

Temporary Protection Hungary

This annex on temporary protection complements and should be read together with the [AIDA Country Report on Hungary](#).

Table of Contents

Temporary Protection Procedure	3
A. General	3
B. Qualification for temporary protection	6
C. Access to temporary protection and registration	11
1. Admission to territory	11
2. Freedom of movement.....	13
3. Registration under temporary protection.....	13
4. Legal assistance	18
5. Information provision and access to NGOs	19
D. Guarantees for vulnerable groups	20
A. Status and residence	23
1. Residence permit	23
2. Access to asylum	25
B. Family reunification	26
C. Movement and mobility	27
D. Housing	28
E. Employment and education	35
1. Access to the labour market.....	35
2. Access to education	38
F. Social welfare	43
G. Health care	43

A. General

The Hungarian Asylum Act regulates two forms of temporary protection which vary as to their geographical scope of application.¹

- ❖ The form under point a) Section 19(1) transposes the provisions of EU Directive 2001/55/EC² (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,³ 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.⁴

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.

¹ Section 19 a.)-b.) of Act LXXX of 2007 on Asylum.

² 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>.

³ 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>.

⁴ 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 menedéjogról	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 menedéjogról 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 katasztrófa 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 neighbouring country during the state of danger	106/2022 (III. 12.) Korm. rendelet a veszélyhelyzet ideje alatt szomszédos országban fennálló humanitárius katasztrófa tekintettel, az ideiglenes védelemre jogosultként elismert személyek foglalkoztatásával és juttatásaival kapcsolatos egyes szabályokról, valamint a menedéjogról szóló 2007. évi LXXX. törvény végrehajtásáról szóló 301/2007. (XI. 9.) Korm. rendelet módosításáról.	http://bit.ly/3HH9Anz (HU)

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 kísérővel 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 ukrajnai 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.⁵ 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,⁶ 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.⁷ This means in practice that dual citizens may access reception conditions in the same manner as temporary protection beneficiaries (see [Residence Permit](#)).

⁵ Krisztina Lajosi, 'Disinformation, Digital Nationalism and the Hungarian Minority in Ukraine', 25 April 2022, available at: <http://bit.ly/3YfJxcC>.

⁶ 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>.

⁷ Section 8 of TP Decree.

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 2022.⁸ 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 2022.⁹

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 2022.¹⁰
- ❖ 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.¹¹

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).¹²

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:

⁸ Data from the Hungarian Central Statistical Office: <http://bit.ly/3K1PTbd>.

⁹ Ibid.

¹⁰ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

¹¹ Ibid.

¹² Practice-based observation by the Hungarian Helsinki Committee, April 2023.

- 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.¹³

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.¹⁴

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.¹⁵ 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.¹⁶ After a year, the status is reviewed by the asylum authority.¹⁷

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,¹⁸
- ❖ be a private entrepreneur,¹⁹

¹³ Section 21(1) of the Asylum Act.

¹⁴ 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).

¹⁵ Sections 25/A-25/B of Asylum Act.

¹⁶ Section 29 (1) b.) of Act II of 2007 on the Entry and Stay of Third-Country Nationals.

¹⁷ Section 25/B (2) Asylum Act.

¹⁸ Section 92(1) a.) of the Public Education Act.

¹⁹ Section 3(1) d.) of the Private Entrepreneurs Act.

- ❖ be employed, but only after obtaining a work permit,²⁰
- ❖ 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.²¹

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 status²² (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.²³

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.²⁴ 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.²⁵ 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 tolerated status, as explained in the previous paragraph.²⁶ 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.²⁷ Those third-

²⁰ Sections 3-6 of Gov. Decree 445/2013. (XI. 28.).

²¹ Section 44 (3)-(4) of the Asylum Decree.

²² Sections 52-52/A of Act II of 2007 on the Entry and Stay of Third-Country Nationals.

²³ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

²⁴ NDGAP, ‘Tájékoztató az Ukrajnából menekülő ukrán állampolgárok részére’, available in Hungarian at: <https://bit.ly/40iWO5W>.

²⁵ Section 2 (2)-(3) of Government Decree No. 86/2022. (III. 7.) (TP Decree).

²⁶ These procedures are regulated by Act II of 2007 on the Entry and Stay of Third-Country Nationals.

²⁷ 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*

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.²⁸ 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.²⁹

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.³⁰ This regulation, in addition to being in breach of international law and European Union law related to persons entitled to international protection in 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).

