, and private accommodation is not organised by the State.

E. Employment and education

1. Access to the labour market

The Asylum Act foresees that persons granted temporary protection are equal to foreigners with respect to the right to work and rights arising from employment and entrepreneurship.²²⁰⁰ The Employment of Foreigners Act (EFA) explicitly states that persons who have been granted temporary protection are to be issued personal work permits for the duration of that status.²²⁰¹

The assistance is to be provided by the Commissariat for Refugees and Migrations and is to form part of every individual beneficiary of refugee status's integration plan. Still, the CRM has not produced a single integration plan in 2022. The assistance should include help in gathering all the necessary documents for registration with the National Employment Service (NES), the recognition of foreign degrees, enrolling in additional education programmes and courses in line with labour market requirements and engaging in measures of active labour market policy.²²⁰²

The NES is tasked with issuing personal work permits which further grants beneficiaries of temporary protection free employment, self-employment and the right to unemployment insurance.²²⁰³ This further provides foreigners who have been granted temporary protection with unimpeded access to the labour market.

The Rulebook on Work Permits²²⁰⁴ governs the procedure for issuing and extending work permits, as well as criteria that one must meet in order to receive the permit. In order to be issued with a personal work permit, in addition to a completed application, a person granted temporary protection needs to submit proof of payment of the administrative fee, a certified copy of their identity card and a certified copy of the decision granting temporary protection, but also the verified statement that they do not have any informal incomes and employment.

Another problem is that beneficiaries have to pay administrative fees in order to receive a work permit, which often represents a major expenditure for them. The Decree does not foresee assistance from the CRM in this regard, meaning that refugees usually require financial aid from civil society organisations to pay these fees. The fee is 14.360 dinars (around 121 EUR)²²⁰⁵ plus the fee for lodging the request for a working permit which is around 330.00 dinars (around 3 EUR). That is why such high costs are a major impediment for this vulnerable population. The GAPA foresees exemptions from payment of the costs of the procedure if the party cannot afford to bear the costs without endangering their subsistence or the subsistence of their family or if provided for in a ratified international treaty.²²⁰⁶ In practice, this possibility was almost always applied in relation to refugees from Ukraine which should be praised.

In spite of the fact that, under the law, persons granted temporary protection in Serbia should not face significant challenges in accessing the labour market, finding employment is difficult in practice, especially bearing in mind the language barrier that exists between most of these persons and the local community.

It should be also borne in mind that support to access the labour market is solely provided by CSOs. In other words, state institutions still do not provide organised assistance to refugees for inclusion into the

²²⁰⁰ Article 65 Asylum Act.

²²⁰¹ Article 13(6) Employment of Foreigners Act.

²²⁰² Article 7 Integration Decree.

²²⁰³ Article 12 EFA.

²²⁰⁴ Official Gazette no. 63/18, 56/19.

²²⁰⁵ Law on Administrative Fees, Fee No. 205, available at: <https://bit.ly/3kXBeOP>.

²²⁰⁶ Article 89 GAPA.

labour market, despite the provisions of the Integration Decree which stipulates such assistance.²²⁰⁷ This has been the case for beneficiaries of temporary protection.

There are no specific measures which are different from those envisaged for persons granted asylum or asylum seekers. Beneficiaries of temporary protection have the same treatment as persons granted asylum and asylum seekers.

2. Access to education

The right to education is a constitutional right in Serbia further governed by a number of laws, primarily the Law on Basics of the Education System.²²⁰⁸ Specific degrees of education are regulated by the Law on Primary Education,²²⁰⁹ the Law on Secondary Education,²²¹⁰ and the Law on Higher Education.²²¹¹

The Integration Decree foresees assistance by the Commissariat for Refugees and Migrations to persons granted temporary protection in entering the educational system.²²¹² The Commissariat is to assist child beneficiaries of temporary protection enrolled in pre-school, elementary and high-school education, as well as illiterate adults who are to be enlisted in adult literacy programmes in cooperation with the Ministry of Education. The assistance provided to children includes the provision of textbooks and educational material, assistance in having foreign degrees recognised, learning support and financial support for engaging in extracurricular activities.²²¹³

