

# Temporary Protection Malta

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

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## Temporary Protection Procedure

### A. General

The Temporary Protection for Displaced Persons (Minimum Standards) Regulations<sup>1</sup> were adopted by the Home Affairs Ministry in May 2005 as subsidiary legislation to the International Protection Act. In terms of content, the Regulations faithfully transpose the Directive provisions to the letter. The Regulations specify that the CEO's declaration will also specify the groups of persons eligible for Temporary Protection.

On 8 March 2022, Malta activated the Regulations following the relevant Council decision.<sup>2</sup> The Regulations state that the existence of a “*mass influx of displaced persons shall be made by the Chief Executive Officer*”, being the CEO of the International Protection Agency. The only public information available regarding the CEO's declaration is an undated page on the Home Affairs Ministry's website.<sup>3</sup>

The declaration states that the following persons are eligible for temporary protection:

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

Furthermore, “*family members*” is defined as the following persons who were already present and residing in Ukraine before 24 February 2022:

- a) the spouse of a person referred to in point (a) or (b), or the unmarried partner in a stable relationship;
- b) the minor unmarried children of a person referred to in point (a) or (b), or of his or her spouse, without distinction as to whether they were born in or out of wedlock or adopted;
- c) other close relatives who lived together as part of the family unit at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent on a person referred to in point (a) or (b) at the time.

Finally, the declaration also states that Temporary Protection shall also be granted to stateless persons third country nationals (other than Ukraine), as long as they are able to prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit issued in accordance with Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin.

Furthermore, following the amendment of the operating plan with EUAA, the Agency committed to provide specific support for the registration and processing of TP applications. This support includes;

- Standard operating procedures on the implementation of the Temporary Protection Directive are established and fully in line with the Council Implementing Decision (EU) 2022/382 of 4 March 2022;
- Regular coordination meetings will be held among the concerned representatives of the national authorities and EUAA to ensure effective collaboration and coordination;
- The Maltese authorities make the necessary office space available for the Agency's deployed personnel and provide the necessary equipment for implementation of the activities, unless otherwise agreed;

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<sup>1</sup> Temporary Protection for Displaced Persons (Minimum Standards) Regulations, Subsidiary Legislation 420.05, 6 May 2005, available at: <https://bit.ly/3A1bNRg>.

<sup>2</sup> European Union Agency for Asylum, Information on Temporary Protection: Malta, June 2022, available at: <https://bit.ly/3H2RLP4>.

<sup>3</sup> Ministry for Home Affairs, Security, Reforms and Equality, Temporary Protection Directive (2001/55/EC) – Ukraine Nationals, available at: <https://bit.ly/3N4ckyr>.

- A bi-directional data sharing on the outputs of EUAA deployed personnel under the performed operational activities and detailed overall national data on the respective statistical indicator;
- Support the drafting of leaflets/info-material in a language likely to be understood, when necessary;
- Support the delivery of information sessions on the provisions of the TPD in a language likely to be understood;
- Support TP registrations;
- Support in assessing the eligibility criteria for TP applications;
- Support the issuing of TP decisions;
- Support the issuing and the delivery of TP certificates;
- Additional support for the implementation of TP activities, conditional upon agreement between EUAA and the Maltese authorities.

Accordingly, asylum support teams were re-deployed from the support provided the registration and processing of international protection applications and from the support provided in reception.

In early 2023, the NGO SOS Malta conducted a survey among the Ukrainian community in Malta (with 81 respondents), summarised below:

- Most respondents reached Malta between 6 and 11 months ago;
- 60% of respondents are renting an apartment, whilst 16.3% rent with other unrelated persons. The remainder are in provided accommodation (NGO, Maltese people, friends);
- Most expressed that no discrimination issues were faced when seeking accommodation;
- Main moments for social engagement with co-nationals: individual and general meetings and rallies;
- 31% of respondents sought psychological support;
- Overall, these are the concerns expressed:
  - ❖ Generally, lack of information on anything;
  - ❖ Employment: language requirements (English), employers not recruiting due to fear of return to Ukraine;
  - ❖ Educational: children arriving mid-way through the academic year meant they were not admitted to school, administrative delays in registering children, traumatised children, burdensome documentation requirements, adults unable to continue their studies;
  - ❖ Healthcare: expensive medicines, long waiting lists, dismissive attitude of healthcare staff;
  - ❖ Mental health situation remains an obstacle to achieving normality;
  - ❖ Discrimination: some with expensive possessions from home (e.g. a car) were criticised as not being worthy of protection or support;
  - ❖ No affordable housing;
  - ❖ No legal aid.