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>.

²⁸ Section 30 of TCN Act.

²⁹ 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>.

³⁰ 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).

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.³¹

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 style="text-align: center;">if arrived on or after 24/02/2022</p>	<p style="text-align: center;">Temporary protection granted in asylum procedure</p>	<p style="text-align: center;">Yes</p>
<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 style="text-align: center;">if arrived before 24/02/2022</p>	<p style="text-align: center;">Tolerated status or residence permit granted as a result of an alien policing procedure</p>	<p style="text-align: center;">Yes</p>
<p>TCNs legally residing in Ukraine on a permanent basis if they cannot return to their country of origin in a safe and durable manner</p>	<p style="text-align: center;">Tolerated status or residence permit granted as a result of an alien policing procedure</p>	<p style="text-align: center;">No, as neither TP nor adequate protection provided.</p>
<p>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</p>	<p style="text-align: center;">Tolerated status or residence permit granted as a result of an alien policing procedure</p>	<p style="text-align: center;">Yes</p>
<p>All TCNs who are able to return to their country of origin in a safe and durable manner</p>	<p style="text-align: center;">No protection, are channelled to the alien policing procedure (result: expulsion or if applied and conditions fulfilled – residence permit)</p>	<p style="text-align: center;">Yes</p>

³¹ Information received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

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.³² 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

³² Information received from Terre Des Hommes Hungary on 28 January 2023.

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.'³³

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 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,³⁴ the application of entry bans/SIS alerts on prohibition of entry and stay in the EU has been suspended

³³ Information received from the IOM by the HHC on 14 February 2022.

³⁴ 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 104/1, available at: <http://bit.ly/3UjOm4g>.

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.³⁵

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,³⁶ 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.³⁷

Furthermore, as Hungary did not follow the EC's recommendations³⁸ 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 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)³⁹ in an official application form. The application may be submitted at any asylum client services of regional offices⁴⁰ 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 website⁴¹ or mobile application⁴² of the NDGAP for that purpose.⁴³ That possibility only exists to accelerate the procedure and does not exempt the applicant from the obligation to appear

³⁵ Section 22(1) b.) of Asylum Act.

³⁶ Section 30 (1) f.) and j.) of TCN Act.

³⁷ Section 62 (1) h.) of TCN Act.

³⁸ 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).

³⁹ Section 32/D (1)-(2) of Asylum Act.

⁴⁰ The regional offices of the NDGAP are listed at NDGAP, 'Területi szervek illetékességi területe és címjegyzéke', available in Hungarian at: <https://bit.ly/3jBn7Uj>.

⁴¹ The NDGAP website to submit applications is available here: <http://bit.ly/3KwxwM2>.

⁴² The NDGAP mobile application is available here: <https://bit.ly/3jBn7Uj>.

⁴³ Sections 2-3 of Government Decree 170/2022 (IV.28).

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”).⁴⁴

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.⁴⁵ 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.⁴⁶ 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.

The asylum authority has 45 days to conduct the procedure.⁴⁷ 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.⁴⁸

Following the submission of the temporary protection application, applicants receive a so-called humanitarian residence permit for the duration of the procedure.⁴⁹ 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

⁴⁴ (1)-(2b) of Section 5/A (1)-(2b) of Government Decree 86/2022. (III. 7.).

⁴⁵ Section 4 (2) of TP Decree.

⁴⁶ Section 5/A (3) of Government Decree 86/2022. (III. 7.).

⁴⁷ Section 77 (3) of the Asylum Act.

⁴⁸ Paragraphs (2)-(3) of Section 4/A. of Government Decree 86/2022. (III. 7.).

⁴⁹ Section 29(1) c.) of the TCN Act and Section 6 (1) b.) of the Asylum Decree.

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.⁵⁰

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 **Várásosnamény, Tarpa, Mándok, Fehérgyarmat** and **Aranyosapáti**, where the police⁵¹ 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.⁵²

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.⁵³

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. 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.⁵⁴

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

⁵⁰ Section 22(1) a.) of the Asylum Act.

⁵¹ Border guards were integrated into the Police as of 1 January 2008.

⁵² Communication of the website of the NDGAP: <https://bit.ly/3Yc339H>.

⁵³ HHC, War in Ukraine Protection Situation in Hungary, 16 March 2022, available at: <https://bit.ly/3HMC2Es>.