The Professional Instruction on the Inclusion of Refugee/Asylum Seeker Students in the Education System of Serbia further regulates access to education for refugee children.²²¹⁴ If the refugee children have proof of prior education, enrolment is made according to their age and level of education completed.²²¹⁵ On the other hand, if they do not have any proof of prior education, enrolment is based on a test which aims to assess their level of knowledge.²²¹⁶ For each student, the school is required to develop a Support Plan that should include an adaptation and stress management programme, an intensive Serbian language programme, an individualised teaching activities programme, and an extracurricular activities programme.²²¹⁷

Under the Law on Basics of the Education System, foreign nationals, stateless persons and persons applying for citizenship shall have a right to education on an equal footing and in the same manner as Serbian nationals.²²¹⁸ The Asylum Act also guarantees the right to education of persons granted temporary protection.²²¹⁹ A person granted temporary protection is entitled to preschool, primary, secondary and higher education under the same conditions as citizens of Serbia.²²²⁰

It is also important to highlight that primary school is free and mandatory, and underage beneficiaries are to be ensured access to education immediately, and no later than three months from the date of the

²²⁰⁷ Article 7 of the Integration Decree.
²²⁰⁸ Official Gazette, no. 88/17 and 27/18.
²²⁰⁹ Official Gazette, no. 55/13, 101/17 and 27/18.
²²¹⁰ Official Gazette, no. 55/13, 101/17 and 27/18.
²²¹¹ Official Gazette, no. 88/17, 27/18 – other laws and 73/18.
²²¹² Article 2(4) Integration Decree.
²²¹³ Article 6 Integration Decree.
²²¹⁴ Ministry of Education, Science and Technological Development Instruction No. 601-00-00042/17-2018 of May 2017.
²²¹⁵ *Ibid*, 1-2.
²²¹⁶ *Ibid*, 2.
²²¹⁷ *Ibid*, 3.
²²¹⁸ Article 3(5) Law on Basics of the Education System.
²²¹⁹ Articles 55 and 64 Asylum Act.
²²²⁰ Article 64 Asylum Act.

application for temporary protection.²²²¹ Secondary education is also free of charge but is not mandatory.

In 2022, a total of 66 Ukrainian children were enrolled in primary schools all around Serbia.²²²²

Ukrainian children face similar obstacles as other children from the refugee population due to the language barrier. These obstacles are addressed by different CSOs who assist these children in better adapting to the school system of Serbia. There are no reported instances in which vulnerable children enjoying temporary protection have faced obstacles which require alternative arrangements.

The Integration Decree foresees Serbian language courses and courses of Serbian history, culture and constitutional order for persons recognised as refugees. Persons entitled to Serbian language courses are those who do not attend regular schools in Serbia, those who do, and persons older than 65. Persons not attending regular schools are entitled to 300 school periods of Serbian language classes during a single school year, while those engaging in businesses requiring university education may be provided with another 100 periods in a school year. Persons attending school have the right to be provided an additional 140 school periods of Serbian language classes, whereas those above 65 are provided with 200 school periods of the Serbian language adapted to the needs of everyday communications. The courses may be provided at regular or foreign language schools, whereas the adapted Serbian language classes may likewise be provided by companies suggesting a suitable programme and capable of employing the required staff.²²²³ The classes are to be provided in the area where these persons reside, and if this is not possible, transport costs are to be covered by the Commissariat.

In 2021, with the help of the UNHCR office in Serbia, the ENRIC/NARIC Centre of the Qualification Agency of the Republic of Serbia joined the Council of Europe project of a European Qualification Passport for Refugees.²²²⁴ Two Ukrainian diplomas were recognised in 2022.

F. Social welfare

The Social Welfare Act (SWA) defines social welfare as an organised social activity of common interest whose purpose is to provide assistance and strengthen individuals and families for an independent and productive life in society, as well as prevent the causes of, and eliminate, social exclusion.²²²⁵ The Act defines Serbian citizens as beneficiaries of social welfare, but states that foreigners and stateless persons may also receive social welfare in line with the law and international agreements.²²²⁶ This right is exercised through the provision of social protection services and material support.²²²⁷ The regulations on social welfare for persons seeking asylum or who have been granted asylum are within the jurisdiction of the Ministry of Labour, Employment, Veteran and Social Issues, which has enacted a Rulebook on Social Welfare for Persons Seeking or Granted Asylum (RSW).²²²⁸

Social welfare is provided under the same conditions as for asylum seekers and persons granted asylum. Social assistance is granted by local social welfare centres on whose territory the beneficiary reported their residency.