Between 24 February 2022 and 2 April 2023, a total of 1842 persons have been granted temporary protection in Malta.<sup>4</sup> The vast majority of protection beneficiaries are Ukrainian women.<sup>5</sup>

## B. Qualification for temporary protection

The persons eligible for temporary protection are those outlined in the CEO's declaration, mentioned above. This criterion has been strictly applied.

All persons applying for temporary protection and not fulfilling the eligibility criteria, including persons who left Ukraine before 24 February, were prevented from applying for temporary protection and instructed to seek international protection as per the regular channels.

<sup>4</sup> Information provided by the International Protection Agency.

<sup>5</sup> Data available at <https://bit.ly/3KTcDtj>

The Regulations and the CEO's Declaration mirror the Decision's wording. TCN's and stateless persons could be eligible for temporary protection as long as they fulfil the stipulated requirements.

TCN parents of Ukrainian nationals were not deemed to be eligible for temporary protection in terms of the "family member" definition. These persons were then required to show, if possible, that they fulfilled the criteria relating to all other TCNs. Attempts were made by some applicants to argue that separation from their children would constitute a situation falling under "unable to return in safe and durable conditions to their country or region of origin". This was not accepted by the International Protection Agency. It is understood that these persons left Malta to seek protection elsewhere.

NGOs providing legal services confirmed that no stateless persons approached their offices for assistance relating to temporary protection.

Persons fleeing Ukraine who are not eligible for temporary protection were given a number of options:

1. International protection through the regular channels;
2. Travel to another EU Member State to seek temporary protection
3. Return to Ukraine and travel back to Malta if the condition "*residing in Ukraine before 24 February 2022*" is met.

In practice, several persons travelled back to Ukraine through informal travel arrangements whilst many others applied for international protection.

The temporal scope of temporary protection under the TPD was not extended.

In February 2022, a Community Crisis Centre was created with the help of the Honorary Consulate of Ukraine in Malta, to better coordinating reception efforts.<sup>6</sup> As of March 2022, the International Protection Agency started to provide specific information regarding applications to Ukrainian Nationals that wish to apply for the Temporary Protection under the Temporary Protection Directive (2001/55/EC).<sup>7</sup>

On 18 March 2022, the Maltese authorities requested support from EUAA, with personnel and services to support the implementation of the Temporary Protection Directive in Malta, via a letter addressed to the Executive Director of the EUAA.

NGOs reported that Malta has seen some applications from third country nationals who did not satisfy the requirements of the Directive, i.e. third country nationals benefitting from temporary residence permits in Ukraine and Russian nationals but reported the phenomenon was limited.

## C. Access to temporary protection and registration

### 1. Admission to territory

The vast majority of applicants reached Malta by plane in a regular manner. No particular immigration checks were applied, and no restrictions for what concerned access to the territory were reported. Applicants and beneficiaries who left back to Ukraine could re-enter the country.

Malta lifted the COVID-19 restrictions very early in the year and quarantine at an alternative accommodation was allowed.

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<sup>6</sup> Information distributed by the centre can be found at: <https://bit.ly/3wPKGgA>.

<sup>7</sup> Information available on the Home Affairs Ministry of Malta at: <https://bit.ly/3qPUIdx>.

## 2. Freedom of movement

No reports or incidents were noticed. There was a time where applicants faced some challenges with procuring documentation relating to civil status, yet it seems that the Consulate intervene to assist.

## 3. Registration under temporary protection

The International Protection Agency registered applicants through a straightforward procedure at front desk level. Applicants are required to set an appointment – in person, via telephone or email – during which they are expected to provide the documents confirming their eligibility for temporary protection. If the submitted documentation fulfilled the eligibility requirements, temporary protection was immediately granted.