⁵⁴ Rules relating to the establishment, operation and membership of the Charity Council are set out in Government Decree 65/2000. (V. 9.).

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 unsuccessful, in cooperation with the operator of the accommodation site, they organised direct rides for the individuals to the closest asylum client service.⁵⁵

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 2022.⁵⁶ This is a significant shortcoming, as during the temporary protection procedure, applicants are not

⁵⁵ Information provided by the Menedék Association to the HHC on 28 February 2023.

⁵⁶ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

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.⁵⁷ 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.⁵⁸

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).⁵⁹

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.

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.⁶⁰ 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,⁶¹ whether to refuse the appeal or order the asylum authority to conduct a new procedure.⁶² 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.⁶³ 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.

⁵⁷ 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.).

⁵⁸ Information received from the IOM by the HHC on 14 February 2023.

⁵⁹ Information received from the Menedék Association by the HHC on 28 February 2023.

⁶⁰ Sections 68 (1) and 79 (2) of Asylum Act.

⁶¹ Section 68 (2) of the Asylum Act.

⁶² Sections 88-89 of Code on Administrative Litigation.

⁶³ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

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.⁶⁴ 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 partnership with Budapest Municipality and is dedicated to people fleeing Ukraine,⁶⁵ 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

⁶⁴ Section 4(1) c.) of the TP Decree precludes the application of Section 37 (3) of Asylum Act.

⁶⁵ 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/3jfAJOOR>.

15 protection partners had provided assistance in accessing protection and documentation to around 41,000 individuals.⁶⁶

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.⁶⁷ Although the Asylum Act would normally require the authority to record the fulfilment of this obligation in the minutes,⁶⁸ the TP Decree precluded the application of this provision in temporary protection procedures.⁶⁹ 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.⁷⁰

Furthermore, the Asylum Act provides that upon communicating the decision on recognition, the authority has to inform the beneficiary of their rights and obligations.⁷¹ 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 tongue of the beneficiary or in a language they understand.⁷² 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.⁷³ 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 NDGAP 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.⁷⁴ 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,

⁶⁶ UNHCR, *Hungary Refugee Response Plan, Achievements March-October 2022*, available at: <https://bit.ly/3Z6mem4>.

⁶⁷ Section 37 (1) of Asylum Act.

⁶⁸ Section 37 (2) of Asylum Act.

⁶⁹ Section 4 (1) c.) of TP Decree.

⁷⁰ Information received from Terre Des Hommes Hungary on 28 January 2023.

⁷¹ Section 79 (3) of Asylum Act.

⁷² Section 38(1) of Asylum Decree.

⁷³ Section 5/A (3) of TP Decree.

⁷⁴ Letter received from the NDGAP's asylum department by the HHC on 16 June 2022.

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 website⁷⁵ and in the BOK Centre in person. In the experience of the HHC and Terre Des Hommes Hungary,⁷⁶ 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 situations⁷⁷. 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.

Information provision was mainly organised by NGOs, the UNHCR and members of the Charity Council. According to the UNHCR,⁷⁸ assistance partners⁷⁹ 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.⁸⁰ In the experience of the HHC, people with disabilities have been

⁷⁵ The NDGAP website is available at: <http://bit.ly/3xBVE8m>.

⁷⁶ Information received from Terre Des Hommes Hungary on 28 January 2023.

⁷⁷ 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.

⁷⁸ 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>.

⁷⁹ The websites of the organisations can be found by clicking on their respective names.

⁸⁰ UNHCR, *Inter-Agency Operational Update Hungary*, 10 May 2022, available at: <https://bit.ly/311dkYb>.

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.⁸¹

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.⁸² 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 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.⁸³ In this case, the asylum authority must decide the UAM's case in a prioritised procedure.⁸⁴ The Asylum Decree furthermore provides that UAMs under the age of 14 must be accommodated within the child protection system.⁸⁵ 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.⁸⁶ 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.⁸⁷

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

⁸¹ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

⁸² Section 5(1) g.) of Asylum Decree excludes the application of Sections 74-76 of Asylum Decree.

⁸³ Section 36(6) of Asylum Act.

⁸⁴ Section 36(7) of Asylum Act.

⁸⁵ Section 33 (4) of Asylum Decree.

⁸⁶ Section 99/F(1) of Asylum Decree.

⁸⁷ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

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.⁸⁸ 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.⁸⁹ 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.⁹⁰

⁸⁸ Information received from the Cordelia Foundation by the HHC on 19 January 2023.

