

# Temporary Protection Netherlands

2023 Update

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

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# Temporary Protection Procedure

## A. General

In the Netherlands, the Temporary Protection Directive (TPD) was introduced in national law in 2004/2005, through Articles 3, 43a and 45 (6) of the Aliens Act and Article 3.1a Aliens Decree and Article 3.9a Aliens Regulation. Displaced people who fall under the scope of the TPD are considered asylum seekers under a specific asylum regime. People falling under the scope of the TPD have right of residence in the Netherlands as asylum seekers having been granted temporary protection. As such, they can claim the rights laid down in the TPD. They do not obtain a regular or asylum residence permit.

Title (EN)	Original Title (NL)	Web link
Aliens Act 2000	Vreemdelingenwet 2000	<a href="https://bit.ly/3qUN0MS">https://bit.ly/3qUN0MS</a> (NL) <a href="https://bit.ly/3uzy7XV">https://bit.ly/3uzy7XV</a> (EN)
Aliens Decree 2000	Vreemdelingenbesluit 2000	<a href="https://bit.ly/3ccPTEJ">https://bit.ly/3ccPTEJ</a> (NL)
Aliens Regulation 2000	Voorschrift Vreemdelingen 2000	<a href="https://bit.ly/3qUDYzz">https://bit.ly/3qUDYzz</a> (NL)
Regulation for the Reception of Displaced Persons from Ukraine	Regeling Opvang Ontheemden Oekraïne	<a href="https://bit.ly/3Ujptpv">https://bit.ly/3Ujptpv</a> (NL)
IND Work Instruction 2022/17 (valid from 4 August 2022 until 4 February 2024)	Werkinstructie 2022/17	<a href="https://bit.ly/3wkBouZ">https://bit.ly/3wkBouZ</a> (NL)

As a result of the Implementing Decision (EU) 2022/382, detailed national measures have been introduced.

### *Scope of temporary protection in the national context*

1. Ukrainian nationals who resided in Ukraine on 23 February 2022;
2. Ukrainians who left Ukraine on or after 27 November 2021;
3. Ukrainians who can prove that they were already in the Netherlands before 27 November 2021 and not in another EU country;
4. Non-UA nationals who, on 23 February 2022, had been recognised as refugees by Ukraine;
5. Non-UA nationals who held a valid, permanent Ukrainian residence permit on 23 February 2022 and who had not left Ukraine before 27 November 2021 or had not returned to their country of origin by 23 February 2022;
6. Minor children, the spouse or partner with a long-term relationship of a person falling under the scope of the TPD, who lived together in Ukraine before the start of the war;
7. Other family members (largely) dependent on a person who is part of the above-mentioned groups.<sup>1</sup>

### *National procedure for temporary protection*

The Dutch government introduced a specific national procedure for displaced people from Ukraine. After an initial assessment conducted by a municipality (local council) as to whether the person concerned falls under the scope of the TPD, displaced persons from Ukraine are registered by the municipality in the Personal Records Database (in Dutch: *Basisregistratie Personen* or BRP). Thereafter, the person concerned has to obtain proof of residency (proof of having been granted temporary protection) from the immigration authorities (IND). At that moment, the IND also assesses whether the person concerned falls under the scope of the TPD. The beneficiary must at that moment also submit an asylum application. This is a prerequisite for obtaining temporary protection in the Netherlands.

In case a displaced person does not collect their proof of residency and/or refuses to continue the asylum procedure, the IND will no longer assess their request for temporary protection as well as their asylum

<sup>1</sup> Dutch Parliament, 'Aanpak opvang ontheemden uit Oekraïne', 30 March 2022, available in Dutch at: <https://bit.ly/44fP5rO>.

application. As a result, they are no longer entitled to the rights laid down in the TPD nor the rights connected to the legal status of asylum seeker. Their registration in the BRP no longer reflects their entitlement to temporary protection. From then on they reside illegally in the Netherlands and will receive a return decision from the IND.

As of 12 April 2024, 109,610 displaced persons from Ukraine (nationals and non-nationals from UA) are actively registered in the BRP in the Netherlands.<sup>2</sup>

#### *UA nationals beyond the scope of TPD*

Ukrainian nationals who left Ukraine prior to 27 November 2021 do not fall within the scope of the TPD, unless they had been staying in the Netherlands before this date. They can submit an asylum application at the centre in Ter Apel. No information is available on the numbers of this group of displaced persons.

#### *Third Country nationals from Ukraine (non-UA nationals)*

Initially, displaced non-UA nationals holding a valid Ukrainian residence permit on 23 February 2022 – regardless of whether this was a temporary or a permanent Ukrainian residence permit – were entitled to temporary protection in the Netherlands. However, since then the scope of the TPD concerning non-UA nationals has changed. The situation remains the same for non-Ukrainian nationals with a permanent Ukrainian residence permit. On the other hand, non-Ukrainian nationals who only held a temporary residence permit in Ukraine are no longer included under the scope of TPD in the Netherlands (see [Qualification for temporary protection](#)). Their right to temporary protection would end on 4 March 2023. However, beginning of 2023 the Secretary of State announced that temporary protection for this group would be extended until 4 September 2023. Due to a judgment of the Council of State of 17 January 2024, the temporary protection of this group of non-UA nationals (automatically) ended on 4 March 2024.<sup>3</sup> However, following preliminary questions raised by the Regional Court Amsterdam<sup>4</sup> and by the Council of State on 25 April 2024<sup>5</sup> to the CJEU, the Secretary of State has announced that this specific group non-UA nationals are allowed to stay in the Netherlands until 4 March 2025 while awaiting the judgment of the Court of Justice of the EU.<sup>6</sup>

It should be noted that, as extensively described in the [AIDA country report](#), the Netherlands faces a significant shortage of reception places for asylum seekers. For now, reception for this particular group of non-UA nationals remains the municipalities' responsibility.

According to information provided by the Dutch government, this policy applies to approximately 2,750 non-UA nationals who fled Ukraine.<sup>7</sup>

#### *Russian nationals*

Russian nationals who have a valid permanent Ukrainian residence permit on 23 February 2022 or who are family members of a beneficiary of temporary protection are entitled to temporary protection in the Netherlands. Russian nationals who do not fall within the scope of the TPD and flee Russia can submit an asylum application at the application centre in Ter Apel. In 2023, 330 Russian nationals applied for asylum in the Netherlands. In January and February 2024, 42 Russian nationals filed an asylum application in the Netherlands.<sup>8</sup>

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<sup>2</sup> Dutch government, 'Cijfers opvang vluchtelingen uit Oekraïne in Nederland', only available in Dutch at: <https://bit.ly/3kww3KZ>.

<sup>3</sup> Council of State, 202305663/1/V2, 17 January 2024, ECLI:NL:RVS:2024:32, available in Dutch at: <https://bit.ly/3UA6JDh>.

<sup>4</sup> Regional Court Den Haag, Amsterdam, NL24.5401, 29 March 2024, ECLI:NL:RBDHA:2024:4394, available in Dutch at: <https://bit.ly/3Uh6mfJ>.

<sup>5</sup> Council of State, 202401901/1, 202402020/1, 202402066/1, 25 April 2024, available in Dutch at: <https://bit.ly/3y1JM2V>.

<sup>6</sup> Parliament, 'Prejudiciële vragen Afdeling inzake derdelanders uit Oekraïne', 25 April 2024, information available in Dutch at: <https://bit.ly/4aP9INZ>.

<sup>7</sup> Dutch Parliament, 'Kamerbrief over uitwerking maatregelen opvangopgave', 10 February 2023, number 44 75144, information available in Dutch at: <https://bit.ly/3Je4Kii>.

<sup>8</sup> IND, *Asylum Trends, Monthly Report on Asylum Applications in the Netherlands*, February 2024, available at: <https://bit.ly/3xLL7uH>.

## B. Qualification for temporary protection

As previously indicated, different groups qualify for temporary protection in the Netherlands as of 19 July 2022:

1. Ukrainian nationals who:
  - ❖ Resided in Ukraine on 23 February 2022; or
  - ❖ Fled Ukraine on or after 27 November 2021 because of rising tensions or who travelled to the territory of the European Union for another reason (e.g., for vacation or work) in the period from 27 November 2021 to 23 February 2022; or
  - ❖ Can prove that they already resided in the Netherlands before 27 November 2021, for example through a previously submitted asylum application, on the basis of a regular residence permit or a residence permit that has been terminated.
  
2. Stateless or non-UA nationals who:
  - ❖ On 23 February 2022 enjoyed international protection or equivalent national protection in Ukraine; or
  - ❖ Had a valid Ukrainian permanent residence permit as of 23 February 2022 and:
    - with respect to whom there is no evidence that they left Ukraine before 27 November 2021, and;
    - with respect to whom there is no evidence that they returned to their country of origin after 23 February 2022.
  
3. Family members of beneficiaries of temporary protection:
  - ❖ Spouse or partner with whom a long-term relationship is maintained.
  - ❖ Minor (unmarried) children (born within or outside marriage or adopted).
  - ❖ Other family members who lived with the beneficiary and are (largely) dependent on them.

The Dutch Council for Refugees (DCR) had initially understood, from exchanges with the IND, that family members had to prove that they had lived together in Ukraine for at least six months prior to the outbreak of war on 24 February 2022, or from 27 November 2021 until their departure from Ukraine. This applied to partners in a long-term relationship as well as to married couples. The DCR has heard of cases in which the IND or the municipal officer refused temporary protection because the individuals concerned could not substantiate the criterion of cohabitation. As far as known, in cases where lawyers were involved, nevertheless temporary protection was provided. However, while discussing a bill on the reception of Ukrainians in the House of Representatives, the Secretary of State made clear in December 2023 that family members who were in a relationship at the time of the conflict, but only lived together after the outbreak of the conflict in 2022, also came under the scope of the Temporary Protection Directive. There is therefore no need for cohabitation in Ukraine anymore. Moreover, if a TP beneficiary lived with a non-UA national in the Netherlands before 27 November 2021, or in another EU Member State before 23 February 2022, that non-EU national will be brought within the scope of the TPD.<sup>9</sup>

As can be observed from the list above, the scope of the TPD in the Dutch context is broader compared to the Council Implementing Decision 2022/382 as Ukrainian nationals who had already fled Ukraine before 24 February 2022 may also be granted temporary protection in the Netherlands.

Similarly, the scope of the TPD regarding stateless and non-UA nationals is broader in the Dutch context compared to the Council Implementing Decision 2022/382. Non-UA nationals who held a valid Ukrainian permanent residence permit on 23 February 2022 are entitled to temporary protection without determining whether they can return safely and durably to their country or region of origin. Moreover, non-UA nationals holding a temporary Ukrainian residence permit initially also fell within the scope of the TPD. However, that is no longer the case.

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<sup>9</sup> Dutch Parliament, 'Tijdelijke wet opvang ontheemden Oekraïne', available in Dutch at: <https://bit.ly/4atBJde>.

## *Situation of non-Ukrainian nationals who held a temporary residence permit in Ukraine as of 23 February 2022*

Initially, displaced non-UA nationals holding a valid Ukrainian residence permit on 23 February 2022 – regardless of whether this was a temporary or a permanent Ukrainian residence permit – were entitled to temporary protection in the Netherlands. However, since then the scope of the TPD concerning non-UA nationals has changed. The situation remains the same for non-Ukrainian nationals with a permanent Ukrainian residence permit. On the other hand, in the summer of 2022, the Secretary of State announced that non-UA nationals holding a temporary Ukrainian residence permit, who had not been registered in the BRP before 19 July 2022, would no longer fall within the national scope of the TPD.<sup>10</sup> Moreover, the right to temporary protection of those who had registered before 19 July 2022 would end on 4 March 2023. At the beginning of 2023 the Secretary of State announced that temporary protection for this group would be extended until 4 September 2023. The decision to reduce the scope of TPD was motivated by logistical problems, a lack of sufficient reception places for asylum seekers, as well as the backlog at the IND in assessing asylum applications.<sup>11</sup> In the summer of 2023, the IND issued decisions to these non-UA nationals stating that their right to temporary protection would end on 4 September 2023. Appeal procedures were initiated in many of these cases, resulting in divergent case law from the Regional Courts. On 1 September 2023 the Council of State granted provisional measures in one case, ruling that further investigation was required. As a result, the Secretary of State decided to ‘freeze’ the intended termination of temporary protection for the entire group, until the substantive ruling of the Council of State as to whether the termination of temporary protection of this particular group of non-UA nationals on 4 September 2023 was legally valid.

