

AIDA Temporary Protection Compilation on 2023

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

This document is a compilation of the information on the implementation of the TPD and similar national temporary protection regimes in 2023. It collates analysis published in the Asylum Information Database (AIDA) managed by the European Council on Refugees and Exiles (ECRE).

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

In activating the TPD, the EU's response to this displacement crisis facilitated access to international protection for those displaced by the fighting and alleviated the responsibilities of Member States. As established in the Council Implementing Decision, temporary protection applies to nationals of Ukraine and to selected third country nationals fleeing Ukraine from 24 February 2022 onwards; the people covered are granted immediate access to a protection status in the EU in the country where they choose to register. Initially activated for one year, in October 2022 the temporary protection regime was extended until March 2024. In September 2023, extension until March 2025 was announced. This was thought to be the last possible extension, as it was understood that temporary protection in EU countries could last for a maximum of three years. However, in June 2024 the European Commission put forward an extension for a fourth year, i.e. until March 2026, based on a new interpretation of the TPD. As of September 2024, there is no information on the development of longer-term solutions and no information as to what will happen to current beneficiaries of temporary protection after March 2026. To contribute to the debate on post-TPD options, in early 2024 ECRE published a policy paper on transitioning out of the TPD,¹ which analyses the options available to the EU Member States. ECRE also argues for the incoming European Commission to return to the assertive leadership role it took on during the first phase of the crisis.

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

To this end, the AIDA reports on international protection systems in Europe in 2022 and 2023 include a detailed annex on the respective country's implementation of the TPD or similar national protection scheme, covering both policy and legal developments. The annex describes the temporary protection procedure, including its scope, access to the procedure, and guarantees for vulnerable persons. It then covers the content of temporary protection, including rights to residence and status, family reunification, freedom of movement, housing, education, labour market access, social welfare, and healthcare.

¹ ECRE, *Transitioning out of the Temporary Protection Directive*, February 2024, available at: <https://bit.ly/3YS5eRJ>.

Two years into the implementation of the TPD, in a highly challenging context, many of the positive aspects of the response remain in place: the approach has largely continued to prioritise access to protection; in most cases, entitlement to a protection status is still automatic and immediate; despite a waning of leadership by the Commission, the EU institutions and agencies have continued to offer support and to encourage harmonised practices across the EU via operational guidelines, funding and on-the-ground assistance; Member States have maintained practices that support access to a wide spectrum of substantive rights for most people fleeing. As of autumn 2024, over 4.1 million people continued to benefit from temporary protection status across the EU.²

Nonetheless, some challenges and implementation gaps persist and others have emerged with the prolongation of temporary protection. First, even after two years of implementation, there are still varying interpretations and thus divergent policies and practices on certain aspects of the TPD and the Council Implementing Decision. Second, practical – and increasingly political – difficulties derived inter alia from uneven distribution of TPD beneficiaries persist, entailing very different capacity and resources to be deployed by states. Third, after initially using the temporary protection regime, some Member States have restricted access to protection and the scope of rights for non-Ukrainian nationals. Finally, a general trend of decreasing financial allowances can also be observed. In some cases, but not across all countries, a lack of access to adequate housing, education, and effective access to employment remain or have increased. In general, some of the challenges, and particularly the latter, reflect the lack of a long-term inclusion perspective. While such an approach based on longer-term integration would assist the displaced population, it remains highly sensitive for the government of Ukraine and other stakeholders. Nonetheless, as the displacement continues, access to rights needs to be ensured in order to meet the longer term needs of TP holders. In addition, as mentioned above, it remains of key importance that EU institutions continue their efforts to ensure a collective response for those fleeing Ukraine.

The document reproduces the 2023 AIDA report annexes on temporary protection and similar statuses, published from spring 2024 onwards, as described above. It provides a detailed overview of legislative and practical developments in relation to the procedure for and content of temporary protection in 19 EU member states (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and similar regimes in 3 non-EU countries (Serbia, Switzerland, United Kingdom). The annexes on temporary protection were prepared by the national experts for each of the AIDA country reports on international protection.

The TPD annexes complement the respective 2023 updates of the AIDA country reports. The compilation should be read in conjunction with the full country reports and with other analysis of the TPD, including ECRE Information Sheet and policy documents. For further information please see the AIDA website, www.asylumineurope.org.

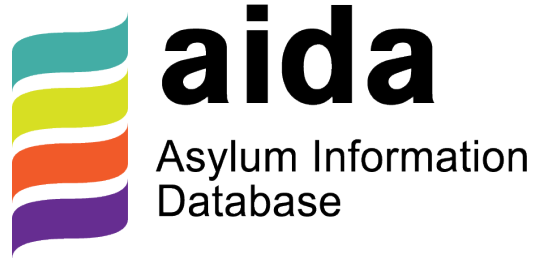
The TPD annexes will be updated alongside the country reports in the 2024 updates, with the objective of monitoring implementation of the temporary protection framework, and mapping national level approaches to transitioning out of the TPD regime.

The Asylum Information Database (AIDA) is managed by the European Council on Refugees and Exiles (ECRE). It provides up-to-date information on asylum in Europe, which is open-source and thus accessible to researchers, advocates, legal practitioners, and the general public on the dedicated website www.asylumineurope.org. AIDA covers 24 countries, including 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and 5 non-EU countries (Serbia, Switzerland, Türkiye, Ukraine and the United Kingdom). The database also promotes the transposition and implementation of EU asylum law in a way that reflects the highest standards of protection as set out in international human rights law and established in best practice.

² Eurostat, '4.1 million people under temporary protection in July', 10 September 2024, available [here](#).

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Austria

2023 Update



***asyl*koordination**
Österreich



Temporary Protection Procedure

A. General

Due to the illegal war of aggression by the Russian Federation on Ukraine on February 24, 2022, and the resulting refugee movements, the Temporary Protection Directive³ (TPD) was activated by implementing decision (EU) 2022/382 at the EU level.⁴

At the national level, further implementation takes place within the framework of the provisional right of residence for displaced persons according to Section 62 AsylG⁵ and the Displaced Persons Ordinance (*Vertriebenenverordnung*).⁶ The target group of the ordinance, adopted in March 2022, consists primarily of Ukrainian citizens residing in Ukraine before 24 February 2022, recognised beneficiaries of international protection in Ukraine and family members of these two groups.

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

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

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

There are no official statistics on the number of people displaced, directly or indirectly, by the conflict, that are present in Austria but beyond the scope of TPD, however that is not to say there are none. As the scope of the Austrian implementation of the TPD is very restrictive and focuses mainly on Ukrainian nationals, there were several reports in March 2022 about third country nationals (TCNs) fleeing from Ukraine to Austria.⁷

TCNs with a residence permit in Ukraine are allowed to enter Austria for the purpose of organising their onward travel or to legalise their stay in Austria. This concerned mainly students from African and Asian

³ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof [2001] OJ L 212/12, available at: <http://bit.ly/409uJhu>.

⁴ Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection, OJ L 71/1, available at: <http://bit.ly/3EHe8lw>.

⁵ Bundesgesetz über die Gewährung von Asyl StF: BGBl. I Nr. 100/2005, available in German at: <http://bit.ly/1jULWW6>.

⁶ Verordnung der Bundesregierung über ein vorübergehendes Aufenthaltsrecht für aus der Ukraine Vertriebene (Vertriebenen-Verordnung – VertriebenenVO), 11 March 2022, available in German at: <https://bit.ly/3JQBKMV>.

⁷ SWR, 'Zerplatzte Träume – Afrikanische Studierende aus der Ukraine', 13 February 2023, available in German at: <https://bit.ly/3y4qAll>.

countries who were studying in Ukraine before 24 February 2022. In some cases, the students tried to apply for a status. A Tunisian student was searched and imprisoned by police in Linz. The police argued that the student had asked about possibilities to legalise his stay in Austria and thus showed that he was not willing to travel onward. The Ministry of Interior announced that TCNs who do not show the will to travel onwards to their home countries are viewed to be illegally in the country.⁸

As of 24 March 2023, 464,000 Ukrainian nationals had entered Austria since 24 February 2022. 384,900 had since left Austria again. More recent statistics are not available.

According to unpublished information by the office of the Refugee coordinator, Andreas Achrainner, around 107,779 persons (65.7% female, 34.3% male) have been registered since March 2022 and between March 2022 and 31 December 2023, 103,339 ID cards were issued to displaced persons from Ukraine and 83,415 have a valid displaced person status.

Still according to the office of the Refugee coordinator, around 95,000 persons (63,500 female, 31,500 male) were registered in 2022 and between March and 31 December 2022, 89,302 ID cards were issued to displaced persons from Ukraine.

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

As of 31 December 2023, 107,779 persons had been registered as displaced persons from Ukraine, of which 106,133 were Ukrainian nationals. As of January 3rd 2024, in the Central Register of Residents, 69,632 Ukrainian nationals have been registered of which 40,701 received support via Basic care.

As of December 2023, 83,415 people have a valid displaced status.⁹

As of January 3rd 2024 (March 2023, 69,319) 69,632 Ukrainian nationals have been registered in Central Register of residents in Austria since March 2022. The difference between the numbers of Ukrainian nationals registered in the Central Register of residents and the number of ID cards issued has many reasons: some ID cards are issued to non-Ukrainian nationals (e.g. married partners), some were on short term visits to Ukraine at the time and some moved back or to other countries for indefinite time without de-registering. This number is purged of potential mistakes / double registrations, , e.g. if names were entered incorrectly. After the process of sending out the new ID cards at the start of 2024, it is to be expected that the number of ID cards issued will be closer to the number of persons registered in the Central Register of residents. As of December 29th 2023 (March 2023 53,223) 40,701 displaced Ukrainians receive Basic care.

In 2023, 130 Ukrainian nationals applied for asylum in Austria (as opposed to 628 in 2022 and 91 in 2021) (see [Access to asylum](#)).

⁸ "Flucht aus Ukraine: Tunesischer Student festgenommen", www.orf.at, 21 March 2022, available in German at: <https://bit.ly/40kUStc>.

⁹ Statistics presented as part of a meeting organised by the Ukraine Refugee Coordination Unit.

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

Citizenship of beneficiaries of temporary protection in Austria as of 31 December 2023			
Citizenship	Total	Male	Female
Ukraine	106,133	35,977	70,156
Russian Federation	393	172	393
Armenia	127	64	63
Moldova	100	55	45
Georgia	89	72	17
Accumulated top 5	106,842	36,340	70,674
Rest	937	659	106
Total	107,779	36,999	70,780

Source: unpublished information by the office of the Refugee coordinator

(Residence) prospects for displaced persons

So far, there is no solution but it is necessary for there to be a follow-up residence permit and social security for displaced persons to enable a self-determined life and end the 'waiting dilemma'. The displaced person status was extended by a further year at EU level in October, until March 2025. However, it is still unclear whether and if so, which residence permit will be possible for displaced persons after March 2025 in Austria. People need to have a perspective as soon as possible that enables a good arrival and integration on the one hand, but also a meaningful longer-term stay on the other. A perspective to stay entails a residence title, subsequent or parallel to the displaced person status, with open access to the labour market, as well as social rights oriented towards asylum status, in any case no worse than the previous residence status.

A very important consideration is that there should be no gaps in provision of care and services when changing from displaced person status to another residence title. Transitional periods should be taken into account.

In May 2024, the government submitted a legislative proposal to the parliamentary process: it foresees that beneficiaries of temporary protection from Ukraine should be able to switch to Red-White-Red Card Plus, which is a regular title of stay to be issued in the regular scheme of the Residency Law (NAG). Due to the conditions to be fulfilled, it is expected that only a very small number of persons will benefit from this possibility. People must:

- ❖ Have secured employment during at least 12 months of the last 24 months;
- ❖ Have a realistic prospect of income, i.e.
 - Single people: approx. EUR 1,218 net per month,
 - Married couple/registered partner: approx. EUR 1,921 net per month (jointly),
 - per child additionally approx. EUR 188 net per month; Family allowance is not taken into account, childcare allowance is;
- ❖ Have German language skills of at least a level A1, certified by an authorised institute (e.g. ÖSD, ÖIF etc.).¹⁰

It is expected that the law will be passed within in the next months and will be in force at latest at the start of November 2024. The government mentioned that it considers that approx. 7,000 persons would be

¹⁰ „Rot-Weiß-Rot – Karte plus für ukrainische Vertriebene“, BBU GmbH, available in German at: <https://shorturl.at/RJZJs>.

eligible for this title of stay. This assumption is not shared by NGOs who believe only a maximum of 2,000-3,000 persons (out of 70,000 Ukrainians residing in Austria) would be eligible.¹¹

B. Qualification for temporary protection

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

- ❖ Ukrainian nationals residing in Ukraine before 24 February 2022 (§ 1 Z 1 Displaced Persons Ordinance);
- ❖ Non-Ukrainian third-country nationals with international protection or equivalent national protection in Ukraine who had to leave Ukraine on or after February 24th, 2022 (§ 1 Z 2 displaced persons regulation). This applies to people with refugee status (asylum) or complementary protection (equivalent to subsidiary protection) in Ukraine, as well as recognised stateless persons;
- ❖ Family members of the two categories mentioned above (including non-Ukrainian nationals, §§ 1 Z 3 in conjunction with 2 Expellees Ordinance). Family members are defined in § 2 Displaced Persons Ordinance as including spouses, registered partners, minor unmarried children of the eligible person and / or that of their spouse or registered partner, other close relatives if they lived in the same household in Ukraine and were substantially or fully dependent on them. These family links must have existed prior to 24 February 2022. This can notably including Ukrainian family members who do not have an independent right to TPD because they were not in Ukraine in February 2022. Concerning TCN family members however, in practice, the AT authorities have refused to grant displaced person status to TCNs, including family members of TPD beneficiaries (see infra, same section, regarding the practice concerning TCNs).

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

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

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

Temporal scope re. Ukrainian nationals

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

There are several court cases pending regarding the question of whether Ukrainian nationals that entered Austria after 24 February 2022 but had left Ukraine before 24 February 2022 are eligible for temporary protection. In one case, the BVwG annulled the negative decision of the first instance authority.¹² The Constitutional Court announced that it would examine some of these cases in the first half of 2023.¹³

In a ground-breaking case with a decision from 15 March 2023, the Constitutional Court found the practice of the Austrian authorities and BVwG to exclude Ukrainians that were not present in Ukraine on 24 February from temporary protection in Austria as unlawful. In this case, a Ukrainian national who was on vacation to Georgia on the day of the invasion and could not return to Ukraine as planned registered for TP in Austria but was denied a temporary protection status. This decision was arbitrary and thus found

¹¹ „Diakonie kritisiert: Neues Gesetz schließt die meisten Ukraine-Vertriebenen aus“, Diakonie Österreich, available in German at: <https://shorturl.at/C8iQD>.

¹² „BVwG: Wer gilt als „vertrieben“ im Sinne der VertriebenenVO?“, BVwG 18.11.2022, [W196 2262218-1/3E](https://www.bv.wg.at/decision/W196-2262218-1/3E) und BVwG 07.12.2022, [W189 2259726-1/4E](https://www.bv.wg.at/decision/W189-2259726-1/4E), available in German at: <https://bit.ly/3JPNwXO>.

¹³ VfGH, „Vorschau auf das Programm des VfGH im ersten Halbjahr 2023“, available in German at: <https://bit.ly/42CqUCJ>.

unlawful as the Displaced persons ordinance in accordance with the TPD speaks of “residence” in Ukraine and not about “being physically present” in Ukraine on 24 February 2022.¹⁴

This decision has a certain precedent effect for all those who left Ukraine not long before February 24, 2022. It has clarified a major legal uncertainty. Following this decision, the BFA changed its practice and affected persons are considered fall within the scope of the IDP Regulation and are granted displaced person status. However, this has not led to a significant rise in the number of beneficiaries.

Third country nationals

The scope of the TPD in Austria is restricted compared to the Council Decision (for further details and information regarding legal action taken in these matters, see [Legal assistance](#)). Notably, Austria chose not to offer temporary or other adequate protection for TCNs covered by the Council Decision (article 2(2) and 2(3)). TCNs are allowed to enter the country but are not eligible for temporary protection unless they were BIPs in Ukraine. Stateless persons are only eligible if they have already received some sort of protection status in Ukraine. All other TCNs are thus dependent on the regular asylum system.¹⁵ This is also the case for family members of Ukrainian nationals covered by TP who are themselves TCNs. All TCNs that do not fall under the TPD regime have access to the regular asylum system. Applications for titles of stay according to the Residency Law (NAG) generally cannot be submitted in Austria but must be submitted before an Austrian embassy. After the start of the Russian invasion in Ukraine, the embassies in Bratislava, Ljubljana and Munich were empowered by the Ministry of External Affairs to receive applications based on the Residency Law (NAG).

Prolongation of TPD

§ 4 of the Displaced persons Ordinance foresees that temporary protection is granted until 3 March 2023 and will be prolonged automatically by half a year or a year in case the TPD is not withdrawn by a Council decision. The Ordinance was amended by the government on 30 January 2023 stating that the temporary stay will be prolonged until 4 March 2024.¹⁶ Since the TPD was prolonged until March 2025, the Ordinance is automatically prolonged until 4 March 2025. An application for renewal was not necessary: ID cards for the beneficiaries were sent automatically between January and February 2024 to all those with a main residence registration in Austria.¹⁷ No issues were reported in practice.

C. Access to temporary protection and registration

1. Admission to territory

Before the activation of the TPD at the EU level and clarification as to on what grounds persons fleeing from Ukraine could enter the country, there were some reports of NGOs such as Mission Lifeline from 1 March 2022 that the Austrian police refused the entry to TCNs fleeing Ukraine that did not apply for asylum.¹⁸ The Ministry of Interior clarified that TCNs fleeing from Ukraine are allowed to enter the country based on Art. 5(c) of the Schengen Border Code for the purpose of planning their onward travel or regularisation of stay in Austria.¹⁹ Since March 2022, there have been no reports of refusal of entry of TCNs or Ukrainian nationals, including in 2023.

¹⁴ VfGH, E3249/2022-12, 15 March 2023, available in German at: <https://bit.ly/3ZVrJ6M>.

¹⁵ Verordnung der Bundesregierung über ein vorübergehendes Aufenthaltsrecht für aus der Ukraine Vertriebene (Vertriebenen-Verordnung – VertriebenenVO), available in German at: <https://bit.ly/3JQBKMV>.

¹⁶ Bundesgesetzblatt II 27/2023, 30 January 2023, available in German at: <https://bit.ly/41b6yyF>.

¹⁷ BFA, ‘Formulare’, available in German, English, Ukrainian and Russian at: <https://bit.ly/4aZk8uw>.

¹⁸ „Einreise für Nichtukrainer schwieriger“, www.orf.at, 1 March 2022, available in German at: <https://bit.ly/3LV4iHI>.

¹⁹ Ministry of Interior, Internal decree, GZ 2022-0.183.851, 10 March 2022, unpublished but cited in the judgement by the Federal Administrative Court, L518 2254117-1/20 E, 23 January 2023, available in German at: <https://bit.ly/3UPM2ls>.

2. Freedom of movement

The Austrian police issued an internal decree on 27 February 2022 enabling Ukrainian nationals without biometric passports to enter the country.²⁰ There are no reports about Ukrainians having problems with moving onwards to other countries.

3. Registration under temporary protection

The right of residence arises *ex lege* on the basis of the Displaced persons Ordinance (Vertriebenenverordnung). The Displaced Persons Ordinance entered into force on 12 March 2022. The protection status was initially granted until 3 March 2023 with the provision that it will be prolonged for another year if the Council will not withdraw the activation of the TPD. Since the European Union has prolonged the TPD, the Displaced Persons Ordinance is automatically prolonged until 4 March 2025.

The ID card for displaced persons is to be issued *ex officio* by the BFA to persons who fall within the scope of the Displaced Persons Ordinance. There is no formal application: An initial registration is carried out by the police and the registration papers are forwarded to the BFA. Displaced persons from Ukraine can register for displaced person status with the police at the arrival centres located in 2 out of 9 (Vienna, and Vorarlberg)²¹ provinces. In the other provinces the competent authority for basic care provides displaced persons with emergency beds, medical assistance and food. The police register the personal data – usually this information is taken from the person's Ukrainian passport – and arrange for registration with the health insurance agency as well as the registration in the central basic care information system (GVS BIS) if the wish to do so is expressed. There is no further interview. If the conditions for the status are fulfilled, the ID card for displaced persons is issued and sent to the persons concerned (see [Residence permit](#)).

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

If a person expresses the intention to receive displaced person status at the border, they are referred to one of the 28 regional police registration centres.²² Upon registration, the person will receive an ID card. If the person wishes to get Basic Care, the person has to register with the responsible Social Care unit of the respective provinces. In the first months of 2022, in every province there was a central first arrival centre designed for Ukrainians where they could register for the ID card, social security, basic care and allocation of accommodation. First arrival centres designed for Ukrainians were closed in Innsbruck, Salzburg, Linz and Graz. In Nenzing (federal province Vorarlberg) and Vienna there is still a first arrival centre. In Salzburg, Graz and Linz, there is at least 24/7 accessibility via an emergency telephone number and emergency beds for 1-3 nights. In the federal states where there are no first arrival centres, displaced persons can apply directly to the respective state basic care office for admission to basic care. Referral to basic care usually works within a few days, with the exception of Vienna and Nenzing where referral often takes up to several weeks. This is mainly because there are hardly any free places in basic care in Vorarlberg. In Vienna, there are some people with increased care needs due to disabilities or old age, for example. There are not enough places in basic care for people with increased care needs, which is why these people often stay longer in the first arrival centre.²³

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

²¹ BBU GmbH, 'Startseite Ukraine', available in German, English and Ukrainian at: <https://bit.ly/3SepNWw>.

²² BBU GmbH, 'Erfassungsstellen der Landespolizeidirektionen', last updated 02 April 2024, available in German, English and Ukrainian at: <https://bit.ly/4aZqGZU>, and Ministry of interior, 'Ukraine', available in German, English, Ukrainian und Russian at: <https://bit.ly/3y22dVq>.

²³ Minutes from an exchange meeting with the Ukraine refugee coordination unit, unpublished.

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

Generally, the persons are advised to bring all sorts of identity documents to the registration. A passport is usually sufficient. If no evidence is available further examinations such as interviews have to take place.²⁴

The standard proof for residency in Ukraine before 24 February 2022 is the passport stamp upon leaving the country. In case of biometric passports, it is assumed that the persons left Ukraine after 24 February. If there is no passport or no stamped passport, other proofs can be submitted. In case of doubts, a examination proceeding by the authority is started and the person is invited to an interview.

Temporary protection for family members is only relevant if the person does not fulfil the conditions of being eligible for TP themselves. Generally a birth certificate or any other proofs can be submitted. If this is not sufficient from the perspective of the authority the person concerned or the relevant family member is invited for an interview at the authority. In practice, this topic is not of relevance as TCNs are not allowed to access TP.

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

Initially, displaced persons from Ukraine encountered lengthy procedures of issuing the documents. This was mainly a consequence of the high number of arrivals and the lack of established work flows and crisis management. The lack of technical equipment such as fingerprint scanners and the distribution of these throughout the country led to a backlog of cases in the first couple of weeks in 2022. As the registration was the precondition for the persons to enter the basic care system many displaced persons were dependent on the support of civil society organisations that provided shelter and food.²⁵

In 2023, the registration process seems to be quicker, since the number of arriving Ukrainians decreased substantially, as illustrated by the figures presented under [General](#). People usually receive their ID card within 2 weeks of registering.

As there is no formal procedure and written decision, there is no appeal and no right to get free legal assistance foreseen. In order to get a written decision, persons have to bring in an application for a declaratory decision before the first instance authority²⁶ which can be appealed in case of rejection.²⁷

4. Legal assistance

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

A network of NGOs ([Diakonie](#) and [Caritas](#)) offers free legal counselling and representation in these cases.²⁸ The goal of the counselling project is the equal legal treatment of all people who have fled from Ukraine as some points of the Displaced persons Ordinance were identified to be unlawful, especially with regard to the exclusion of some groups. By means of strategic litigation, selected cases should be brought in front of the Austrian Constitutional Court and the European Court of Justice. In the focus of the project is the exclusion of certain groups and the fact that decisions are not issued in written form and therefore cannot be challenged in court.

²⁴ BFA, 'Formulare', available in German, English, Ukrainian and Russian at: <https://bit.ly/4aZk8uw>.

²⁵ „Ist da jemand? Staat lässt Flüchtlingshelfer in Stich“, profil, 9 May 2022, available in German at: <https://bit.ly/3KJj3ft>.

²⁶ Art 56 AVG, VwGH, E 1994/10/25 92/07/0102, 25 April 1996, available in German at: <https://bit.ly/3UTBJwG>.

²⁷ Art 63 AVG.

²⁸ Diakonie Flüchtlingsdienst, Rechtsberatung für Vertriebene aus der Ukraine, available in German and Ukrainian at: <https://bit.ly/42NDzmg>.