⁸⁹ Information received from the BMSZKI by the HHC on 13 February 2023.

⁹⁰ 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, 790 ⁹¹ |

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.⁹² 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

⁹¹ Data received from the National-Directorate General of Aliens Policing by the HHC on 13 February 2023.

⁹² 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; documents issued before the recognition as beneficiary of temporary protection, especially extracts from birth	Section 37/A (3)b.) and Section 49 of the Asylum Decree

	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.⁹³ 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.⁹⁴ 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.⁹⁵

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.⁹⁶

According to the data of the NDGAP, the authority withdrew the temporary protection status of 939 beneficiaries who renounced their status.⁹⁷

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

⁹³ Section 8 of TP Decree.

⁹⁴ Section 25 (2)a.) of Asylum Act.

⁹⁵ Letter received from the NGDAP asylum authority by the HHC on 16 June 2022.

⁹⁶ Section 25 (2) c.) of Asylum Act.

⁹⁷ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

new asylum system, the so-called “embassy procedure”.⁹⁸ This new system was later included in the Transitional Act that entered into force on 18 June 2020 and which is still in effect.⁹⁹ 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.¹⁰⁰ 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.¹⁰¹ 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 2022.¹⁰²

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.

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

⁹⁸ 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.

⁹⁹ Act LVIII of 2020 on the Transitional Provisions related to the Termination of the State of Danger and on Epidemiological Preparedness.

¹⁰⁰ Section 1 of Government Decree 292/2020 (VI. 17.).

¹⁰¹ Republic of Serbia, Ministry of Foreign Affairs, ‘Visa regime’, available at: <https://bit.ly/3JvjU3c>.

¹⁰² Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

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.¹⁰³ 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.¹⁰⁴

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.¹⁰⁵

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 interpret the law to any person or organisation – whose conducts may be thereby influenced – not subject to its direct supervision.¹⁰⁶

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

¹⁰³ Section 105 of Asylum Decree.

¹⁰⁴ Section 2 j.) of Asylum Act.

¹⁰⁵ Letter received from the NDGAP asylum authority by the HHC on 16 June 2022.

¹⁰⁶ Letter received from the National Police Headquarter by the HHC on 5 January 2023.

Hombres Hungary also recorded such information.¹⁰⁷ 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.¹⁰⁸
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/ 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.¹⁰⁹ 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.¹¹⁰ 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 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).¹¹¹ Staff members of the Disaster Relief are on the spot and need for housing may be indicated to them.

¹⁰⁷ Information received from Terre Des Hommes Hungary on 28 January 2023.

¹⁰⁸ Section 41 (2) of the Asylum Decree.

¹⁰⁹ 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.

¹¹⁰ 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.

¹¹¹ BOK Centre is indicated as a transit spot by UNHCR, see UNHCR, 'Information for people from Ukraine', available at: <https://bit.ly/3Rn3GLs>.

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.¹¹²

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.¹¹³ 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.¹¹⁴ It is unclear whether the Charity Council members have funded their services, including accommodation provided by them, exclusively through government allocated funds,¹¹⁵ 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 2023.¹¹⁶

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 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.

¹¹² Section 4 of Gov. Decree 104/2022 (III.12).

¹¹³ Information received from BMSZKI by the HHC on 13 February 2023.

¹¹⁴ Information received from Caritas Hungarica on 23 January 2023.

¹¹⁵ 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>.

¹¹⁶ Information received from Kalunba organisation by the HHC on 6 February 2023.

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 65,145.¹¹⁷

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.¹¹⁸ 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%)'.¹¹⁹

Temporary protection beneficiaries,¹²⁰ applicants,¹²¹ as well as Hungarian-Ukrainian dual citizens¹²² 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.'¹²³ Beneficiaries in need are entitled to 'material reception conditions and to aid and support, in accordance with specific other legislation'¹²⁴ (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.¹²⁵

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.¹²⁶

¹¹⁷ Information received from the IOM by the HHC on 14 February 2023.

¹¹⁸ Section 8 of Gov. Decree 104/2022 (III.12).

¹¹⁹ UNHCR, *Hungary: Multi-Sectoral Needs Assessment*, November 2022, available at: <https://bit.ly/3RkMoPf>.

¹²⁰ Section 32 (2) of Asylum Act.

¹²¹ Section 26 (2) of Asylum Act.

¹²² Section 8 of the TP Decree.

¹²³ Section 26 (1) of Asylum Act.