²²²¹ Article 55 (2) Asylum Act.

²²²² Euronews, *Koliko je ruske i ukrajinske dece u srpskim školama: Zna se tačna brojka, ali i kako se snalaze sa učenjem na srpskom*, 5 November 2022, available in Serbian at: <https://bit.ly/3l3PrYC>.

²²²³ Article 4 Integration Decree.

²²²⁴ More on the European Qualification Passport see on the following link: <https://bit.ly/3wy8gOC>.

²²²⁵ Article 2 Social Welfare Act, Official Gazette no. 24/2011.

²²²⁶ Article 6 SWA.

²²²⁷ Article 4 (2) SWA.

²²²⁸ Rulebook on Social Welfare for Persons Seeking or Granted Asylum, Official Gazette no. 44/2008.

The request for social welfare is examined and decided upon by the social welfare centre with jurisdiction over the municipality in which the beneficiary resides.²²²⁹ Once granted, the conditions for benefitting from social welfare are re-examined by the social welfare centre on an annual basis. The second instance body is the Minister responsible for social affairs.²²³⁰

The Asylum Act and RSW do not recognise the actual needs of persons granted temporary protection as a member of a particularly underprivileged group. The main reason for this claim lies in the fact that beneficiaries who are accommodated in Asylum Centres and who do not have sufficient means of livelihood are not eligible for social allowances.

Beneficiaries of temporary protection did not receive social allowances in 2022.

G. Health care

The Asylum Act prescribes that the right to healthcare is guaranteed to all persons granted temporary protection and that all costs of health care are covered by the State.²²³¹ Additionally, foreigners' health care is also governed by the Health Care Act (HCA)²²³² and the Health Insurance Act (HIA)²²³³ as well as the Rulebook on the Terms and Procedure for Exercising the Right to Compulsory Health Insurance (RHI).²²³⁴ HCA stipulates that refugees and asylum seekers, but also persons granted temporary protection, are entitled to health care under equal terms as Serbian nationals.²²³⁵ In general, appropriate enjoyment of the right to health care depends on the assistance of relevant CSOs and International Organisations.²²³⁶

As it is the case with refugees and asylum seekers, HIA and RHI do not specify further the rights of beneficiaries of temporary protection. Thus, the HIA does not recognise beneficiaries of temporary protection referred to in the Asylum Act as a separate category of insured standard.²²³⁷ The same conclusion can be drawn in relation to the Serbian Health Insurance Act.²²³⁸ Hence, beneficiaries of temporary protection are not entitled to compulsory health insurance and issuance of health insurance cards.²²³⁹ They can obtain them only if they pay 3,607 dinars per month (a bit more than 300 EUR annually). Of course, employed persons granted temporary protection obtain health care insurance from their employers, but the problem arises mainly for those beneficiaries of the TP who are unofficially unemployed.

Like beneficiaries of international protection, beneficiaries of temporary protection face numerous obstacles in local health care centres due to their plastic ID cards, the language barrier and the fact that employees in health centres are not familiar with this category of persons. This requires continuous assistance of CSOs, but also CRM and even MoI.

²²²⁹ *Ibid*, Article 8.

²²³⁰ *Ibid*, Article 9.

²²³¹ Article 63 Asylum Act.

²²³² Official Gazette no. 25/19.

²²³³ Official Gazette no. 107/25, 109/05 – correction, 57/11, 110/12 – Constitutional Court Decision, 119/12, 99/14, 123/14, and 126/14 – Constitutional Court Decision.

²²³⁴ Official Gazette no. 10/10, 18/10 – correction, 46/10, 52/10 – correction, 80/10, 60/11 – Constitutional Court Decision, and 1/13.

²²³⁵ Article 236, para. 1, and Article 239 of the Law on Health Care.

²²³⁶ BCHR, *Right to Asylum in the Republic of Serbia* 2019, 185-187.

²²³⁷ Article 11 HIA.

²²³⁸ Exercising the Right to Compulsory Health Insurance, Serbian Health Insurance Fund, Belgrade, May 2015, available (in Serbian) at: <http://bit.ly/33amche>.

²²³⁹ Article 25 HIA; see more in BCHR, *Right to Asylum in the Republic of Serbia* 2019, 184-185.