Where a person expresses the intention to apply for temporary protection at the border, immigration officials at the airport would share the contact details of the International Protection Agency. No time limits are stipulated for individuals to make their applications.

Applicants are expected to provide the following documents:<sup>8</sup>

- original identification documents (passport, identity card, etc.)
- travel documents that show their travel route
- original or printed copies of birth certificates of minor children
- printed copies (documents cannot be printed at the IPA) of:
  - the first page of their passport – identity card (with the personal detail information/biodata page) and;
  - of the page(s) including the stamp related to entry in the EU and/or the pages with the VISA issued by an EU Member state.

No document was provided upon registration. In most cases this did not present any challenges since the timeframe between registration and a decision was usually extremely brief.

This was not so for persons denied temporary protection who subsequently appealed this negative decision, nor were any problems registered regarding the registration of applications.

The Regulations do not stipulate any right or procedure to appeal against negative decisions on temporary protection. Challenges were faced by some applicants who were deemed not to be eligible for temporary protection but not provided with any decision in writing explaining reasons in fact and law for the decision on ineligibility.

When approached on this matter, the International Protection Agency stated that the Directive does not place an obligation on the competent national authorities to give reasons in writing as to why a request for temporary protection is not being acceded to.

It appears that the International Protection Appeals Tribunal has not, so far, declared any such appeal as ineligible or inadmissible.

## 4. Legal assistance

Applicants are entitled to secure their own legal services, and no legal aid is provided by the State. Furthermore, applicants for international protection are only entitled to State legal aid at second instance.

In practice, most applicants for temporary protection approached NGOs for information and legal assistance: aditus foundation and Jesuit Refugee Service Malta. The Ukrainian community in Malta also

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<sup>8</sup> Information provided by the International Protection Agency to the Malta Refugee Council, available at: <https://bit.ly/3UXAWea>.

provided information to applicants and referred individual cases where necessary. Some applicants were able to pay private lawyers.

NGOs provided the only free legal services. The only practical obstacles possibly encountered included identifying suitable interpreters/translators, including for documents, and waiting lists since the NGOs providing the services also provide their services to several other groups of people.

## 5. Information provision and access to NGOs

Regulation 10 states requires the State to provide beneficiaries “with a document, in a language likely to be understood by them, in which the provisions relating to temporary protection, and which are relevant to them are clearly set out.”

The International Protection Agency produced two leaflets in English, disseminated to persons together with the decision and temporary protection certificate: ‘Frequently Asked Questions’ and ‘Rights of persons enjoying temporary protection’.<sup>9</sup>

The Malta Refugee Council regularly posted information updates on its website and social media sites, under the heading ‘Ukraine Info’.<sup>10</sup> The NGO aditus foundation published a Fact Sheet on Temporary Protection.<sup>11</sup> During the early months of the arrivals to Malta, the Malta Refugee Council organised a series of information meetings with representatives of the Ukrainian community and government officials, with the aim of explaining issues such as social support, accommodation, documentation, etc.

Furthermore, the Ukraine Community Crisis Centre Malta was established with the help of the Honorary Consulate of Ukraine in Malta.<sup>12</sup> It provided the following support:

- Information on the rules of arrival in Malta (quarantine rules, border crossing rules, travel with animals, etc.);
- Information support regarding temporary accommodation during quarantine;
- Information support on further steps after the end of quarantine;
- Information provision, assistance and welcoming by volunteers upon arrival at the Malta International Airport;
- Practical assistance during quarantine. The Crisis Centre had several volunteers who can be contacted directly for support with food, clothing, medicine, etc.;
- Information support with reference to the collection of medical and non-medical humanitarian aid;
- Information support for finding and coordinating volunteers.<sup>13</sup>

The main information challenges related to the absence of information in Ukrainian, the limited availability of interpreters/translators and the seemingly uncoordinated approach of Government entities on the content of protection and related procedures.<sup>14</sup>

At the Malta International Airport, immigration officials refer applicants to the International Protection Agency. No interpretation is available at this point.

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<sup>9</sup> The two leaflets are available on this news post of the Malta Refugee Council: <https://bit.ly/3LuhD9n>.