On 17 January 2024, the Council of State ruled<sup>12</sup> that the Secretary of State was not authorised to terminate temporary protection of non-UA nationals with a temporary Ukrainian residence permit who had registered in the BRP before 19 July 2022 on 4 September. On the other hand, the Council of State did not find that temporary protection of this group of non-UA nationals could only be terminated at the same time as the temporary protection of other displaced persons who are then covered by the mandatory scope of the TPD. The Council of State deduced from the Extension Decree ((EU) 2023/2409) of 19 October 2023 that the extension of temporary protection until 4 March 2025 only applies to those still entitled to temporary protection on 19 October 2023. But, as of 19 July 2022, the Netherlands no longer granted temporary protection to the group of non-UA nationals mentioned above. As the Extension Decree dates from 19 October 2023, and that the change of policy applied as of 19 July 2022, Article 1 of the Extension Decree and the extension laid down therein until 4 March 2025 does not apply to this particular group of non-UA nationals. Thus, according to the Council of State, the right to temporary protection of this group of non-UA nationals was to automatically end on 4 March 2024, which is the last day of the previous extension of the TP.

In February 2024, the IND started imposing return decisions on these non-UA nationals. Effective 5 March 2024, they will remain in the Netherlands illegally, unless they decide to file an asylum request or can achieve lawful residence in the Netherlands some other way.

Thus, ultimately, as a result of the ruling of the Council of State on 17 January 2024, the situation was the following:

- ❖ Non-Ukrainian nationals with a temporary residence permit in Ukraine as of 23 February 2022, who had registered in the BRP before 19 July 2022, were to benefit from temporary protection until 04 March 2024. As of 05 March 2024, unless they have managed to find another ground to

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<sup>10</sup> Dutch Parliament, ‘Kamerbrief over aanpassing doelgroep beschermingsrichtlijn Aanpassing Doelgroep Beschermingsrichtlijn’, 18 July 2022, available in Dutch at: <https://bit.ly/3zuFUVF>; see also Staatscourant 2022, 22623, amendment of Article 3.9a of the Aliens Decree, information only available in Dutch at: <https://bit.ly/3nIKVr2>.

<sup>11</sup> Dutch Parliament, ‘Kamerbrief over uitwerking maatregelen opvangopgave’, 10 February 2023, number 44 75144, information available in Dutch at: <https://bit.ly/3Je4Kii> and IND, ‘Extension sticker or card temporary protection Ukraine’, last updated 14 March 2024, available at: <https://bit.ly/3ZAYIDu>.

<sup>12</sup> Council of State, 202305663/1/V2, 17 January 2024, ECLI:NL:RVS:2024:32, available in Dutch at: <https://bit.ly/3UA6JDh>.

stay legally, there were illegally residing in the Netherlands and could be returned. However, there have been ongoing legal challenges at the individual level (see *infra*).

- ❖ Non-Ukrainian nationals with a temporary residence permit in Ukraine as of 23 February 2022, who had **not** registered in the BRP before 19 July 2022, have not been able to access temporary protection in the Netherlands.

Appeals against the return decisions and other appeals concerning the termination of temporary protection on 4 March 2024 have been lodged with regional courts. The regional court Roermond, consisting of three judge panels, has issued three judgments in cases of individuals belonging to this particular group of non-UA nationals. The court ruled that the individuals concerned are entitled to temporary protection until 4 March 2025, just like any other beneficiary of temporary protection.<sup>13</sup> Furthermore, other regional courts consisting of a three judge panels also have issued decisions. Regional courts Den Bosch and Haarlem have ruled the same as the regional court Roermond: the individuals concerned are entitled to temporary protection until 4 March 2025.<sup>14</sup> The regional court Amsterdam, also consisting of a three judge panel, has raised preliminary questions to the Court of Justice of the EU. One of the questions concerns the application of the extension of the TPD by Council Decision (EU) 2023/2409 to the particular group non-UA nationals.<sup>15</sup>

Regional courts Rotterdam, Zwolle, Den Haag, Utrecht and Arnhem, consisting in a three judge panels, have ruled in accordance with the judgment of the Council of State on 17 January 2024.<sup>16</sup>

As far as known about 1,300 appeals were made against the termination of temporary protection on 4 March 2024 of this particular group. The Secretary of State (IND) appealed (at minimum) the decisions of the regional court Roermond before the Council of State. Non-UA nationals also appealed decisions of regional courts that ruled in accordance with the judgement of the Council of State of 17 January 2024.

On 2 April 2024 the Council of State has granted six provisional measures in cases in which an onward appeal was lodged against decisions of regional courts. In these rulings the Council of State referred to the preliminary questions raised by the Regional Court Amsterdam. The individuals in these six cases are allowed to stay in the Netherlands awaiting the preliminary ruling by the CJEU. As these individuals are allowed to stay in the Netherlands they are entitled the rights belonging to the TPD.<sup>17</sup>

On 25 April 2024 the Council of State also raised preliminary questions to the CJEU.<sup>18</sup> Due this judgment the Secretary of State announced that the specific group non-UA nationals are allowed to stay in the Netherlands until 4 March 2025 awaiting the judgment of the CJEU.<sup>19</sup>

In the Dutch context, displaced persons who do not fall within the scope of the temporary protection regime can apply for asylum at the application centre in Ter Apel. Their application is assessed in one of

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<sup>13</sup> Regional Court Den Haag, Roermond, NL23.24995 and NL24.7928, 19 March 2024, ECLI:NL:RBDHA:2024:3694, available in Dutch at: <https://bit.ly/3UBORbd>; NL23.24696 and NL24.7930, 19 March 2024, ECLI:NL:RBDHA:2024:3695, available in Dutch at: <https://bit.ly/4dkWfzg>; NL23.25900 and NL23.40788, 19 March 2024, ECLI:NL:RBDHA:2024:3696, available in Dutch at: <https://bit.ly/3UmJHOW>.

<sup>14</sup> Regional Court Den Haag, Den Bosch, NL23.24873, 25 March 2024, ECLI:NL:RBDHA:2024:4090, available in Dutch at: <https://bit.ly/3UhsmaK>; Regional Court Den Haag, Haarlem, NL23.26969, 27 March 2024, ECLI:NL:RBDHA:2024:4294, available in Dutch at: <https://bit.ly/4aUDRLS>.

<sup>15</sup> Regional Court Den Haag, Amsterdam, NL24.5401, 29 March 2024, ECLI:NL:RBDHA:2024:4394, available in Dutch at: <https://bit.ly/3xX7j5c>.

<sup>16</sup> Regional Court Den Haag, Rotterdam, NL24.6802, 25 March 2024, ECLI:NL:RBDHA:2024:4053, available in Dutch at: <https://bit.ly/3JCkPhI>; Regional Court Den Haag, Utrecht, NL23.25570 and NL24.8178, 26 March 2024, ECLI:NL:RBDHA:2024:4212, available in Dutch at: <https://bit.ly/4dkWquq>; Regional Court Den Haag, Zwolle, NL24.6493, 27 March 2024, ECLI:NL:RBDHA:2024:4248, available in Dutch at: <https://bit.ly/44IVyBj>; Regional Court Den Haag, NL24.7849, 27 March 2024, ECLI:NL:RBDHA:2024:4276, available in Dutch at: <https://bit.ly/44rRZtx>; Regional Court Den Haag, Arnhem, NL23.29253 and NL24.9702, 28 March 2024, ECLI:NL:RBDHA:2024: 4375, available in Dutch at: <https://bit.ly/44ouOvd>.

<sup>17</sup> Council of State, 202402011/3, 2 April 2024, ECLI:NL:RVS:2024:1366, available in Dutch at: <https://bit.ly/4a01Tnn>.

<sup>18</sup> Council of State, 202401901/1, 202402020/1, 202402066/1, 25 April 2024, ECLI:NL:RVS:2024:1742, available in Dutch at: <https://bit.ly/3y1JM2V>.

<sup>19</sup> Parliament, 'Prejudiciële vragen Afdeling inzake derdelanders uit Oekraïne', 25 April 2024, information available in Dutch at: <https://bit.ly/4aP9INZ>.



the asylum procedures ('tracks'). However, as a result of Dutch policy, the processing of Ukrainian nationals' asylum applications have been suspended since 28 February 2022.<sup>20</sup> Exceptions apply for instance for: Dublin cases, cases regarding beneficiaries of protection in other EU Member States, and cases involving people suspected of having committed war crimes or considered a threat to public order or national security. The decision to suspend the processing of Ukrainian nationals' asylum applications was extended until 28 November 2023. As of that date, the State Secretary expected to be able to apply country policy. However, no country policy has been announced to date and, to the best of the knowledge of the authors, no decisions have been made on Ukrainian nationals' asylum applications since. The measure suspending forced returns of Ukrainians taken on 28 February 2022 was applicable until 28 February 2023. This measure was not extended, as the maximum duration of such a measure is one year. Nevertheless, in practice, the government does not take any measures regarding forced returns of Ukrainian nationals.

Following the announcement of the European Commission at the Justice & Home Affairs Council on 14 October 2022 to extend the duration of the Temporary Protection Directive (TPD) for one year (until March 2024), the Dutch authorities extended the applicability of the TPD in the Netherlands until (at least) 4 March 2025.

## C. Access to temporary protection and registration

### 1. Admission to territory

As of March 2024, there has been no report of people having fled Ukraine being refused entry at the Dutch border.

Ukrainian nationals fleeing Ukraine can enter the Netherlands freely if they are in possession of a biometric passport. They can stay in the Netherlands without a Schengen visa for 90 days during the visa-exempt term. Ukrainian nationals with a biometric passport can request for prolongation of their visa exempt term.<sup>21</sup> Ukrainian nationals fleeing from Ukraine who do not hold a biometric passport and non-Ukrainian nationals – as a rule – have to apply for a short stay visa (Schengen visa). The Schengen visa applies for 90 days. When these 90 days have (nearly) expired the visa's validity will be extended for another 90 days, after which they need to have another residence ground, for example by applying for temporary protection or another residence permit.

### 2. Freedom of movement

Displaced persons from Ukraine who fall under the scope of the TPD merely receive proof of residency in the Netherlands. This is not a residence permit. Displaced persons from Ukraine who fall under the scope of the TPD and want to benefit from its provisions must apply for asylum in the Netherlands. Consequently, they are considered asylum seekers falling under a specific asylum regime. For them to travel inside and outside the European Union they need a valid biometric travel document and a short stay (Schengen) visa.

In case they travel outside the EU, they might not be readmitted despite their proof of residency in the Netherlands. As mentioned before, DCR received information that some individuals were refused re-entry into the Schengen area via Poland or via Türkiye. DCR did not receive information about individuals having problems travelling within in the Netherlands or to other EU countries.

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<sup>20</sup> The Secretary of State of Justice & Security, Staatscourant 2023, number 9340, 'Besluit van de Staatssecretaris van Justitie en Veiligheid van 9 maart 2023, nr. 4509940, tot het verlengen van het besluitmoratorium voor vreemdelingen afkomstig uit Oekraïne', available in Dutch at: <https://bit.ly/3lYeODh>; IND, 'War in Ukraine', available at: <https://bit.ly/3WrmRVh>; see also Parliament, Kamerstuk 19637, number 3163, 'Situatie in Oekraïne, 4 September 2023, available in Dutch at: <https://bit.ly/44kkclU>.

<sup>21</sup> Dutch government, 'Frequently asked questions about the situation in Ukraine', available at: <http://bit.ly/3K5sJj8>.



### 3. Registration under temporary protection

Upon entry in the Netherlands, displaced persons from Ukraine are referred to support centres at the Amsterdam and Utrecht Central Stations for the initial reception (also called 'HUB'). At the HUB, the Red Cross is available for questions in Ukrainian, Russian or English. The HUB refers displaced people to a reception facility in 010 a municipality, where there is room for them to be accommodated. In the HUB, displaced people are informed about [www.refugeehelp.nl](http://www.refugeehelp.nl), a website with all the necessary information (also available in Ukrainian) for displaced people from Ukraine.