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

- ❖ Legal protection: The Displaced Persons Ordinance does not provide any legal protection mechanism in the sense of a judicial review in the event that the status of displaced person is not granted. It is questionable whether the rule is in conformity with Art. 47 CFR as an effective remedy is not provided. Thus, in selected cases will be challenged whether national implementation is adequate as the TPD foresees the establishment of a legal remedy.
- ❖ Deadline cases: The Displaced Persons Ordinance foresees in general that only persons who have left Ukrainian territory after 24 February are eligible for the temporary protection status. However, there is no objective justification for the unequal treatment of Ukrainians who, for example, left the country a few days before or a few days after 24 February 2022. In addition to equality law considerations, considerations regarding the meaning of the word “expelled” are also at the centre of the argumentation when it comes to the topic of the “deadline” after which the persons must have left Ukraine. Section 1 (1) of the Ordinance on Displaced Persons provides for a status for persons who have been “displaced” from February 24, 2022. “Expulsion” from the home country is not to be equated with “physical abandonment”.²⁹ In a ground-breaking case, in March 2023 the Constitutional Court issued a decision, that was declared arbitrary and thus found unlawful, declaring that the exclusion of Ukrainian nationals from TPD on the basis that the person was not physically present in Ukraine on 24 February 2022 when the person had its residency in Ukraine.³⁰
- ❖ Partners instead of spouses: The Ordinance on Displaced Persons only foresees the provision of temporary protection status for “registered partnerships”, although this legal concept is unknown in the Ukrainian legal system and is therefore irrelevant in practice. Art 15 para 1 (a) of the TPD mentions “unmarried partners who have a permanent relationship with the reference person” if they “are treated similarly to married couples in accordance with the legislation or the customs of the respective Member State”. This provision was taken up in Article 2, paragraph 4, letter a of the Council decision, whereby there was a linguistic change in the German language version: “treated in a similar way” became “equal”. This is obviously an editorial mistake under Union law, a translation error, since the English, French and Italian language versions, for example, continue to speak of “comparable” treatment instead of “equal treatment”.³¹ As a consequence, TCN unmarried partners are currently not afforded TP in the Austrian implementation of the TPD.
- ❖ Third-country nationals with permanent residence in Ukraine: Article 2 (2) of the Council Decision stipulates that the Member States must afford either temporary protection or an equivalent protection status in accordance with their national law to third-country nationals with non-Ukrainian citizenship who were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit and who cannot return to their country of origin under safe and permanent conditions. In the national implementation, these third-country nationals who are entitled to permanent residence are excluded from the status of displaced persons, in practice the BFA refers them to the asylum procedure. However, this does not represent an “equivalent protection status” since the impossibility of returning under “safe and permanent conditions” is a *sui generis* concept below the threshold of Art. 3 ECHR relevant in the asylum procedure.³²

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

In practice, there is no free legal assistance provided to displaced persons from Ukraine. NGOs assisting displaced persons are only operating in the major cities. The legal counselling unit of the BBU GmbH that

²⁹ Verordnung der Bundesregierung über ein vorübergehendes Aufenthaltsrecht für aus der Ukraine Vertriebene (Vertriebenen-Verordnung – VertriebenenVO), 11 March 2022, available in German at: <https://bit.ly/3JQBKMV>.

³⁰ VfGH, E3249/2022-12, 15 March 2023, available in German at: <https://bit.ly/3ZVrJ6M>.

³¹ Rechtsberatung für Vertriebene aus der Ukraine, available in German and English: <https://bit.ly/417PhGG>.

³² Rechtsberatung für Vertriebene aus der Ukraine, available in German and English at: <https://bit.ly/417PhGG>.

assists asylum seekers in the regular asylum procedure are not available for displaced persons from Ukraine as their scope of work is limited by law. At the borders, there are no NGOs present.

5. Information provision and access to NGOs

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

The BBU GmbH, BFA and Ministry of Interior offer information on entry into the territory, documentation, protection plans, and administrative procedures through specially designated webpages³³ in multiple languages, primarily Ukrainian, Russian, English, and German. The office of the Refugee coordinator, Andreas Achraimer, who is also CEO of BBU GmbH, also works together with administrators of Ukrainian telegram groups in Austria and shares relevant information, e.g. information about extension of residence permits.

The majority of Ukrainians is familiar with smartphones, apps, and QR codes. Written info sheets are therefore not as popular for this group or are not used. However, there is a large group, especially people above 60/70 years, who are not reachable via Youtube videos or social messenger groups. This group uses phone hotlines and personal contact is more important. The relevant information material is prepared in a multimedia and multilingual format. There have been improvements in communication processing in 2022 and over the last year.

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

In March 2022, the Austrian government set up the Ukraine Refugee Coordination Unit.³⁴ Among other things, its task is to coordinate relevant stakeholders in the area of care and accommodation for displaced persons. In addition, the staff unit supports the coordination of aid and donations and other support offers to Ukraine. The staff unit is obliged to report to the federal government. A key task is to improve the processing of information and the communication of relevant information for Ukrainians with a temporary protection permit.³⁵ In 2022 and 2023, the Ukraine refugee coordination unit organised monthly exchange meetings with many different stakeholders, both governmental and non-governmental, where various topics were discussed, such as people with disabilities, human trafficking, access to the labour market, prospects for displaced persons - what happens after the TPD, notification and professional recognition, etc. Experts are regularly invited to provide information on specific topics. There is a broad discussion in the exchange rounds and suggestions for problems can be given, questions and topics can be suggested, and are taken up by the staff unit.

³³ BBU GmbH, Informationen für Schutzsuchende, available in German, English, Ukrainian and Russian at: <https://bit.ly/3KkR4BG>; BFA, Informationen zur Verlängerung des Aufenthaltsrechts für Vertriebene aus der Ukraine, available in German and Ukrainian at: <https://bit.ly/3ZXvvN4>; Ministry of Interior, Ukraine, available in German and Ukrainian at: <https://bit.ly/3ZROMQe>.

³⁴ ORF.at, 'Bundeskanzleramt bestellt Ukraine-Flüchtlingskoordinator', 13 March 2022, available in German at: <https://bit.ly/3RSf6rd>.

³⁵ Salzburger Nachrichten, 'BBU-Chef Achraimer neuer Ukraine-Flüchtlingskoordinator', 30 June 2022, available in German at: <https://bit.ly/co/Gte7>.

Authorities,³⁶ police,³⁷ NGOs,³⁸ employment agency,³⁹ basic care centres⁴⁰, UNHCR⁴¹ etc. have created their own Ukraine pages on their websites and info sheets. Information has been translated into Ukrainian and Russian. The BBU GmbH has also set up a hotline that can be reached and that offers advice and information in the first language, Ukrainian and/or Russian. Advice is also available in German and English. There is also audio-video material available.⁴²

Ukrainian volunteers coordinate and support refugees, especially with information on e.g. rules, basic care, education, work, contact persons. They are organised through the social messenger Telegram. There are several different groups, usually one main group with several subgroups per federal state. The refugee coordination unit works closely together with telegram moderators and tries to improve living conditions for Ukrainian refugees.⁴³

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

D. Guarantees for vulnerable groups

There is no specific mechanism to identify vulnerable groups upon arrival. Similar to asylum seekers, there is the possibility of accommodation in assisted living for people with increased care needs (for further information, see [General Report - Special reception needs of vulnerable groups](#)). However, the mechanism established for asylum seekers is not available in the process of registration of displaced persons from Ukraine as they are never in the responsibility of the first reception centres for asylum seekers where the medical checks take place. The number of places in the framework of increased care needs was already significantly too low before the arrival of displaced persons from Ukraine. There are insufficient places for people with disabilities, elderly people with and without care needs, chronically ill people as well as people with psychological and/or physical disabilities.⁴⁴

As Austria started evacuations of vulnerable persons from Moldova, it appeared that there was no mechanism in place to identify capacity available to house handicapped persons. The announcement to evacuate up to 2,000 persons with special needs was followed by the evacuation of only 540 persons.⁴⁵ The reduction of the numbers was partly due to the lack of adequate accommodation and treatment and therefore stopped.

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

In some provinces, some NGOs still offer additional psychosocial services that are now funded by the state to provide help to individuals fleeing Ukraine suffering from mental health problems, including torture survivors and traumatised beneficiaries.⁴⁶ In Vienna, there are projects where outreach psychological

³⁶ Eg the Province of Upper Austria, <https://bit.ly/3Kmdpi7>; Land Tirol, <https://bit.ly/3zK6H0w>.

³⁷ Ministry of Interior, 'Erfassung und Aufenthalt', available in German at: <https://bit.ly/3MunSuG>.

³⁸ Eg Diakonie Flüchtlingsdienst, see <https://bit.ly/co/Gtej>; NGO tralalobe, see <https://bit.ly/co/Gtel>; Volkshilfe Wien, see <https://bit.ly/co/Gten>.

³⁹ Labour Market Service, 'Labour Market in Austria for refugees from Ukraine', available at: <https://bit.ly/3zG1Q0m>.

⁴⁰ Fonds Soziales Wien, 'Anlaufstellen für vertriebene Menschen aus der Ukraine', available in German at: <https://bit.ly/3GrBqD6>.

⁴¹ UNHCR Austria, 'Information for persons from Ukraine', available at: <https://bit.ly/3Qr7vjA>.

⁴² BBU federal agency for care and support services, see <https://www.bbu.gv.at/ukraine>.

⁴³ Profil, 'Ukrainer auf Telegram & Co: die bestorganisierten Flüchtlinge', 31 August 2022, available in German at: <https://bit.ly/3SfIKJM>.

⁴⁴ Quarterly NGO exchange meeting organised by asylkoordination, unpublished.

⁴⁵ Ministry of Interior, *Answer to parliamentary request 11120/AB*, 12 August 2022, available in German at: <https://bit.ly/408VnG9>.

⁴⁶ Diakonie Flüchtlingsdienst, *AMIKE*, available in German, Ukrainian, English and Russian: <https://bit.ly/43g010X>; Asylkoordination, 'Projekt Reset', available in German at: <https://bit.ly/3ZTYWzu>.

support is offered directly in the refugee facilities.⁴⁷ This includes stabilisation and relief talks in individual or group settings, but also crisis intervention. If necessary, referrals are made to other counselling and support systems. Displaced persons, like others seeking protection, have access to the various projects offering psychotherapy and crisis intervention services. There are no statistics available, although NGOs in the field and media reports show that there is more demand than offer.⁴⁸

The Ukraine refugee coordination staff unit launched a survey among NGOs providing care to find out more in detail about the situation of displaced persons with disabilities and older people in terms of care and support. The survey was not published publicly, but was presented at one of the staff unit's exchange meetings and attached to the minutes. The key findings were that a screening process is needed from the outset for all first-time arrivals seeking protection. Funding for people with increased support needs is inadequate and should be adapted to the actual effort involved. Support capacities in the federal states must be increased so that no supply bottlenecks arise. However, a good screening process from the outset also requires corresponding support capacities in the federal states, otherwise people will remain in the initial reception centres.⁴⁹

Another problem area is that displaced people and asylum seekers with disabilities cannot assert a legal claim to disability assistance services because they are not included as a target group in the disability laws. As a result, support services for people with disabilities are only provided on a lenient basis and people have no guaranteed option for support, such as day-structuring measures, assisted living arrangements.⁵⁰

In addition, Austria was reviewed for its compliance with the Convention on the Rights of Persons with Disabilities in Geneva in August 2023. The UN's final remarks include, among other things, with regard to refugees, the following conclusions:⁵¹

“For refugees and people with precarious residence status who also have disabilities the UN expert committee recommends:

- Accessible healthcare: Measures should be taken to ensure that these people have full access to healthcare and care.
- Recording of disabilities: Disabilities should be systematically recorded in the asylum and reception process.”

⁴⁷ Institut für Frauen- und Männergesundheit, Projekt „NEDA“, available in German and Ukrainian: <https://bit.ly/3zFmSw9>.

⁴⁸ Der Standard, 'Lehrkräfte wollen mehr Unterstützung für ukrainische Schüler', 15 February 2023, available in German at: <https://bit.ly/40S5CQh>.

⁴⁹ Minutes, exchange meeting refugee coordination centre, unpublished.

⁵⁰ Österreichischer Behindertenrat, Staatenprüfung zur Einhaltung der UN-Behindertenrechtskonvention, 2023, available in German at: <https://bit.ly/3UrxlQa>.

⁵¹ MonitoringAusschuss, *Zusammenfassung der Handlungsempfehlungen des UN-Fachausschusses 2023*, 2023, available in German at: <https://bit.ly/3UEWbmv>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of temporary protection?
1 year, renewed for prolongation until 4 March 2025⁵²
2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2023?
107,779⁵³

Once the [registration](#) process is finalised, the identity card for displaced persons is sent by mail to the registered address given. In addition, there are also some mobile police units that can be called to go to people with disabilities for the purpose of their registration, especially people with restricted mobility.

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

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

The Displaced persons Ordinance foresees a right to stay in Austria for one year upon arrival with the maximum until 4 March 2025. In December 2023, the Austrian government announced that the right to stay was prolonged for another year until 3 March 2025. Following the announcement, new ID cards were issued and sent to beneficiaries. A separate application was not necessary. The responsible authority remains the BFA. Renewed cards following the 2025 extended began being sent out on 11 January 2024.⁵⁴

In 2022 and early, 2023, in order to access labour market, card holders still had to apply for a separate working permit at the labour market service, which was issued without further examination. The obligatory working permit was abolished in April 2023 which means that TPD beneficiaries have immediate access to the Austrian labour market after registration (see [Access to the labour market](#)).

The right to apply for family allowance and child care subsidies is also directly connected to the residence permit received (see [Social welfare](#)).

In principle, onward travel and registration in other EU member states is possible for displaced persons from Ukraine registered in Austria. In some cases, displaced persons wishing to move to Austria from another MS reported to NGOs that they were advised by the previous host country to opt out of basic care or social welfare systems in the respective member state before moving to Austria. In the process of

⁵² BFA, 'Informationen zur Verlängerung des Aufenthaltsrechts für Vertireben aus der Ukraine', 8 January 2024, available in German at: <https://bit.ly/3tS8WiX>.

⁵³ Unpublished information by the office of the Refugee coordinator, Andreas Achrainner.

⁵⁴ Date presented in the meeting on 19 January 2024 organised by the Ukraine Refugee Coordination Unit.

renewal of ID cards following the prolongation of the TPD, a few cases were detected via the EU coordination platform, where were also registered in the basic care or social welfare system of other MS.⁵⁵

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

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

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

2. Access to asylum

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

In all known cases reported by NGOs the BFA issued subsidiary protection to Ukrainian nationals applying for asylum. There are no know cases of issued return decisions and enforced deportations.

B. Family reunification

1. Family reunification as provided under the Temporary Protection Directive

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

If the criteria also apply to the family member directly temporary protection is to be issued on this basis and not on the fact that the person is a family member.⁵⁶

There are no material requirements to fulfil.

⁵⁵ Protocol of the Platform Ukraine meeting organised by the Refugee Coordinator on 24 February 2023, unpublished.

⁵⁶ BFA, 'FAQ Ukraine', available in German, English, Ukrainian and Russian: <https://bit.ly/41xfajF>.

Upon arrival, family members follow the same registration process as beneficiaries of temporary protection. Proofs for the family relationship should be presented at registration (eg birth certificate). If the proofs are not sufficient, the BFA will contact the persons involved for an interview at the authority.⁵⁷

Married partners, registered partners, underage children and partners or close relatives that lived in the same households or were dependent on the beneficiary and lived before 24 February 2022 in Ukraine are considered family members. They get the same protection status as the beneficiaries.

2. Family reunification beyond the Temporary Protection Directive

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

C. Movement and mobility

Beneficiaries of temporary protection have freedom of movement within the country. There are no travel restrictions, although those who receive basic care are in effect restricted in their movement as if they leave they will be expelled from basic care and have to reapply in the next province. If the beneficiaries receive basic care (see [Social welfare](#)), they are allowed to stay away from the organised housing for three days.

From March until November 2022 displaced persons could travel free of charge on public transportation.⁵⁸ Displaced persons are accommodated in the basic care assistance system, which also covers asylum seekers. Within the framework of basic care,⁵⁹ some costs are covered in the area of mobility/ticket for public transport. However, these are limited to: summons to authorities, medical appointments, transfers from the arrival centre to reception centres. For school-age children up to 15 years of age, the costs of the ticket from the place of residence to school and back are covered. In fact, the issue of mobility is insufficiently solved and is a known problem in accommodation within the framework of basic care. In the federal province of Vorarlberg, there has been a reduced ticket for social welfare recipients and those seeking protection in basic services since 2016.⁶⁰

The refugee coordination unit has discussed the issue of affordable mobility for those within the basic care system and is trying to find a solution. Discussions with relevant decision-makers at the political level as well as with the transport companies are continuing. Unfortunately, in 2023 there is still no satisfactory solution; only Vorarlberg has introduced the option of the affordable ticket.⁶¹ Unfortunately, there are sometimes problems with covering travel costs to and from German course institutes, as the costs are not always covered.⁶²

For first-time arrivals from Ukraine or those traveling through, there is a free ticket 'first arrival-Ukraine'. It is valid for 24 hours from the date of issue and can be purchased at train stations in Vienna and Graz.⁶³

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

Short-term travel to Ukraine often occurs. There is no known evidence of difficulties experienced by people who have returned to Ukraine and are seeking to re-enter the country, including in 2023.

⁵⁷ BFA, 'FAQ Ukraine', available in German, English, Ukrainian and Russian: <https://bit.ly/41xfajF>.

⁵⁸ See for instance Orf news, 'Freifahrt für Ukrainer läuft wieder aus', 29 October 2022, available in German at: <https://bit.ly.co/GtYG>; ÖBB, 'Ukraine-Hilfe', available in Ukrainian, English and German at: <https://bit.ly.co/GtYL>.

⁵⁹ See Law Grundversorgungsvereinbarung zw Bund und Länder, available in German at: <https://bit.ly.co/GtZX>.

⁶⁰ Vorarlberg, 'Vorarlberger „maximo fair“ österreichweites Vorbild', 14 October 2022, available in German at: <https://vorarlberg.orf.at/stories/3177999/>.

⁶¹ Vorarlberg, 'Vorarlberger „maximo fair“ österreichweites Vorbild', 14 October 2022, available in German at: <https://vorarlberg.orf.at/stories/3177999/>.

⁶² Minutes of exchange meeting organised by the Ukraine Refugee Coordination Unit, unpublished.

⁶³ ÖBB, 'Information for passengers from Ukraine, available in German, English and Ukrainian at: <https://bit.ly/4bk5eid>.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?	No limit
2. Number of beneficiaries staying in reception centres and state organisation housing as of 29 December 2023	15,080
3. Number of beneficiaries staying in private accommodation as of 21 March 2023	25,621 ⁶⁴

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

- ❖ Single person: € 260 food allowance and € 165 rent allowance
- ❖ Families (more than one person):⁶⁵ € 260 (per adult) / € 145 (per child) food allowance and € 330 family rent allowance

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

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

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

As of 29 December 2023, 25,621 beneficiaries were staying in private accommodation and 15,075 beneficiaries were staying in organised housing. 5 persons were accommodated in first reception centres of the BBU GmbH.⁶⁶

There are other types of accommodation used, such as former hotels (Hotel de France in Vienna)⁶⁷ which were already used as quarantine centres during the Covid-19 pandemic. They now serve as reception centres for displaced persons from Ukraine and for asylum seekers in the context of family reunification. In Salzburg there is also a full board accommodation for refugees from Ukraine.⁶⁸

In 2 out of 9 federal states, there are first arrival centres for Ukrainian refugees.⁶⁹ Due to high numbers of displaced persons from Ukraine, former hotels or former pensioners' accommodation were used to house displaced persons in 2022. These buildings are mostly fairly old and were not used anymore in 2023. Available arrival centres were for example a former university, a former mail distribution centre or former hotels. It is foreseen that displaced persons do not stay there longer than three days. In practice, many stay longer when the alternative housing option is in a rural area for example. Beneficiaries often prefer

⁶⁴ Statistics presented as part of a meeting organised by the Ukraine Refugee Coordination Unit.

⁶⁵ Art 9 GVV.

⁶⁶ Statistics presented as part of a meeting organised by the Ukraine Refugee Coordination Unit, not available for public

⁶⁷ ORF News, 'Hotel de France wird Flüchtlingsunterkunft', 9 November 2022, available in German at: <https://bit.ly/41KSCfm>.

⁶⁸ Red Cross Austria – Salzburg, 'Ein Zuhause auf Zeit: dans Rotkreuz-Grundversorgungsquartier in Wals-Siezenheim', available in German at: <https://bit.ly/3y1fk9v>.

⁶⁹ BBU federal agency for care and support services, see <https://www.bbu.gv.at/ukraine>.

to stay close to Vienna. They cannot easily be forced to go to a specific area like asylum seekers (see [General Report – Freedom of movement](#)). If they overstay they are not kicked out, but if people do not accept accommodation offered in a federal state for several times, they must move out of the first arrival centre in Vienna.⁷⁰

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

Reasons for a refusal of basic services is if there is no need for help, e.g. because the person has enough income. Otherwise, the same rules apply as otherwise in basic care in organised accommodation: absolute house bans are possible in case of violence, massive alcohol and drug consumption, noise pollution and constant violation of the house rules.⁷¹

Temporary protection beneficiaries are entitled to the following reception conditions:⁷²

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

A big part of the private living space was provided by the Austrian civil society. There was a great willingness to provide housing. In practice, many people providing accommodation assumed that the state would take over after a few months if necessary. Many private accommodation providers are in trouble with the costs of permanent accommodation of displaced persons, which means that some beneficiaries have had to switch to organised facilities.⁷³

In February and March 2022, matching private accommodation hosts and beneficiaries was mostly organised by NGOs like [Train of Hope](#), [Diakonie](#) or [Caritas](#). The state owned BBU GmbH which operates the first reception centres for asylum seekers in the regular asylum procedure provided a hotline and provided first housing possibilities specially designated for displaced persons from Ukraine.⁷⁴ This form of accommodation was predominantly used by displaced persons from Ukraine transiting through Austria in the first months.

BBU GmbH also built up a matching system for private housing which operated in parallel to the NGOs' initiatives and was stopped in 2023.

NGOs have demanded an inflation compensation (*Teuerungsausgleich*) for private housing providers and supporting NGOs.⁷⁵ The minister of Interior announced that a payment of € 300 (for accommodation of a single person) and € 600 (for a family) would be granted to private housing providers. The law was passed

⁷⁰ Information presented as part of a meeting organised by the Ukraine Refugee Coordination Unit, unpublished.

⁷¹ Quarterly NGO exchange meeting organised by asylkoordination, unpublished.

⁷² Agreement between the federal government and the states in accordance with Art. 15a B-VG on joint measures for temporary basic care for foreigners in need of help and protection (asylum seekers, those entitled to asylum, displaced persons and other people who cannot be deported for legal or factual reasons) in Austria (basic care agreement - Art. 15a B-VG), available in German at: <https://bit.ly/3QwT0uz>.

⁷³ Wiener Zeitung, 'Späte Hilfe für Helfer', 2 February 2023, available in German at: <https://bit.ly/3ZOmG8d>.

⁷⁴ BBU GmbH, Informationen für Schutzsuchende, available in German, English, Ukrainian and Russian: <https://bit.ly/3KkR4BG>.

⁷⁵ 'Managementkrise im Asylbereich: NGOs verfassen 7-Punkte-Plan', Kurier, 23 September 2023, available in German at: <https://bit.ly/3U8X8BP>.

in March 2023 but the process is not yet completed. In Vienna, the payment to private accommodation providers has not yet been carried out and Burgenland only started the payment at the end of 2023.⁷⁶

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

With the arrival of more than 50,000 persons from Ukraine the government had to backtrack on this point and ask civil society for support. Many problems arose due to the fact that in previous years private accommodation of persons in basic care did not exist. There are no minimum standards for private housing. There is no Ombudsman that would be competent to receive complaints, and NGOs have received several reports in which Ukrainians complained about exploitation or bad housing conditions. As the displaced persons feared that they would get transferred to a rural area in case they complained there is a strong reluctance to make the reports public. In one case in Lower Austria, the regional government of Lower Austria stopped supporting a privately-run accommodation centre financially as some reports alleged substandard living conditions and labour exploitation.⁷⁷ In the specific case, a worn-out former home of the blind was used as accommodation where Ukrainians could live as basic care recipients. The persons living there reported that they had to work for free in the accommodation.⁷⁸

E. Employment and education

1. Access to the labour market

Beneficiaries of temporary protection are allowed to work in principle. The right to work used to be bound to a working permit that has to be applied for separately by the employer at the Labour Market Service.⁷⁹ However, the obligatory working permit was abolished in April 2023 which means that TPD beneficiaries have immediate access to the Austrian labour market after registration.⁸⁰

As displaced persons from Ukraine only have access to the Basic care system (Grundversorgung) they do not have to register at labour market service, but it is strongly recommended. For recipients of social assistance, the so-called "Anspannungsprinzip" applies, which means that people who receive social assistance must register with the labour market service (AMS). The head of the AMS would also like to see displaced persons transferred to the social welfare system⁸¹. Currently, displaced persons can register with the labour market service, but do not have to. As a result, only a few displaced persons are registered with the AMS. At the end of December 2023, 5,024 were registered with the AMS (male 31% / female 69%), of which were registered as unemployed: 2,922. The services offered by the labour market service are career guidance, support in finding work and, if there is already a good knowledge of German (B1 level), placement in training courses is possible.⁸²

Compared to the number of people who receive basic care, the registration of only around 5,000 displaced persons with the AMS is very low. Even if school-age children and pensioners are deducted from the approximately 40,000 people in basic care, this leaves around 20,200 people of working age. This shows that there is still a need for more information campaigns about the work of the AMS. It is also a reason

⁷⁶ Information presented as part of a meeting organised by the Ukraine Refugee Coordination Unit.