<sup>10</sup> Malta Refugee Council, Latest News from Malta Refugee Council: <https://bit.ly/3H4nbEV>.

<sup>11</sup> aditus foundation, Fact Sheet No. 24 – Temporary Protection for Persons Fleeing Ukraine, May 2022: <https://bit.ly/3H55cOB>.

<sup>12</sup> Facebook page of the Ukrainian Community Crisis Centre Malta: <https://bit.ly/41rmzB3>.

<sup>13</sup> Matla Refugee Council, Ukraine Info: Ukraine Community Crsis Centre Malta, 28 March 2022: <https://bit.ly/3ow0SBq>.

<sup>14</sup> Malta Refugee Council, Malta needs to coordinate its response to Ukrainian refugees: We urge Government to establish a Humanitrian Coordinaton Committee, with effective Civil Society participation, 21 March 2022, available at: <https://bit.ly/43Q46Qr>.

## D. Guarantees for vulnerable groups

There is no specific mechanism for temporary protection applicants, yet it is assumed that the regular procedures for identifying vulnerable asylum-seekers could be applied (see [Identification of vulnerable applicants, AIDA Country Report – 2022 Update](#)).

No specific procedure was set-up to address the needs of individuals fleeing from Ukraine suffering from mental health problems, including survivors of torture and other traumatised persons.



## Content of Temporary Protection

### A. Status and residence

#### 1. Residence permit

##### Indicators: Residence permit

- |  |                          |
|--|--------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection?   | Valid until 4 March 2024 |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2022? | Not available            |

Beneficiaries of temporary protection apply for an appointment at the public agency Identity Malta. Upon presentation and verification of the required documents, the residence permit is issued within days. The required documents are:<sup>15</sup>

- Identity Malta Form ID 1A (filled). This is downloadable from the Identity Malta site;
- Identity Malta Form CEA (filled). Available as above;
- Lease agreement;
- Rental declaration form (filled by the lessor). Available as above;
- IPA certificate;
- IPA decision letter;
- Payment of €27.50 per person (also children);
- Deed of purchase of the property (if landlord is not a Maltese national).

Difficulties were encountered in the first months since Identity Malta was not issuing residence permits and Government officials were informing temporary protection applicants and beneficiaries that no residence permits were actually required. This error was rectified, and the procedure streamlined.

Another difficulty related to the requirement that holders present a lease agreement as several persons were not actually renting but being accommodated by friends or families. This was eventually rectified by allowing persons to present declarations from hosts confirming accommodation.

Residence permits had an initial validity of one year (until 4 March 2023); after this date, all expired permits can be automatically renewed upon renewal of temporary protection certificate until 4 March 2024.

In terms of law, all rights of beneficiaries are associated with the temporary protection and not with the residence permit. In practice, however, all rights require a residence permit for their enjoyment.

No additional conditions are imposed for the enjoyment of rights.

TP holders are required to relinquish their temporary protection in Malta by writing to the International Protection Agency. This also applies for TP holders wishing to move to Malta. Specifically, the International Protection Agency states that, "Malta is connected to the EU TP solidarity platform and data of persons granted TP in Malta is regularly being uploaded to the system. In the case of a hit with another Member State, the competent authorities of that Member State are notified accordingly so that the TP status and residence permit in that Member State can be withdrawn/de-registered.

Without prejudice to the above, it is recommended that before requesting TP in Malta, the person concerned confirms that he/she is eligible for TP in Malta and informs the competent authorities of the Member State where he/she was originally granted TP of his/her intention to request TP in Malta."<sup>16</sup>

<sup>15</sup> Malta Refugee Council, Ukraine Info: Residence Permits for Temporary Protection holders, 29 April 2022: <https://bit.ly/3N3ojwj>.

<sup>16</sup> Information provided by the IPA to the Malta Refugee Council, reproduced at: <https://bit.ly/3HcXKAQ>.