However, on 20 October 2023 the HUB at Amsterdam Central Station closed as there were no more places available in reception centres either in or close to the capital. Since 27 February 2024, the HUB at Utrecht Central Station is temporarily closed, due to a serious shortage of reception places available in Dutch municipalities. As a result, men traveling alone and couples are no longer accommodated by the HUB. They are advised to report to a municipality on their own initiative. In case they are in need of a place to stay the night they can contact the Red Cross. Women with children, families with children and people in need of care do still have access to the Utrecht HUB.<sup>22</sup> As registration in the BRP is not possible as long as people have not been able to find a municipality where they can be accommodated, the DCR is concerned people will be left too long without access to temporary protection and the associated rights. DCR has heard that displaced persons have been refused access to the HUB. DCR has set up an intervention/ response team *sur place*. The team, consisting of colleagues from DCR, try to find shelter for persons who need such help.

As a rule, displaced people from Ukraine must first be registered by a municipality. After initial assessment by the municipality as to whether the person falls within the scope of the TPD, they are registered by the municipality in the Personal Records Database (*Basisregistratie Personen* or *BRP*). After registration in the BRP has taken place, the person concerned is entitled to the rights laid down in the TPD.

Thereafter, the beneficiary has to report to the IND. The IND (also) assesses whether or not the person concerned falls within the scope of the TPD. This means that the IND assesses whether:

- ❖ the person concerned falls within the TPD implemented in Dutch legislation;
- ❖ the person concerned has committed criminal offences as mentioned in Article 28 of the Temporary Protection Directive (2001/55/EG);
- ❖ the person concerned still has temporary protection in another EU Member State.

If the IND finds that the person concerned falls within the scope of the TPD, the person obtains proof of residency from the IND and must submit an asylum application with the IND.

In order to make clear that they qualify for temporary protection, displaced people from Ukraine are required to provide the IND with documentation proving they are either:<sup>23</sup>

- ❖ A Ukrainian national who resided in Ukraine on 23 February 2022;
- ❖ A Ukrainian national who left Ukraine on or after 27 November 2021;
- ❖ A Ukrainian national who can prove that they were already in the Netherlands before 27 November 2021;
- ❖ A third-country national who, on 23 February 2022, had refugee status in Ukraine;
- ❖ A third-country national who held a valid permanent Ukrainian residence permit on 23 February 2022 and who did not:
  - Leave Ukraine before 27 November 2021; and
  - Return to their country of origin after 23 February 2022
- ❖ The partner, under-aged child or dependent relative of beneficiaries of the TPD.

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<sup>22</sup> Should the outside temperature at night drop below 0 degrees, all displaced people will be allowed access to the HUB for the night. The next morning, men traveling alone and couples will have to leave the HUB.

<sup>23</sup> Rijksdienst voor Identiteitsgegevens, instructions for municipal officials to register displaced persons from Ukraine in the Basisregistratie Personen, available in Dutch at: <https://bit.ly/3IXPJIE>. On this specific webpage, a Q&A section for municipal officials is available, and it provides information on how to register displaced persons from Ukraine.

## Documents

Foreign documents must, as a rule, be apostilled or legalised. Due to the war, in practice people fleeing Ukraine seem to be exempted from this norm. The translation of source documents, such as birth and marriage certificates, by a sworn interpreter/translator is almost impossible in the Netherlands, as demand is often greater than supply. Currently, it is recommended that a Declaration under Oath or Promise (*Verklaring Onder Ede* or VOE) at the municipality be used to record marital status information. In case the document is translated, the following procedure can be followed: "Update when source document is stronger." If the document shows different data than the previously issued VOE, this must be corrected.<sup>24</sup> If the municipality official doubts whether the nationality and/or identity of the person concerned is correct, or whether the person should be regarded as a beneficiary of temporary protection, the official contacts the IND for advice. A special IND team can perform a so-called triage, resulting in an advice to the municipality. The municipality is not obliged to follow this advice, as it alone is fully responsible for (correct) registration in the BRP.

Upon registration by a municipality, the beneficiary is not provided with any specific documentation. Proof of residency (proof of having been granted temporary protection) can be obtained at a later stage from the IND. Proof of residency could take the form of a 'sticker' in a passport or a sticker on a separate piece of paper or card (a so called 'O-document'). Which (initial) proof of residency is provided depends on several aspects. The IND explains this on their website:<sup>25</sup>

- ❖ "Displaced people will receive a sticker in their passport if:
  - They are a Ukrainian woman; or
  - They are a Ukrainian man, aged 60 or over (on 24 February 2022).
  
- ❖ Displaced people will receive a sticker on a separate piece of paper if:
  - They are a Ukrainian man younger than 60 years old (on 24 February 2022);
  - They have an identity card or statement by the Ukrainian embassy (no passport);
  - They only have a domestic passport.
  
- ❖ Displaced people will receive a card if:
  - They fall under the directive, even though they do not have a passport, identity card or statement by the Ukrainian embassy;
  - They are a Ukrainian child aged 14 or over without proof of identity (passport);
  - They have a passport that expired before 4 March 2023."

Whether a sticker, a sticker on a separate piece of paper or a card is provided: the rights are the same except for the right to freedom of movement (see [Movement and mobility](#)). The right to freedom of movement depends on whether the displaced person is a TCN, a stateless person from Ukraine or a Ukrainian national who does not have a biometric passport.

It was not until 1 July 2022 that beneficiaries of temporary protection in the Netherlands were provided with proof of residency. From the start, there were not enough time slots to provide all beneficiaries with a sticker or a card. This was caused by the large number of beneficiaries of temporary protection wanting to collect proof of residency. Another problem was staff shortages at the IND. On 4 September 2022, the IND announced that, as of 5 September 2022, they would not be handing out proof of residency anymore as they had ran out of stickers. The process of providing proof of residency resumed on 12 October 2022. The authors are not aware of problems obtaining proof of residency in 2023.

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<sup>24</sup> Rijkdienst voor Identiteitsgegevens, 'Basisregistratie Personen', instructions for municipal officials to register displaced persons from Ukraine in the Basisregistratie Personen, available in Dutch at: <https://bit.ly/3IXPJIE>.

<sup>25</sup> IND, 'War in Ukraine: appointment to collect proof of residency', last updated 12 January 2024, available at: <https://bit.ly/3ZP4vR8>.

Proof of residency is important for Ukrainian nationals who have a biometric passport, as it allows them to travel within the European Union. Proof of residency is also required for employment.<sup>26</sup>

### **Refusal of registration in the BRP by the municipality**

The municipality officer can refuse registration in the BRP (under BRP code 46) in case they find the person concerned does not fall within the scope of the TPD. Per the experience of the authors of this report, non-UA nationals in particular encounter problems when they want to prove they are eligible for temporary protection. Depending on the municipality, this refusal is given orally or in writing. There is no information available as to whether a possibility to appeal or object to this refusal exists. It is possible to go back to the municipality after registration in the BRP was initially refused and try again, for example, when new evidence has emerged.

### **Refusal of issuance of proof of residency by the IND**

Once a displaced person has been registered in the BRP, they have to obtain proof of residency from the IND. At that moment, the IND reassesses whether the person concerned should be granted temporary protection. Grounds for refusing temporary protection are:

- ❖ the person concerned does not fall under the scope of the TPD;
- ❖ the person concerned has committed a criminal offence as in Article 28 of the Temporary Protection Directive (2001/55/EG);<sup>27</sup>
- ❖ the person concerned has been granted temporary protection in another EU Member State and has not renounced it.

The IND, on behalf of the Secretary of State of Justice & Security, issues a written notice (decision) in which the reasons for refusing proof of residency are briefly mentioned. In this written notice, the IND (in most cases) also provides information on how to object the refusal. The person concerned has four weeks to file a written objection with the IND. If this objection is refused, the person's right to all benefits related to temporary protection, such as the right to housing and to work, is immediately terminated. In other words, the appeal has no suspensive effect.

The DCR is aware of cases in which a written objection was made. In several cases, Ukrainian nationals were refused temporary protection in the Netherlands due to the fact that, according to the IND, they had already left Ukraine prior to 27 November 2021 to work or study in another EU Member State. In a number of these cases, in which the persons concerned had already left Ukraine prior to 27 November 2021 and had been staying in another Member State, an appeal was lodged with the court as well as a request for a provisional measure to continue entitlement to rights under the TPD. When assessing the requests for a provisional measure, many of the regional courts granted the request for a provisional measure, and so the person concerned was still entitled to rights laid down in the TPD while the appeal was being processed. The regional courts ruled in this way in particular due to the fact that the persons concerned had not been given the opportunity to explain their personal circumstances fully (they had only had a very brief conversation of 2 up to 5 minutes with an IND official), which meant the refusal decision had not been taken with due diligence.<sup>28</sup> The court ruling of the Regional Court Den Bosch is worth mentioning as the court took into account that the person concerned had an employment contract that allowed her to be self-sufficient and not depend on general resources.

However, the authors are also aware of one case in which the Regional Court Middelburg refused to grant the provisional measure. The court took into account the fact that the reception facility was fully occupied and that the persons concerned, who had already applied for asylum, would be entitled to reception by

<sup>26</sup> IND, 'Temporary Protection Directive Ukraine', last updated 15 March 2024, available at: <https://bit.ly/3ZSFzll>.

<sup>27</sup> See also IND, Informatiebericht 2022/73 'Oekraïne en inreisverboden of ongewenstverklaringen', 28 July 2022, available in Dutch at: <https://bit.ly/3W0NpN9>.

<sup>28</sup> Regional Court Den Haag, NL22.22311, NL22.22312, NL22.22313, 6 December 2022, ECLI:NL:RBDHA:2022:14589, available in Dutch at: <https://bit.ly/4dgbGsm>; Regional Court Amsterdam, NL22.22330, 20 January 2023 (only on *Vluchtweb*); Regional Court Amsterdam, NL23.646, 28 February 2023, ECLI:NL:RBDHA:2023:3815, available in Dutch at: <https://bit.ly/4dfQv9M>; Regional Court Den Bosch, NL22.22846, 2 February 2023, ECLI:NL:RBDHA:2023:1008; available in Dutch at: <https://bit.ly/3Uiusqm>.

COA.<sup>29</sup> The Regional Court Utrecht also refused to grant a requested provisional measure as the persons concerned had left Ukraine before 27 November 2021, and had worked in Poland prior to their arrival in the Netherlands. This meant that they do not fall within the scope of the TPD in the Netherlands. The court also ruled that the persons concerned should apply for (temporary) protection in Poland.<sup>30</sup>

In 2023 most requests for a provisional measure by people having left Ukraine prior to 27 November 2021 were denied. According to the regional courts, these people had not been displaced as a result of the invasion on 24 February 2022.<sup>31</sup> Some regional courts found that the Secretary of State should assess all relevant individual circumstances when refusing temporary protection. The individual circumstances could be addressed by the person concerned in an interview with an IND official.<sup>32</sup>

However, in 2023 some courts did grant the requested provisional measure. Interestingly, the regional court Den Haag<sup>33</sup> found, in a case concerning people having left Ukraine before 27 November 2021 that, when assessing the 'displaced' criterion, it is relevant whether the person concerned lost the centre of their personal and social interests due to the conflict. In other words, did they lose 'their home'? This is not the same as the question of whether they still own a house in Ukraine. Where are they registered? Do they still feel connected to Ukraine? Do they still have family in Ukraine? All these questions may be relevant, but not decisive in determining whether someone has been displaced by the conflict, according to the regional court Den Haag. The court finds that the State Secretary should, when interviewing the persons concerned, raise all relevant elements related to whether a person should be considered 'displaced.'