⁷⁷ 'Hohe Kosten: Private Flüchtlingsunterkunft sorgt für Wirbel', Kleine Zeitung, 24 August 2023, available in German at: <https://bit.ly/3FXgwwB>

⁷⁸ Orf.at, 'Aufregung um privates Flüchtlingsquartier', 17 May 2022, available in German at: <https://bit.ly/3ZVxlbR>.

⁷⁹ See AIDA, *TPD Annex: Austria, 2022 update*, May 2023, available at: <https://bit.ly/3QoCpsX>.

⁸⁰ Parlament Österreich, 'Vertriebene Ukrainer:innen erhalten uneingeschränkten Zugang zum österreichischen Arbeitsmarkt', Parlamentskorrespondenz Nr. 332, 23 March 2023, available in German at: <https://bit.ly/3RUOLdR>.

⁸¹ ORF.at, 'AMS-Chef Kopf für Arbeitsanreize im Sozialsystem', 1 April 2023, available in German at: <https://bit.ly/3UrGnlE>.

⁸² Statistics presented as part of a meeting organised by the Ukraine Refugee Coordination Unit, 19 January 2024.

why there is too little information and statistics about Ukrainians taking up work. The AMS will conduct a study on displaced persons and labour market entry in 2024.⁸³

Many Ukrainians are afraid of losing their basic care benefits if they register with the AMS. On the other hand, the job vacancies do not match the training and education of Ukrainians. Some do not want to work in a field which has nothing to do with their training and education; some do, and they thus risk deskilling. The Austrian Integration Fund (ÖIF) and NGOs have counselling centres for Ukrainians that focus on labour market placement, job orientation, support with job applications, etc.⁸⁴ In principle, the Austrian Integration Fund (ÖIF) is responsible for language courses for all displaced persons aged 15 and over. Displaced persons are entitled to a German course, but are not obliged to attend one.⁸⁵ In Oberösterreich,⁸⁶ displaced persons are obliged to register with the labour market service.

There is a lack of German courses and qualification measures for displaced persons, especially in rural areas.⁸⁷

In principle, beneficiaries of temporary protection can work as employees or self-employed, have access to vocational training and enjoy equal treatment with workers in EU Member States regarding remuneration and other conditions. It is important not to lose sight of the labour market integration of displaced persons, people with disabilities as well as sick and elderly people.

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

In practice, the integration into the labour market is hindered for beneficiaries that also receive basic care. There is a very low maximum limit of money that can be earned additionally to the basic care (€ 110). If beneficiaries earn more they run the risk of losing basic care, access to the social security system, organised housing etc. As the group of displaced persons from Ukraine mainly consists of women and children, it is in many cases not possible to work full time. Therefore, it is risky to start working and losing access to basic care because if the job is lost after few months it might be difficult to access the basic care system again.⁸⁸ A separate additional income regulation was created for displaced people from Ukraine in October 2022 (implementation starting in 2023), namely the 65/35 regulation (see [Social welfare](#)).

In the case of labour exploitation, counselling services from the Vienna Chamber of Labour and the Undok association can be used free of charge.⁸⁹

As of 14th January 2024 3, 16,311 people with Ukrainian citizenship were employed in Austria with full insurance, 3,500 were employed less than part-time (no more than 8 hours per week, only accident insurance, not like with full insurance: health, unemployment, accident and pension insurance).⁹⁰ It is important to mention that these statistics include ALL Ukrainian citizens, including those who worked in Austria before the outbreak of war in Ukraine. In the query system of the main association of all insured people, queries can only be made about nationality, not about residence permit. Before February 2022 5,026 Ukrainian citizens were fully employed and 720 less than part time (Geringfügige Beschäftigung).

⁸³ Information presented as part of a meeting organised by the Ukraine Refugee Coordination Unit, unpublished

⁸⁴ Tralalobe, 'Brave Jobberatungsstelle', available in German at: <https://bit.ly/3JK6lqg>.

⁸⁵ ÖIF, 'Gesetzliche Aufträge des ÖIF', available in German at: <https://bit.ly/4aY4lXb>.

⁸⁶ OOE ORF.at, „Bemühungspflicht“ für Ukrainer in OÖ“, 27 February 2023, available in German at: <https://bit.ly/3y5FHes>.

⁸⁷ Quarterly NGO exchange meeting organised by asylkoordination, unpublished

⁸⁸ Profil, 'Flüchtlingskoordinator Achrainger: Ukraine-Vertriebene im Wartedilemma', 28 December 2023, available in German at: <https://bit.ly/3UrFE3Q>.

⁸⁹ Arbeiterkammer, website available in German at: <https://bit.ly/3whPnlh> and UNDOK, 'Aktuelle Veratungsinfos', 12 January 2023, available in German at: <https://bit.ly/3UH5Qc1>.

⁹⁰ Statistics presented as part of a meeting organised by the Ukraine Refugee Coordination Unit, 19 January 2024.

The special Covid provisions in the Medical Act have been extended until July 2024. This means that these people can continue to work, even though they, for example, do not have the required level of German. Work on a long term solution is set to start in the first half of 2024.⁹¹

2. Access to education

In Austria, schooling is compulsory for 9 years for children aged 6-15. At the beginning of 2022, compulsory schooling did not include displaced persons. However, with the start of the new school year in September 2022, compulsory schooling was communicated about more broadly and demanded by the school authorities.⁹²

In practice many children attend school in Austria in the morning and school in Ukraine via online tools in the afternoon.⁹³ Language acquisition remains the main focal point in kindergarten, primary school, and secondary school in the school year 2022/2023 and 2023/2024. Depending on how well this is achieved, Ukrainian pupils can achieve considerable success at school.

Children up to 16 years old are entitled to education under the same conditions as nationals. After the end of compulsory schooling, access to education depends on the capacity of the schools. In this area, some problems have been surged because schools simply did not have the capacity to accept all displaced persons under the age of 18.⁹⁴

As of 3rd July 2023, 5,641 displaced persons from Ukraine were attending primary school (Prim – 6-10 years old), 5,325 were attending middle school (Sek I, 11-14 years old) and 2,033 attended high school (Sek II, 15-18 years old).

Displaced persons from Ukraine in schools as of 3 rd July 2023				
Province	Primary school	Middle school	High school	Total
Burgenland	214	175	100	489
Kärnten	199	206	56	461
Niederösterreich	1,299	1,318	416	3,033
Oberösterreich	668	626	191	1.485
Salzburg	250	221	134	605
Steiermark	596	537	254	1.387
Tirol	364	380	53	797
Vorarlberg	165	144	42	351
Wien	1,886	1,718	787	4,391
All provinces	5,641	5,325	2,033	12,999

Source: Ministry of Education

So-called transition classes were activated for displaced children in 2022.⁹⁵ These were already introduced in 2015/16 and exist to allow those who could not get a school place in the regular class system to access school nevertheless. In the transition classes, the focus is on learning the German language; mathematics, English and physical education are also taught. However, due to a shortage of teachers,

⁹¹ Änderung des Ärztegesetzes/Verlängerung Covid Bestimmungen, available online [here](#).

⁹² *Stabsstelle Ukraine Flüchtlingskoordination, Tätigkeitsbericht März bis Dezember 2022*, unpublished; *Tiroler Tageszeitung*, 'Ab neuem Schuljahr uneingeschränkte Schulpflicht für ukrainische Kinder', 22 August 2022, available in German at: <https://bit.ly/3KfgU9S>.

⁹³ *Wiener Zeitung*, 'Gekommen um zu bleiben', 22 February 2023, available in German at: <https://bit.ly/3zJI3go>.

⁹⁴ Information presented as part of a meeting organised by the Ukraine Refugee Coordination Unit.

⁹⁵ Standard, 'Ukrainische Flüchtlinge: Deutschklassen nicht für alle sinnvoll', 14 April 2022, available in German at: <https://bit.ly/3o23JBH>.

there was a backlog in the allocation of school places in 2022. The transition classes are also heavily criticised as being segregational.⁹⁶ Transition classes were prolonged for 2023/2024. The possibility of accepting course participants from other refugee countries, which is new and already taking place in some cases, is seen as very positive. Some of the difficulties that have arisen (as the transitional training programmes are not formally schools), such as the provision of free textbooks, have been solved by donations from the ÖBV.⁹⁷ However, many pupils were transferred to regular classes.

A challenge is the fact that many Ukrainian children still attend Ukrainian school via online tools in the afternoon. Some of the children are under a lot of stress because they go to school in the morning and follow online Ukrainian lessons in the afternoon. In some cases there have been reports of parents putting a lot of pressure and obliging their children to follow the lessons from Ukraine rather than the lessons in the Austrian schools or both. This has to be understood in the general context and the general waiting dilemma that displaced persons are currently facing.⁹⁸ Their willingness to take part in the way of living in Austria depends on for how long the war will last and a sustainable return to Ukraine is not feasible.⁹⁹

Due to the lack of knowledge of German, children have had to repeat classes or were downgraded to a lower school level. This 'demotion' is not motivating and is seen as unfair by children and parents as they were already one or two grades ahead in Ukraine as reports from the Ukrainian telegram groups show. At the end of the 2022/23 school year (June 2023), it was possible to amend a regulation in the context of German promotion. Specifically, the Ministry of Education requested that the education directorates and schools allow children and young people to move from one type of school to another (primary school to secondary school, or after the 8th/9th grade when changing school type) even if their German was insufficient.¹⁰⁰

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

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

Displaced persons from Ukraine are accepted into the universities. They do not have to pay for students' fees.¹⁰¹ This regulation was prolonged in 2023/24.¹⁰²

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

As 45% of all displaced persons from Ukraine live in Vienna, transportation was not a big issue until the free transportation was cut. Now, transportation costs are generally an obstacle for taking up training and job¹⁰³ (see [Movement and mobility](#)).

⁹⁶ Tiroler Tageszeitung, 'Tiroler Landessschulrat: Deutschklassen fördern Segregation', 12 April 2018, available in German at: <https://bit.ly/3KpyND7>; Standard, 'AK fordert umfangreiche Reform der Deutschförderklassen', 11 October 2022, available in German at: <https://bit.ly/3mlM6wl>.

⁹⁷ Stabsstelle Ukraine Flüchtlingskoordination, *Quartalsbericht 04.23*, unpublished.

⁹⁸ SN.at, 'Die große Sehnsucht nach zu Hause', 2 January 2024, available in German at: <https://bit.ly/3UG8ejr>.

⁹⁹ Stabsstelle Ukraine Flüchtlingskoordination, *Tätigkeitsbericht März bis Dezember 2022*, unpublished.

¹⁰⁰ Stabsstelle Ukraine Flüchtlingskoordination, *Quartalsbericht 02.23*, unpublished.

¹⁰¹ Federal Ministry of Education, Science and Research, 'Ukrainische Studierende auch im Wintersemester 2023/24 von der Studienbeitragspflicht befreit', available in German at: <https://bit.ly/3KuEZKi>.

¹⁰² Federal Ministry of Education, Science and Research, 'Wichtige Fragen und Antworten für Studierende und Forschende', available in German at: <https://bit.ly/3whkjSK>.

¹⁰³ Stabsstelle Ukraine Flüchtlingskoordination, *Tätigkeitsbericht März bis Dezember 2022*, unpublished.

F. Social welfare

Ukrainian nationals registered as displaced persons receiving basic care as of 9 th January 2024			
Age group/Gender	Male	Female	Total
Under 7 years	1,714	1,627	3,341
7-14	3,035	2,865	5,900
14-18	1,812	1,649	3,461
18-24	1,186	1,828	3,014
24-60	4,215	13,041	17,256
Over 60	2,110	5,344	7,454
Total	14,072	26,354	40,426

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

Distribution of beneficiaries of temporary protection receiving Basic Care as of 9 th January 2024			
Province	Organised accommodation	Private housing	Total
Burgenland	1,059	414	1,473
Kärnten	176	850	1,026
Niederösterreich	2,635	5,648	8,283
Oberösterreich	941	2,403	3,344
Salzburg	963	426	1,389
Steiermark	3,418	2,314	5,732
Tirol	1,476	1,186	2,662
Vorarlberg	1,164	373	1,537
Wien	3,243	12,007	15,250
Total	15,075	25,621	40,701

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

Basic Care

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

They are in the same basic care system as asylum seekers (see [General report – Reception conditions, Social welfare](#)) and are not a target group of social welfare system. Authorities responsible for granting basic care and social welfare are regional authorities of the provinces. In the area of basic care, the actual implementation and counselling is outsourced to NGOs like Caritas, Volkshilfe etc.

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

Beneficiaries receiving basic care in practice face difficulties, mainly due to unclear rules and different applications of basic care regulations in the federal states. The narrowness of the basic care system

contributes to the confusion. The basis for receiving basic care is the need for assistance. Basic care is always subsidiary, which means that if the person has an income, such as from work, pension, etc., this must be reported. Income is always counted towards the basic care provision. For the first time with displaced people from Ukraine, the topic of pension benefits in the basic care system became apparent. The state pension from Ukraine is counted 100% towards the basic care in Austria. Bank statements must be presented to determine the amount of the pension. If people cannot access their UKR pension, an affidavit can be signed. This is usually accepted by the basic care state offices. The argument that many UKR pensioners cover expenses in Ukraine with their pension is not accepted in Austria, the pension is taken into account in full. Efforts on the part of the Ukrainian refugee staff unit with regard to the non-crediting of the UKR pension have so far not been fruitful.¹⁰⁴ In addition, many decisions regarding regulations in the basic care system are not transparent and there is a gap in official information.¹⁰⁵

The regulation in the Basic Care Acts of the state and the federal provinces requires a contribution to Basic Care if persons have an income. In practice, there is only an allowance of € 110 plus € 80 for each family member and the rest is used as contribution towards the reception cost. Also under the regular system, if they have been receiving an income for more than 3 months, Basic Care support should no longer be provided. For beneficiaries of TPD, the rules were modified at the start of 2023: a separate additional income regulation was created for displaced people from Ukraine in October 2022 (implementation starting in 2023), namely the 65/35 regulation. After deducting the exempted amount of € 110, as mentioned above, only 65% of the income is credited towards the basic pension, as long as it is below the basic care entitlement; 35% is not affected at all and remains with the person. Despite all efforts to simplify it, the additional earnings limit for displaced Ukrainian is a bureaucratic hurdle.¹⁰⁶ The calculations are not easily explained and processing often takes several weeks.

The basic care system is also seen as a **trap of inactivity**. The regulations for additional income are bureaucratic and complicated and can result in a loss of accommodation. Better incentives need to be created so that people go to work without a complicated offsetting system like in basic care system preventing this.¹⁰⁷

In addition, not all federal states apply the new additional income regulations for displaced Ukrainians: Salzburg, Lower Austria and Carinthia do not apply them. Tyrol began implementation at the end of 2023.¹⁰⁸ Unfortunately, there is not enough transparent information about the new additional income regulation on all websites of the basic care offices in the federal states. Only Tyrol, Vienna and Styria provide information.¹⁰⁹ There is an unofficial calculator developed by the community of Ukrainians in Austria.¹¹⁰

Family allowance and childcare subsidies

On 31 December 2023, an amendment to the Family Equalisation Act (FLAG) came into force, and extended the entitlement of displaced persons to child care subsidies and family allowance until 4 March 2025. The aim was to extend family benefits for displaced persons. The entitlement to family benefits was previously limited to 4 March 2024 (and before that to March 2023). Thus, the extension is in line with the EU Council's decision to extend the temporary right of residence until 4 March 2025 (Austrian Parliament, 2023a).¹¹¹

¹⁰⁴ Stabsstelle Ukraine Flüchtlingskoordination, *Quartalsbericht 01.24-04.24*, unpublished.

¹⁰⁵ Quarterly NGO exchange meeting organised by asylkoordination, unpublished.

¹⁰⁶ Ministry of Interior, 'Anhebung der Zuverdienstgrenze für kriegsvertriebene Ukrainerinnen und Ukrainer', available in German at: <https://bit.ly/4dqRnZp>.

¹⁰⁷ Der Standard, 'AMS-Chef Kopf für Arbeitsanreize im Sozialsystem', 1 April 2023, available in German at: <https://bit.ly/3Ur2U1W>.

¹⁰⁸ Wien ORF.at, 'Zuverdienstgrenze: Hürde für Ukraine-Vertriebene', 17 October 2023, available in German at: <https://bit.ly/3wguZkG>; Profil, 'Ukraine-Vertriebene in Österreich: Gefangen im System', 29 August 2022, available in German at: <https://bit.ly/3UHPEr8>.

¹⁰⁹ Tiroler soziale Dienste, *Information zur Berechnung der Zuverdienstgrenze Tiroler Grundversorgung*, available in German [here](#); Steiermark, "Zuverdienst in der Grundversorgung", available in German [here](#); Fonds Soziales Wien, "Asyl & Arbeit", available in German [here](#).

¹¹⁰ asylkoordination österreich, Jenia's very unofficial calculator for the Zuverdienstgrenze v. 2.1, available in Ukrainian at: <https://bit.ly/3oXigzc>.

¹¹¹ Amendment of the Family Burdens Equalisation Act 1967, BGBl. I Nr. 184/2023.

¹¹¹ Family Burdens Equalisation Act, BGBl. Nr. 376/1967, as amended by BGBl. I Nr. 184/2023.

The family allowance is not counted as income and therefore does not count towards the basic care. In contrast, 100% of childcare subsidies are counted towards the basic care. Families who decide to apply for childcare subsidies must consider this carefully in advance, as it will be deducted from the basic pension.

At the end of December, child care subsidies had been awarded 445 times. Family allowance was received for 16,347 children. Increased family allowance is paid for 347 children.¹¹²

Increased family allowance can be applied if children have significant disabilities. A significant disability within the meaning of the Family Equalisation Act 1967 exists if a child suffers from a non temporary health impairment and the degree of disability is at least 50%, or the child is likely to be permanently disabled, or the child is likely to be permanently unable to support themselves. If there is a 50% disability, the increased family allowance is granted for as long as the general family allowance is due. The degree of disability or the probable permanent incapacity to work must be confirmed by a certificate issued by the certificate issued by the Social Ministry Service on the basis of a medical expert's report.¹¹³

Care Allowance

The Supreme court ruled in its decision of 22 August 2023 that displaced persons are entitled to the care allowance if the other requirements are met. The aim was to clarify the legal question of whether displaced persons can be entitled to care allowance according to the Federal Care Allowance.

In the case at hand, the plaintiff was a Ukrainian citizen with an ID card for displaced persons. Her application for care allowance was rejected on the grounds that she did not belong to the group of people eligible under the federal care allowance act (Bundespflegegeldgesetz).¹¹⁴

G. Health care

Displaced persons from Ukraine are included in Austrian health insurance via basic care system as soon as they register for temporary protection status.¹¹⁵ This also applies to displaced persons who do not receive basic care services. In the summer of 2023, an interface was created between the Ministry of the Interior and the health insurance fund. As soon as displaced people register a main residence, health insurance is activated automatically. This interface was necessary to establish, because there were always gaps in health insurance. Health insurance must be active even without receiving basic services. Health insurance is not limited to emergency medical care. Displaced persons are exempt from prescription fees for medication and co-payments for medical aids or hospitalisation.¹¹⁶ Beneficiaries have access to the same health care as Austrian nationals.

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

In the first months after February 2022, persons assisting displaced persons and NGOs (Diakonie Flüchtlingsdienst, Caritas and Train of hope) reported repeatedly that there were problems with the e-card replacement receipt. Hospitals or doctors were not well informed and asked for an e-card. Occasionally there are still ambiguities today. These difficulties continued to exist in 2023. The Ukrainian refugee coordination unit reported in one of the exchange meetings, that there were still people being sent away from doctors or hospitals, although less than before. The problem is discussed in regular

¹¹² Minutes of exchange meeting organised by the Ukraine Refugee Coordination Unit 19.1.24, unpublished.

¹¹³ Federal Chancellery, 'Erhöhte Familienbeihilfe', available in German at: <https://bit.ly/4bnwkFh>.

¹¹⁴ Federal care allowance act, BGBl. Nr. 110/1993, as amended by BGBl. I Nr. 109/2023.

¹¹⁵ Art 2 (1) (3) GVV.

¹¹⁶ Austrian Health Insurance Fund, 'Ukrainian refugees - health insurance', available in German at: <https://bit.ly/4bm77uC>.

meetings with the Austrian health insurance fund (ÖGK), and the ÖGK has promised to start a new internal information campaign to brief employees, hospitals and doctors intensively once more.¹¹⁷

A major problem is the lack of consistent language mediation in the medical field. As part of the basic care, costs for language mediation in the medical field are not covered. In justified individual cases, the costs will be covered, but this is not always the case. The hospitals do not feel responsible for organising language mediation, but often require that language mediation be brought along in order to receive treatment. It happens again and again that people are sent away on the grounds that they cannot understand each other. This was an existing problem even before the Ukraine crisis.¹¹⁸

¹¹⁷ Minutes of exchange meeting organised by the Ukraine Refugee Coordination Unit, unpublished.

¹¹⁸ Minutes of exchange meeting organised by the Ukraine Refugee Coordination Unit, unpublished.



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Asylum Information
Database

Belgium

2023 Update



Relevant documents related to temporary protection

Electronic A-card	The A-card is a residence permit that is, amongst others, granted to beneficiaries of temporary protection. If the applicant receives temporary protected status, they will receive an electronic identity card, type A, that is currently valid until 4 March 2025.
Annex 15	The annex 15 is a temporary residence permit with a validity of 45 days awaiting the issuing of the A-card. Beneficiaries receive the Annex 15 upon registration, after their address is confirmed by the municipality, they are given the A-card.
Temporary protection certificate	Upon registration at the IBZ registration Centre, beneficiaries with a positive decision on their temporary protection application receive a temporary protection certificate which serves as proof of their right to temporary protection but does not in itself function as a residence permit.

Temporary Protection Procedure

A. General

The Temporary Protection Directive (TPD) was implemented based on the provisions of the Belgian Aliens Act (“*de Vreemdelingenwet*”)¹¹⁹ introduced in 2003.¹²⁰ At the time of implementation, temporary protection was not ‘unknown’ to the Belgian Immigration Office, as in the past similar protection had been offered to nationals of former Yugoslavia, Rwandese nationals, Bosnians, and Kosovars.¹²¹ However, a framework that gave legal status to displaced persons was lacking until the implementation of the Directive. Following the Russian invasion, the Belgian senate agreed on 25 February 2022 that the necessary steps should be taken to temporarily accommodate Ukrainian war refugees.¹²² Following the Council Implementing Decision (EU) 2022/382 of 4 March 2022, a registration centre was set up in Brussels for people with a potential right to temporary protection.¹²³

Main legislative acts relevant to procedure for and content of temporary protection

Title (EN)	Original Title (XX)	Web Link
Belgian Aliens Act	Vreemdelingenwet 1980	https://bit.ly/4cYAZ20 (NL) https://bit.ly/3xCcM1g (FR)
Reception Law	Wet betreffende de opvang van asielzoekers en van bepaalde andere categorieën van vreemdelingen (2007)	https://bit.ly/49Bcmpg (NL) https://bit.ly/4cYirPb (FR)

The Belgian Aliens Act provides that temporary protection is applied to the same categories of people who are eligible for temporary protection under the implementation decision.¹²⁴ While this is the case overall, there are slight differences in interpretation and application (see further: [Qualification for temporary protection](#)).

Between 10 March 2022 and December 2023, 77,636 persons received a temporary protection certificate in Belgium.¹²⁵ Ukrainians account for 97.8% of temporary protection holders.¹²⁶ There are no statistics available on the specific grounds for granting temporary protection, nor on the number of persons present in the country that were displaced but fall beyond the scope of the TPD. The refusal decisions might however provide some insights in this respect: in the same period, 2.657 applicants were rejected for temporary protection, of which 72.75% had the Ukrainian nationality.¹²⁷ The most common refusal grounds are (in descending order):

- ❖ the person does not fall under the application scope of temporary protection (788 refusals),
- ❖ the person has a residence permit (other than TP) in a different member state (244 refusals),
- ❖ the person is a third country national with a permanent Ukrainian residence permit who is found to be able to return to the country of origin in a safe in durable manner (31),

¹¹⁹ Law of 15 December 1980 regarding the entry, residence, settlement and removal of aliens (Aliens Act), available in Dutch and French at: <https://bit.ly/3YaTMyC>.