## 2. Access to asylum

The Regulations provide that persons enjoying temporary protection shall be able to lodge an application for asylum at any time. The examination of any asylum application not processed before the end of the period of temporary protection shall be completed after the end of that period.<sup>17</sup>

The Regulations further provide that here, after an asylum application has been examined, refugee status or, where applicable, any other kind of protection is not granted to a person eligible for or enjoying temporary protection, then, without prejudice to their right to appeal, that person shall enjoy or shall continue to enjoy temporary protection for the remainder of the period of protection.<sup>18</sup>

There was no report of TP holders wishing to apply for asylum. However, persons fleeing the war who have applied for international protection are being processed together with all other asylum applicants.

### B. Family reunification

Temporary protection beneficiaries cannot apply for family reunification using existing provisions beyond the TPD framework, as they are entitled only to the same rights as [subsidiary protection beneficiaries](#).

### C. Movement and mobility

Beneficiaries of temporary protection have freedom of movement within the State and towards other EUMS once registered.

No issues are reported regarding the experience of TP beneficiaries who wished to travel to Ukraine temporarily. However, the International Protection Agency stated that a return to Ukraine – irrespectively of duration of purpose – could result in a withdrawal of TP,<sup>19</sup> with the possibility of the person applying for TP once again.

### D. Housing

#### Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?	6 months
2. Number of beneficiaries staying in reception centres as of 12/2022	Not available
3. Number of beneficiaries staying in private accommodation as of 12/2022	Not available

TP holders are entitled to seek accommodated in the open reception centres managed by the Agency for the Welfare of Asylum-Seekers (AWAS).

Beneficiaries of TP are not entitled to access reception conditions in the same way as asylum-seekers. Holders are entitled to the same rights as SP beneficiaries, and to accommodation in the open reception centres for the maximum permissible period.

AWAS is responsible for the provision of reception to beneficiaries of TP.

<sup>17</sup> Regulation 18 of the Temporary Protection for Displaced Persons (Minimum Standards) Regulations, Subsidiary Legislation 420.05 of the Laws of Malta.

<sup>18</sup> Regulation 20(2) of the Temporary Protection for Displaced Persons (Minimum Standards) Regulations, Subsidiary Legislation 420.05 of the Laws of Malta.

<sup>19</sup> Malta Refugee Council, Ukraine Info: Holders of Temporary Protection temporarily returning to Ukraine, 5 August 2022, available at: <https://bit.ly/40wpfMF>

Beneficiaries are entitled to stay in reception centres for 6 months, with the possibility of this being reviewed on a case-by-case basis.

No places were specifically dedicated to TP beneficiaries in reception centres.

TP applicants and holders generally used hotels and private accommodation, as most had contacts here in Malta (being family or friends). These were not coordinated or in any way related to the general reception scheme and entirely private initiatives.

Although there were no formal obstacles to accessing open reception centres, TP applicants and holders refused to be accommodated in them due to abysmal living conditions

TP holders are not entitled to reception conditions. They are entitled to the same rights as subsidiary protection beneficiaries, with the possibility of being accommodated in the open reception centres for up to 6 months, as above.

The vast majority of applicants and holders secured accommodation privately, either through friends and/or family already based in Malta. NGOs received several offers of accommodation, yet there was/is no centralised platform to coordinate or monitor these spaces. Ad hoc initiatives were also being implemented.<sup>20</sup>

The Ukrainian Community circulated a site for persons to refer to when seeking accommodation,<sup>21</sup> yet not information is available as to its effectiveness or operation.

Reception in private accommodation is not organised by the State. It would only be involved if, as with all other situations, the situation raised issues of security or violation or rent laws.

No compensation was provided to private hosts. Funds were made available at the beginning of the arrivals, to cover hotel and other accommodation costs linked to quarantine measures.<sup>22</sup>

SOS Malta published a survey on housing in September 2022, where it found that 45% of TP holders were renting an apartment themselves, 31% were in a private apartment or house with or without a foster family and 17% were renting an apartment with another Ukrainian family. The rest of the respondents indicated that they were hosted in a house or apartment provided by the authorities (this remains unclear) or were renting a hotel or Airbnb.<sup>23</sup>

The main challenges faced in securing housing were:

- Open reception centres offer substandard living conditions;
- No State-coordinated accommodation system;
- Exorbitant rent prices, coupled with difficulties securing livelihood;
- Private hosts not provided with any form of support;
- No monitoring of private offers.