In another case temporary protection was refused because the Secretary of State considered the Ukrainian national to be a threat to the public order and/or national security. Indeed, in the standard refusal decision, the option 'threat to public order and/ or national security' was selected. To this, the IND official added a handwritten motivation that the person concerned was sentenced to a prison term of more than 10 months in Hungary. The regional court Roermond considered this decision refusing temporary protection to not be sufficiently substantiated and in accordance with Article 28 TPD. The court also ruled that the Ukrainian national should have had the opportunity to address his individual circumstances in an interview with the IND.<sup>34</sup>

Another case concerned a Ukrainian family, consisting of a man, his wife and their child. The man had left Ukraine on 14 September 2021 because he went to work abroad, while his wife and child remained in Ukraine. After the invasion the wife and child were granted temporary protection in the Netherlands. The man (husband and father) was refused temporary protection because he had left Ukraine prior to 27 November 2021. In the man's case reference was made to Article 2(1)(c) of the Council Implementing Decision (EU) 2022/382 which states that family members of beneficiaries of temporary protection are also entitled to temporary protection. According to the regional court the condition that family members must have lived together in Ukraine before the invasion was applied too strictly in this case. According to the court the Secretary of State should assess to what extent the husband/father's departure abroad entailed an actual ending of the cohabitation in Ukraine.<sup>35</sup>

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<sup>29</sup> Regional Court Den Haag Middelburg, AWB 23/1704, AWB 23/1696, AWB 23/1700, AWB 23/1702, AWB 23/1697, 24 February 2023, ECLI:NL:RBDHA:2023:2526, available in Dutch at: <https://bit.ly/4aUFmJM>. In each judgment similar reasoning is provided by the Regional Court Middelburg.

<sup>30</sup> Regional Court Utrecht, NL22.22224 and NL22.22246, 30 January 2023, ECLI:NL:RBDHA:2023:871, available in Dutch at: <https://bit.ly/3wd08Fu>.

<sup>31</sup> Regional Court Den Haag, Middelburg, NL23.4045, 19 July 2024, ECLI:NL:RBDHA:2023:10987, available in Dutch at: <https://bit.ly/3UCYd6v>; Regional Court Den Haag, Amsterdam, NL23.21873 and NL23.16070, 12 September 2023, ECLI:NL:RBDHA:2023:19455, available in Dutch at: <https://bit.ly/44mJLmg> and Regional Court Den Haag, Groningen, NL23.18797, 6 February 2024, ECLI:NL:RBDHA:2024:1241, available in Dutch at: <https://bit.ly/4dbTaS1>.

<sup>32</sup> Regional Court Den Haag, Amsterdam, NL23.2108, 3 April 2023 and Regional Court Den Haag, Roermond, NL22.23587, ECLI:NL:RBDHA:2023:4686.

<sup>33</sup> Regional Court Den Haag, NL23.21314, 20 October 2023, ECLI:NL:RBDHA:2023:17425, available in Dutch at: <https://bit.ly/44iRkum>.

<sup>34</sup> Regional Court Den Haag, Roermond, NL23.2718, 7 June 2023, ECLI:NL:RBDHA:2023:8261, available in Dutch at: <https://bit.ly/3WkIR82>.

<sup>35</sup> Regional Court Den Haag, NL23.13086, 28 September 2023, ECLI:NL:RBDHA:2023:21851, available in Dutch at: <https://bit.ly/3QmWujm>.

The IND has started to issue follow-up decisions on the written objections. In some cases temporary protection was granted and the objections were found justified. In many other cases the temporary protection was refused by the IND. The authors are aware of appeals having been lodged with regional courts, but have as yet not seen any rulings on these appeals.

#### 4. Legal assistance

DCR provides (individually or in groups) information on the TPD and related policies in the Netherlands. To this end, DCR organises consultation hours at various locations in the Netherlands. DCR also offers online consultations. Furthermore, DCR provides information on the website [Refugeehelp.nl](https://refugeehelp.nl) in collaboration with the IND and other organisations.<sup>36</sup>

Specialised organisations, such as Nidos, also provide information to displaced persons from Ukraine.<sup>37</sup> Nidos is the national guardianship institution for unaccompanied minors and separated children in the Netherlands. Unaccompanied children in the Netherlands should either be under parental authority or guardianship. Nidos provides free (legal) assistance to unaccompanied minors from Ukraine in the Netherlands. Nidos is mainly funded by the Ministry of Justice.

Furthermore, an organisation called *Juridisch Loket* provides free legal advice to people who do not have sufficient income to consult a lawyer. Displaced persons without sufficient income can also contact the *Juridisch Loket* in order to obtain information or advice on legal issues regarding employment, social security and possibilities to obtain a residence permit in order to work or study in the Netherlands. The *Juridisch Loket* is in the position to refer a case to a lawyer. The *Juridisch Loket* is a foundation and is funded by the Ministry of Justice.

If subsidised legal aid is necessary, (specialised) lawyers may give legal assistance to displaced persons from Ukraine, for which a financial contribution is required, depending on the level of income. In case the person concerned can show documents from which it can be deduced that they are unable to make this contribution, they are exempted from it. In general, as a result of the Regulation *Regeling Adviestoevoeging Zelfredzaamheid* (RATZ), it is possible to consult a lawyer solely in order to obtain advice about their personal situation. In general the *Juridisch Loket* assesses whether free legal advice is needed, but regarding third-country nationals from Ukraine whose temporary protection ends on 4 March 2024 can rely on the RATZ by (initially) submitting a request to the DCR for a reference. This process was introduced on 23 December 2022.<sup>38</sup>

During the asylum procedure, legal assistance from a lawyer is free. Free legal aid/assistance from a lawyer is subsidised via the Ministry of Justice and Security and the Legal Aid Board. The Legal Aid Board is an independent governing body with a public task to subsidise legal aid.<sup>39</sup>

##### *Legal assistance for third country nationals fleeing Ukraine*

On 18 July 2022<sup>40</sup> a policy change was implemented which meant that temporary protection for non-UA nationals with a temporary residence permit in Ukraine would cease: new registrations would no longer be possible as of 19 July 2022, and the right to temporary protection of those who had registered in the BRP before 19 July 2022 would end on 4 March 2023. In November and December 2022, these third country nationals received a letter from the Secretary of State of Justice & Security (IND) explaining that their lawful residence under the TPD would end on 4 March 2023. Third country nationals who believed

<sup>36</sup> [Refugeehelp.nl](https://refugeehelp.nl) is created by Dutch Council for Refugees in collaboration with several organisations: <https://bit.ly/3XrZMDp>.

<sup>37</sup> Nidos, see website at: <https://bit.ly/3wIJaa>.

<sup>38</sup> Legal Aid Board, 'Rechtsbijstand aan niet-Oekraïners met tijdelijke Oekraïense verblijfsvergunning', 23 December 2022, available in Dutch at: <https://bit.ly/3Wfcp72>.

<sup>39</sup> Legal Aid Board, 'About the Legal Aid Board', available at: <https://bit.ly/3QT7owh>.

<sup>40</sup> IND, 'Residency non-Ukrainians with temporary Ukrainian residence permit', last updated 29 April 2024, available at: <https://bit.ly/49adHTH>.



that their right to temporary protection should continue after 4 March 2023 could respond to this letter and provide the IND with relevant information. In January 2023, however, the government announced that temporary protection for this specific group would be extended until 4 September 2023.<sup>41</sup> Subsequently, the IND sent written intentions to each non-UA national belonging to this specific group that temporary protection would end on 4 September 2023. Non-UA nationals could, with the help of a lawyer, respond to this written intention. In case the IND did not find that its written intention was unjustified, a decision to terminate temporary protection was taken. Appeals were filed against this IND decision.

Following from the Council of State's ruling on 17 January 2024 that temporary protection for this particular group of non-UA nationals would end automatically on 4 March 2024,<sup>42</sup> non-UA belonging to this particular group received a letter from the IND informing them (1) that previous decisions taken to end temporary protection on 4 September 2023 were revoked; (2) that the IND would request that lawyers of non-UA beneficiaries revoke the appeals which had been lodged against these decisions; and (3) the IND would issue return decisions on the basis that these non-UA nationals would not have lawful residence after 4 March 2024 (other than lawful residence under the TPD until that date).<sup>43</sup> Against the return decisions, non-UA nationals (their lawyers) can lodge an appeal with the regional court. To get support from a lawyer to start a procedure against the termination of temporary protection on 4 March 2024, the non-UA national, as a rule, has to pay a financial contribution depending on the level of income from employment.<sup>44</sup> Non-UA nationals whose income solely consists of a monthly allowance from the municipality are exempted from paying a contribution.<sup>45</sup> To the best of the knowledge of the authors, legal procedures were initiated on behalf of several people belonging to this specific group of third country nationals to prevent termination of temporary protection on 4 March 2024.

Until 4 March 2024, this specific group of non-UA nationals could apply for support and financial assistance from the Dutch Repatriation & Departure Service.<sup>46</sup>

In order to prove lawful residence under the TPD until 4 March 2024, this group of non-UA nationals were informed that that the aforementioned letter from the IND in combination with their proof of residency (card) would be sufficient.<sup>47</sup>

As the DCR has the public task, according to the Aliens Circular,<sup>48</sup> to provide general information to asylum seekers (*voorlichting*), information was given to third country nationals on their options for obtaining legal residence in the Netherlands after 4 March 2024 (initially 4 September 2023).

As agreed with the Legal Aid Board, DCR has, on the basis of the RATZ, the possibility to refer cases of third country nationals to lawyers with whom they can freely seek legal advice, for example, on the options for obtaining legal residence in the Netherlands after 4 March 2024 ~~September 2023~~. The possibility to give free legal advice by a lawyer is subsidized via Legal Aid Board.

## 5. Information provision and access to NGOs

No explicit provisions on providing information to beneficiaries of temporary protection have been laid down in Dutch law.

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<sup>41</sup> Dutch Parliament, 10 February 2023, 4475144, available in Dutch at: <https://bit.ly/3TR3A1N>.

<sup>42</sup> As previously, the Secretary of State announced on 25 April 2024 that the specific group non-UA nationals are allowed to stay in the Netherlands until 4 March 2025 due to preliminary questions raised by the Council of State on 25 April 2024: 'Prejudiciële vragen Afdeling inzake derdelanders uit Oekraïne', 25 April 2024, available in Dutch at: <https://bit.ly/4aP9INZ>.

<sup>43</sup> IND, 'Residency non-Ukrainians with temporary Ukrainian residence permit', last updated 29 April 2024, available at: <https://bit.ly/49adHTH>.

<sup>44</sup> Legal Aid Board, 'Eigen Bijdrage', available in Dutch at: <https://bit.ly/4aVu08D>.

<sup>45</sup> Legal Aid Board, 'Geen eigen bijdrage', available in Dutch at: <https://bit.ly/4aRfa31>.

<sup>46</sup> IND, 'Extension sticker or card temporary protection Ukraine', last updated 14 March 2024, available at: <https://bit.ly/3ZAYIDu>.

<sup>47</sup> Ibid.

<sup>48</sup> The Dutch Council for Refugees has a public task in providing information on the asylum procedure as laid down in Paragraph C1/2.2 Aliens Circular.

Information is provided on [Refugeehelp.nl](https://www.refugeehelp.nl), a website created by DCR in collaboration with several other (governmental and non-governmental) organisations, amongst which the IND.<sup>49</sup> [Refugeehelp.nl](https://www.refugeehelp.nl) contains information on the legal situation of beneficiaries of temporary protection as well as practical information on various topics. The content on [Refugeehelp.nl](https://www.refugeehelp.nl) is available in English, Ukrainian, Russian and Dutch.

Prior to 4 September 2023, DCR distributed brochures in Dutch, Ukrainian, Russian and English to provide information to third country nationals whose lawful residence was to be terminated on that date. During meetings, webinars and consultation hours organised prior to 4 March 2024, information focused on the ending by operation of law of temporary protection for this group.

Information is also available on the IND website, with a specific webpage initially called 'Ukraine: effects of Russian invasion' and currently 'War in Ukraine'. The information is available in Dutch and English, but some specific information (instructions) is also available in Russian and Ukrainian.<sup>50</sup>

Municipalities, governmental organisations, and several other organisations also provide information to displaced people from Ukraine on their specific websites.