¹²⁴ Section 32 (2) of Asylum Act.

¹²⁵ Section 32/A (1)a.- d.) of Asylum Act.

¹²⁶ Section 6 of Gov. Decree 104/2022 (III.12.)

Tasks related to the provision of reception conditions are to be carried out by the asylum authority.¹²⁷ 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.¹²⁸

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.¹²⁹

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.

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

¹²⁷ Section 12 (2) of Asylum Decree.

¹²⁸ Section 14 (2) a.)-e.) of Asylum Decree.

¹²⁹ Section 41 (2) of the Asylum Decree, Section 8 of the TP Decree.

least once.¹³⁰ 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.¹³¹ 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.¹³² The referenced decree also provides that the allowance is transferred by the asylum authority,¹³³ 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 6.¹³⁴ 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.¹³⁵ 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.

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

¹³⁰ UNHCR, *Hungary: Multi-Sectoral Needs Assessment*, November 2022, available at: <https://bit.ly/3HrxW39>, 14.

¹³¹ Information received from the Ministry of Economic Development by the HHC on 27 January 2023 .

¹³² Section 53 (3) of Asylum Decree.

¹³³ Section 4 (4) of Government Decree 106/2022 (III.12).

¹³⁴ Section (4a)-(4b) of Government Decree 106/2022 (III.12).

¹³⁵ Letter of the NGDAP asylum authority received by the HHC on 16 June 2022.

	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,¹³⁶ 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 **Fölpösdaróc** (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 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:

¹³⁶ UNHCR, *Inter-Agency Operational Update Hungary*, 10 May 2022, available at: <https://bit.ly/3wS7A5v>.

- ❖ 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 article¹³⁷ 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 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 project¹³⁸ 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 website¹³⁹ and physically on leaflets in the asylum client services. Terre des Hommes

¹³⁷ Atlatzso, 'Kormányközeli munkaerő-toborzó cég hirdethet az ukrán menekülteknek az állami központokban', 31 March 2022, available in Hungarian at: <http://bit.ly/3HZzMdq>.

¹³⁸ Safemployment Hungary project on Menedék Association's website: <https://bit.ly/3YiGMax>.

¹³⁹ Safemployment Hungary project on the NGDAP's website: <https://bit.ly/3RpHC2J>.

also organised a discussion on issues related to labour exploitation for people who fled Ukraine.¹⁴⁰ 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.¹⁴¹

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.¹⁴² According to the TP Decree, beneficiaries and applicants may work in the territory of Hungary without special permission, including temporary employment and public employment.¹⁴³ 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.¹⁴⁴ This regulation was amended and consequently, not only beneficiaries, but applicants could also be employed in the jobs specified in the mentioned communication.¹⁴⁵ 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.¹⁴⁶

To be employed, the applicant or the beneficiary has to be at least 16 years old.¹⁴⁷ The employer shall notify the immigration authority of the employment of a person under the TP Decree.¹⁴⁸ 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.¹⁴⁹

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.¹⁵⁰ 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.¹⁵¹ A person eligible for employment is not obliged to accept the job offered to them if:

¹⁴⁰ Information received from Terre des Hommes Hungary on 28 January 2023.

¹⁴¹ Information received from Next Step Hungary Association by the HHC on 6 February 2023.

¹⁴² As provided in Section 39 (1) of Act CXIX of 2011 on Public Service Officials and Section 20 (1) c.) of Act XXXIII of 1992 on Civil Servant Status.

¹⁴³ Section 6(4) and Section 7 of the TP Decree.

¹⁴⁴ 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>.

¹⁴⁵ TP Decree as amended by Section 2 of Government Decree 112/2022 (III.22).

¹⁴⁶ TP Decree as amended by Section 1 of Government Decree 175/2022 (IV.29).

¹⁴⁷ Section 1 b.) of Government Decree 106/2022. (III. 12.).

¹⁴⁸ Section 6 (6) of the TP Decree.

¹⁴⁹ Section 71 of Act II of 2007 on the entry and stay of third-country nationals.

¹⁵⁰ Section 2 (3) of Government Decree 106/2022 (III.12) as amended by Section 9 of Government Decree 170/2022 (IV.29).

¹⁵¹ Section 2 (5) of Government Decree 106/2022 (III.12).