¹²⁰ Law of 18 March 2003 amending the Law of 15 December 1980 regarding the entry, residence, settlement and removal of aliens, available in Dutch and French at: <http://bit.ly/3HkLXzE>.

¹²¹ Chamber of representatives, *Wetsontwerp*, 1 October 2002, available in French and Dutch at: <https://bit.ly/3IF11vd>, 4.

¹²² The Senate, *The senate passes a resolution on the Russian invasion in Ukraine*, 25 February 2022, available in Dutch and French at: <http://bit.ly/3KPumms>.

¹²³ IBZ, *Registration Centre*, available in English at: <https://rb.gy/jv0hqn>.

¹²⁴ Aliens Act, Article 59/27, available in Dutch and French at: <https://bit.ly/3YaTMyC>.

¹²⁵ Statbel, *Displaced persons from Ukraine*, available in English at: <https://bit.ly/3ZmG5O4>.

¹²⁶ IBZ, *Temporary protection monthly statistics*, available in Dutch and French at: <https://rb.gy/7er9ta> (see table 2.7, year 2022) and: <https://rb.gy/pzww7v> (see table 2.7, year 2023). The number of the 2022 period of March – December are added up with the 2023 period of January- December.

¹²⁷ IBZ, *Temporary protection monthly statistics*, available in Dutch and French at: <https://rb.gy/7er9ta> (see table 3, year 2022) and: <https://rb.gy/pzww7v> (see table 3, year 2023). The number of the 2022 period of March – December are added up with the 2023 period of January- December.

- ❖ fraud (13), and
- ❖ exclusion from temporary protection; threat to public order (3).¹²⁸

B. Qualification for temporary protection

Temporal scope

The durational scope of temporary protection in Belgian law is in line with article 4 §1 of the TPD. Initially, temporary protection is granted for a year, renewable with two periods of six months, after which a new Council decision could extend it for another year. The temporary protection status can either be ended in case the maximum period is reached or at any time if a decision of the Council of the EU ends temporary protection.¹²⁹ Belgium has currently extended the temporary protection up to 4 March 2025 (see [Residence permit](#)).¹³⁰

Material scope

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

- (1) Ukrainian nationals and their family members who had their principal place of residence before 24 February 2022 in Ukraine;
- (2) stateless persons and third country-nationals who enjoyed international protection or an equivalent status in Ukraine before 24 February 2022 and their family members who, before that date, had their main place of residence in Ukraine;
- (3) third country nationals who resided in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit and who cannot return to their country in a safe and durable manner.¹³¹

Contrary to the wording of the Council Implementing Decision, the Immigration Office does not speak of Ukrainian nationals who were 'residing' in Ukraine before 24 February but of those having their 'primary residence' in Ukraine before this date. In October 2023, the CALL however ruled that the condition of 'primary residence in Ukraine' is not valid as it does not have any legal ground.¹³² While it is plausible that many who resided in Ukraine before 24 February also had their primary residence in Ukraine, this still constitutes a restriction of the scope determined by the Council Decision. It equally raises unanswered questions about what can and cannot be considered as a primary place of residence.

For Ukrainian nationals who left Ukraine before 24 February 2022, the Immigration Office evaluates their case on an individual basis, considering all relevant elements.¹³³ In practice we see that people who had left Ukraine before the 24 February often receive a refusal decision based on the fact that they were not in Ukraine before 24 February or cannot prove they were.¹³⁴ Persons having left Ukraine less than three months before the 24 February to come to Belgium were also considered to have left Ukraine 'long before' 24 February.¹³⁵ Thus, it is not clear if Belgium follows the recommendations of the European Commission to extend temporary protection to those categories of persons who left Ukraine shortly before 24 February

¹²⁸ IB,Z e-mail, 5 April 2024. Numbers applicable for 2023. For the grounds of exclusion for temporary protection, see Aliens Act, article 57/32 §1, available in Dutch and French at: <https://bit.ly/3YaTMyC>.

¹²⁹ Aliens Act, article 57/30 §1, available in Dutch and French at: <https://bit.ly/3YaTMyC>.

¹³⁰ IBZ, *Temporary protection, renewal A-card*, 7 July 2023, available in Dutch at: <https://rb.gy/uufx82>.

¹³¹ IBZ, *Temporary Protection*, available at: <https://bit.ly/3J9SwHo>.

¹³² CALL, nr. 295.240, 10 October 2022, available in French [here](#).

¹³³ Myria, *Contact meeting*, 18 May 2022, available in French and Dutch at: <https://bit.ly/3XMDJHv>, 14.

¹³⁴ See for example: CALL, nr. 296 382, 27 October 2023, available in Dutch at: <https://tinyurl.com/4dde4kse>; and CALL, nr. 295 404, 12 October 2023, available in French at: <https://tinyurl.com/6989n286>.

¹³⁵ CALL, nr. 295.240, 10 October 2023 (the persons left Ukraine on 30.11.2022), available in French at: <https://tinyurl.com/pxkwy5ys>.

because of work, studies, or family visits (...), and in the cases of persons who had a short stay permit in Belgium before 24 February.¹³⁶ The issuing of temporary protection to 140 seasonal workers residing in Belgium before 24 February indicates that this category – in the absence of other elements such as a visa for another Member State or reasons of public order – generally receive temporary protection.¹³⁷ Other persons whose long term residence permit is or was ending after 24 February 2022, such as students, are subject to an individual evaluation by the Immigration Office.

In cases of Ukrainian nationals living in Belgium before 24 February without having registered their residence in the country, the Immigration Office looks at aspects such as the administrative situation of the person in question, how long they have been in Belgium and other elements in the file.¹³⁸

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

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

The decision whether a person can return to their country of origin safely and durably, is taken on a case-by-case basis on the ground of a brief interview and evidence provided by the applicant.¹³⁹ There is no defined list of countries that are not considered as places where a safe and durable return is possible. To determine whether a return to the country of origin under these conditions is possible, a short interview is conducted shortly after the time of the application. While the member state must take into account the general situation in the country of origin, the person is expected to present out of their own initiative the evidence in support of an individual impossibility to return in a safe and durable manner.¹⁴⁰ With regards to the possibility of a durable return, IBZ takes - among other things but not exclusively – the following into account: whether the person has accommodation in the country of origin, whether the person has lived¹⁴¹ or travelled there recently,¹⁴² the years spent there, whether the person has exercised economic activities there in the past, whether the person has studied there, whether the person was able to provide for their living expenses, whether the person has a social network there and whether the person speaks the local language.¹⁴³ In regards to a family with a minor child, IBZ particularly looks at the child's link with the country of origin or the possibility of developing this link, the years the child has spent there and the possibility of learning the culture and language (though the parents).¹⁴⁴ It is also considered whether the state of health could prevent them from returning to the country of origin.¹⁴⁵ Finally, the fact that a person did not request international protection during the residence in Ukraine is also considered as an indication that the person can return to the country of origin.¹⁴⁶

¹³⁶ See Agii (agency for integration and citizenship), pt. 2.3.1.1 *Scope of application*, available at: <http://bit.ly/3xZz2in>.

¹³⁷ See Agii, *Scope of application*, available at: <https://tinyurl.com/43ej4fdn>.

¹³⁸ Myria, *Contact meeting*, 23 March 2022, available in French and Dutch at: <https://bit.ly/3J3i2wW>, 8.

¹³⁹ IBZ, *Stateless persons and nationals of third countries*, available in English at: <https://bit.ly/3Zkem0y>.

¹⁴⁰ Myria, *contact meeting*, 18 May 2022, available in French and Dutch at: <https://bit.ly/3Z8V8es>, 7-8 and CALL, nr. 297.560, 23 November 2023, available in Dutch at: <https://tinyurl.com/4pde8msn>.

¹⁴¹ IBZ, negative decision [internal document], 25 August 2022.

¹⁴² CALL, nr. 297.560, 23 November 2023, available in Dutch at: <https://tinyurl.com/4pde8msn>.

¹⁴³ See: CALL, nr. 278.203, 30 September 2022, available at: <https://tinyurl.com/3axa7dse>; CALL, nr. 278.204, 30 September 2022, available in Dutch at: <https://tinyurl.com/yc262fef>; CALL, nr. 277.651, 20 September 2022, available in Dutch at: <https://tinyurl.com/4pnh4mr9>.

¹⁴⁴ CALL, nr. 278.204, 30 September 2022, available in Dutch at: <https://tinyurl.com/yc262fef>

¹⁴⁵ IBZ, negative decision [internal document], 25 August 2022.

¹⁴⁶ CALL, nr. 297.560, 23 November 2023, available in Dutch at: <https://tinyurl.com/4pde8msn>, 3.

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

The **'family members'** definition includes the following persons:

- (1) the spouse or unmarried partner with whom a durable relationship is maintained, according to the definition provided in the Belgian Aliens Act (meaning only registered partnerships are considered equivalent to marriage¹⁴⁷);
- (2) minor unmarried children, including those of the spouse, regardless of whether they were born within or outside the marriage or are adopted;
- (3) other close relatives who were living with the family at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent at that time.¹⁴⁸

Article 2(4) of the Council Implementing Decision requires that the family members must have been residing in Ukraine before the 24th of February and that they were already 'present' there 'as a family'. Belgium grants temporary protection under those some conditions. Family members who were not present in Ukraine before the 24th of February, can nevertheless apply for a derived status, even if the 'family bond' was only created after the 24th of February 2022¹⁴⁹ (see [family reunification](#)).

The scope is however also more limited under the Belgian national law in some aspects. While the 'other close relatives' mentioned in article 2(4)(c) of the Council Implementing Decision are considered to fall under the scope of the TPD, the Belgian Aliens Act states that Belgium 'may' grant a residence permit to this category.¹⁵⁰

Persons with a residence permit (as a student, worker...) in another member state are excluded from temporary protection. The Immigration Office stated that the fact that a person has a visa issued by a European member state could give rise to a refusal decision. While each case is treated individually,¹⁵¹ the application of this criterion is rather strict in practice. The CALL however annulled a negative decision by the Immigration Office for a person with a short-term visa for study purposes in another member state which was set to expire on short notice. It stated that 'temporary residence based on a short-term visa cannot be compared to temporary protection', referring equally the communication from the Commission, which states that people are free to choose the member state where they want to exercise the rights connected to temporary protection.¹⁵²

Those who do not fall under the scope of temporary protection and have no possibility of a derived status (see [family reunification](#)), can only seek protection by applying for international protection (apart from other routes such as the combined permit or a student visa). However, the international protection applications of persons with Ukrainian nationality, both those who do not fall under the scope of temporary protection and those who enjoy temporary protection, are frozen for as long as temporary protection is

¹⁴⁷ Article 4, *Royal Decree*, 7 May 2008, available in French and Dutch at: <http://bit.ly/41AMIU3>, implementing article 40bis §2 Aliens Act. See also CALL 14 October 2022, nr. 278 741 which states that in case there is no marriage, a partner relationship can only be proven through a legally registered partnership.

¹⁴⁸ Website Immigration Office, *Temporary Protection*, available at: <https://bit.ly/3J9SwHo>.

¹⁴⁹ Article 57/34 Aliens Act does not mention the requirement that the family must have been formed before the date of reference. The draft law (Chamber of representatives, *Wetsontwerp*, 1 October 2002, available in French and Dutch at: <https://bit.ly/3IF1vd>, 27) equally states that Belgium will not limit itself to the hypothesis that the family was already formed in the country of origin and was separated due to the events.

¹⁵⁰ Article 57/34 § 1 Aliens Act.

¹⁵¹ IBZ in response to inquiry Vluchtelingenwerk regarding holders of a visa or residence permit in another member state, 8 June 2022.

¹⁵² Communication from the Commission on the Operational Guidelines, available at: <http://bit.ly/41wYkC6> as confirmed by the CALL, nr. 277.962, p. 7, 14 October 2022, available in Dutch at: <https://tinyurl.com/4b93396t>

active on a European level,¹⁵³ irrespective of whether the request for international protection was lodged during or before the activation of temporary protection (see [Access to asylum](#)).¹⁵⁴

C. Access to temporary protection and registration

1. Admission to territory

There have been almost no reports of problems at the Belgian border for Ukrainian nationals accessing the Belgian territory. People who might be entitled to temporary protection are expected to present themselves at the registration centre in Brussels, the only place where their eligibility for temporary protection is assessed.¹⁵⁵ Persons arriving at the airport need to have the necessary documents for travel (passport and visa if necessary). They are redirected to the registration centre; in case of need, the police can request support from interpreters for this purpose.¹⁵⁶ The Aliens Act establishes that people who might fall under article 28 of the TPD directive (the exclusion ground) can be detained at the border.¹⁵⁷ In 2022, there were 26 denials of entry at the border, however since the war in Ukraine, there have been no expulsions to Ukraine.¹⁵⁸ In 2023 there was one known case of detention of a person who wished to apply for temporary protection. This was a person with Jordanian nationality but who had been living in Ukraine up until the outbreak of the war and had previously enjoyed temporary protection in another member state (which was however not Schengen). When travelling to Belgium (with his 3rd country-national passport and his Ukrainian residence permit) to be with his family, he was detained at the border (airport) and put in detention. This detention was later ruled to be illegal by the court of appeal.¹⁵⁹

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

The general rule is that persons with a residency permit (A-card) or those still within their three months visa-free period with a biometrical passport can always return to Belgium on the basis of their A-card and passport.¹⁶⁰ In case they are away for longer than three months, several conditions should be met to be assured of their right of return: (1) they should notify their municipality, upon which they will receive an annex 18, (2) their A-card should not expire in the period while they are away, (3) within 15 days upon return, they should notify their return to the municipality, (4) they should return within a year.¹⁶¹

Third country nationals who think they might be eligible for temporary protection but have no visa-free entry into the Schengen area and try to reach Belgium from another country than the EU member states or Ukraine might have to acquire a visa.¹⁶² For third country nationals who derive their residence permit from a family member with temporary protection, who do not enjoy visa-free entry to Belgium and who are not present in Ukraine or the Schengen area from where they can travel to Belgium, the only option is to apply for the necessary visa such as Schengen visa or family reunification. Under the Belgian Aliens Act, conditions for family reunification with a person enjoying temporary protection are regulated

¹⁵³ Article 51/9 Aliens Act. See also CGRA, *Ukraine - state of affairs regarding applications for protection in Belgium*, 17 March 2022, available at <https://bit.ly/3WWEHA4>. Recently confirmed in Myria, *contact meeting*, 18 October 2023, available in French and Dutch at: <https://bit.ly/3u7EgKI>, 19.

¹⁵⁴ Chamber of representatives, *Wetsontwerp*, 1 October 2002, available in French and Dutch at: <https://bit.ly/3IF11vd>, 29-30.

¹⁵⁵ IBZ, *Where to submit a request for temporary protection?*, available at: <https://bit.ly/3IDfIMQ>.

¹⁵⁶ Myria, *contact meeting*, 15 March 2023, available in Dutch and French at: <https://bit.ly/3S8Jhe5>, 7.

¹⁵⁷ Chamber of representatives, *Wetsontwerp*, 1 October 2002, available in French and Dutch at: <https://bit.ly/3IF11vd>; Article 57/32 Aliens Act.

¹⁵⁸ IBZ, information provided on 4 April 2023. No Information available on 2023.

¹⁵⁹ Brussels Court of Appeal [internal document], 29 December 2023.

¹⁶⁰ Article 39 §1, §3 (2) *Royal Decree 8 October 1981*, available at: <https://bit.ly/408uhA9>.

¹⁶¹ *Ibid.*

¹⁶² Article 6 (1) Schengen Borders Code, Available at: <http://bit.ly/3ZrUpVi>.

separately from the family reunification directive and are less strict than the 'regular' family reunification scheme (see [Family reunification](#)).¹⁶³

2. Freedom of movement

Individuals entitled to temporary protection who are not in possession of biometric passport or travel documents have not faced difficulties entering Belgium or attempting to continue to other European countries. For administrative reasons, moving addresses within the country is not recommended as long as the residence permit has not been obtained. The municipality conducts a 'check' to see if the person lives at the address reported to the municipality; if a person moved addresses during this time, the process of obtaining a residence permit (A-card) can be prolonged and more complicated. This is because a new annex 15 (temporary residence permit) has to be issued, meaning that the period of 45 days (the maximum validity period of the annex 15) will start running again.

3. Registration under temporary protection

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

Contrary to applications for international protection, there is no specific time limit to apply for temporary protection set by the law.¹⁶⁴ Late applications for temporary protection do not negatively influence the decision. However, potential beneficiaries of temporary protection should apply for temporary protection within three months since the date of entry into the Schengen area to avoid ending up in 'irregular stay'. If their short stay is ending, they are strongly advised to present themselves at the municipality of their visit to either prolong their short stay or to apply for temporary protection.¹⁶⁵

Potential beneficiaries are expected to reach the registration centre from Monday to Friday between 8h30 and 13h. However, there have been many signals that persons who came to apply for temporary protection within these opening hours were not always able to register¹⁶⁶(see further below in this section). Applicants cannot and do not have to make an appointment.

Persons can be refused access to the registration centre when it is evident that the person has no connection to Ukraine or temporary protection.¹⁶⁷ Applicants are asked to register their fingerprints and to present identification along with other elements proving that they fall under the scope of temporary protection.¹⁶⁸ On the day of the application, two interviews are conducted during which they are asked how they arrived in Belgium, on which date they left Ukraine, the reasons for their departure, and which region they are from. Their travel documents are verified to check if they have previously lodged a request for international protection or if they have previously been in Belgium.¹⁶⁹ When a temporary protection certificate cannot be issued immediately because an additional examination is considered necessary, the person will be notified of the decision at a later stage. As mentioned, this decision can take up to several weeks to several months.¹⁷⁰ These applicants receive a "attestation of registration". In 2023, 1520 attestations of registration have been given, as opposed to 15.626 Temporary Protection certificates and 1097 refusal decisions.¹⁷¹ A delay in the decision can occur especially (but not exclusively) in the following situations: (1) the applicant does not present the necessary documents, (2) the applicant is already known to the migration authorities and additional analysis on the file is necessary, (3) there are elements of public order or public security, (4) the applicant is a third country national with a permanent residence permit in

¹⁶³ Aliens Act, Article 57/34, available in Dutch and French at: <https://bit.ly/3YaTMyC>.

¹⁶⁴ *Ibid.*, Article 12.

¹⁶⁵ Immigration Office, *Short Stay*, available at: <https://bit.ly/3RjrmjY>.

¹⁶⁶ The infoline of Vluchtelingenwerk received numerous signals of people who were not able to register in the January- February 2024 period.

¹⁶⁷ The infoline of Vluchtelingenwerk encountered cases where people were not allowed to enter because there was no link to temporary protection.

¹⁶⁸ Immigration Office, *Procedure*, available at: <https://bit.ly/3IDfIMQ>.

¹⁶⁹ Fedasil in response to inquiry Vluchtelingenwerk regarding the registration procedure, 27 February 2023.

¹⁷⁰ Cases signalled to the Infoline.

¹⁷¹ IBZ e-mail, 5 April 2024.

Ukraine, who claims inability to return under safe and durable conditions to their country of origin.¹⁷² Where there is no decision on the day of application, the applicant is given a registration certificate while the Immigration Office examines the file.¹⁷³

According to the Immigration Office, potential beneficiaries must provide 'documents that prove they fall under the scope of the temporary protection directive'.¹⁷⁴ Ukrainian nationals should provide proof of identity such as their biometric passport and national ID card. Persons with international protection in Ukraine, recognised stateless persons or other third country nationals should have evidence of their identity and status in Ukraine. As for the family members, in addition to proof of identity, they should provide the proof of a sustainable relationship, which can only be delivered through an original marriage certificate or the proof of having a common child (for which a birth certificate including the name of the third country national-parent or a certified DNA test is needed).¹⁷⁵ In this context, the Immigration Office verifies if the marriage still exists at the moment of application.¹⁷⁶ For the category of 'other family members', proof of having lived together and dependency constitute a critical element in the examination.

Persons with a favourable decision will receive a temporary protection certificate. This certificate is either in French or Dutch. They also receive a document which explains their status and rights as holders of 'temporary protection' from IBZ. Persons to whom no decision has been granted yet, receive an attestation of registration and the info that they will receive the decision by post at a later stage.¹⁷⁷ This attestation of registration does not allow registration at the municipality, nor does it open any rights such as the right to work or the right to financial benefits.

A negative decision is accompanied by information on the procedure to appeal as well as a brief explanation of the procedure for international protection. However, this information is usually in French or Dutch and is not very accessible to Ukrainians or third country nationals (see [Information provision and access to NGOs](#)).

Persons who receive a refusal decision can file an appeal for annulment within 30 days.¹⁷⁸ They can again present themselves at the registration centre to ask for a review if new evidence could bring them under the scope of temporary protection.¹⁷⁹ NGOs or lawyers can also request a review/further clarification of an unfavourable decision via e-mail to the Immigration Office. The immigration office recently communicated however that it is not possible to request an update on a specific file through mail,¹⁸⁰ whether this also means that lawyers cannot request a review, remains unclear.

Practical obstacles and delays in registering applications arose especially in the first period after the activation of temporary protection, as some persons who could not provide proof that they fall under the scope of the temporary protection were denied entry to the registration centre without obtaining the chance to have their case examined. Denial of entry – other than a refusal – did not result in a refusal decision or any proof of application, which is problematic in terms of the right to an effective remedy.¹⁸¹ There have been some signals starting around December 2023 that persons who came to apply for temporary protection within the opening hours (from 8:30 to 13:00) were not able to register.¹⁸² There has been no official confirmation of this practice by IBZ, but it has been observed in January that there is a quota of 75 persons that can register a day.¹⁸³ On March 4th 2024, 50 persons were not able to enter

¹⁷² Myria, *Contact meeting 18 May 2022*, available in French and Dutch at: <https://bit.ly/3Z8V8es>, 10.

¹⁷³ *Ibid.*

¹⁷⁴ IBZ, *Procedure*, available at: <https://bit.ly/3IDfIMQ>.

¹⁷⁵ IBZ in response to inquiry Vluchtelingenwerk on the interpretation of 'family members', 1 December 2022.

¹⁷⁶ Myria, *Contact meeting 18 May 2022*, available in French and Dutch at: <https://bit.ly/3Z8V8es>, 8-9.

¹⁷⁷ Before 16 May 2022, the procedure was slightly different: people who did not immediately receive temporary protection received an invitation by e-mail. This method however resulted in people not knowing when and if they would be contacted.

¹⁷⁸ Aliens Act, Article 39/2 §2, available in Dutch and French at: <https://bit.ly/3YaTMyC>.

¹⁷⁹ Myria, *Contact meeting*, 15 June 2021, available in French and Dutch at: <https://bit.ly/3XMDJHv>.

¹⁸⁰ IBZ e-mail concerning the waiting time for a specific case, 11 March 2024.

¹⁸¹ Myria, *Migration in numbers and rights*, September 2022, available in Dutch at: <https://bit.ly/3Y6mxFT>, 18.

¹⁸² The infoline of Vluchtelingenwerk received numerous calls of people who were not able to register in the January-February 2024 period.

¹⁸³ Observation of a partner organisation, 22 January 2024.

the registration centre on the same day.¹⁸⁴ IBZ has communicated that this is due to the increasing complexity of the cases and that people are in principle invited to apply the next day.¹⁸⁵ There is however an exception for non-accompanied minors. Persons preferably register 'in the morning' to make sure their application can be processed the same day.¹⁸⁶

Another issue already briefly mentioned is the increased waiting times for a decision. There has been an increase in cases where the waiting period was weeks or even months. There was a case of a person having applied for temporary protection at the beginning of July who had not received a decision yet in September 2023.¹⁸⁷ Due to a relatively higher inflow over the summer in 2023, and less staff during those summer months, there have been some temporary delays in the examination of the application.¹⁸⁸ This problem returned intermittently and also the period December 2023 – February 2024 has been characterised by long waiting times that amounted from several days to several weeks.¹⁸⁹

4. Legal assistance

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

Article 23 of the Belgian Constitution determines that the right to live with dignity implies for every person, *inter alia*, the right to legal assistance. The Aliens Act guarantees free legal assistance by a lawyer to all foreign nationals in procedures included in the Aliens Act under the conditions that apply to Belgian nationals.¹⁹⁰

There are two types of free legal assistance: first line assistance and second line assistance.¹⁹¹

❖ First line legal assistance

The so-called "first line assistance" is a competence at the regional level and is organised in each judicial district by local Commissions for Legal Assistance, composed of lawyers representing the local bar association and the public centres for social welfare (CPAS / PCSW). There, first legal advice is given by a lawyer, or a person is referred to a more specialised instance, organisation or to "second line assistance", completely free of charge, regardless of income or financial resources. Besides these lawyers' initiatives, there are also other public social organisations and NGOs providing this kind of first line legal assistance such as Caritas and Vluchtelingenwerk. Vluchtelingenwerk Vlaanderen, which has an Infoline accessible by phone every weekday, through which people can ask any kind of question related to temporary protection or any kind of other question related to their rights in Belgium. Information can be provided in Ukrainian language if needed. If the refusal decision is not sufficiently or correctly motivated, Vluchtelingenwerk may ask for a review or for clarifications by writing an e-mail to IBZ. This happened more often in the immediate aftermath of the outbreak of war in Ukraine, as national authorities still had to provide comprehensive guidelines on scope of temporary protection and necessary documents to prove entitlement to the status. More recently, poorly or incorrectly motivated refusal decisions are rare to non-existent. An NGO can advice on whether it could be beneficial to appeal or not. Appeal is possible before the Council for Alien Litigation (CALL) with the aid of a (pro deo) lawyer in the case of a refusal decision. After being granted temporary protection, individuals might need legal advice, which is mainly

¹⁸⁴ Observation of Vluchtelingenwerk at the registration centre, 4 March 2024.