Beneficiaries of temporary protection receive a brochure from the IND when they collect their proof of residency. This brochure is available in Ukrainian, Russian, English, Arabic and Dutch.<sup>51</sup>

The information provided is written in a simple manner. This information is not tailored to, for example, persons who are (nearly) illiterate or are (nearly) blind. As far as known, no tailored information is available for unaccompanied minors from Ukraine.

#### *Difficulties with providing information*

During the first months after the start of the war, many elements regarding TPD implementation were still unclear, such as the legal situation of beneficiaries of temporary protection in the Netherlands. Regulations and policies had to be formulated and published by the Dutch government.

Municipalities were designated as responsible for the reception/housing of displaced people from Ukraine. Municipalities fulfill this task in different ways. They may decide for themselves how to provide reception/housing to beneficiaries of temporary protection and determine what kind of information should be shared.<sup>52</sup> As a result, information provided by municipalities may differ, which may cause ambiguity for the target group.

DCR is present in most but not every municipality. Because of this, displaced persons may be fully reliant on information they find online or receive from the municipality. There is a lack of case-oriented information.

The Dutch Royal Military Police (KMAR) can provide information at border-crossing points on how to apply for temporary protection, and refer people to the locations where the first reception takes place.<sup>53</sup>

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<sup>49</sup> Please, see for more organisations DCR collaborates with in order to provide information on [Refugeehelp.nl](https://www.refugeehelp.nl) the website: <https://www.refugeehelp.nl/en/about-us>.

<sup>50</sup> For example, see the instruction manual on how to collect proof of residency: IND, 'Ukraine: appointment to collect proof of residency', last updated 12 January 2024, available at: <https://bit.ly/3ZP4vR8>.

<sup>51</sup> IND, 'Ukraine: appointment to collect proof of residency', last updated 12 January 2024, available at: <https://bit.ly/3ZP4vR8>.

<sup>52</sup> Specific rules exist regarding reception of displaced persons from Ukraine. The rules are laid down in the Regulation for the Reception of Displaced Persons from Ukraine In the Dutch language it is called '*Regeling Opvang Ontheemden uit Oekraïne*', available in Dutch at: <https://bit.ly/3H9HmSi>.

<sup>53</sup> Dutch government, 'Aankomst, registratie en verblijf van vluchtelingen uit Oekraïne', available in Dutch at: <https://bit.ly/3k9KLXS>.



## D. Guarantees for vulnerable groups

As far as known to the authors, a specific identification mechanism to systematically identify individuals entitled to temporary protection who can be categorised as vulnerable has not been introduced by the Dutch government still as of March 2024.

Unaccompanied minors are usually placed in host families and, as a rule, not accommodated in municipal reception centres. It is up to the municipal reception centres to identify these unaccompanied children and report them as soon as possible to Nidos, the national guardianship institution for unaccompanied minors and separated children. Nidos provides (legal) assistance to unaccompanied minors from Ukraine in the Netherlands.<sup>54</sup>

After the referral from the municipality, Nidos has an initial interview with the minor, and if possible a remote one with the parents. It is assessed whether applying for temporary guardianship is appropriate. If the minor stays with adult supervisors in a host family, Nidos reports this to the Child Protection Council ('*Raad voor de Kinderbescherming*'), for them to conduct a judicial screening of the host family.

Dutch organisations such as *Arq Nationaal Psychotrauma Centrum* specialise in helping people traumatised by war or victims of torture.<sup>55</sup> This particular organisation also treats regular asylum seekers who have been traumatised.

The Dutch foundation *Wereldpsychologen* (World Psychologists) offers free mental health care through (video) calling.<sup>56</sup> The website of the organisation also contains information in Ukrainian.

For professionals working with displaced persons from Ukraine, an advice centre called the *Loket Ontheemden Oekraïne Psychosociale hulpverlening (LOOP)* was set up by several governmental and non-governmental organisations, such as DCR. At LOOP, professionals can get information, ask questions and find appropriate psychological assistance for displaced persons from Ukraine.<sup>57</sup>

In 2023 a specialised Mental Health Programme for displaced persons from Ukraine was introduced: *Empatia*. This programme aims to provide psychological support for Ukrainians, for Ukrainian professionals who want to work in mental health field and for municipalities and other organisations that need consultation on organising psychosocial and culturally sensitive support for Ukrainians in the Netherlands.<sup>58</sup>

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<sup>54</sup> Nidos, information available in Dutch at: <https://bit.ly/3HidB0v>.

<sup>55</sup> Arq Nationaal Psychotrauma Centrum, 'De oorlog in Oekraïne: Psychosociale hulpverlening en adviezen vanuit ARQ', information available in the Dutch language at: <https://bit.ly/3wfd22f>.

<sup>56</sup> Wereldpsychologen, information available at: <https://bit.ly/3Kks5Q2>.

<sup>57</sup> Loket Ontheemden Oekraïne PSH (LOOP), information available in Dutch at: <https://bit.ly/3U8JX3v>.

<sup>58</sup> Empatia, information available at: <https://bit.ly/3TPSN7X>.

## Content of Temporary Protection

### A. Status and residence

#### 1. Residence permit

##### Indicators: Residence permit

- |  |                |
|--|----------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection?   | Not applicable |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2023? | Not applicable |

##### *General information*

Displaced persons from Ukraine who fall under the scope of the TPD do not obtain a residence permit. They remain in the Netherlands as asylum seekers having been granted temporary protection and are as such entitled to rights laid down in the TPD. Beneficiaries of temporary protection are issued proof of residency, which is not a residence permit.

People entitled to temporary protection may remain in the Netherlands until 4 March 2025.<sup>59</sup> The proof of residency (sticker), valid until 4 March 2023 or 4 March 2024, is extended automatically. Beneficiaries received a letter from the IND informing them that their lawful residence under the TPD had been extended.<sup>60</sup> Beneficiaries can use their proof of residency (sticker) in combination with the letter of the IND in order to show that they are entitled to temporary protection until 4 March 2025.

Following the second prolongation of TPD until 2025, third-country nationals from Ukraine entitled to temporary protection in the Netherlands until 4 March 2025 will have to collect a new card ('O-document'). This card will be valid until 4 March 2025.<sup>61</sup> The previous stickers or cards were valid until 4 March 2023 or 4 March 2024 depending on when the person had obtained temporary protection.

As mentioned before, the particular group of third-country nationals who held a temporary Ukrainian residence permit and had been registered in the BRP before 19 July 2022 were only granted temporary protection until 4 March 2024. They also received a letter from the IND informing them that their temporary protection would end automatically on 4 March 2024. With this letter, in combination with their proof of residency, they could prove lawful residence until 4 March 2024.<sup>62</sup> Due to the preliminary questions raised by the Council of State on 25 April 2024, the Secretary of State has stated that the specific group non-UA nationals are allowed to stay in the Netherlands until 4 March 2025 awaiting the judgment of the CJEU.<sup>63</sup> At the time of writing it is unknown how the proof of residency of this specific group non-UA nationals will be extended.

##### *Procedure*

The procedure for obtaining temporary protection starts with registration by a municipality in the Basic Registration of Persons or BRP. In order to be registered, the person concerned must provide personal details and a (temporary) address to the municipality. For this, the municipality requires a passport or other proof of identity. Non-UA nationals may be registered by using a Ukrainian permanent residence permit or a permit that was valid on 23 February 2022 or by substantiating that they had been granted international protection or equal national protection by the Ukrainian authorities.

<sup>59</sup> IND, 'Extension sticker or card temporary protection Ukraine', last updated 14 March 2024, available at: <https://bit.ly/3ZAYIDu>.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

<sup>63</sup> Parliament, 'Prejudiciële vragen Afdeling inzake derdelanders uit Oekraïne', 25 April 2024, available in Dutch at: <https://bit.ly/4aP9INZ>.

If a municipal official doubts whether the correct documents have been submitted, they may contact the IND to perform a triage. This means that the IND investigates further to establish the person's identity and nationality and to determine whether the person concerned falls within the scope of the TPD. A triage may entail meeting the person concerned in person. The triage results in an advice to the municipality to either register the person concerned in the BRP (BRP code 46), to refuse registration or to defer registration pending receipt of additional documentation. The advice is not binding on the municipality, although it is followed in practice.

After registration, the person concerned has an appointment with the IND. The IND does a background check regarding criminal offences and assesses whether the person concerned is entitled to temporary protection.

- ❖ If it is the case proof of residency is issued by the IND, also called a 'sticker' or an 'O-document'. This is not a residence permit.<sup>64</sup> The person concerned also makes an official asylum application. The IND merely registers the asylum application and does not decide on the application as long as the Temporary Protection Directive applies.
- ❖ If the IND denies temporary protection, the person concerned may object to this decision within 4 weeks with the IND.

The IND temporarily stopped handing out proof of residency from 2 September 2022, until 12 October 2022, due to a shortage of resources.<sup>65</sup> This caused difficulties in practice. The authors are not aware of problems obtaining proof of residency in 2023.

Proof of residency is valid for as long as TPD applies, until 4 March 2025.<sup>66</sup> Until now, the IND has not renewed proof of residency (sticker or card), but instead issued beneficiaries of temporary protection with a letter informing them that the obtained proof of residency, together with the letter itself, will be proof they are still allowed to live and work in the Netherlands. However, non-Ukrainian nationals who have lawful residence under the TPD until 4 March 2025 have to collect a new card ('O-document').

As previously explained, third country nationals who had a temporary Ukrainian residence permit and were registered in the BRP before 19 July 2022 were initially expected to be able to benefit from temporary protection only until 4 March 2023. Their right to temporary protection was firstly extended until 4 September 2023 and as a result of the judgment of the Council of State on 17 January 2024, ended automatically on 4 March 2024 (see [Qualification for temporary protection](#)).

Various rights are connected to the temporary protection beneficiary status. Once displaced persons from Ukraine have been registered in the BRP by a municipal official, they are entitled to the rights as laid down in the TPD.

#### *Right to reception / housing*

A beneficiary of temporary protection is entitled to reception/housing by the municipality, as established in the Regulation for the Reception of Displaced Persons from Ukraine.<sup>67</sup> Municipalities are responsible for reception/housing of beneficiaries of temporary protection. They are housed in facilities created specifically for them or may be placed with a hosting family (see [Housing](#)).

#### *Allowances*

Beneficiaries of temporary protection are entitled to a monthly allowance provided by the municipality. From 1 October 2023, the monthly allowance is structured as follows:

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<sup>64</sup> IND, 'Temporary Protection Directive Ukraine', last updated 15 March 2024, available at: <https://bit.ly/3ZUtimH>.

<sup>65</sup> IND, 'Issuance of residence stickers to Ukrainians paused because of raw materials shortage', last updated 1 September 2022, available at: <https://bit.ly/3WsjMUX>.

<sup>66</sup> Dutch government, 'Europese Commissie verlengt Richtlijn Tijdelijke Bescherming Oekraïners', 14 October 2022, available in Dutch at: <https://bit.ly/3ZUnHNe>.

<sup>67</sup> In Dutch, it is called '*Regeling Opvang Ontheemden uit Oekraïne*', available in Dutch at: <https://bit.ly/3H9HmSi>.

The amount of money received for food and drink depends on the size of the family. The more family members, the lower the amount per person will be.

- ❖ If a family is made up of 1 or 2 people, the family receives € 242.48 for each adult (or single underage person) and € 200.65 per underage person per month.
- ❖ If a family is made up of 3 people, the family receives € 193.98 per adult and € 160.64 per underage person per month.
- ❖ If a family is made up of 4 people or more, the family receives € 169.74 per adult and € 140.34 per underage person per month.<sup>68</sup>

For clothing and other expenses, they receive 60.71 € per person. This is regardless of whether it concerns adults, (unaccompanied) minors, or the size of the family.<sup>69</sup>

In addition to the aforementioned allowance, beneficiaries who have been placed with a host family also receive a so called ‘residential component’ of 80.91 € per person, regardless whether the person is an adult or a minor. This will enable the beneficiary to pay, for example, for public transport, additional activities (such as visiting family/friends, sports etc.), but also to voluntarily contribute to the household of the host family. Arrangements for such a contribution can be made by the beneficiary and the host family together. No direct reimbursement is provided from the government to host families or other individuals who provide shelter.<sup>70</sup>

As of 1 October 2023, the situation is the following:<sup>71</sup>

Allowance for living expenses	Family size					
	1-2 persons		3 persons		4+ persons	
	Adult / unaccompanied minor	Minor	Adults	Minors	Adults	Minors
Food	EUR 242.48	EUR 200.65	EUR 193.98	EUR 160.64	EUR 169.74	EUR 140.34
Clothes & personal expenses	EUR 60.71	EUR 60.71	EUR 60.71	EUR 60.71	EUR 60.71	EUR 60.71
Residential component (only for persons living with a host family)	EUR 80.91	EUR 80.91	EUR 80.91	EUR 80.91	EUR 80.91	EUR 80.91

Overall, the financial allowance was first decreased on 1 February 2023. It was then increased as of 1 October 2023, but did not rise back to the level it was originally in 2022. According to the Dutch government, the amount of the monthly allowance had to be decreased due the fact that displaced persons (particularly families) received a considerably higher monthly allowance than asylum seekers and social welfare recipients in the Netherlands.