- ❖ 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 18.¹⁵²

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.¹⁵³

The support is to be provided upon the request of the employer,¹⁵⁴ which is to be submitted at the competent Government Office ("*Kormányhivatal*").¹⁵⁵ 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.¹⁵⁶ 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 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.¹⁵⁷ 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.¹⁵⁸ The support received thereon is free of taxes.¹⁵⁹

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.¹⁶⁰

Furthermore, since 9 May 2022, not only companies as defined above may apply for support, but also:

¹⁵² Section 2 (7) of Government Decree 106/2022 (III.12).

¹⁵³ Section 1 of Government Decree 96/2022 (III.10).

¹⁵⁴ Section 4(1) of Government Decree 96/2022 (III.10).

¹⁵⁵ Section 5(2) of Government Decree 96/2022 (III.10).

¹⁵⁶ Section 4(2) of Government Decree 96/2022 (III.10) as amended by Section 2 of Government Decree 173/2022 (IV.29).

¹⁵⁷ Section 7(2)-(8) of Government Decree 96/2022 (III.10).

¹⁵⁸ Section 8(1) of Government Decree 96/2022 (III.10).

¹⁵⁹ Section 7 (10) of Government Decree 96/2022 (III.10).

¹⁶⁰ Section 1 of Government Decree 172/2022 (IV.29).

- ❖ 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).¹⁶¹ 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.¹⁶²

In practice it remains unclear how the Minister has complied with these obligations.

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.¹⁶³

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 2022.¹⁶⁴

Kalunba reported that it too operates its own labour-market integration programme available for Ukrainian refugees.¹⁶⁵

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

¹⁶¹ Section 1 of Government Decree 173/2022 (IV.29).

¹⁶² Section 3(1) of Government Decree 96/2022 (III.10).

¹⁶³ Information received from the Hungarian Maltese Charity Service by the HHC on 19 January and 2 February 2023.

¹⁶⁴ Information received from Menedék Association by the HHC on 28 February 2023.

¹⁶⁵ Information received from Kalunba organisation by the HHC on 6 February 2023.

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.¹⁶⁶

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.¹⁶⁷ 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.¹⁶⁸ 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.¹⁶⁹

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.¹⁷⁰

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.¹⁷¹ 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.¹⁷²

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.¹⁷³ 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.¹⁷⁴ Lastly, in the set of legal instruments providing for the

¹⁶⁶ Section 22 (1) of Act CXXV of 2003 on equal treatment and the promotion of equal opportunities.

¹⁶⁷ UNHCR, *Hungary: Multi-Sectoral Needs Assessment*, November 2022, available at: <https://bit.ly/3HrxW39>, 16.

¹⁶⁸ Information received from Menedék Association by the HHC on 28 February 2023.

¹⁶⁹ Information received from Next Step Hungary Association on 6 February 2023.

¹⁷⁰ Information received from the Ministry of Economic Development by the HHC on 27 January 2023.

¹⁷¹ Section 8(2) of Act CXC of 2011 on Public Education.

¹⁷² Section 45 (2)-(3) and (5) of Act CXC of 2011 on Public Education.

¹⁷³ Section 92 (1) a.), (3)-(4) of Act CXC of 2011 on Public Education.

¹⁷⁴ Section 3 of Government Decree 106/2022 (III.12).

education of temporary protection beneficiaries, the Asylum Decree holds that the beneficiary is entitled to the reimbursement of the cost of education.¹⁷⁵

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.¹⁷⁶

Menedék Association put together a guide on the most essential information on the Hungarian education system for parents, available in Ukrainian, English and Hungarian.¹⁷⁷

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.¹⁷⁸

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 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 was 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.¹⁷⁹ The HHC recorded a case in September 2022, in **Balatonakarattya**, 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

¹⁷⁵ 37/A (1) c.) and 45 of Asylum Decree.

¹⁷⁶ 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.

¹⁷⁷ Menedék Association: *Going to Kindergarten and School in Hungary: a parent's guide to the Hungarian Education System*, available: <https://bit.ly/3ZrTvba>.

¹⁷⁸ Information received from the Office of Education by the HHC on 27 January 2023.

¹⁷⁹ Information received from Terre Des Hommes Hungary by the HHC on 29 January 2023.

Ukrainian online education for them. This has been noted by the Caritas Hungarica,¹⁸⁰ Terre Des Hommes¹⁸¹, Menedék Association,¹⁸² the Jesuit Refugee Service,¹⁸³ Kalunba organisation,¹⁸⁴ BMSZKI¹⁸⁵ 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.¹⁸⁶ 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.