¹⁸⁵ Response from the Cabinet following an enquiry by Vluchtelingenwerk, 2 February 2024.

¹⁸⁶ IBZ e-mail, 12 January 2024.

¹⁸⁷ Case communicated to the Infoline.

¹⁸⁸ IBZ in response to an inquiry by Vluchtelingenwerk regarding a specific case, 7 September 2023.

¹⁸⁹ Confirmation by IBZ, 11 March 2024.

¹⁹⁰ Aliens Act, Article 90, available in Dutch and French at: <https://bit.ly/3YaTMyc>.

¹⁹¹ Article 508/1-508/25 Judicial Code.

the case for decision on the allocation of social revenue; these cases are also supported through the Infoline of Vluchtelingenwerk.

❖ Second line legal assistance

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

5. Information provision and access to NGOs

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

With the ending of the activities of the Red Cross at the registration centre, many additional information is no longer provided and the provision of info is limited to the above.

The NGO Vluchtelingenwerk Vlaanderen has an Infoline¹⁹² along with the organisations Orbit and the CAW, where (potential) beneficiaries of temporary protection, volunteers, host families, municipalities, lawyers, and other organisations providing aid to displaced persons may call with any questions they have in relation to temporary protection. This may range from questions on the scope of temporary protection, to the registration procedure, social benefits, school, etc.. In the context of this infoline, Orbit specialises in information about housing, while there is a direct line with regional CAW's for psychological aid.

In Wallonia and Brussels, a similar Infoline is operated by Caritas, while Ciré maintains a French language information page on the legal position of Ukrainians in Belgium.¹⁹³ [Ukrainian voices](#), a Brussels based organization, also provides information in Ukrainian on a walk-in basis, as well as information sessions on specific topics and “mobile teams” who can help with translations (for doctor appointments, appointments with the welfare house, etc).

On a federal level, a regularly updated information page¹⁹⁴ on several aspects of temporary protection is provided in English, French, German, Ukrainian, and Russian.

D. Guarantees for vulnerable groups

In exceptional circumstances, where persons cannot autonomously reach the registration centre (for example due to a medical condition), an exception to the obligation to register personally can be granted. An authorisation may be given to a family member who can register the person upon showing a doctor or

¹⁹² See: <http://bit.ly/3Ud57Od>.

¹⁹³ Ciré, ‘UKRAINE: informations sur les possibilités d’arrivée, le séjour et le statut juridique en Belgique’, available in French at: <https://bit.ly/3KiwMZx>.

¹⁹⁴ See: <https://info-ukraine.be/en>.

hospital reference attesting to the impossibility of the person registering. In practice, to avoid misunderstandings, it is advised to inform the Immigration Office of this necessity beforehand.¹⁹⁵

From 10 March 2022 to December 2023, 58,803 persons stated upon registration not to be in need of accessing reception, while 17,906 indicated to need it.¹⁹⁶ This means that 23% of the people fleeing from Ukraine indicated being in need of accommodation upon registration.

Of those in need of accommodation, only vulnerable groups may be (but are not always) assisted (without any guarantee) in finding a reception solution. No clear definition has been provided of who can be considered as vulnerable. Due to increasing trouble in finding reception and housing solutions, persons are sometimes referred to homeless shelters and hotels in Brussels (see [housing](#)).

There has been no confirmation of this info for 2023, but the info for 2022 may however still give some guidance on how vulnerabilities may be assessed. Vulnerabilities are selected on the basis of on-site assessments; visible vulnerabilities, pregnant women, young children, elderly people are the cases that appear to have more chances of being recognised as vulnerable.¹⁹⁷ There is no list of what classifies as vulnerable, nor is there a standard questionnaire to identify vulnerabilities. The examination is, according to Fedasil, realised on a case-by-case basis. Persons who are victim of human trafficking or exploitation, are also considered as vulnerable. However, with no transparent screening procedure and limited guidelines on the matter, which generates concerns as to whether non-visible vulnerabilities are properly identified.¹⁹⁸ In practice vulnerability factors are considered also depending on the number of places available at the emergency centre. When there are no places available at the emergency reception centre, the distinction between “vulnerable and non-vulnerable” is not as significant as both groups run the risk of not receiving any shelter.

After registration, several organisations can help the beneficiaries with a redirection, if needed to a healthcare or elderly facility. In Wallonia, there is, for example, the public agency of Aviq. Persons with vulnerabilities or with a handicap can present themselves at a regional office where the person’s overall situation is analysed so they can be redirected to the most appropriate solutions.¹⁹⁹ In Flanders, the Flemish agency for persons with disability (VAPH) plays a similar role in supporting people living with a recognised disability.

With regards to persons in need of psychological support, several organisations can provide this. The [CAW](#) offers low-threshold psychosocial support in various regions across Flanders, as well as [Solentra VZW](#) where Ukrainians (as well as other nationalities) can get an appointment with a Ukrainian speaking psychologist. [PsyBru](#) also provides a tool for finding Ukrainian speaking psychologists in the Brussels area.

Considering unaccompanied minors, the registration procedure is slightly different. Just like other beneficiaries of temporary protection, they receive a temporary protection certificate with which they can present themselves to a municipality. Not having a legal guardian or parent may not be used by municipalities as a reason to refuse the issuance of the temporary residence permit (annex 15) and the subsequent residence card.²⁰⁰ In total, 21,182 unaccompanied minors were registered in 2022.²⁰¹ In 2023,

¹⁹⁵ IBZ in response to an inquiry by Vluchtelingenwerk regarding the condition to physically apply for temporary protection, 16 May 2022.

¹⁹⁶ Statbel, *Displaced persons from Ukraine*, available in English at: <https://bit.ly/3ZmG5O4>.

¹⁹⁷ IBZ in response to an inquiry by Vluchtelingenwerk regarding the condition to physically apply for temporary protection, 16 May 2022.

¹⁹⁸ Fedasil in response to an inquiry by Vluchtelingenwerk regarding the registration procedure, 27 February 2023.

¹⁹⁹ Coordination unit of the Walloon Region for the reception of Ukrainian refugees, *Practical guide for support of Ukrainian refugees*, October 2022, available in French at: <https://bit.ly/3Jrg6js>.

²⁰⁰ VVSG, *what happens after registration?*, available in Dutch at: <http://bit.ly/3wEj9NQ>.

²⁰¹ IBZ, numbers provided on 4 April 2023.

there have been an additional 342 notifications to the legal guardian service of non-accompanied minors with the Ukrainian nationality.²⁰²

A differentiation needs to be made between the situation of minors in the company of adults who are acquaintances or adult family members who do not have the parental authority of a parent or legal guardian, and that of minors who are not accompanied by anyone. If a minor is accompanied, they can be accommodated with the adult person. During the registration process, both the minor and the accompanier will be asked whether they agree with this arrangement.²⁰³ The minor will be signalled to the guardianship service (“dienst voogdij” or “tutelles”) so that a legal guardian can be appointed. Since the minor is accompanied, crisis accommodation is not always provided. As for the minors who are not accompanied, the same registration process is applicable. The person is equally signalled to the guardianship service. They are placed in a host family through foster care (“*Pleegzorg Vlaanderen*” in Flanders and “*VZW Mentor Jeunes*” in Wallonia or Brussels).

Local authorities are expected to monitor cases in which friends, acquaintances or a host family hosts an unaccompanied minor. However, when the minor is not placed in a host family but lives with acquaintances, there is no structural follow-up. The Immigration Office should, in such cases, report the minor to the local authorities so that they are aware of the non-accompanied minor;²⁰⁴ however, in practice it is not clear whether this is done.²⁰⁵

There is a shortage of legal guardians who can legally represent unaccompanied minors, resulting in 522 minors (of various nationalities) waiting for a legal guardian as of the end of February 2024, with a waiting time of 3-4 months on average.²⁰⁶ Vulnerable profiles are prioritised (medical or psychological problems, pregnancy, indications of abuse, human trafficking, etc).²⁰⁷ The waiting period can lead to temporary problems such as taking out healthcare insurance,²⁰⁸ opening a bank account, accessing social benefits.²⁰⁹ Only minors above 17.5 years might not be appointed with a guardian anymore.²¹⁰

²⁰² Service des Tutelles / Dienst Voogdij, *statistieken*, available in Dutch and French at: <https://tinyurl.com/mbx6yvpv>, 3.

²⁰³ VVSG, *What happens with the registration of a non-accompanied minor?*, available in Dutch at: <http://bit.ly/3wEj9NQ>.

²⁰⁴ Information received orally from “pleegzorg Vlaanderen” (foster care Flanders).

²⁰⁵ Ibid, notification of non-accompanied minors to the legal guardianship service.

²⁰⁶ Response of the Legal Guardianship Service, 28 February 2024.

²⁰⁷ Ibid.

²⁰⁸ VVSG, *Social rights: health insurance and disability*, available in Dutch at: <http://bit.ly/3Jpdtij>.

²⁰⁹ This problematic has been widely addressed in a letter to the responsible minister from the VVSG along with its Walloon and Brussels partners (ASBL & Brulocalis), 19 May 2022, available in Dutch at: <https://bit.ly/40t0J0j>.

²¹⁰ Response of the Legal Guardianship Service, 28 February 2024.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of temporary protection?
The A card has a validity of one year. Currently the A card is prolonged until 4 March 2025²¹¹
2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until February 2024?
46,552 A-cards have been delivered²¹²

Once in possession of the temporary protection certificate, persons can register their residency in a municipality where they have a place to stay, unless they have declared a need for housing, in which case they may receive a place at the emergency reception centre. The municipality of their place of residence is responsible for the administrative process of granting the residence permit card.²¹³ On 15 February 2024, approximately 60,000 persons had been registered at the municipality.²¹⁴ This includes the persons who were given an A-card, but also those who have received an annex 15 (temporary residence awaiting the A-card) and ID's for persons under the age of 12.²¹⁵ The procedure for obtaining a residence permit can vary from municipality to municipality in terms of physical and/or online appointments. Upon registration at the municipality, people receive a temporary residence permit (annex 15). This permit is valid for up to 45 days, opens the right to work, social benefits, education, and allows them to open healthcare insurance, as will be presented in detail in the following sections.²¹⁶ The local police conducts a 'check' if the person effectively resides at the given address. Once this is confirmed, the person is asked to present themselves again at the municipality to pick up the residence permit (A-card).²¹⁷ Persons were able to go to the municipality to prolong their A-card between 4 January 2024 and 4 March 2024. This prolongation will last one year, until 4 March 2025.

The time this process takes (from the first appointment with the municipality to obtaining the residence permit) significantly varies depending on the municipality. Where this process took longer than 45 days, the temporary residence permit (annex 15) needed to be renewed.

A primary obstacle in obtaining the A-card is related to the ability to find a reception place/ house where registration at the municipality is possible in order to obtain a residency card (to this effect see [housing](#)).

It is possible for temporary protection holders in Belgium to move to another member state and receive temporary protection there. The rights and social benefits the person enjoyed in Belgium must consequently be terminated. Municipalities are advised to make concrete arrangements for the person's departure during the initial registration.²¹⁸ The person should notify their municipality of the departure so that the person can be removed from the registers, meaning that their A-card will no longer be valid. Through the registration platform on a European level, which was introduced at the end of May 2022,

²¹¹ Council of the EU Justice and Home Affairs, *Russia's aggression against Ukraine*, 13 October 2022, available in English at: <https://bit.ly/3Yb5wI4>.

²¹² IBZ e-mail, 5 April 2024.

²¹³ Aliens Act, Article 59/27, available in Dutch and French at: <https://bit.ly/3YaTMyC>.

²¹⁴ VLOT (Flemish Task Force), 3 April 2024 – this number is based on the inscriptions in the register by the municipality of residence.

²¹⁵ IBZ email, information provided on 5 April 2024.

²¹⁶ Institute for health and disability insurance (RIZIV), *Circular: right to medical care for displaced persons from Ukraine*, 15 March 2022, available in Dutch at: <https://bit.ly/3IlpY6J>.

²¹⁷ Article 52/2 §2, Royal Decree, 8 October 1981, available in Dutch and French at: <https://bit.ly/408uhA9>.

²¹⁸ Communication from the Flemish government support team on Ukraine (VLOT) to the municipalities, 13 September 2022.

Belgium can exchange relevant information with other member states.²¹⁹ If Belgium is informed that a person received temporary protection in another member state, an instruction is sent to the municipality and the residence permit is withdrawn.

2. Access to asylum

There is no restriction to the right to apply for international protection for people who have been granted – or are entitled to – temporary protection, as well as those who have been refused temporary protection.²²⁰ However, the examination of the application for international protection of a temporary protection holder is suspended until the temporary protection regime ends at the European level.²²¹ The same applies to Ukrainian nationals; while the law does not prescribe that the procedure should be suspended for Ukrainian nationals,²²² the CGRS has ‘frozen’ their requests for international protection.²²³ For Ukrainians with double Ukrainian & Russian nationality, the examination is equally frozen. For Ukrainians with double nationality from another country, the examination is frozen only if they have obtained temporary protection.²²⁴ This means that for Ukrainians who do not fall under the scope of temporary protection, the available procedural routes leading to a residence permit are considerably restricted. However, if they apply for international protection, the fact that their application is not examined does not restrict their right to reception in a Fedasil reception centre while in procedure,²²⁵ as well as other rights such as the right to work after 4 months in procedure, the right to medical reimbursement, etc. Nonetheless, due to the ongoing reception crisis in Belgium,²²⁶ some (primarily single men) persons falling outside the scope of temporary protection will not benefit from reception and the socio-financial support under the regular international protection framework.

The requests of other third country nationals (some nationalities excepted) who fall outside the scope of temporary protection are not frozen and thus examined accordingly. Due to the ongoing reception crisis, however, access to some of their rights as asylum seekers such as reception cannot be guaranteed (see [AIDA report Belgium on international protection](#)).

B. Family reunification

A distinction needs to be made between those who have a right to temporary protection as family members,²²⁷ and persons who do not fall under the scope of temporary protection but can nevertheless apply for a derived status which is still different from family reunification. Although the European Commission refers to the Directives regulating family reunification with a third country national or EU citizen,²²⁸ family reunification under temporary protection – regardless of the sponsor’s nationality – is regulated separately under the Belgian Aliens Act.²²⁹ As such, family members of TP beneficiaries can

²¹⁹ Myria, *Contact meeting*, 15 June 2022, available in French and Dutch at: <https://bit.ly/3XMDJHv>, 20.

²²⁰ Article 50 Aliens Act; Article 17 of the Temporary Protection Directive.

²²¹ Article 51/9 Aliens act, in line with article 17(2) of the Temporary Protection Directive.

²²² Article 51/9 mentions ‘persons who enjoy temporary protection’ and not specifically ‘Ukrainian nationals’.

²²³ See also CGRS, *Ukraine - state of affairs regarding applications for protection in Belgium*, 17 March 2022, available at <https://bit.ly/3WWEHA4>.

²²⁴ Myria, *contact meeting*, 21 June 2023, available in French and Dutch at: <https://bit.ly/3UHEQjF>, 17.

²²⁵ Article 6(1) Reception Act, available in Dutch and French at: <https://bit.ly/3Ycznc6>.

²²⁶ See: ECRE, ‘Belgium: failure to deal with Persistent Reception Crisis is Attack on the Rule of Law’, 13 January 2023, available at: <http://bit.ly/3KPIQ6e>; The Brussels Times, ‘Despite 6000 convictions, Belgium still refuses to tackle reception crisis’, 23 January 2023, available in English at: <http://bit.ly/3YadjPq>.

²²⁷ Article 2(4) Council implementing decision establishing the existence of a mass influx of persons displaced from Ukraine, 4 March 2022, available at: <http://bit.ly/3ZuzZuN>.

²²⁸ Communication from the Commission on the Operational Guidelines, available at: <http://bit.ly/41wYkC6>, referencing family reunification based on Directive 2003/86/EG, 22 September 2003, available at: <https://bit.ly/3SC8Js6> and Directive 2004/38/EG, 30 April 2004, available at: <http://bit.ly/3F9w4ft>.

²²⁹ Article 57/34 Aliens Act: IBZ has confirmed that this article is applicable to family reunification with a temporary protection beneficiary, IBZ, *family reunification with a temporary protection beneficiary*, available in French and Dutch at: <https://bit.ly/3wFHNh9>.

obtain a “derived” status. The applicable article does not lay down any conditions for this derived status, resulting in more favourable conditions as opposed to regular family reunification. For instance, there is no retribution to be paid, and the ‘sponsor’ is not required to have adequate housing, health care insurance, or sufficient means of existence.²³⁰ This does not alter the fact that there is still the condition of being able to provide proof of the family relationship. In addition, adults have to prove that they do not constitute a danger to public order (or explain why they cannot provide such proof).²³¹ For this reason, below we speak of a ‘derived status’ rather than family reunification status.

A new law bill is however set to change the rules for ‘a derived status’ from a temporary protection beneficiary. Most notably, the bill includes the condition that the family was already formed at the outbreak of the war and was separated due to the war. Moreover, the family member should be outside of Europe.²³² At the time of writing, this bill has been adopted but has not yet been implemented.

1. Family reunification as provided under the Temporary Protection Directive

Family members of persons enjoying temporary protection, should always first check whether they themselves do not fall under the scope of the temporary protection directive, meaning those who resided in Ukraine before 24 February and are:

- ❖ Ukrainian nationals; or
- ❖ Stateless persons or TCN’s who enjoyed international protection; or
- ❖ Their family members.

For the family members, in order to come under the scope of temporary protection, they must equally have been in Ukraine before the 24th of February and they must have been, as is stipulated under article 2 (4) of the TPD, part of the family unit in Ukraine. The family member who herself falls under the scope of article 2 (4) of the directive consequently can request temporary protection at the registration centre.

There are some family members who are not, strictly speaking, covered by the scope of temporary protection, because the condition of the family already existing and residing in Ukraine before 24 February 2022²³³ is not met. This situation arises if the family was not yet created at the time of the invasion, or if the family member that seeks a derived status was not present in Ukraine before 24 February. The Belgian Aliens Act does not mention the criteria of the family being already formed in the country of origin but simply states that a residence permit should be granted to the family member of a person with temporary protection.²³⁴ The Immigration Office does thus allow for family reunification with a beneficiary even when the family was formed after 24 February. This way, certain family members outside the scope of the temporary protection itself can still obtain a right of residence in Belgium. IBZ has clarified that these persons receive a ‘status stemming from temporary protection, rather than a residence permit based on family reunification.’²³⁵ The residence permit they obtain is an A-card that has the same duration as the family member who is a beneficiary.²³⁶ These family members of beneficiaries can apply at the municipality of residence of the beneficiary for the A-card and they do not have to go to the registration centre.²³⁷ From analysis of the case law however, a conclusion can be drawn that many people are not aware of the option to apply for a ‘derived status’ at the municipality;

²³⁰ See: Agii, *pt. 3.15 Family reunification family members of temporary protection beneficiaries*, available in Dutch at <https://tinyurl.com/43ej4fdn>.

²³¹ Article 10 Aliens Act with application of article 12bis §5 & §6 Aliens Act.

²³² Law Bill, Belgian Chamber of Representatives, 8 April 2024, available in French and Dutch at: <https://tinyurl.com/yeyt3mej>, 17.

²³³ Article 2 (4) of the Council Implementing Decision.

²³⁴ Art. 57/34 § 1 Aliens Act.

²³⁵ Response from IBZ after an enquiry by Vluchtelingenwerk regarding the interpretation of article 57/34 §1 Aliens Act, 1 December 2022.

²³⁶ Aliens Act, Article 57/34 §3, available in Dutch and French at: <https://bit.ly/3YaTMyC>.

²³⁷ This possibility was equally confirmed by a positive decision by IBZ on 7 November 2023 concerning a ‘deducted TP status’ of a non-Ukrainian national where the family bond was only created after 24 February.

people who would be able to obtain a residence through this procedure have appealed negative temporary protection decisions received upon registration.²³⁸

The above however only applies to the nuclear family members, meaning the spouse under article 2 (4) (a) and the minor children under article 2 (4) (b) of the Council implementing decision, thus excluding ‘other family members’ who lived with the family at the time of the invasion and who were completely or mainly dependent on that relative. There is a ‘*de facto* appreciation’ in this context,²³⁹ resulting in some ambiguities concerning the application of temporary protection to this category of persons.²⁴⁰ IBZ only specifies that ‘the decision to grant a residence permit to this ‘other family members category’ will take into consideration the exceptional difficulties they would encounter if the reunification of these family members would not be allowed.’²⁴¹ This is a ‘case-by-case evaluation.’²⁴² ‘Belonging’ to the family unit at the time of the outbreak is not sufficient, but special bonds of dependency have to be demonstrated²⁴³ The assessment of dependency is based on a possible breach of article 8 ECHR (right to private and family life).²⁴⁴ Normal links of affection between family members are not sufficient in the context of an article 8 breach but additional elements of dependency need to be proven.²⁴⁵

This is equally a group that does not automatically qualify as family members for regular family reunification, as the recognition of their status as family members is based on an assessment of the dependency links.²⁴⁶

Lastly, the beneficiary, who falls under Article 2 (1) a & b of the implementing decision, needs to be present in order for the family member to obtain temporary protection themselves. In one case, a non-Ukrainian national who was married to a Ukrainian person and was part of the family before 24 February did not receive temporary protection because his Ukrainian spouse was not present with him in Belgium.²⁴⁷ The spouse from which his temporary protection stemmed/derived could not be considered as displaced in the sense of article 2 of the Implementation decision considering she was still in Ukraine.²⁴⁸ Moreover, IBZ in this case is not capable of examining if the family bond is still existent at the moment of application.²⁴⁹ In a preceding case however, the Council of Alien Law Litigation considered these criteria to be illegitimate, stating that the Council implementation decision as well as the directive do not require the family member to be present in the Member state. This case concerned a man whose spouse was a nurse and could therefore not leave Ukraine.²⁵⁰ In the following case regarding a non-Ukrainian national, the court however ruled that previous case law does not create a binding precedent.²⁵¹

²³⁸ See for example CALL, nr. 297.125, available in French at: <https://tinyurl.com/2tvfpzb2>. The family in Ukraine was recognised, but did not fall under the scope of temporary protection.

²³⁹ Article Chamber of representatives, *Wetsontwerp*, 1 October 2002, available in French and Dutch at: <https://bit.ly/3IF11vd>, 28-29. Article 57/34 § 1 Aliens Act.

²⁴⁰ The Cabinet in response to inquiry Caritas regarding the application of ‘other family members’, 22 March 2022. The draft law (Chamber of representatives, *Wetsontwerp*, 1 October 2002, available in French and Dutch at: <https://bit.ly/3IF11vd>, 29) equally makes a clear distinction between ‘members of the core family’ on the one side and ‘other family members’ on the other side.

²⁴¹ Chamber of representatives, *Wetsontwerp*, 1 October 2002, available in French and Dutch at: <https://bit.ly/3IF11vd>, 29-30.

²⁴² IBZ in response to inquiry Vluchtelingenwerk on the interpretation of ‘other family members’, 1 December 2022.

²⁴³ CALL, nr. 292.757, 9 August 2023, available in French at: <https://tinyurl.com/yc2bdpwp>, 7.

²⁴⁴ CALL, nr. 295.288, 10 October 2023, available in Dutch at: <https://tinyurl.com/efry9>, 9; CALL, nr. 292.757, 9 August 2023, available in French at: <https://tinyurl.com/yc2bdpwp>, 8.

²⁴⁵ CALL, 297.070, 14 November 2023, available in French at: <https://tinyurl.com/2dder2ry>, 4.

²⁴⁶ Article 4 Council Directive 2003/86 on the right to family reunification, 22 September 2003, available at: <https://bit.ly/3SC8Js6>.