Adult beneficiaries who generate income from work are not entitled to an allowance. Starting from 1 February 2023,<sup>72</sup> their allowance and that of the entire family can be reduced or withdrawn completely,

<sup>68</sup> Dutch government, Factsheet ‘Living allowance for refugees from Ukraine’, 12 October 2023, available at: <https://bit.ly/3x8TZdH>.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

<sup>72</sup> For information regarding the situation before 01 February 2023 see AIDA, *Netherlands Temporary Protection Annex – Update on the year 2022, May 2023*, available at: <https://bit.ly/3TN9zV5>, 14.

depending on the level of income from work. If a minor has a part-time job, then the financial benefits will be discontinued only for them, but not for all other members of the family.

TP beneficiaries do not have to pay for health care insurance fees (premium). Please see section on [Health care](#).

### *Transferring temporary protection to another Member State*

Beneficiaries of temporary protection in the Netherlands who want to benefit from the TPD in another EU Member State instead have to end their lawful residence under the Temporary Protection Directive in the Netherlands. It is important to note that for displaced persons from Ukraine, Ukrainian nationals without a biometric passport and third country nationals from Ukraine, who have been granted temporary protection, traveling to other EU Member States is risky. Travelling outside the EU is at their own risk as they might not be readmitted to the Schengen area.<sup>73</sup> Displaced persons from Ukraine who have been granted temporary protection in the Netherlands merely receive proof of residency. This is not the same as a residence permit.

Ukrainian nationals who have a biometric passport and have collected their proof of residency may travel to other EU Member States and back and forth to Ukraine. They are exempted from visa requirements when entering the Schengen area for a short stay anyway. They may, after having been admitted to the Schengen area, move freely within the Schengen area for a period of 90 days within a period of 180 days.<sup>74</sup> Ukrainian nationals with a biometric passport with or without proof of residency can therefore easily travel to the Member State where they wish to exercise the rights associated with temporary protection.

Once a beneficiary of temporary protection decides to exercise these rights in another Member State, they should deregister from the BRP. As a result, benefits linked to registration will be stopped. In order to ensure that deregistration from the BRP proceeds promptly, the municipality or reception location hands the displaced person a departure form. To ensure that the IND can easily terminate the asylum procedure, the displaced person signs a withdrawal statement that they receive from the municipality or reception location.<sup>75</sup> In case a beneficiary of temporary protection leaves the Netherlands permanently, after having disclosed this to the aforementioned authorities,<sup>76</sup> or in case they leave the Netherlands unannounced, they are no longer entitled to the rights associated with the TPD.

That being said, a beneficiary can leave the Netherlands (announced) for a maximum of 28 days without losing their status as TP holders. If a beneficiary stays away for more than 28 days, their TPD associated rights can be terminated. On their return to the Netherlands, they will have to register with a municipality again. It will then again be assessed whether they are still entitled to temporary protection under the then currently applicable regulations.<sup>77</sup>

## **2. Access to asylum**

As soon as a displaced person from Ukraine applies for lawful residency under the TPD by collecting proof of residency from the IND, they also file an asylum application. This asylum application is submitted by completing the M35H form. The assessment of the asylum application however, is 'on hold' for as long as the TPD applies, which means that the IND has suspended decisions on these asylum applications. As soon as the TP regime ends, the Secretary of State (IND) has six months to decide on these asylum applications.<sup>78</sup>

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<sup>73</sup> IND, 'Temporary Protection Directive Ukraine', last updated 15 March 2024, available at: <https://bit.ly/3ZSFzll>.

<sup>74</sup> IND, 'Temporary Protection Directive Ukraine', last updated 15 March 2024, available at: <https://bit.ly/3ZSFzll>.

<sup>75</sup> Dutch government, Circular 'Departure and effects facilities Scheme for Reception of Displaced Persons' from Ukraine', 19 June 2023, available in Dutch at: <https://bit.ly/3UhdOaB>.

<sup>76</sup> The permanent departure is announced when the municipality has been informed by the beneficiary and they deregister themselves from the BRP.

<sup>77</sup> Dutch government, Circular 'Departure and effects facilities Scheme for Reception of Displaced Persons' from Ukraine', 19 June 2023, available in Dutch at: <https://bit.ly/3UhdOaB>.

<sup>78</sup> Article 43a Aliens Act.

Displaced people from Ukraine who fall within the scope of the TPD but want to start their asylum procedure and thus report to the application centre in Ter Apel, are sent away and advised to report to a municipality instead. Should temporary protection end while a return to Ukraine or to the country of origin (in the case of third-country nationals) is still not considered possible for security reasons, the asylum application will be assessed.<sup>79</sup>

Having said this, the Regional Court of Amsterdam ruled that the asylum application of a Ukrainian national who applied for asylum in the Netherlands in February 2020 and would be eligible for temporary protection, should be examined. In this case, the Secretary of State issued two decisions rejecting the processing of the application, but subsequently withdrew these. The court ruled that the time limit of 21 months (as laid down in Article 31 (5) APD) had been exceeded. The court ruled that the Secretary of State had to issue a (new) decision on the asylum application, regardless of the fact that the person concerned falls within the scope of the TPD. According to the court the mere existence of the TPD regime does not, in any case, prevent national authorities from issuing a decision on the asylum application.<sup>80</sup> On the other hand, the Regional Court Haarlem ruled, in a similar case, that the time limits of Article 31 of the Asylum Procedures Directive are not applicable while the Temporary Protection Directive is in force.<sup>81</sup> Other appeals that were lodged which argued that asylum applications should be examined even though the TPD still applies were considered inadmissible by the regional court. The court explained that no time limits had been exceeded according to Article 43a Aliens Act and Article 17(2) of the Temporary Protection Directive.<sup>82</sup>

#### *Processing asylum applications of non-Ukrainian nationals*

The IND started examining the asylum applications of non-Ukrainian nationals who ~~will fall~~ fell within the scope of the Temporary Protection Directive until 4 March 2024. When processing these asylum request, the IND gave priority to asylum requests from non-UA nationals from Yemen and Syria as they are considered eligible for international protection. Afterwards, the IND examined asylum applications from people having come from 'safe countries of origin'. Lastly, the asylum applications of the remaining third country nationals who are were eligible for temporary protection until 4 March 2024 have been assessed.

DCR provides information ('*Voorlichting*') about the asylum procedure to non-Ukrainian nationals (see [Information provision and access to NGOs](#)). Additionally, the persons concerned have a specialised lawyer appointed to them during the asylum procedure. The IND requested that the above-mentioned non-UA nationals, were held temporary protection until 04 March 2024, inform them by letter to inform them as to whether they wished to proceed with their asylum application.<sup>83</sup> As DCR understands from exchanges with the IND, in case the asylum application was refused before 4 September 2023, non-Ukrainian nationals still remained lawfully in the Netherlands as beneficiaries of TPD until 4 March 2024.

#### *Suspension on decisions on Ukrainian asylum applications*

In case of Ukrainian nationals who do not fall within the scope of the Temporary Protection Directive in the Netherlands and who submitted an asylum application at the application centre in Ter Apel, the following applies. Since 28 February 2022, per a policy change, decisions on Ukrainian asylum applications are suspended. As a result, the Secretary of State (IND) does not have to take a decision on Ukrainians' asylum applications, on the grounds that the security situation in Ukraine is too fluid and unclear. This means that, as a rule, the IND has 18 months (and a maximum of 21 months) to take a decision on new and pending asylum applications of Ukrainian nationals. This is based on Article 43 of

<sup>79</sup> IND, Work Instruction 2022/17, 04 August 2022, available in Dutch at: <https://bit.ly/3wbJdiU>, 5.

<sup>80</sup> Regional Court Den Haag, Amsterdam, NL22.5058, 30 June 2022, ECLI:NL:RBDHA:2022:9130, available in Dutch at: <https://bit.ly/3UheFTP>.

<sup>81</sup> Regional Court Den Haag, Haarlem, AWB 19/3033 and AWB 19/3034, 1 July 2022, ECLI:NL:RBDHA:2022:11308, available in Dutch at: <https://bit.ly/3wfw3oS>.

<sup>82</sup> Regional Court Den Haag, Groningen, NL22.12077, 21 March 2023, ECLI:NL:RBDHA:2023:3626, available in Dutch at: <https://bit.ly/3WpzPH3>; Regional Court Den Haag, NL22.22773, 20 June 2023, ECLI:NL:RBDHA:2023:8832, available in Dutch at: <https://bit.ly/3xYHLoT>.

<sup>83</sup> IND, 'Residency non-Ukrainians with temporary Ukrainian residence permit', last updated 29 April 2024, available at: <https://bit.ly/40PcZlg>.



the Aliens Act. This measure was prolonged until 28 November 2023.<sup>84</sup> This measure has not officially been extended since then. Ukrainian asylum seekers whose asylum application was denied were initially not forced to return to Ukraine. However, the measure that suspending forced returns to Ukraine are suspended has not been extended, because this measure can only be in effect for a maximum of one year and that has already been the case. This is based on Article 45 (4) of the Aliens Act.<sup>85</sup> Nevertheless, the government will ~~does~~ not take any measures regarding forced returns of Ukrainian nationals.<sup>86</sup>

## B. Family reunification

### 1. Family reunification as provided under the Temporary Protection Directive

Family reunification is allowed if it concerns a beneficiary of temporary protection who wants to reunite with a family member they lived with in Ukraine according to Article 15 of the Temporary Protection Directive. Family members are also entitled to temporary protection if they had a lasting relationship and lived with the beneficiary in Ukraine at the time the war started, or from 27 November 2021 until their departure from Ukraine.<sup>87</sup>

For this purpose, are considered a family member:

1. Spouse or unmarried partner with whom a lasting relationship has been maintained;
2. Minor unmarried children (born or adopted within or outside marriage);
3. Other close relatives who lived with the beneficiary and who are totally or mostly dependent on them.

Initially, married and unmarried partners had to show that they had lived together for at least 6 months before they were displaced due to the war. However, in December 2023, the Secretary of State made clear that family members who had a relationship at the time of the conflict, but only started living together after the outbreak of the conflict in 2022, come within the scope of the Temporary Protection Directive. The condition that family members must have lived together in Ukraine no longer applies. Moreover, a non-UA national who already lived with a displaced person from Ukraine in the Netherlands before 27 November 2021, or in another EU Member State before 23 February 2022, comes within the scope of the TPD.<sup>88</sup>

#### *Reunification procedure*

The same procedure applies as to displaced persons from Ukraine who want to benefit from temporary protection.

No (formal) framework or procedure for reuniting family members who have been left behind in Ukraine (or another country of origin) has been introduced. So, in the Dutch context family reunification pursuant Article 15 TPD is only possible if the family member is also in the Netherlands.

Family members have the same status as other beneficiaries of temporary protection. They have the same rights and obligations, but their TP-status depends on the family member who was initially granted temporary protection.

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<sup>84</sup> Dutch Parliament, 4 September 2023, TK 2022 – 2023, 19637, 3163, information available only in Dutch at: <https://bit.ly/4aVIFkb>.