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 2022.¹⁸⁷ 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.¹⁸⁸ 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.¹⁸⁹ The Jesuit Refugee Service reported that enrolling children to age-appropriate education in Hungary was problematic on some occasions.¹⁹⁰ BMSZKI helping around 50 children to access public education also underlined this finding.¹⁹¹ 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.¹⁹²

¹⁸⁰ Information received from Caritas Hungarica by the HHC on 23 January 2023.

¹⁸¹ Information received from Terre Des Hommes Hungary by the HHC on 29 January 2023.

¹⁸² Information received from Menedék Association by the HHC on 28 February 2023.

¹⁸³ Information received from the Jesuit Refugee Service by the HHC on 3 March 2023.

¹⁸⁴ Information received from Kalunba organisation by the HHC on 6 February 2023.

¹⁸⁵ Information received from BMSZKI by the HHC on 13 February 2023.

¹⁸⁶ Information received from the Menedék Association and Jesuit Refugee Service by the HHC on 28 February and 3 March 2023.

¹⁸⁷ UNHCR, *Hungary: Multi-Sectoral Needs Assessment*, November 2022, available at: <https://bit.ly/3HrxW39>.

¹⁸⁸ Information received from the BMSZKI by the HHC on 13 February 2023.

¹⁸⁹ Information received from the IOM by the HHC on 14 February 2023.

¹⁹⁰ Information received from the Jesuit Refugee Service by the HHC on 3 March 2023.

¹⁹¹ Information received from BMSZKI by the HHC on 13 February 2023.

¹⁹² Information received from the Jesuit Refugee Service by the HHC on 3 March 2023.

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.¹⁹³

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.

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.¹⁹⁴ 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.¹⁹⁵

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.¹⁹⁶ 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.¹⁹⁷

¹⁹³ Information received from the BMSZKI by the HHC on 13 February 2023.

¹⁹⁴ Section 4 point 25. of Act CXC of 2011 on Public Education.

¹⁹⁵ Section 47 of Act CXC of 2011 on Public Education.

¹⁹⁶ Information received from Menedék Association by the HHC on 28 February 2023.

¹⁹⁷ Information received from Kalunba organisation by the HHC on 6 February 2023.

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.¹⁹⁸ 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 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.¹⁹⁹ 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.²⁰⁰ 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.

¹⁹⁸ Article 39 (1)b.) of Act CCIV of 2011 on Higher Education.

¹⁹⁹ Tempus Public Foundation, 'Students at risk programme for students fleeing the war in Ukraine', 1 April 2022, available at: <http://bit.ly/3JFpfVO>.

²⁰⁰ The university's official communication is available at: <https://bit.ly/3RBJKEL>.

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.²⁰¹ 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.²⁰²

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.

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 Asylum²⁰³ and TP²⁰⁴ 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),²⁰⁵
- 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;

²⁰¹ Section 29 (4) of Act LXXXIV of 1998 on aiding families.

²⁰² Section 35 of Act LXXXIV of 1998 on aiding families.

²⁰³ Sections 26-28 and 44(2) of Asylum Decree.

²⁰⁴ Section 6(2) of TP Decree.

²⁰⁵ As provided in Act CXXIII of 2015 on general medical care.

- 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 Association²⁰⁶ and Terre Des Hommes,²⁰⁷ and Kalunba,²⁰⁸ 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.

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.²⁰⁹ The cost of health care service is then to be reimbursed by the asylum authority.²¹⁰ 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.²¹¹

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

²⁰⁶ Information received from Menedék Association by the HHC on 28 February 2023.

²⁰⁷ Information received from Terre Des Hommes Hungary on 28 January 2023.

²⁰⁸ Information received from Kalunba organisation by the HHC on 5 February 2023.

²⁰⁹ Section 2 of Government Decree 171/2022 (IV.29).

²¹⁰ 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.

²¹¹ Information received from BMSZKI by the HHC on 13 February 2023.

discriminatory practices towards refugees from Ukraine, including Roma communities from the Transcarpathia region.²¹²

Menedék Association put together a policy-specific recommendation based on their experience concerning the health-care provision of people fleeing Ukraine.²¹³

²¹² Information received from the IOM by the HHC on 14 February 2023.

²¹³ Menedék Association: Recommendations in the area of health care provision of people fleeing Ukraine, available in Hungarian at: <https://bit.ly/3M0oJ5X>.