²⁴⁷ CALL, nr. 292.471, 28 July 2023, available in Dutch at: <https://tinyurl.com/27mx5scv>, 2.

²⁴⁸ *Ibid*, 7.

²⁴⁹ *Ibid*, 3.

²⁵⁰ CALL, nr. 283.740, available in French at: <https://tinyurl.com/yc42bmuk>, 5.

²⁵¹ See CALL, nr. 292.471, 28 July 2023, available in Dutch at: <https://tinyurl.com/27mx5scv>, 2.

2. Family reunification beyond the TPD

Those who are considered as family members under the Council implementation decision receive temporary protection as a family member or a derived status, rather than a residence permit through regular ‘family reunification’.²⁵² The question of family reunification does thus not arise for this group.

The need to apply for family reunification itself in practice almost exclusively arises where a person cannot apply in Belgium because they are not capable of obtaining a visa to come to Belgium to apply for temporary protection. This can for example be the case for TCN’s family members of beneficiaries, who cannot travel visa free to Belgium. Persons abroad who cannot reach Belgium should ask for a type D visa based on family reunification at a Belgian consulate or embassy.²⁵³ It is not clear if in this case, the conditions are also significantly loosened as is the case for family members of TP beneficiaries who apply in Belgium for a derived status (re adequate housing, etc : for an overview of the conditions, see [AIDA Country Report on Belgium, 2023 Update](#)). Equally, the question of which embassy is competent arises. For example, a recognised refugee in Ukraine cannot be expected to submit a visa application in their country of origin. In this context, the Immigration Office clarified that an application to a diplomatic post in another country may sometimes be possible. However, the applicant should explain why they wish to submit their application there. It is not entirely clear on which basis this can be done so it is recommended to contact the diplomatic post first.²⁵⁴ Upon arrival in Belgium, these persons are expected to present themselves at the municipality of their place of stay within 8 days.²⁵⁵

Family members who reach Belgium with a visa D based on family reunification will receive a residence permit with the same validity period as the residence permit of the person with temporary protection status. It is equally extended under the same conditions.²⁵⁶ No provision of the temporary protection directive or the implementing decision excludes potential beneficiaries of temporary protection from enjoying temporary protection if they already have another residence status, as long as they meet the application conditions.²⁵⁷ The Immigration Office has confirmed that family members with family reunification status can, therefore, effectively apply for temporary protection once they are in Belgium if they fall under the scope of temporary protection.²⁵⁸ Especially for the family members who fall under the scope of temporary protection but had to apply for a visa D because they were not able to come to Belgium visa free, this can be regarded as a positive development.

C. Movement and mobility

Beneficiaries are not subjected to any territorial restrictions imposed by Belgium in terms of freedom of movement within the Schengen zone. Based on their residence permit and biometric passport, they may travel freely in the Schengen zone for three months within 180 days.²⁵⁹

There are however some obstacles regarding access to social rights and residence status. In this regard, there are limited national guidelines, and municipalities are left a significant degree of autonomy. Most municipalities apply the rule applicable under the law on the right to social integration (“*wet maatschappelijke integratie*”) by analogy. Under this law, beneficiaries may leave the country for 28

²⁵² Article 57/34 §3 Aliens Act.

²⁵³ IBZ, *Family reunification with a temporary protection beneficiary*, available in French and Dutch at: <https://bit.ly/3wFHNh9>.

²⁵⁴ IBZ in response to an Inquiry by Myria regarding applications at a diplomatic post and the conditions for family reunification, 19 October 2022.

²⁵⁵ Article 12 Aliens Act.

²⁵⁶ Article 57/34 §3 Aliens Act.

²⁵⁷ See also The Commission, *Frequently asked questions on interpreting the Temporary Protection Directive and Council Implementing Decision*, 2022, available at: <https://bit.ly/3RnvY8D>, 5.

²⁵⁸ IBZ in response to an Inquiry by Myria regarding applications at a diplomatic post and the conditions for family reunification, 19 October 2022.

²⁵⁹ Article 21, Schengenacquis, 22 September 2000, available at: <http://bit.ly/3Y7qVve>.

days within a year without losing the right to social benefits. However, the municipality should be notified when the time spent abroad is longer than a week.²⁶⁰ Municipalities might nevertheless apply stricter rules, as they are not subject to specific obligations within the existing legal framework.²⁶¹

It is concerning that beneficiaries of temporary protection are not always informed of these travel and notification rules, especially since the application thereof might differ depending on the municipality involved. This can equally have implications on the residence status. In the absence of communication to the municipality, there have been cases in which the municipality incorrectly assumed that the person had left the territory indefinitely, while they had, in fact, only left for a relatively short time to evaluate the security situation in their home area in Ukraine.²⁶² Removal from the register by the municipality however does not mean the person loses temporary protection. This can only be determined through a decision of IBZ (the migration authorities), in which case the person also loses their residence status and, consequently, temporary protection status. In case of a removal from the registers by IBZ because of loss of residence status (and thus temporary protection), the person has to re-apply to the registration centre and go through a new registration process.²⁶³

The absence rules regarding social benefits aside, under the Belgian Aliens Act there is in principle no obligation to notify the municipality of absences under three months as this should not affect people's residence status.²⁶⁴ In the following cases, the municipality has to check with IBZ that the person still enjoys temporary protection before prolonging or issuing a residence permit:

- ❖ The residence permit (A-card) was not renewed before the expiration date;
- ❖ The temporary protection certificate is older than three months;
- ❖ The person was struck from the registers (for example because of it was assumed the person had moved abroad).²⁶⁵

There has been a case of a municipality not willing to register a person again after the person had left for two months without giving notice.²⁶⁶ These persons can also not return to the registration centre to express their housing need, as people who already have the temporary protection status are not again given access to the registration centre. To avoid such situations, persons with temporary protection are advised to always communicate their travel goals and intentions, including a possible return, clearly to the municipality.

In Flanders, there are no deadlines imposed on municipalities for keeping a reception place available during a person's absence. Municipalities are merely advised to 'transparently provide information on the rules regarding housing and payment of social benefits.'²⁶⁷ In Wallonia however, it is clearly indicated that if the stay abroad is less than three months, the accommodation should always be considered as occupied and may thus not be made available for another family.²⁶⁸

²⁶⁰ Article 23 §5 Law on the right to social integration, 26 May 2002, available in Dutch and French at: <https://bit.ly/3WP7Mxg>; Circular POD MI, *omzendbrief inzake het recht op maatschappelijke integratie bij verblijf in het buitenland*, available in Dutch, French and English at: <https://tinyurl.com/bddfsh47>.

²⁶¹ Flemish Codex, *Organieke wet van 8 juli 1976 betreffende de openbare centra voor maatschappelijk welzijn*, available in Dutch at: <https://tinyurl.com/mvf7xhd4>.

²⁶² This information was received as a case handled by the VVV Infoline.

²⁶³ Agii, pt. 2.3.3.3 *Electronic A card and duration of temporary protection*, available at in Dutch at: <https://tinyurl.com/43ej4fdn>; see also The Commission, *Frequently asked questions on interpreting the Temporary Protection Directive and Council Implementing Decision*, 2022, available at: <https://bit.ly/3RnvY8D>, 7; and IBZ, *Circular: temporary protection – renewal A-card*, 16 November 2022, available in Dutch at: <https://bit.ly/3ZrSSI2>.

²⁶⁴ Aliens Act, Article 39 §2 §3 §6, available in Dutch and French at: <https://bit.ly/3YaTMyC>.

²⁶⁵ IBZ, e-mail from 6 February 2024.

²⁶⁶ This case was reported to the infoline of Vluchtelingenwerk Vlaanderen and confirmed by the municipality Communication from the Flemish government support team on Ukraine (VLOT) to the municipalities, 13 September 2022.

²⁶⁸ Coordination unit of the Walloon Region for the reception of Ukrainian refugees, *Practical guide for support of Ukrainian refugees*, October 2022, available in French at: <https://bit.ly/3Jrg6js>, 21.

Considering the ambiguities and non-existence of a harmonised approach in dealing with absence in different municipalities, the need for communication of periods of absence to the municipality is very important in order to not face any unexpected obstacles upon return.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?
No specific time limit
2. Number of beneficiaries staying in reception centres up until 31 December 2023
Mid March 2024 approximately 5600 persons stayed in reception centres in Flanders.²⁶⁹
3. Number of beneficiaries staying in private accommodation as of 31 December 2023
Not available

Reception upon arrival

The right to reception of people with temporary protection is regulated in the reception law. It foresees that the federal Agency for the Reception of Asylum Seekers (Fedasil) assigns a ‘compulsory place of registration’.²⁷⁰ More specifically, this means that beneficiaries have the right to benefit from financial support from the social welfare centre.²⁷¹ On this basis, Fedasil considers itself to only be responsible for referral to a reception place that has been provided and put forward by a municipality, and to provide emergency accommodation until that time.²⁷²

Thus, the responsibility of Fedasil only extends to the provision of temporary emergency accommodation until a local municipality solution is found. As mentioned below, until recently Fedasil only referred people with vulnerable profiles to a reception place provided by a municipality. For non-vulnerable persons, who are told to ‘find their way’,²⁷³ the question arises as to which municipality is responsible for providing these financial benefits. There is thus still currently a ‘responsibility gap’ between the federal and local level.

76.7% of applicants indicate not having a reception need upon arrival.²⁷⁴ They often make use of their network or are financially able to immediately find and rent something on the private housing market. They can present themselves at the municipality of their place of residence with their certificate of temporary protection. It is important to note that people can only indicate a need for reception on the day of arrival; Fedasil will not consider itself responsible for those people who have already progressed to the local level, they cannot go back to the registration centre to request reception.²⁷⁵

For the other 23% of people who indicate a housing need however, the situation is quite concerning. At the beginning of the crisis, Fedasil referred people registering for temporary protection expressing a housing need to the local municipalities (as they had a list of the available places by municipality). Starting in the summer of 2022, referrals from Fedasil to local municipalities only occurred in exceptional cases of vulnerability.²⁷⁶ People considered vulnerable were referred to the emergency reception centre

²⁶⁹ VLOT (Flemish Task Force), 13 March 2024, there are no numbers available for Brussels or Wallonia.

²⁷⁰ Art. 10 §1, °1 reception law, available in French and Dutch at: <https://tinyurl.com/ycxxr6ae>.

²⁷¹ Art. 8 §1 and 11§2 reception law, available in French and Dutch at: <https://tinyurl.com/ycxxr6ae>.

²⁷² Myria contact meeting 29 November 2023, available in French and Dutch at: <https://tinyurl.com/bddjh49c>.

²⁷³ VVSG, *Crisis and durable housing*, available in Dutch at: <https://tinyurl.com/y3zd5bvp> & Myria, *Contact meeting*, 19 October 2022, available in Dutch and French at: <https://tinyurl.com/3fp2u2dz>, 45.

²⁷⁴ Statbel, *Displaced persons from Ukraine*, (numbers up until December 2023), available in English at: <https://bit.ly/3ZmG5O4>.

²⁷⁵ Confirmed by a case referred to the Infoline, of a 28-year old woman who could not regain access to registration centre for a reception request, 7 August 2023.

²⁷⁶ Myria, *Contactmeeting*, 18 October 2023, available in French and Dutch at: <https://bit.ly/49FBSd1>.

of Ariane, and from there, they were dispatched to the municipalities as soon as a place became available on the housing tool. However, due to the increasingly difficult progression to the local level because of a lack of available housing solutions, Ariane has equally become saturated.²⁷⁷ Between September and December 2023, persons with vulnerable profiles (such as pregnant women) were not referred to Ariane due to an outbreak of chickenpox.²⁷⁸ In practice, people stay in Ariane for weeks or even months. There have been cases of persons staying in Ariane for as long as five to six months.²⁷⁹

Due to the “improvised” nature of the solutions and the changing reception situation, it is not entirely clear what alternative solutions are presented to applicants in case the Ariane centre is full. Possible and used alternatives include homeless shelters provided by **Samu social** as well as an emergency reception centre (Hotel Plasky – provided by the Brussels based organisation **Ukrainian voices**). Whereas before persons with vulnerable profiles were referred to Ariane, they now are increasingly referred to homeless shelters and the Plasky Hotel,²⁸⁰ with no guarantee however of obtaining a place. They have to again present themselves at the registration centre after one night to indicate a continuing reception need and to enquire about the availability of places.²⁸¹ If persons no longer present themselves, it is assumed there is no longer a need for reception.²⁸² This is problematic in the sense that people are not well informed about this need to ‘return’ to the registration centre. Alternatively, a direct referral to a place at a local municipality may be arranged if possible. However, even for vulnerable categories of people, there can be no guarantee that there is a reception solution and they are increasingly left to find their own solution.²⁸³

While it is argued that people enjoying temporary protection immediately have all the rights connected to residence, it is unclear how they are ‘supposed to find their way’ and obtaining an address is crucial for the residence permit and the rights attached to the permit, such as financial aid. Already in January 2023 persons with temporary protection were reported present in homeless shelters, although the number was said to be quite limited.²⁸⁴ The distinction in treatment between vulnerable and non-vulnerable people has become increasingly blurred due to the fact that:

- ❖ There is no clear definition of who is vulnerable;
- ❖ Non-vulnerable people can also be referred to the homeless shelter and hotel Plasky;
- ❖ Vulnerable people increasingly also find themselves without reception solutions (while in the past they received an almost guaranteed place at Ariane).

Lastly, persons who were not able to register due to the registration quota and early closing of the reception centre (see **Registration**) are not provided with reception solutions as Fedasil does not take responsibility for this group.²⁸⁵ Similarly, persons with an attestation of registration (also see **Registration**) are not able to register themselves at a municipality and there is no accommodation by or referral to homeless shelters or hotel Plasky by Fedasil. They only do so in exceptional cases such as pregnant women.²⁸⁶ Both these groups consequently also face significant obstacles in accessing reception.

This means that persons with reception needs who cannot count on friends or family to live with might encounter serious difficulties in registering their address of residency. This is highly concerning, as this

²⁷⁷ Myria, *Contact meeting*, 19 October 2022, available in Dutch and French at: <https://tinyurl.com/3fp2u2dz> , 45.

²⁷⁸ Fedasil, 25 September 2023.

²⁷⁹ Reports to the Infoline.

²⁸⁰ Observation by Vluchtelingenwerk at the Registration centre, 4 April 2024.

²⁸¹ Observation by a partner organisation, 3 October 2023.

²⁸² *Ibid.*

²⁸³ IBZ, 14 September 2023 following an enquiry by Vluchtelingenwerk as to whether there is always a reception place for vulnerable persons who indicate a reception need, and confirmed by cases reported to the Infoline.

²⁸⁴ Observation Samu Social, 26 January 2023.

²⁸⁵ Communication VLOT (Flemish Task force), 29 February 2024.

²⁸⁶ *Ibid.*

does not allow them to obtain a residence permit, regardless of their condition as beneficiaries of temporary protection.²⁸⁷

Housing

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

Article 13(1) of the Temporary Protection Directive states that the member states shall ensure that persons enjoying temporary protection have access to suitable accommodation, or, if necessary, have a right to receive the means to obtain housing. Up until 15 February 2024, approximately 60% of the people registered reside in Flanders, 20% in Wallonia, and 22% in Brussels.²⁸⁸ Many reception places were created at both the local and federal level to cope with the high number of arrivals from Ukraine. A rough estimate shows that 7,700 extra reception places were created in Flanders and 1,300 in Wallonia.²⁸⁹ Mid-March approximately 5600 persons stayed in reception centres in Flanders.²⁹⁰ This capacity is however being slowly reduced. The federal Ariane emergency centre in Brussels currently has a maximum capacity of 450 places for beneficiaries of temporary protection (the total capacity is larger as Ariane also functions as a transit centre for international protection applicants). It should be noted that these numbers reflect the extra places that were created by local authorities in the wake of the crisis, and do thus not include host families or places on the private housing market.

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

The Ariane centre is organised by Fedasil in Brussels and is considered emergency accommodation. At the end of June 2022, the Ariane reception centre saw an increase of occupation up to almost 1,200 persons. In this period, the Ariane centre was used solely for temporary protection beneficiaries, a policy that was changed later on and resulted in the capacity for temporary protection beneficiaries being reduced to 250 in 2023. As a result of the high influx and the increasingly difficult progression to the local level it was established that only vulnerable persons needing reception could be accommodated at Ariane until another solution at the local level could be found.²⁹¹ Local municipalities were asked to centralise information on the available places they can offer, be it in host families, collective reception centres, or other. This information is shared through a common platform 'the housing tool'. Persons can be dispatched from Ariane to the local level based on the places available in this tool. However, the supply of places available on the housing tool is insufficient and the tool is not frequently updated, leading to uncertainty about the actual number of places available.²⁹² In practice, people stay in Ariane for weeks or even months, especially when housing must abide by certain conditions tailored to the needs of the person with specific vulnerabilities such as persons with limited mobility,²⁹³ but also single

²⁸⁷ See for example: The Brussels Times, *Belgium's reception crisis: Ukrainian refugees now also sleeping rough*, 18 November 2022, available at: <http://bit.ly/3KMcyZJ>. The infoline of Vluchtelingenwerk Flanders has in recent months (end of 2023 – beginning 2024) received numerous reports of people who did not find a reception place upon arrival and did not know where to go.

²⁸⁸ Numbers provided by VLOT (Flemish Ukrainian support team), 15 March 2024.

²⁸⁹ Rough estimate by Fedasil, no definite publication of these numbers is available at the moment of writing.

²⁹⁰ VLOT (Flemish Task Force), 13 March 2024, there are no numbers available for Brussels or Wallonia.

²⁹¹ Myria, *Contact meeting*, 21 September 2022, available in Dutch at: <https://bit.ly/3m5NaUA>, 50.

²⁹² Myria, *Contact meeting*, 18 May 2022, available in French and Dutch at <https://bit.ly/3XMDJHv>, 40-41. Also confirmed by the Flemish task force on Ukraine (5 March 2024) who confirmed that in the week of 3 March only 6 places were found at the local level in Flanders (and none in the Walloon region).

²⁹³ Myria, *Contact meeting*, 21 September 2022, available in Dutch at: <https://bit.ly/3m5NaUA>, 50.

men with medical conditions and large families.²⁹⁴ There have been cases of persons staying in Ariane for as long as five to six months.²⁹⁵ As Ariane was initially meant to provide a short-term solution, the extended stay without any means to register has a negative impact on access to social, financial, and work rights.²⁹⁶

Housing in public places can take many forms. The most common is housing in collective reception centres (reception places with space for more than 15 people): these are places owned by either the local municipality or other actors who made places available, and they are managed either by the local municipality, by the actor itself, or jointly. The main actors involved in the collective reception centres besides the municipality are the Red Cross and the IOM. Three bigger reception centres were set up to accommodate the new displaced persons: one in Antwerp, one in Mechelen and in Ghent that opened the beginning of May 2023.²⁹⁷ The centres in Antwerp and Mechelen have a capacity of 600 places each (expandable to 1,000 in the case of Antwerp).²⁹⁸ The one in Ghent has a capacity of 600 additional places.²⁹⁹ Wallonia does not have reception centres of similar scale. Usually, no specific time limit is provided for the stay at the reception centres. The reception facilities must at least provide for a bed in a shared room, with equally the possibility of the sanitary and kitchen spaces being common areas.³⁰⁰ The services offered at collective centres may differ, with some offering meals, clothing, medical support, etc.

To cope with the sudden influx, local authorities can also receive funding to provide other public places to beneficiaries of temporary protection. These places include hotels or B&B's, hostels, youth residence centres, holiday chalets or other touristic residencies, assisted living facilities, or service flats. The places must be the local authority's property or rented out by the local authority. Depending on the type of residence, these places must be available for at least 21 days.³⁰¹ However, how often municipalities use this option is unclear. There were some housing units available, to be provided to the local municipalities upon request in order to house beneficiaries of temporary protection. However, in October 2023 municipalities were told that these housing units would be used for other goals since the demands from municipalities for these units was diminishing.³⁰² This is at odds with the increase in people struggling to find reception/housing.

Lastly, social housing actors can provide for collective centres and housing that can be rented to temporary protection beneficiaries. In addition, (social) rental agencies can use vacant social housing pending demolition, renovation, or sale to provide temporary housing. This can be done either through an intermediate institution or directly by the social housing actor.³⁰³

Beneficiaries can also rent on the private housing market. The feasibility of this highly depends on the financial means of the beneficiary and the benefits they receive. Equally, the temporary character of their status can negatively affect their chances on the private market.³⁰⁴ The requirements concerning the quality of the house are slightly eased so that more housing options become available for beneficiaries. These eased norms apply to both private housing as well as social housing awaiting

²⁹⁴ Observation by Vlot, March 2024.

²⁹⁵ Infoline case, February 2024.

²⁹⁶ Myria, *Contact meeting*, 21 September 2022, available in Dutch at: <https://bit.ly/3m5NaUA>, 50.

²⁹⁷ The city of Ghent, *Nooddorp Gent opent deuren eerste Oekrainers*, 9 May 2023, available in Dutch at: <https://bit.ly/3VZ0ASc>.

²⁹⁸ See, The Brussels Times, available in English at: <http://bit.ly/3KBQzVe> and VRT News, available at: <http://bit.ly/40JhgN1>.

²⁹⁹ Stad Gent, *Emergency centre for Ukrainians*, available in Dutch at: <http://bit.ly/3U8ea2N>.

³⁰⁰ Flanders regional government page, *Rental for the reception of displaced persons from Ukraine*, available in Dutch at: <http://bit.ly/3J3bSOU>.

³⁰¹ Flanders regional government page, 'Financing', available in Dutch at: <https://bit.ly/3HhIouh>; Communication from the Flemish government support team on Ukraine (VLOT) to the municipalities, 14 March 2022.

³⁰² VLOT (Flemish Task Force), newsletter from Wednesday 4 October 2023.

³⁰³ VVSG, 'Possibilities through social housing organisations', available in Dutch at: <https://bit.ly/3HK6EXi>.

³⁰⁴ Obstacles identified by Orbit, specialised in housing for refugees.

renovations, destruction, or sale. However, the housing should always meet a minimum standard in terms of safety and health; no derogations that would negatively affect these qualities are possible.³⁰⁵

Regarding accommodation with a host family, in the beginning stages reception was mainly focused on stays in host families. This happened through the ‘temporary living’ (“tijdelijk wonen”) notification which made it possible for host families to host beneficiaries of temporary protection in their house while being legally considered to be separate entities.³⁰⁶ This meant that there was no negative impact on the taxes or the financial benefits of the host family. A campaign was launched and people could indicate they were open to host through the hashtag “#place available” (“#plekvrij”) in Flanders or (“#placedispo”) in Brussels and Wallonia. However, the possibility for host families to sign up and accommodate a family was a rather *ad hoc* one. There was no framework: thus, when progression to a more durable housing option was needed, municipalities were confronted with reception needs they sometimes had difficulty accommodating for because of the lack of available and affordable housing within their municipality. Ultimately, the local authorities are responsible for the reception of beneficiaries in the sense that they have to take responsibility for re-location of those registered in their municipality.³⁰⁷ More recently however, the general observation seems to be that there are no new calls for host families³⁰⁸, and presumably many beneficiaries staying with host families have moved on to the private market. The number of Ukrainians residing in the private housing market is estimated to be increasing.³⁰⁹

The municipalities, when confronted with someone with a reception need or a need for relocation from the host family, are expected to undertake several steps to ensure that the person can access housing. If durable housing solutions are not available, nor temporary solutions such as hotels, B&B’s, the municipalities are expected to contact neighbouring municipalities. If this is to no avail, they should contact the Ukrainian support team (VLOT) that would provide support in the search for a reception place.³¹⁰ No such support time exists in Wallonia or Brussels. Municipalities however do not always make full use of their options to contact neighbouring municipalities or to contact VLOT. There has been at least one case of a municipality mistakenly referring these people back to the registration centre to request a reception place even though this is not a solution.³¹¹ Furthermore have there been cases of persons staying in housing provided by the municipality who faced difficulties finding a place when they were told to relocate because their contract ended and they had to make space.³¹²

E. Employment and education

1. Access to the labour market

Beneficiaries with a residence permit (A-card) or annex 15 can legally work in Belgium.³¹³ They may work both as an employee or a self-employed person. For jobs in government functions or regulated professions (dentistry, medicine,...) a diploma recognition is necessary.³¹⁴ The temporary protection status exempts them from the obligation to obtain a special working permit to exercise activities as self-

³⁰⁵ Flemish Society for Social housing, *Temporary housing of Ukrainian refugees*, available in Dutch at: <https://bit.ly/3W1rJ73>.

³⁰⁶ For Wallonia, see: *Proposition of place of residence*, available in French at: <http://bit.ly/3KURzE6>; for Flanders, see IBZ, *Circular regarding the registration of Ukrainians in the registers under the temporary protection statute*, 9 March 2022, available in Dutch at: <https://bit.ly/3JqlxPV>, 3.