<sup>85</sup> The Secretary of State of Justice & Security, Staatscourant 2023, number 9340, 'Besluit van de Staatssecretaris van Justitie en Veiligheid van 9 maart 2023, nr. 4509940, tot het verlengen van het besluitmoratorium voor vreemdelingen afkomstig uit Oekraïne', available in Dutch at: <https://bit.ly/3lYeODh>. The Secretary of State of Justice & Security, Staatscourant 2023, number 9340, available in Dutch at: <https://bit.ly/3lYeODh>; IND, 'War in Ukraine', available at: <https://bit.ly/3WrmRVh>.

<sup>86</sup> Dutch Parliament, 4 September 2023, TK 2022 – 2023, 19637, 3163, information available only in Dutch at: <https://bit.ly/4aVIFkb>.

<sup>87</sup> IND Work Instruction 2022/17, 4 August 2022, available in Dutch at: <https://bit.ly/3wbJdiU>, 3.

<sup>88</sup> Dutch Parliament, 'Tijdelijke wet opvang ontheemden Oekraïne', available in Dutch at: <https://bit.ly/4atBJde>.



## 2. Family reunification beyond the Temporary Protection Directive

As previously explained, beneficiaries of temporary protection have legal stay in the Netherlands as asylum seekers having been granted temporary protection. They are not issued a residence permit. In the existing framework a (regular or asylum) residence permit is required to be able to apply for family reunification. Thus, it is not possible for beneficiaries of temporary protection to do so according to the procedure described in the [General report – Family reunification](#).

### C. Movement and mobility

Beneficiaries of temporary protection can move freely within the Netherlands. There are no restrictions. TP beneficiaries can demonstrate their lawful residency by showing their proof of residency. Due to the extension of application of the Temporary Protection Directive until 4 March 2025, TP-beneficiaries now use their proof of residency combined with the IND-extension letter as a document of identification.<sup>89</sup>

Ukrainian nationals who have a biometric passport and proof of residency can travel to other EU countries and back and forth from Ukraine. Ukrainian nationals who have a biometric passport can also travel to other EU countries during their visa-free period. This means that a person may travel visa-free for up to 90 days within a 180 -day period.<sup>90</sup> However, it is risky for them to travel outside of the European Union (except for Ukraine) as they might be refused re-entry into the Schengen area.

Displaced Ukrainian nationals who hold a *biometric passport* are, when they hold a proof of residency in the Netherlands, only able to travel to other European Union Member States and to travel back and forth to Ukraine.<sup>91</sup> For these individuals it is nevertheless a risk for readmittance into the Schengen area when they travel outside of the European Union while holding their proof of residency.

Ukrainian nationals who do not have a biometric passport and third country nationals displaced from Ukraine who have been granted temporary protection in the Netherlands should not travel to other European Member States. Travelling outside of the EU is at their own risk for readmittance into the Schengen area is not guaranteed.<sup>92</sup> Displaced persons from Ukraine who fall within the scope of the TPD receive proof of residency in the Netherlands which is not a residence permit. In order to travel inside and outside the European Union these individuals do need a valid (biometric) travel document and a short stay (Schengen) visa.

The DCR has received various reports indicating that displaced persons who had been granted temporary protection in the Netherlands were, after a short return to Ukraine, refused entry into the Schengen area at the Polish border, in 2022 and 2023.

Finally, it is important to mention that all TP beneficiaries in the Netherlands receive a flyer when collecting proof of residency. This flyer explains what proof of residency under the TPD entails in the Netherlands.<sup>93</sup> The flyer is available in Dutch, English, Ukrainian, Russian and Arabic.

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<sup>89</sup> IND, 'Extension sticker or card temporary protection Ukraine', last updated 14 March 2024, available at: <https://bit.ly/3ZAYIDu>.

<sup>90</sup> IND, 'Temporary Protection Directive Ukraine', last updated 15 March 2024, available at: <https://bit.ly/3CXcKRu>.

<sup>91</sup> Ibid.

<sup>92</sup> Ibid.

<sup>93</sup> IND, *Residence in the Netherlands: what does this mean to you?*, June 2022, specific webpage 'War in Ukraine', available at: <https://bit.ly/3XJdCRu>.

## D. Housing

### Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?  
As long as TPD is in force
2. Number of beneficiaries staying in reception centres as of 31 December 2023  
Not available
3. Number of beneficiaries staying in private accommodation as of 31 December 2023  
Not available

The Dutch government provided the following statistics on 15 February 2024:<sup>94</sup>

- ❖ Number of BRP registered displaced people from Ukraine: 109,610
- ❖ Number of available reception places ('available beds'): 92,750
- ❖ Number of occupied reception places ('occupied beds'): 91,870

Beneficiaries of temporary protection are entitled to stay in the municipal reception facility for up to a maximum of one year after the TPD ceases to apply, which means until 4 March 2026 (see also end of this same section).

DCR has received reports (mainly in 2023) that on several occasions beneficiaries of temporary protection have been expelled from the municipal shelter because they were (accused of) causing a nuisance in the municipal shelter. Initially it was the municipality's responsibility to arrange alternative shelter. However, as of 29 September 2023 the Regulation for the Reception of Displaced Persons from Ukraine was amended to provide a basis for municipalities to prevent and enforce nuisance behaviour in their shelters. As a result, a municipality can limit the right to shelter in the event of non-compliance with the internal regulations or violence in the municipal shelter.<sup>95</sup>

### Accommodation

The kind of accommodation used for the reception of TPD beneficiaries varies. They can, for example, be accommodated in hotels, in emergency shelters, or on boats. Sometimes empty office buildings have been transformed to apartments to be able to accommodate displaced people from Ukraine. It is also possible to stay with a host family.

After the invasion of Ukraine, the Netherlands sought to create a large number of reception places at short notice. On 7 March 2022, the Dutch government requested that the Security Council and the security regions<sup>96</sup> to coordinate for the realization of reception of displaced people from Ukraine in municipalities. In 2023 the task of coordinating the reception of displaced people from Ukraine is still carried out by the security regions.<sup>97</sup>

Due to extraordinary circumstances, the Dutch government was (and is) unable to provide (emergency) accommodation to displaced people within the current structure. Because of that, the Dutch government activated the Relocation Population Act (*Wet verplaatsing bevolking*) on 1 April 2022. This is state emergency law. As a result, municipalities (mayors) have been given the statutory duty (task) to arrange reception for TPD beneficiaries. This task has been implemented in the Regulation for the Reception of Displaced Persons from Ukraine. Under this scheme, municipalities (mayors) must provide shelter, a monthly financial allowance for food, clothing and other personal expenses, recreational and educational activities, insurance against financial consequences of legal liability and the possible payment of extraordinary costs.

<sup>94</sup> Dutch government, 'Cijfers opvang vluchtelingen uit Oekraïne in Nederland', available in Dutch at: <https://bit.ly/3ZUAU8M>.

<sup>95</sup> Staatscourant 2023, 26413, 29 September 2023, available in Dutch at: <https://bit.ly/3WmNTAS>.

<sup>96</sup> The Netherlands is divided into 25 security regions. Each safety region is committed to the safety of the residents and visitors of that area. The safety region also makes arrangements for dealing with disasters and crises. Please see Dutch government, 'Veiligheidsregio's', available in Dutch at: <https://bit.ly/3GXxTfm>.

<sup>97</sup> Dutch government, Guide 'Naslagwerk voor gemeentelijke opvang Oekraïense ontheemden', 15 January 2024, available in Dutch at: <https://bit.ly/3QQE5dP>. Dutch government, Guide 'Handreiking Gemeentelijke Opvang Oekraïners (GOO)', available in Dutch at: <https://bit.ly/3QQE5dP>.

In 2023, the 'Temporary Act on the Reception of Displaced Persons from Ukraine' bill was introduced in Parliament (House of Representatives). The bill aims to transfer the responsibility for the reception of TP beneficiaries from the Relocation and Population Act to the Temporary Act.<sup>98</sup> At the time of writing, the bill has yet to be passed.

The Ukraine Coordination Information Exchange (*Knooppunt Coördinatie Informatie Oekraïne, KCIO*) serves as an information platform between the national government, the 25 security regions and involved partners such as, inter alia, the Dutch Red Cross, Association of Dutch Municipalities and COA. Professionals can contact the platform when they have questions about available reception places. Part of the hub is the National Coordination Point Refugee Distribution (LCVS). From this collection point, the overview of available municipal reception places on a supra-regional/rural scale is monitored and coordinated.

TP beneficiaries are entitled to an allowance for food, clothing and other personal expenses. This is a monthly allowance from the municipality. TP beneficiaries who live with a host family also receive an extra allowance. Because the cost of living has recently increased, the amount of the financial allowance has been adjusted since 1 October 2023, as explained above (see Residence permit).

In the Netherlands, it is possible for TP beneficiaries to be accommodated with host families for three months. Takecarebnb is a volunteer organisation which, as one of the partners within RefugeehomeNL, primarily used to coordinate the assignment of temporary protection beneficiaries to host families. RefugeehomeNL was created as a partnership between the Dutch Red Cross, the Dutch Salvation Army, TakeCareBnB and DCR upon assignment by the Ministry of Justice & Security to host TP beneficiaries with host families. On 31 December 2023 Refugeehome ceased its operations due to decrease in demand, host families, and the need for more structural housing solutions.<sup>99</sup>

Reception in private accommodation – by host families - is not directly organised by the national government, but nowadays coordinated by local organisations in municipalities. Municipalities are (also) responsible for TP beneficiaries who are staying with host families.

In 2022 the Dutch government, in collaboration with RefugeehomeNL and the Association of Dutch Municipalities, issued a guide *Handreiking Particuliere Opvang Ontheemden* regarding accommodating TP beneficiaries with host families. In this guide *Handreiking Particuliere Opvang Ontheemden*, host families can find information on how to offer shelter, to detect signs of abuse or exploitation and which services are available for TP beneficiaries from Ukraine, such as health care and education.<sup>100</sup>

In the Dutch context, there are organisations that provide support to displaced persons from Ukraine when they become victims of (sexual) exploitation, abuse, or other forms of violence. If the TP beneficiary is living with a host family, the host family can report the risk to a support worker from the Dutch Salvation Army (*Leger des Heils*). This person is trained to support host family with these kinds of issues.

When there are signs of abuse or other problems, the support worker discusses this with the host household coordinator at the Leger des Heils. The coordinator is in the position to refer the victim to relevant organisations (such as CoMensHa) when there is a situation of exploitation.<sup>101</sup>

In municipal reception facilities, procedures are also in place to face situations of exploitation, (child) abuse or any other forms of violence. In cases in which there is suspicion of (sexual) exploitation, CoMensHa can be contacted. It is also advised to supervisors of reception facilities to be in contact with

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<sup>98</sup> Dutch Parliament, 'Tijdelijke wet opvang ontheemden Oekraïne', available in Dutch at: <https://bit.ly/4atBJde>.

<sup>99</sup> RefugeehomeNL, information available at: <https://www.rhnl.nl/en/>.

<sup>100</sup> Dutch government, Guide 'Naslagwerk voor gemeentelijke opvang Oekraïense ontheemden', 15 January 2024, available in Dutch at: <https://bit.ly/3QQE5dP>. Dutch government, *Handreiking Particuliere Opvang Oekrainers (POO)*, available in Dutch at: <https://bit.ly/3wc05pY>.

<sup>101</sup> CoMensHa is the National Coordination Centre against Human Trafficking, information available at: <https://bit.ly/3QYOXpZ>.

local police officer on a regular basis. Information for municipalities is provided in the guide *Handreiking Opvang Ontheemden uit Oekraïne*.<sup>102</sup>

When employees of DCR identify abuse or domestic violence they can contact *Veilig Thuis*,<sup>103</sup> an organisation that provides advice to victims of (domestic) violence or to anyone who suspects this is the case. On *Refugeehelp.nl* information is provided for displaced persons from Ukraine how to reach out for help when there is (a suspicion of) a dangerous, an insecure or a violent situation.<sup>104</sup> This information is available in Dutch, English, Ukrainian and Russian. However, it is difficult for municipalities and organisations to inform and to reach displaced persons who live in private – non-municipal – accommodation.