There are no safeguards to prevent risks of exploitations beyond mainstream services.

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<sup>20</sup> For example, see: <https://bit.ly/3UXCHb3>.

<sup>21</sup> See Ukraine Take Shelter, Housing for Ukrainian Refugees here: <https://bit.ly/3UVHQR2>.

<sup>22</sup> Ministry of Foreign and European Affairs and Trade, The Ministry for Foreign and European Affairs is offering to cover the accommodation costs of Ukrainian nationals and their dependents fleeing from the current conflict in Ukraine, 2 March 2022, available at: <https://bit.ly/3Amj2Z7>.

<sup>23</sup> Malta Council for Refugees, Ukraine info: SOS Malta publishes survey results persons who fled Ukraine to Malta, September 2022, available at <https://bit.ly/40nwPZW>.

## E. Employment and education

### 1. Access to the labour market

Access to the labour market is guaranteed in the same conditions as subsidiary protection holders. TP holders are granted an employment licence in their own name by the public entity Jobsplus.

No specific regulation or policy is in place to facilitate access to the labour market for TP beneficiaries. TP beneficiaries are not entitled to equal treatment to nationals with regard to employment.

### 2. Access to education

The Regulations state that children TP holders are entitled to access education at par with Maltese nationals. Adults may be allowed to access the public education system by the IPA CEO.

TP beneficiaries are entitled to education under the same conditions as nationals if they are under the age of 18.

Language difficulties and administrative issues in securing documentation (in the early months of arrivals) are the main issues faced in accessing the education system. The Migrant Learners Unit, a public initiative offering language classes to prepare newly-arrived migrants for mainstreaming education, stepped up its registration efforts to meet the new increased demand for registrations.<sup>24</sup>

Vaccinations, whilst necessary to access education, are freely administered.<sup>25</sup>

NGO stepped in to provide language education classes to adults.

If the child beneficiary has special needs they would be treated as Maltese children with particular needs.

TP holders above the age of 18 are treated as SP holders for purposes of access to education. They may apply for an exemption of fees for attending public educational institutions<sup>26</sup>.

Refugees, SP and TP holders have their fees waived when seeking to have their educational certificates recognised through the Malta Qualifications Recognition Information Centre (MQRIC).<sup>27</sup>

The policy on exemption of fees, above, also applies here.

Language challenges remain the main obstacles to full enjoyment of education rights.

## F. Social welfare

The Regulations state that TP beneficiaries are entitled to “*necessary assistance*”, translated by policy to mean the same level of benefits as SP holders. This is a lower level of social welfare provided to Maltese nationals and recognised refugees.

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<sup>24</sup> See Malta Refugee Council, Ukraine info: Registering children at the Migrant Learners' Unit here: <https://bit.ly/3oBOOyM>.

<sup>25</sup> Malta Refugee Council, Ukraine Info: Updated info re. Health issues for persons coming to Malta from Ukraine, 22 March 2022: <https://bit.ly/3Ne1qGy>.

<sup>26</sup> See <https://bit.ly/40CmZUa>.

<sup>27</sup> See Malta Refugee Council, Ukraine info: fees for the recognition of qualifications waived for Temporary Protection Holders at: <https://bit.ly/3LtDNrX>.

Services are provided by the Foundation for Social Welfare Services,<sup>28</sup> whilst welfare schemes and support are provided by the Department of Social Security.<sup>29</sup>

TP beneficiaries face obstacles such as lack of information and lack of clarity by State entities in accessing social assistance.

## G. Health care

The Regulations state that TP holders are entitled to “*necessary*” medical care, specifying that it includes, as a minimum, essential treatment of illness and emergency care. The Regulations also add that persons with particular requirements, such as vulnerable persons, are entitled to medical support.

No significant challenges were reported in relation to access to health care. The main issues noted were in relation to mental health support, as these services are generally either inaccessible due to long waiting lists, or not sufficiently specialised to deal with particular issues faced by refugees and TP holders.

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<sup>28</sup> Foundation for Social Welfare Services, here: <https://fsws.gov.mt/en>.

<sup>29</sup> Department for social security – MALTA, here: <https://bit.ly/40CPvF6>.