³⁰⁷ Fedasil, *Fall in arrivals of Ukrainian refugees*, 5 August 2020, available at: <http://bit.ly/3Y9WtA7>.

³⁰⁸ Vluchtelingenwerk Vlaanderen has seen a significant decrease in questions related to host families, observation shares by VVSG (Flemish association for cities and municipalities), 28 February 2024.

³⁰⁹ Observation Vlot, 15 March 2024.

³¹⁰ Communication from VIOT to the municipalities, 27 October 2022.

³¹¹ Infoline case, February 2024.

³¹² Cases reported to the Infoline throughout 2023 and 2024.

³¹³ Article 10, °6, Royal Decree, 2 September 2018, available in Dutch and French at: <https://bit.ly/3Y9wvqg>.

³¹⁴ Naric, *Information on recognition of Ukrainian degrees*, available in Dutch at: <https://tinyurl.com/4ac5ww2v>

employed persons.³¹⁵ In total, 29% of Ukrainians who registered as job seekers have found a job.³¹⁶ This is an average of 15% in Brussels (1,335 persons out of 9,147 registered), 17% in Wallonia (11,840 persons out of 7,081 registered) and 39% in Flanders (8,959 persons out of 22,861 registered).³¹⁷ These numbers only concern Ukrainian nationals, rather than persons with the temporary protection status. 361 persons have been working as self-employed, either as a main or side job.³¹⁸ In Flanders, Ukrainians are referred to a [brochure by the agency for integration and citizenship](#) where they can find information about their working rights.³¹⁹

Social benefits may (certain exceptions aside) be conditional upon ‘willingness to work’, such as providing adequate proof of job applications. The details of this obligation are decided on by the welfare centre.³²⁰ Beneficiaries can present themselves with their residence documents to one of the regional offices where they can register as a job seeker. In Flanders, this is [VDAB](#); in Brussels, [Actiris](#) and Wallonia, [Forem](#). However, for Flanders there is anyway an obligation to register as a job seeker for those who (1) are at working age, (2) enjoy temporary protection, (3) are registered in a Flemish municipality.³²¹

There are various measures to facilitate access to the labour market of TP beneficiaries. While employers cannot specify the nationality of people they want to recruit to avoid discrimination, they can use hashtags to indicate that they are open to newly arrived employees in Belgium. In Flanders, this can be done through [#werkplek vrij](#); in Brussels, through [# Welcome](#).³²² Wallonia has no such hashtag, although employers open to newcomers are encouraged to avoid imposing certain conditions such as language requirements, and use comprehensible, clear language in their vacancies.³²³

Regarding the labour rights, every worker in Belgium has enjoys the same rights regardless of their residence status.³²⁴ Every sector has a minimum wage, and labour must always be remunerated. For questions, doubts or complaints, people can contact the inspection service (“*arbeidsinspectie*”) or their VDAB/Actiris/Forem contact person.

Beneficiaries also have the right but are not obligated to follow integration courses. Due to the great numbers of Ukrainians, these integration courses were organised online and specifically for Ukrainians. However, since 2024 Ukrainians in Brussels and Flanders can enrol in the regular ‘integration course’ and consequently also receive an ‘integration certificate’. This course consists of: social orientation, learning Dutch, trajectory to work and a participation and networking trajectory.³²⁵

³¹⁵ Article 1, °15 Royal Decree, 3 February 2003, available in French and Dutch at: <http://bit.ly/3mj78LC>.

³¹⁶ This does however not mean that they are all still currently working.

³¹⁷ Numbers at the end of December 2023. Numbers provided by the VDAB, as calculated by Statbel/KSZ (“*kruispunt databank sociale zekerheid*”), 11 March 2024.

³¹⁸ Numbers at the end of February 2024. Numbers provided by the VDAB, as calculated by Statbel/KSZ (“*kruispunt databank sociale zekerheid*”), 6 March 2024.

³¹⁹ Information VDAB enquiry Vluchtelingenwerk Vlaanderen about inform risks exploitation and rights, 6 March 2024.

³²⁰ Article 3 § 5, Law on the right to social integration, 26 May 2002, available in Dutch and French at: <https://bit.ly/3WP7Mxg>; see also Institution on social integration (POD MI), *FAQ on Ukraine*, 7, available in French and Dutch at: <https://bit.ly/3Rh1B3L>.

³²¹ Flemish Government, *Devree on the Compulsory Subscription to the VDAB*, 21 April 2023, available at: <https://tinyurl.com/mr3pkxhu>.

³²² Actiris, see: <http://bit.ly/3DrOdEn>.

³²³ Forem, see: <http://bit.ly/3XInk77>.

³²⁴ Article 4 §1 & article 11, Law establishing sanctions and measures for employers of illegally staying third-country nationals, available in French and Dutch at: <https://bit.ly/3HkixxV>.

³²⁵ Flemish Agency for Integration and citizenship, *the Integration trajectory*, available in Dutch at: <https://bit.ly/4cR7dfo>.

Beneficiaries can apply with their attestation of temporary protection in combination with the A-card or the Annex 15.³²⁶

2. Access to education

All children between the ages of 5 and 18 residing in Belgium have the right to education, regardless of their residence status.³²⁷ Temporary protection beneficiaries are obliged to enrol in education within 60 days after registration in their municipality, regardless of whether this is distance learning (for which there are no formal obligations on specific subjects or books),³²⁸ or enrolment in the Belgian education system through home schooling or physical classes.³²⁹ Education has no age limit, although compulsory education ends at 18.³³⁰ In the schoolyear 2022-2023, 1,929 Ukrainian children were enrolled in kindergarten, 3,574 in primary school, and 13,781 in secondary school in Flanders. In the same schoolyear, there were 487 enrolments of Ukrainian nationals in Flemish higher education institutions.³³¹ There are no numbers available for Brussels and Wallonia.

All beneficiaries are entitled to education under the same conditions as nationals except for the diploma requirements: the degree obtained in a foreign country – contrary to Belgians – may not give direct access to a degree or additional exams or preparation programmes may be required.³³² Some rules are more favourable for TP beneficiaries. For example, beneficiaries have the opportunity to, at any moment, file a declaration of home education. Those who prefer distance learning are exempted from the requirement to take exams unlike the Belgian home-schooled children.³³³ Generally speaking, administrative requirements are eased; this is so regarding the admission requirements to secondary school.³³⁴ Moreover, beneficiaries have access to preparatory classes (“*Okan*” in the Flemish-speaking region, “*DASPA*” in the French-speaking region) for foreign newcomers who speak a different language.³³⁵

The Ukrainian secondary school degree is not considered equivalent to the Belgium one. Children under 18 who have already obtained their secondary school degree in Ukraine are thus still required to enrol in a form of education (be it a regular Belgian secondary school or distance learning).³³⁶

If a child has special needs, the centre for student counselling can redirect the person to a school more adapted to the child’s needs. The procedure for such enrolment is temporarily simplified, not requiring a medical diagnosis.³³⁷ The schools for special needs are mainly for children who, temporarily or permanently, require special assistance because of: (1) a physical or mental disability, (2) serious emotional or behavioural problems, and (3) severe learning disabilities. With the influx of displaced

³²⁶ See Agii (agency for integration and citizenship), pt. 3.8. *Scope of application*, available at: <https://tinyurl.com/43ej4fdn>, & Flemish government, *Flemish Decree on integration policy*, article 11 §1 °2, available in Dutch at: <https://tinyurl.com/4tp2p62h>.

³²⁷ GD/2003/03, *The right to education for children without legal residence*, 24 February 2003, available at: <http://bit.ly/3jpxYRb>.

³²⁸ Flemish Government, *Home schooling for Ukrainians*, available in Dutch at: <https://tinyurl.com/y2r8ry3f>

³²⁹ Article 1 § 7 Law of 29 June 1983 on compulsory education (amended 23 March 2019) available at: <http://bit.ly/3jpxYRb>.

³³⁰ *Ibid.*, article 1 §1.

³³¹ Flanders, *Statistical Yearbook Flemish education 2022-2023* (“leerlingen van vreemde nationaliteit”), available in Dutch at: <https://tinyurl.com/4akp7w43>.

³³² Article II.177 Codified Decree on higher education, 11 October 2013, available in Dutch at <http://bit.ly/3JxTwWJ>.

³³³ Flanders education government page, *Ukraine crisis: lower- and secondary education*, available in Dutch at: <https://bit.ly/3kS0fQS>.

³³⁴ Walloon-Brussels Education unit, *Circular: Ukrainian situation, schooling for children fleeing from conflicts*, available in French at: <https://bit.ly/3jlVAX1>, 7.

³³⁵ Flemish Government Royal Decree, 24 May 2022, available in Dutch at: <http://bit.ly/40et3TR>.

³³⁶ Agency for education services, 26 February 2024.

³³⁷ For Flanders, see: <https://bit.ly/3kS0fQS>; for Wallonia, see: <http://bit.ly/3kVpGkC>.

persons, these schools have extra personnel providing (para)medical, social and psychological support.³³⁸

There are however some obstacles for children under the age of 18. First, preparatory classes are saturated, meaning that some beneficiaries are put on waiting lists and – unless home-schooling is a possibility – do not in practice access the education system. These are the same preparatory classes that are offered to other newcomers. Moreover, if a guardian (of which there is also a shortage) has not been appointed for an unaccompanied minor, this may cause problems in practice (such as payments and school trips abroad). Foster caregivers can however make decisions about parenting in cases of urgent necessity, with notification to the parents.³³⁹

As for those who wish to enrol in higher education, the Ukrainian secondary diploma is equivalent only to the second (out of three) cycles of secondary education in Belgium. This does in principle thus not suffice to be enrolled in higher education. So if someone wants to continue studying with a Ukrainian secondary education degree and has already passed the age of 18, they must finish the last high school cycle through adult education. However, education institutions may deviate from this. In the absence of an equivalent secondary school diploma, an institution may enrol the person for humanitarian, medical, psychological or other social reasons. Passing a knowledge and language exam may also be set as a requirement.³⁴⁰ Beneficiaries of temporary protection who wish to continue their studies after completing their secondary in Ukraine (and who thus don't have the necessary requirements) must thus individually contact the institution where they want to study in order to see if they could be admitted on a discretionary basis. Some educational degrees, however, require passing mandatory exams as a prerequisite for enrolment (e.g. dentistry, medicine).³⁴¹ The enrolment fee is equivalent to the standard fee that Belgian students pay (rather than the fee for third country nationals). Moreover, diploma recognition procedures, as required also for certain jobs, are free for beneficiaries.³⁴²

Naric, the Flemish body which is competent to recognise degrees obtained abroad, received a total of 1861 requests for diploma recognition; the vast majority being higher education degrees. Of those requests 1197 degrees were recognised as equivalent. This recognition is necessary for Ukrainian nationals that want to work in the public sector or want to practice a regulated profession.³⁴³

However, some obstacles remain regarding enrolment in higher education. The language barrier, having most courses offered in either Dutch or French, constitutes a first obstacle. Second, for people without the financial means to continue their studies through higher education, welfare centres can support the student financially throughout their education; this is conditional on meeting the commitments agreed upon with the assigned social worker.³⁴⁴ The willingness of the social welfare centre (responsible for granting financial aid to people with financial needs) to 'invest' in these cases varies depending on the municipality. It is highly dependent on the person's motivation and whether the education will increase the chances of finding a job.³⁴⁵

³³⁸ Flanders education government page, *Ukraine crisis: lower- and secondary education*, available in Dutch at: <https://bit.ly/3kS0fQS>.

³³⁹ Article 387 Quinquies Civil Code, 21 March 1804, available in French and Dutch at: <https://bit.ly/3KJp8ZN>.

³⁴⁰ Article II.177 Codified Decree on higher education, 11 October 2013, available in Dutch at: <http://bit.ly/3JxTwWJ>.

³⁴¹ Flanders education government page, *conditions of admission to higher education*, available in Dutch at: <http://bit.ly/3JuRrLa>.

³⁴² Naric-Flanders, *information on the recognition of Ukrainian diploma's*, available at: <http://bit.ly/3IHuXUW>.

³⁴³ Naric-Flanders, *Information on the recognition of Ukrainian degrees*, available at: <https://tinyurl.com/2tt3bmer>, numbers applicable for the period February 2022 – February 2024 period.

³⁴⁴ Art. 11 § 2 (a) & art. 52, law on the right to social integration, 26 May 2022, available in Dutch and French at: <https://tinyurl.com/7szmp424>.

³⁴⁵ POD MI, *individualized project for social integration – studies*, available in Dutch and French at: <https://tinyurl.com/3d9mmr66>.

Lastly, beneficiaries may also enrol in adult education. In relation to vocational training and above-age education beneficiaries, there is an adult education fee exemption for those who enjoy temporary protection. Beneficiaries may take Dutch (in Flanders) and French (In Wallonia) as a second language and other courses offered by the adult education centres. To do so, they must demonstrate their lawful residence in Belgium, for which they can invoke their temporary protection status. For Dutch as a second language, adults must apply first at the ‘agency for integration and social orientation’³⁴⁶ (the whole of Flanders), Atlas³⁴⁷ (Antwerp) or Amal (Ghent).³⁴⁸ They can orient non-native speakers to the most appropriate course.³⁴⁹

F. Social welfare

The right to social benefits starts from the day of the demand. This means that a person with a temporary protection certificate and an inscription in the register (or proof of an appointment with the municipality) can present themselves to the social welfare centre to receive or social revenue or ‘social benefits’. The right to receive social benefits will then apply retroactively to the day of the request.³⁵⁰ Each municipality has a ‘social welfare centre’ which operates relatively autonomously (in Flanders “OCMW”, and in Brussels and Wallonia “CPAS”). The social welfare centre of the municipality where the address is registered is responsible for granting social benefits.³⁵¹ Hence, the beneficiary must be a registered resident in the specific municipality to qualify for social benefits. From March 2022 up to and including 30 November 2023, 33,923 temporary protection beneficiaries received social benefits. This includes 10,918 beneficiaries in Brussels, 33,468 in Flanders, and 15,683 in Wallonia.³⁵²

The amount of financial aid given can vary greatly.³⁵³ This is so because under the “Equivalent Living Wage” (*equivalent leefloon in Dutch*) there is no fixed amount, no selected calculation method, and no fixed categories, which results in a high margin of discretion for the social welfare centres and a significant difference between the revenue granted from person to person, and from municipality to municipality. The social welfare centre examines the need for financial assistance and decides within 30 days.³⁵⁴ The social welfare centre determines what aid is granted based on the established factual situation (housing, forms of support received, cohabitation, etc.).³⁵⁵

Some issues emerged regarding access to social benefits.³⁵⁶ A certain lack of clarity has been signalled concerning the amount of the benefits granted and/or the reasons for the refusal or reduction of the revenue. These are often communicated through an official decision only available in Flemish or French. While OCMW’s can make use of social translator services, has it been signalled that some of the OCMW do not make use of these, further complicating communication.³⁵⁷ The motivation is often very generic, and not sufficiently individualised to deduct the real reason of refusal/ reduction. A lack of transparency and the extensive margin of discretion accorded to the welfare centre results in incomprehension about

³⁴⁶ See: <https://tinyurl.com/yf22rrxt>.

³⁴⁷ See: <https://tinyurl.com/m24k73kk>.

³⁴⁸ See: <https://tinyurl.com/yp24zf3n>.

³⁴⁹ Flanders education government page, *Adult education*, available in Dutch at: Flanders education government page, *Ukraine crisis: lower- and secondary education*, available in Dutch at: <https://bit.ly/3kS0fQS>.

³⁵⁰ *Ibid.*

³⁵¹ Article 2§ 5 Law on aid granted by public social welfare centres, 2 April 1965, available in French and Dutch at: <https://bit.ly/3mksaK8>.

³⁵² Note: these numbers are based on the number of total files a person has at the social welfare centre, rather than on the total number of social benefit requests. The average number of persons per file is at 1.7. Statistics provided by the authority on social benefits POD MI, available at: <https://bit.ly/3QscTTN>.

³⁵³ Institution on social integration (POD MI), *FAQ on Ukraine*, available in French and Dutch at: <https://bit.ly/3Rh1B3L>, 5.

³⁵⁴ Response POD MI on the calculation of the *equivalent leefloon*, 12 August 2022.

³⁵⁵ See VVSG, *Right to Social benefits*, available in Dutch at: <http://bit.ly/41y2kSS>.

³⁵⁶ This is based on recurring cases that have been reported to the VVV Infoline.

³⁵⁷ Report to the Infoline, February 2024.

the reasons for which a certain amount was or was not granted. Problems may also arise when the person moves from a host family or collective centre to a rental house on the private market (appointed by the municipality or not) and where the benefits received are no longer sufficient to accommodate the new social situation. Beneficiaries are recommended to keep the social welfare centre up to date with their situation so that their social benefits can be adapted in a timely manner.

G. Health care

Foreigners authorised to reside in Belgium for more than three months are registered as ‘residents’ and consequently have the right to healthcare insurance.³⁵⁸ Beneficiaries are entitled to the same level of healthcare services as Belgian nationals. Persons ‘visiting’ in short stay are therefore required to apply for temporary protection if they wish to enjoy medical care beyond urgent medical aid.

Before obtaining resident status, the right to urgent medical support is ensured regardless of whether the person has a residence permit.³⁵⁹ Urgent medical health care can be provided to those who have fled Ukraine and have not yet acquired the necessary documents. This concerns potential beneficiaries who have not yet undertaken any steps for registration at the registration centre of IBZ but declare that they will do so shortly, those who are on a short stay and merely have a declaration of arrival (annex 3), those who claim that they have been to the registration centre, but have not yet received the temporary protection certificate, and those who have received a certificate of temporary protection but have not yet registered themselves at their municipality.³⁶⁰ The cost of the medical care will, in this case, be covered by the social welfare centre on the condition that they have an ‘attestation of urgent medical needs’ from the attending physician.³⁶¹

Once the healthcare insurance is in order, it works retroactively, going back to the obtainment of the temporary protection certificate or – where this took some more time – to the day of registration at the registration centre. Annex 15, or the A-card, allows to take out healthcare insurance. In the absence thereof, when a person only has a temporary protection certificate or proof of registration, the insurance company will check if the inscription in the Aliens Register has been realised. Beneficiaries are entitled to the same health care as nationals; no distinction is made.

However, there may be some issues related to healthcare access despite enjoying same status as other legal residents or nationals.³⁶² As with many other aspects, most problems arise where a person cannot register at an address. In such cases, access to healthcare is not only limited to urgent medical care, but access to actors crucial in providing healthcare information may be limited. More recently, due to the longer waiting periods for the decision after registration, an increasing group of people will likely have to make use of urgent medical aid because they cannot open a healthcare insurance yet.

³⁵⁸ Article 128 Quinquies §1 Royal Decree, 3 July 1996, available in French and Dutch at: <https://bit.ly/3EOP1nj>.

³⁵⁹ Article 5 Royal Decree 5, 12 December 1996, available in French and Dutch at <https://bit.ly/3XU7Tc4>.

³⁶⁰ Institution on social integration (POD MI), *FAQ on Ukraine*, available in French and Dutch at: <https://bit.ly/3Rh1B3L>, 3.

³⁶¹ *Ibid.*

³⁶² Obstacles as identified by [Medimmigrant](#).

Bulgaria

2023 Update



БЪЛГАРСКИ
ХЕЛЗИНКСКИ
КОМИТЕТ

Temporary Protection Procedure

A. General

Title (EN)	Original Title (BG)	Web Link
Law on Asylum and Refugees (LAR)	Закон за убежището и бежанците (ЗУБ)	https://bit.ly/4cqNDqm
COM №506 from 7 July 2011 for adoption of Action Plan on temporary protection in the Republic of Bulgaria	РМС №506 от 7 юли 2011 г. за приемане на План за действие при временна закрила в Република България	N/A
COM №144 from 10 March 2022 on granting temporary protection to displaced persons from Ukraine and amending the national Action Plan on temporary protection in the Republic of Bulgaria	РМС №144 от 10 март 2022 г. за предоставяне на временна закрила на разселени лица от Украйна и за изменение на Националния план за действие при временна закрила в Република България	https://bit.ly/48YrDzT
COM №145 from 10 March 2022 approving Humanitarian Aid Programme for displaced persons seeking temporary protection in the Republic of Bulgaria from the war in Republic of Ukraine	РМС №145 от 10 март 2022 г. за одобряване на Програма за ползване на хуманитарна помощ за лица, търсещи временна закрила в Република България вследствие на военните действия в Република Украйна	https://bit.ly/48YrDzT
COM №510 from 21 July 2022 adopting an Updated plan on temporary protection in the Republic of Bulgaria	РМС №510 от 21 юли 2022 г. за приемане на Актуализиран план за действие при временна закрила в Република България	https://bit.ly/48YrDzT
COM №95 from 1 February 2023 extending the temporary protection until 4 March 2024	РМС №95 от 1 февруари 2023 г. за удължаване на срока на временната закрила до 4 март 2024 г.	https://bit.ly/48YrDzT
COM №192 from 16 March 2023 amending the Updated action plan on temporary protection in the Republic of Bulgaria	РМС №192 от 16 март 2023 г. за изменение на Актуализирания план за действие при временна закрила в Република България	https://bit.ly/48YrDzT
COM №296 from 13 April 2023 amending the Updated action plan on temporary protection in the Republic of Bulgaria	РМС №296 от 13 април 2023 г. за изменение на Актуализирания план за действие при временна закрила в Република България	https://bit.ly/48YrDzT
COM №54 from 25 January 2024 extending the temporary protection until 4 March 2025	РМС №54 от 25 януари 2024 г. за удължаване на срока на временната закрила до 4 март 2025 г.	https://bit.ly/48YrDzT

According to national legislation, temporary protection (TP) is granted through a general administrative act (*общ административен акт*). According to the law,³⁶³ these are acts issued by a central authority with an automatic legal effect, which create rights for an indefinite number of persons, defined by common circumstances or characteristic. Under national asylum law,³⁶⁴ the government (Council of Ministers) grants temporary protection, if it is activated by a decision of the EU Council, the latter also determining its duration. Therefore, the government's act to grant temporary protection is group-based, collective and automatic by nature, thus covering all individuals from the specified country with

³⁶³ Article 65 of Administrative Procedure Code.

³⁶⁴ Article 2(2) LAR.

immediate legal effect. On 10 March 2022, the Bulgarian government adopted Decision No.144,³⁶⁵ granting temporary protection to displaced persons from Ukraine, which entered into force on the date of its publication on 14 March 2022. The decision was given explicitly a retroactive effect to cover all persons displaced from Ukraine from 24 February 2022 onward. The temporary protection was extended twice, respectively, on 1 February 2023 with Decision №95³⁶⁶ until 4 March 2024 and on 25 January 2024 with Decision №54³⁶⁷ until 4 March 2025.

Until 14 March 2022, all Ukrainian refugees who claimed asylum in Bulgaria were still registered as asylum seekers with individual determination procedures and decisions. From 15 March 2022 onward, any Ukrainian refugee who entered the country and stated before the authorities to be in need of protection has to be immediately issued a document,³⁶⁸ certifying their legal status as a person granted a temporary protection in Bulgaria and valid for the duration of the temporary protection regime.³⁶⁹

According to national asylum law,³⁷⁰ TP holders have the right to submit an individual asylum application, besides their temporary protection status. However, the asylum procedure is not open and the application of the TP holder is not examined or decided prior the end of duration of the TP.³⁷¹

Not only the decision to enact the temporary protection, but all other decisions and measures to enable access to the rights connected to TP status, are of governmental competence; in this respect, the government also holds a coordination role.³⁷² The government is responsible for the adoption of a TP Action Plan, which should also determine the structure of a national task force.³⁷³ Such provisional action plan³⁷⁴ was adopted in 2011 and amended on 10 March 2022 with the decision of the government which granted the temporary protection to Ukrainian refugees.³⁷⁵ On the same date the government appointed a national task force group (оперативна координационна група) to coordinate the work of six interdepartmental sub-groups, responsible for creating new points for initial reception and registration, securing the transport and accommodation of the Ukrainian refugees as well as their health care, education and employment. The national task force group operated until 1 August 2022 when the Parliament was dissolved as a result of a vote of no confidence and elections were scheduled for October 2022. The caretaker cabinet, appointed on 2 August 2022 did not resume the task force group's activity before 3 October 2022. The new task force group proved *pro forma* and generally inactive for what concerned the provision of support to Ukrainian refugees. This approach was attributed to the fact that the caretaker cabinet was appointed by, and accountable to, president Rumen Radev, known for his anti-refugees³⁷⁶ and pro-Russia³⁷⁷ positions.

The number of the Russian nationals in Bulgaria, who are displaced as a result of the war in Ukraine, is not known. In principle, those who are family members of Ukrainian nationals or who resided on the basis of a valid residence permit in Ukraine prior 24 February 2022 are in general registered under the TP. As of 31 December 2023, altogether 326 Russian nationals registered in Bulgaria as temporary

³⁶⁵ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

³⁶⁶ COM №95 from 1 February 2023 extending the temporary protection until 4 March 2024, available in Bulgarian at: <https://bit.ly/3rVTT33>.