## E. Employment and education

### 1. Access to the labour market

A beneficiary of temporary protection is allowed to work in the Netherlands without a work permit<sup>105</sup> as a paid employee. For self-employment, a work permit is required. The employer has the obligation to report to the *Uitvoeringsinstituut Werknemersverzekeringen (UWV)*. The UWV is the Dutch provider of employee insurance schemes. The UWV provides employee benefits and helps job seekers find work. In order to work, the beneficiary needs a citizen's service number (BSN). Furthermore, a TP beneficiary needs proof residency in the Netherlands. The proof of residency is necessary because the employer can see that the person concerned has temporary protection in the Netherlands which means that they do not need to apply for a work permit with the IND.

There are no specific professions for which TP beneficiaries have been exempt from qualification recognition.

Moreover, there are several initiatives, such as *RefugeeWorkn*<sup>106</sup> that support beneficiaries of international protection in their job search, and that can also be accessed by TP beneficiaries. They can also obtain information about work and internship opportunities on *Refugeehelp.nl*.<sup>107</sup>

TP beneficiaries from Ukraine who work have the same rights as national employees.

Latest available data on the number of TP beneficiaries who had accessed to the labour market refers to 1 November 2023 and was published on 1 January 2024: 55% of the BRP registered displaced persons from Ukraine had a job.<sup>108</sup>

### 2. Access to education

According to the Compulsory Education Act, all children in the Netherlands from 5 to 16 years of age should have access to school and education. This means that all children between the ages of 5 and 16 from Ukraine are subject to compulsory education and must attend school. Municipalities are responsible for education programmes and paths. Due to a lack of (specialised) staff in primary schools, it is

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<sup>102</sup> Dutch government, Guide 'Naslagwerk voor gemeentelijke opvang Oekraïense ontheemden', 15 January 2024, available in Dutch at: <https://bit.ly/3QQE5dP>, 24-26.

<sup>103</sup> Veilig thuis, information available at: <https://bit.ly/3GXl3hk>.

<sup>104</sup> Refugeehelp.nl, information available at: <https://bit.ly/4a5O73f>.

<sup>105</sup> If an employer wants to employ a person from outside of the European Economic Area, a work permit is required. Amongst other things, a work permit entails the assessment whether an EU citizen could do the same work as the person who is aspiring for the work permit.

<sup>106</sup> Refugeework, available at: <https://www.refugeework.nl/en>. Information is available in several languages, such as Ukrainian.

<sup>107</sup> See: <https://bit.ly/4bjZXY5>.

<sup>108</sup> CBS Statistics Netherlands, 'More than half of Ukrainian refugees in paid employment', 2 February 2024, available at: <https://bit.ly/44kWvtO>.

sometimes difficult to register a child at a school. If a municipality registers too many new inscription enrolment requests from children from Ukraine, or in case the children have special educational needs, school boards may decide to establish a temporary educational facility. In doing so, schools may deviate from laws and regulations to provide an appropriate educational offer to displaced children. This should be reported to the Dutch authorities.<sup>109</sup>

From 1 January 2024 temporary educational facilities within schools are no longer allowed. Existing temporary educational facilities within primary schools will have to close on 14 July 2024, in the context and on 1 August 2024 for of secondary education closure of such facilities will take place on 1 August 2024.<sup>110</sup>

From the age of 16, children must obtain a certificate in order to acquire access (a start qualification) to the Dutch labour market. Therefore, they need to obtain a diploma in secondary or vocational education. The conditions for displaced children of this age are the same as those for Dutch nationals or beneficiaries who have a residence permit.

In general, TP-beneficiaries are entitled to education under the same conditions as nationals or as legally residing third-country nationals. The only difference is that adult TP -beneficiaries between the ages of 18 and 30 years are not entitled to student grants, because TP -beneficiaries do not have a residence permit. Only Dutch nationals and migrants who have a residence permit are entitled to student grants up to the age of 30.

Beneficiaries with prior foreign education must have their previous diploma validated in order to study at a college or university. The evaluation can be carried out by the Dutch organisation for internationalisation in education (Nuffic)<sup>111</sup> or by the college or university where the beneficiary wants to study. After the diploma has been valued, the college or university decides whether the student meets the requirements. These are requirements specific to a study and/or language requirement necessary for a study. To be admitted, the student may have to take entrance exams or a language test.<sup>112</sup>

The amount of institutional tuition fees is determined by the college or university. The minimum statutory tuition fee for the 2022-2023 academic year ~~is~~ was 2,209 €. Most colleges and universities used to apply the minimum fee to TP beneficiaries from Ukraine. For the academic year 2023-2024 it is up to the college or university to decide the tuition fee (the so called 'institution tuition fee'). This means that the fees could be (significantly) higher than the current statutory tuition fee of 2,314 euro.

As of 5 February 2024, 11,700 child beneficiaries of temporary protection were registered in primary schools and 8,100 in secondary education; however, these numbers do not match with the BRP-registrations in municipalities. According to numbers of the BRP-registration, 13,200 child beneficiaries of TP should be registered in primary schools and 8,400 should be registered in secondary education.<sup>113</sup>

Due to a lack of (specialised) staff in primary schools, it is sometimes difficult to register a child. Schools facing many registrations from children who fled the war in Ukraine can turn to LOWAN, an organisation supporting schools in providing education for migrant children who have just arrived in the Netherlands in primary and secondary education.<sup>114</sup> Schools and special new arrivals facilities provide a specific curriculum (lessons) for child beneficiaries from Ukraine. Dutch language lessons are an integral part of this.

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<sup>109</sup> Regulation on temporary educational facilities in case of mass influx of displaced persons, available in Dutch at: <https://bit.ly/3XFW9tn>.

<sup>110</sup> Dutch government, 'Handreiking onderwijs voor kinderen en jongeren uit Oekraïne', 27 November 2023, available in Dutch at: <https://bit.ly/31TuXle>.

<sup>111</sup> Nuffic is the Dutch organisation for internationalisation in education: see Nuffic, 'Higher education', information available at: <https://bit.ly/3XxO6P2>.

<sup>112</sup> Ibid.

<sup>113</sup> Ministry of Education (Education Executive Agency, DUO), 'Weekoverzicht inschrijving Oekraïense leerlingen op scholen', available in Dutch at: <https://bit.ly/4cxMmxM>.

<sup>114</sup> Dutch government, information only available in Dutch at: <https://bit.ly/3ZLUDaG>.

## F. Social welfare

Beneficiaries of temporary protection in the Netherlands have access to the labour market. Should a beneficiary of temporary protection lose their job and become unemployed, they are entitled to employee insurances.<sup>115</sup> There are four types of employee insurance schemes:

- ❖ Unemployment Act;
- ❖ Occupational Disability Insurance Act;
- ❖ Work and Income according to Labour Capacity Act;
- ❖ Sickness Benefits Act.

In order to benefit from an employee insurance scheme, the beneficiary of temporary protection needs to comply with the specific requirements laid down in the different employee insurance schemes. As far as known, social welfare is provided to beneficiaries of temporary protection under the same conditions and on the same level as to nationals or legally residing third country nationals.

Beneficiaries of temporary protection who are paid for their work and thus earn their own income in the Netherlands are entitled to child benefits and child budget for children under the age of 18 years. This is a contribution towards the costs of children up to the age of 18. The amount of child budget depends on the income of the beneficiary, the number of children and their age.

Beneficiaries of temporary protection who do paid work may be entitled to childcare allowance (*'Kinderopvangtoeslag'*). However, should their (un)married partner still be in Ukraine, which is often the case, they are not eligible for childcare allowance. This is because the Childcare Act stipulates that people whose (un)married partner is outside the EU do not qualify for childcare allowance. This is a problem for Ukrainians whose (un)married partners cannot leave Ukraine because of the war. Because of this, it has been proposed to change the Childcare Allowance Act to make it possible for beneficiaries of temporary protection from Ukraine whose (un)married partner is still in Ukraine to benefit from childcare allowance. This proposal has been sent to Parliament. The proposed amendment to the Childcare Allowance Act does not cover other groups such as holders of asylum residence permits, who face the same issue.

Beneficiaries of temporary protection may also be eligible for other benefits such as rent allowance and health care allowance (see [Health care](#)). The Tax authority (*'Belastingdienst'*) is the organisation responsible for granting rent allowances. Employee insurances are granted by the UWV.<sup>116</sup> The Tax Authority provides specific information for beneficiaries of temporary protection from Ukraine.<sup>117</sup> Municipalities and refugee work provide social counselling to Ukrainian refugees (see Information provision).

## G. Health care

### *Health care insurance before 1 July 2022*

Prior to 1 July 2022, a specific Medical Care Regulation for beneficiaries of temporary protection from Ukraine (*'Regeling Medische zorg Ontheemden uit Oekraïne'*, *'RMO'*) was applied. It meant that the health care costs of beneficiaries of temporary protection who did not have paid work and who did not earn their own income were reimbursed by the healthcare providers through the Central Administration Office (*Centraal Administratie Kantoor, CAK*). The CAK is a government organisation that implements financial arrangements in the healthcare sector and informs citizens about these arrangements. The CAK does this on behalf of the Ministry of Health, Welfare and Sport. Beneficiaries of temporary protection thus had access to the same health care as nationals and beneficiaries of residence permits who have taken out

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<sup>115</sup> Dutch government, 'Werk en inkomen voor vluchtelingen uit Oekraïne', available in Dutch at: <https://bit.ly/3UhrMEM>.

<sup>116</sup> UWV, information only available in Dutch at: <https://bit.ly/3kxKwq9>.

<sup>117</sup> Dutch Tax Authority (*Belastingdienst*), information on rent benefits only available in Dutch at: <https://bit.ly/3y09AN5>.



basic insurance. This insurance covers, among other things, care from the general practitioner, hospital, psychiatrist or pharmacy.

#### *Health care insurance from 1 July 2022 onwards*

Since 1 July 2022, a specific Medical Care Regulation for beneficiaries of temporary protection from Ukraine ('*Regeling Medische zorg Ontheemden uit Oekraïne*', 'RMO') has been applied.<sup>118</sup> To have access to this scheme, the displaced person has to have been registered by a municipality in the *Basisregistratie Personen (BRP)* as a person who is entitled to temporary protection (BRP code 46) and have a citizen's service number (BSN). When these conditions have been fulfilled the person concerned has access to the RMO scheme, regardless of whether they generate an income or not. With the effect of As of 1 August 2022, the RMO also applies to TP holders in who are also persons who have paid work.

By the RMO scheme, health care providers are reimbursed for the costs associated with caring for this group. TP beneficiaries do not have to pay health care insurance fees (premium). The health care covered by the RMO is not limited to emergency care, it covers general medical care. The RMO covers at least the same medical care as nationals and holders of residence permits are entitled to according to the basic health care insurance. It covers, for example, care from the general practitioner, hospital, psychiatrist or pharmacy. Certain medical care is outside the basic health care insurance package. This concerns, for example, the compensation of dental care for acute pain up to 250 euro, contraception, abortion care, glasses and hearing aids, and certain medication.<sup>119</sup> The RMO is similar to the health care arrangements for asylum seekers in the Netherlands. Nationals and beneficiaries of a residence permit have to pay fees for their health care insurance.

When a person from Ukraine is denied registration in the BRP as a person who is entitled to temporary protection (BRP code 46) by a municipality and does therefore not receive a citizen's service number (BSN), the person concerned does not fall under the RMO scheme. The health care costs can be reimbursed by the health care providers via the CAK.<sup>120</sup>

All TP holders have effective access to health care as long as the medical treatment is covered under the basic health care insurance. As far as known, there are no practical obstacles in accessing it. Problems might arise when TP holders wish to be treated by a health care provider whose costs are not covered by the RMO.

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<sup>118</sup> Dutch Government, 'Information for refugees from Ukraine in the Netherlands about health insurance', 27 July 2022, factsheet available in Ukrainian at: information (leaflet) is available at: <https://bit.ly/3QJApdy>.

<sup>119</sup> Dutch government, Q&A for municipalities regarding medical care for displaced persons from Ukraine.

<sup>120</sup> Dutch government, information on healthcare and displaced persons from Ukraine, information is only available in Dutch at: <https://bit.ly/3Y23p2X>.