³⁶⁷ COM №54 from 25 January 2024 extending the temporary protection until 4 March 2025, available in Bulgarian at: <https://bit.ly/3rVTT33>.

³⁶⁸ Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

³⁶⁹ 24 February 2023.

³⁷⁰ Article 68(1), item 2 LAR.

³⁷¹ Ibid.

³⁷² Article 80(2) LAR.

³⁷³ Article 81(2) LAR.

³⁷⁴ COM №506 from 7 July 2011, available in Bulgarian at: <https://bit.ly/3CYpZSa>.

³⁷⁵ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

³⁷⁶ Dariknews, Дебатът на годината: Радев vs Герджиков, 18 November 2021, available in Bulgarian at: <https://bit.ly/3EHRv7C>.

³⁷⁷ Radio Free Europe, Bulgarian President Didn't Sign Document Backing Ukraine Because Of Wording On NATO Membership, available at: <https://bit.ly/3rXoA8g>.

protection holders, of whom 120 men, 188 women and 54 children.³⁷⁸ Some of the few who, for various reasons, were denied registration as temporary protection holders could still submit an asylum application and undergo individual assessment and determination under the general asylum procedure. From 24 February to 31 December 2023, a total of 354 Russian nationals submitted asylum applications in Bulgaria outside the TP scheme.³⁷⁹ However, it is not possible to establish how many among them fled from Ukraine as a result of the war and how many were fleeing directly from Russia.

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

As of 31 December 2023, data regarding persons entitled to temporary protection in Bulgaria reflected the following:

Refugees from Ukraine in Bulgaria – overall dynamics:³⁸⁰	
Registered under TP	173,709
➤ men	31,840
➤ women	85,960
➤ children	55,320
➤ unaccompanied children	589
➤ provided government accommodation:	8,198 ³⁸¹

In total, 321 third country nationals benefitted from TP in Bulgaria:³⁸²

Third country nationals under TP:	
Armenia	24
Belarus	15
Georgia	21
Moldova	37
Russia	120
Others	134
Total:	321

Most persons in need of temporary protection were registered in the country between March and May 2022, but a steady increase was registered throughout 2022 and 2023.

Refugees from Ukraine registered under temporary protection in 2022 - 2023³⁸³					
As of date:	Total	Men	Women	Accompanied children	Unaccompanied children
31 March 2022	30,777	2,692	15,402	12,562	121
30 April 2022	92,257	8,116	47,068	36,689	384
31 May 2022	112,119	10,967	56,925	43,748	479
30 June 2022	119,037	12,711	60,307	45,523	496

³⁷⁸ 127th Coordination meeting from 27 December 2023.

³⁷⁹ SAR reg №PД05-31 from 15 January 2024.

³⁸⁰ As of 31 December 2023, source: <https://ukraine.gov.bg/>.

³⁸¹ Ministry of Tourism, reg. № T-04-04-5 from 25 January 2024.

³⁸² 127th Coordination meeting from 27 December 2023.

³⁸³ Ibid.

31 July 2022	125,497	14,533	63,225	47,227	512
31 August 2022	132,254	16,737	66,168	48,820	529
30 September 2022	136,601	18,273	68,160	49,618	550
31 October 2022	143,670	19,897	71,688	51,496	589
30 November 2022	146,784	21,098	73,161	51,936	589
31 December 2022	149,268	22,057	74,348	52,274	589
31 January 2023	151,285	22,879	75,335	52,482	589
28 February 2023	153,046	23,689	76,144	52,624	589
31 March 2023	155,083	24,626	77,083	52,785	589
30 April 2023	156,637	25,291	77,726	53,031	589
31 May 2023	159,406	26,281	79,144	53,392	589
30 June 2023	162,768	27,120	81,069	53,990	589
31 July 2023	165,234	27,981	82,167	54,497	589
31 August 2023	167,358	28,827	83,120	54,822	589
30 September 2023	169,120	29,594	83,902	55,035	589
30 October 2023	170,937	30,497	84,697	55,154	589
30 November 2023	172,562	31,257	85,449	55,267	589
31 December 2023	173,709	31,840	85,960	55,320	589

B. Qualification for temporary protection

According to Decision No.144 of the Bulgarian government,³⁸⁴ temporary protection is granted to displaced persons from Ukraine as outlined in the Council Implementing Decision (EU) 2022/382 of 4 March 2022. Temporary protection covers the following categories of beneficiaries:

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

The national arrangement does not envisage any limitations with regards to the date of arrival in Bulgaria; be it after 24 February 2022 or prior to this date. All Ukrainian nationals who approached the authorities and requested protection were registered under the TP regime and issued a document attesting their status as holders of temporary protection in Bulgaria.³⁸⁵

In item 3 of its decision to grant temporary protection, the Bulgarian government included also as TP beneficiaries [quote]:³⁸⁶

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

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

On 30 March 2022, the government adopted an amendment to its TP decision.³⁸⁷ While the wording of the amendment generated doubts regarding its interpretation, legal practitioners established it entailed

³⁸⁴ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

³⁸⁵ Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

³⁸⁶ Ibid.

³⁸⁷ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

that the deadline for stateless person and third country nationals to register under temporary protection in Bulgaria was extended until 15 April 2022. In July, the Supreme Administrative Court ruled against the amendment based on the interpretation that the provision, as amended, referred to third country nationals and stateless persons who could receive temporary protection until 15 April 2022 without their explicit will and registration.³⁸⁸ First of all, the Court found that establishing a deadline for obtaining temporary protection for third country nationals and stateless persons was contrary to the TP Directive, which does not enable Member States to introduce time limits for temporary protection applicants. Additionally, the Court ruled that it was unlawful to grant temporary protection to third country nationals or stateless persons without their explicit consent, as it might restrict their right to travel to another Member State. The Court underlined that the wording of the amendment lacked clarity as to the scope of persons entitled to temporary protection. For these reasons, the Court revoked the amendment and instructed the government to issue a new act to arrange these issues accordingly. Such decision however was not adopted as meanwhile the government was disbanded on 1 August 2022. However, the two caretaker cabinets appointed by the pro-Russian president Radev who governed until 6 June 2023³⁸⁹ never adopted such provision. The amendment was made as late as with Decision No.54 of the regular Bulgarian government³⁹⁰, which provided that as TP beneficiaries should be also considered:

- e) Stateless persons and other third-country nationals, who left Ukraine who can prove that they legally resided in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit issued in accordance with Ukrainian law, and who cannot return permanently to their country or region of origin under safe conditions, can receive temporary protection following their explicit request and registration under the temporary protection.

All family members of Ukrainian nationals or TCN/Stateless persons granted international protection in Ukraine had access to the temporary protection without any limitations in practice. The few cases where local police authorities refused registration as temporary protection holders to family members were attributed to a lack of knowledge on the correct procedures to follow,³⁹¹ and resolved either by the issuance of guidelines provided from the National Task Force,³⁹² or by requesting individuals to register at the territorial units of the national asylum authority, the State Agency for Refugees (see [3. Registration under temporary protection](#)).

The definition of family member is outlined in national law under the acts regulating asylum and immigration, but it is broader under the Law on Asylum and Refugees (LAR).³⁹³ According to said law, includes as part of the nuclear family is composed by:

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

Additionally, it includes:

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

³⁸⁸ Supreme administrative court, IV department, case №3789/2022, Decision №6819 from 7 July 2022, available in Bulgarian at: <https://bit.ly/3yNCJIY>.

³⁸⁹ AIDA 2023 update on Bulgaria, published in March 2024.

³⁹⁰ COM №54 from 25 January 2024, available in Bulgarian at: <https://bit.ly/3rVTT33>.

³⁹¹ Council for development of civil society (CPFO) with the National Task Force, weekly meetings during the period between April and June 2022.

³⁹² See at: <https://bit.ly/3MUIN9D> or <https://ukraine.gov.bg/issuance-of-temporary-protection/>.

³⁹³ Para. 1(3) of the Additional Provisions, LAR.

With respect to temporary protection however, in practice both police authorities and the State Agency for Refugees applied the narrower definition of a family member as outlined in the general immigration act, the Law on Foreigners in the Republic of Bulgaria (LARB),³⁹⁴ namely:

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

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

Not only the temporal scope of temporary protection was not extended under the national scheme, but it was wrongfully adopted in the decision of the government, enacting and granting the TP,³⁹⁵ that temporary protection is granted until 24 February 2022 instead of 4 March 2023 as outlined in paragraph 21 of the Council Decision's preamble. This was corrected on 1 February 2023, when the government extended the temporary protection until 4 March 2024.³⁹⁶ On 25 January 2024, temporary protection was further extended until 4 March 2025.³⁹⁷

C. Access to temporary protection and registration

1. Admission to territory

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

In the beginning of March 2022, the Ministry of Foreign Affairs organised regular evacuation transport³⁹⁸ from Ukraine, accessible not only to Bulgarian nationals, but also to Ukrainian nationals from Bulgarian ethnic origin concentrated in Bessarabia and Tavia regions (the so-called Bessarabic and Tavic Bulgarians). Despite this restriction, evacuation centres started listing without discrimination all Ukrainian nationals who applied for evacuation to Bulgaria. The total number of these evacuees is still not publicly available.

For what concerns people who returned to Ukraine and sought to re-enter Bulgaria, both in 2022 and 2023 there were no issues or cases reported where refusal of entry was applied, neither of the existence of any other obstacles to re-access the territory. Especially during the summer in 2022, when military activities reached their lowest level, many displaced persons from Ukraine opted to return for a short or longer period of time in order to obtain documents, visit family, relatives or friends or to take care of other matters, and they later re-entered Bulgaria without experiencing any legal or practical problems.

³⁹⁴ Article 2(3) and 2(4) LARB.

³⁹⁵ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

³⁹⁶ COM №95 from 1 February 2023, available in Bulgarian at: <https://bit.ly/3rVTT33>.

³⁹⁷ COM №54 from 25 January 2024, available in Bulgarian at: <https://bit.ly/3rVTT33>

³⁹⁸ Offnews, МВНР организира редовни автобусни линии за евакуация от Украйна, available in Bulgarian at: <https://bit.ly/3TeA17A>.

This opportunity remained throughout 2023 as well, with TP holders leaving to Ukraine or other countries for short or longer periods of time and then re-entering Bulgaria as holders of temporary protection without any obstacles.

Based on the EC Communication “Providing operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders” the Border Police issued instructions to the border guards on how to proceed with respect to granting admission to the territory of displaced person fleeing from the war in Ukraine. Although not disclosed to the public, the content of the instructions was easy to deduce based on the information on the access to territory of Ukrainian war refugees, provided on the government online portal ukraine.gov.bg,³⁹⁹ as well as through the observation of relevant practices.⁴⁰⁰ Two main approaches were established regarding the access to territory.

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

- ❖ an old format passport without biometric data;
- ❖ an internal ID card;
- ❖ a driving license;
- ❖ a birth certificate – for children up to 14 years;
- ❖ none of these documents, but have other official documents that certify their identity – for example: certificates, passes, diplomas, membership cards, bank cards, employment records, property documents or any other types of photo IDs;
- ❖ no document – exceptionally and after an inspection by Border Police officers. In such cases, however, the person is not registered by the border guards or the other police services as a holder of temporary protection, but instead channelled to the national asylum authority, State Agency for Refugees (SAR) where they are registered as an asylum seeker, so that an individual assessment of their identity and claims under the usual asylum procedure is carried out. If during the assessment it is established that the person is indeed falling under a category covered by TP, the asylum procedure is terminated,⁴⁰¹ and the person immediately registered as temporary protection holder and issued the respective document,⁴⁰² certifying their legal status.

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

2. Freedom of movement

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

³⁹⁹ See at: <https://ukraine.gov.bg/>, section On arrival: Entering Bulgaria.

⁴⁰⁰ Council for development of civil society (CPFO) with the National Task Force, weekly meetings during the period between April and June 2022.

⁴⁰¹ State Agency for Refugees, Order № RD05-263 from 8 April 2022 of the Chairperson of the State Agency for Refugees regarding displaced persons from Ukraine, available at: <https://bit.ly/3MHdEVH>.

⁴⁰² Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

Same conditions as to entering Bulgaria are applied to Ukrainian refugees if they attempt to leave the country towards Romania in order to return to Ukraine. All displaced persons are allowed to exit even if not in possession of a biometric passport or a passport or any other type of travel document. This practice is based on the information disseminated by the official Ukrainian sources,⁴⁰³ that Romania allowed transit via its territory for a return to Ukraine with any available document.

When attempting to leave the country to continue their journey to other EU countries, persons displaced from Ukraine are requested by the Border Police to travel either with a biometric passport in order to benefit from their visa-free regime, or to obtain a visa, if their 90 visa-free period has expired or if they hold a non-biometric passport or other type of travel document. This practice is based on the guidelines provided in the EC Communication “Providing operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders”.⁴⁰⁴

3. Registration under temporary protection

From 15 March 2022, just one day after the enactment of the national TP decision on 14 March 2022,⁴⁰⁵ the Bulgarian government started to develop a new system for registration for temporary protection of people displaced from Ukraine. Along two of the reception centres of the national asylum authority (SAR) in Sofia (Ovcha Kupel) and Harmanli, the government opted to open numerous police registration points to ensure the registration process is carried out efficiently.

The prioritization of the roll-out was based on the number of displaced people from Ukraine accommodated in different places across the country, as well as on the statistics for the “hot spots” at border-crossing points and railway stations. Priority was firstly given to areas with high concentration of Ukrainian refugee population, such as the two main entry border crossing points at the Romanian border in Russe and Durankulak, the Central Railway Station as well as the cities of Varna, Burgas and Sofia. Later, new locations were made available every day along with the ongoing training of additional police staff and deployment of new equipment to enable the registration and immediate issuance of TP documents. The government portal “Bulgaria for Ukraine” (ukraine.gov.bg), initially created by volunteers from the IT sector, provides an interactive map of all registration points, updated at the beginning of the displacement crisis on a daily basis to reflect the opening of new registration offices for temporary protection.⁴⁰⁶ From mid-May 2022, registration offices/points were open in all police stations across the country.

Temporary protection is granted upon an oral request. The process takes from 5 to 15 minutes. The officer in charge of registration has to verify the documents, presented by the person, which prove they qualify as beneficiaries of temporary protection. If the existence of the necessary pre-requisites is established, temporary protection is provided automatically, and a TP permit is immediately issued and submitted to the applicant.⁴⁰⁷

People who are not in possession of any identity or other documents attesting their identity, are channelled to the national asylum authority, State Agency for Refugees (SAR) in one of the two designated for TP registration reception centres, namely – Ovcha Kupel in Sofia and the centre in Harmanli. There, the person is registered as an asylum seeker, followed by an individual assessment of their identity and claims undertaken under the rules of the usual asylum procedure. If during this

⁴⁰³ Ministry of Foreign Affairs of Ukraine, State Border Guards Service, Ministry of Health etc., available in English at: <https://bit.ly/3rZUCAx>.

⁴⁰⁴ European Commission, Съобщение на Комисията за оперативни насоки за прилагането на Решение за изпълнение (ЕС) 2022/382 на Съвета за установяване на съществуването на масово навлизане на разселени лица от Украйна по смисъла на член 5 от Директива 2001/55/ЕО и за въвеждане на временна закрила (2022/C 126 I/01), available at: <https://bit.ly/3vtZSS5/>.

⁴⁰⁵ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

⁴⁰⁶ See at: <https://bit.ly/3MUIN9D> or <https://ukraine.gov.bg/issuance-of-temporary-protection/>.

⁴⁰⁷ Registration card of a foreigner granted temporary protection in the Republic of Bulgaria, issued on the basis of Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

assessment it is established that the person is indeed entitled to TP, the asylum procedure is terminated⁴⁰⁸ and the person immediately registered as temporary protection holder and issued the respective document,⁴⁰⁹ certifying their legal status.

The two border crossing points along the Romanian border in Russe and Durankulak, where the majority of the Ukrainian refugees enter Bulgaria, are the only one points on the national border equipped with registration offices for temporary protection. All remaining border crossing points, including the one at Sofia's International Airport, do not provide means for applying and registering for temporary protection. In these cases, the persons who state to seek TP are allowed to enter the country under the 90 days visa-free regime. The border police refer the arriving displaced persons to the nearest police station inside the country's territory, or to the police station in the place of their destination – as many of the Ukrainian refugees reach Bulgaria with an idea as to where they will settle, at least at the beginning of their stay. This is due to the fact that information about hotels providing free of charge accommodation under the government Humanitarian Aid Programme (see [Access to asylum: Housing](#)) was available online until October 2022;⁴¹⁰ additionally, many displaced people plan to join family member or local relatives,⁴¹¹ which is especially the case for Ukrainian nationals from Bulgarian Bess Arabic origin.

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

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

The renewal of the already issued TP id. cards follow a slightly different procedure.

At the beginning of 2023, after the extension of the TP period until 4 March 2024,⁴¹² the government also decided to extend by the law (*ex lege*) until 31 March 2023 the duration of all issued TP cards, which otherwise would have expired on 24 February 2023, thus allowing an additional period of time for the 52,125 Ukrainians who remained in the country as of 31 December 2023 to renew their TP documents without unnecessary crowdings.

At the beginning of 2024, following the second TP duration extension until 4 March 2025, the SAR announced⁴¹³ that the renewal of the issued TP id. cards could be done both at SAR centers as well as the national police stations until 31 March 2024. SAR explicitly instructed that after this date the renewal of the TP cards would be available only the SAR centers in Sofia, Harmanli and Banya. However, in practice the police stations in many cities, including the capital Sofia, refused to proceed with the renewals and kept issuing only new TP cards, which caused queues and crowds in SAR centers in Sofia.

⁴⁰⁸ State Agency for Refugees, Order № RD05-263 from 8 April 2022 of the Chairperson of the State Agency for Refugees regarding displaced persons from Ukraine, available at: <https://bit.ly/3MHdEVH>.

⁴⁰⁹ Registration card of a foreigner granted temporary protection in the Republic of Bulgaria, issued on the basis of Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

⁴¹⁰ The Ministry of Tourism removed the information from its website on 18 October 2022.

⁴¹¹ Bulgarian Helsinki Committee, Hotline for Ukrainian TP holders, operated since 7 March 2022.

⁴¹² COM №95 from 1 February 2023, available in Bulgarian at: <https://bit.ly/3rVTT33>.

⁴¹³ State Agency for Refugees, Удължаване на срока на временната закрила до 04.03.2024г., available in Bulgarian at: <https://bit.ly/3Vunxwn>.

4. Legal assistance

Since 2013, the Law on Legal Aid provides that asylum seekers should be able to access mandatory legal aid at all stages of the status determination procedure, sponsored under the state budget.⁴¹⁴ In practice however, due to lack of funding, such service is provided only to vulnerable persons with specific needs upon their explicit request.⁴¹⁵ Amendments to the law in 2020 also entrusted to lawyers registered as legal aid providers the representation of unaccompanied asylum seeking and refugee children both during the procedure, and after status recognition. The law did not explicitly establish that legal aid should be provided to any other beneficiaries of international or temporary protection. The National Legal Aid Bureau developed a draft proposal to amend the law in order to include these categories in the scope of the legal aid. The amendments were adopted in December 2022.⁴¹⁶

The general legal aid system was introduced in Bulgaria in 2005, extending it to court representation in all types of cases beyond its mandatory provision in criminal, child protection and tort disputes. In 2017, the scope of the legal aid was extended⁴¹⁷ to include oral consultations at the national help line⁴¹⁸ or in regional legal aid centres. The condition for legal aid to be provided is the applicant lacks means and resources to privately request a lawyer's remunerated services.

Persons displaced from Ukraine could also benefit from the advice and assistance provided by legal NGOs working in the field of asylum, such as the Bulgarian Helsinki Committee (BHC), the Center for legal aid-Voice in Bulgaria (CLA-VIB), the Foundation for Access to Rights (FAR) and Bulgarian Lawyers for Human Rights. Since 8 March 2022, the Helsinki Committee also operates a legal aid hotline for Ukrainian refugees and developed a special section in the website asylum.bg in Ukrainian,⁴¹⁹ dedicated to providing information on the rules and conditions of the temporary protection in Bulgaria, as well as the rights and entitlements connected.

Legal information was also provided in the Blue Dots opened in June 2022 in several major hotspots (Ruse, Dobrich, Sofia, Burgas and Varna),⁴²⁰ in which the biggest concentration of Ukrainian nationals was registered. The Blue Dots were a joint operation of UNHCR and UNICEF to provide safe spaces and one-stop hubs for protection and essential services, rolled out in countries hosting refugees from Ukraine (see [Information provision and access to NGOs](#)). The Blue Dots were closed on 31 December 2023.

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

5. Information provision and access to NGOs

As previously mentioned, from mid-April to end of May 2022, UNHCR and UNICEF gradually opened Blue Dot services at two main border entry points in Ruse and Durankulak, as well as in the rest of the

⁴¹⁴ Article 22(8) Law on Legal Aid.

⁴¹⁵ §1(17) from Additional Clauses LAR, namely: children, unaccompanied children, disabled, elderly, pregnant, single parents taking care of underage children, victims of trafficking, persons with serious health issues, psychological disorders or persons who suffered torture, rape or other forms of psychological, physical or sexual violence.

⁴¹⁶ Article 22, Para 1(8) Law on Legal Aid, St. G. №102 from 23 December 2022.

⁴¹⁷ Articles 30d to 30o Law on Legal Aid, as amended St.G. №13 from 7 February 2017.

⁴¹⁸ National Legal Aid Bureau, tel. 0700 18 250.

⁴¹⁹ See at: <https://bit.ly/3sc2kYi>.

⁴²⁰ UNHCR Bulgaria, Where can you find Blue Dots in Bulgaria?, see at: <https://bit.ly/3CLgBQB>.

major hot-spots in Sofia, Varna, Dobrich and Burgas.⁴²¹ Blue Dots expand the assistance provided by national government and are organized in coordination with state authorities and other partners along key transit routes and destinations to help children and families in need. The services are provided in partnership with local NGOs and representatives from the refugee community. The Blue Dots are safe spaces and one-stop hubs for protection and essential services, rolled out in countries hosting refugees from Ukraine (including Poland, Romania and Moldova) to provide key protection and social services including information, legal counselling, psychological support, identification and referrals for children, women, families, and other people and groups exposed to specific heightened risks as they flee the conflict in Ukraine.

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

All Blue Dots were closed down on 31 December 2023.

D. Guarantees for vulnerable groups

The registration process is conducted not only in the reception centres of the asylum authority (SAR), but also in all regular police stations across the country, and no real government mechanism to identify vulnerability exists or is implemented. Until the end of 2023 vulnerability assessments were only carried out in the several Blue Dots, as these were in principle designed to provide legal information and counselling, psychological support, but also identification and referrals for children, women, families, and other vulnerable people and groups. The identification, initial psychological and/or legal counselling and follow-up referrals were the key services provided at the Blue Dots with regard to vulnerable beneficiaries of temporary protection.

In Bulgaria, children under temporary protection constitute a significant part of the Ukrainian refugee population, representing nearly 32% of the total as of 31 December 2023. Therefore, from the beginning of the war the National Task Force Group developed and distributed guidelines directed at addressing cases in which⁴²² displaced unaccompanied children are located at a border checkpoint, hotspot, Blue Dot, initial reception points or by staff of the Migration Directorate or the State Agency for Refugees. General and specific activities by the child protection services were defined in detail in the follow-up guidelines to be undertaken with regard to the identified unaccompanied child, including accommodation with a foster parent or family or a child care facility.⁴²³

No specific measures or services for persons under temporary protection with mental health problems were envisaged or provided outside the general health care system, which in itself suffers great deficiencies. According to a report from 2014,⁴²⁴ Bulgaria ranked last in Europe in terms of care for the mentally ill among 30 European countries included in the analysis. The report measured the care for people with mental health problems through the Mental Health Integration Index, which covers several indicators, including access to medical care, the protection of human rights, the ability of people with mental health problems to work, live fulfilling family lives, and among other people in general, is there a stigma, etc. No significant changes were registered in recent years, and Bulgaria still failed to

⁴²¹ UNHCR Bulgaria, UNHCR and UNICEF open Blue Dot support hubs for Ukrainian refugees in Bulgaria, 9 May 2022, available at: <https://bit.ly/3eCAxgq>.

⁴²² National Task Force Group, Guidelines for action in case of an unaccompanied child displaced from Ukraine, located at a border checkpoint, checkpoint (initial reception points), Migration Directorate, Regional Police Department or SAR registration centre / place, available at: <https://bit.ly/3shwYj3>.

⁴²³ ukraine.gov.bg, Information on unaccompanied children, available in Bulgarian at: <https://bit.ly/3Z00XKo>.

⁴²⁴ Offnews, Bulgaria last in Europe in terms of care for the mentally ill, available in Bulgarian at: <https://bit.ly/3MO30wq>.

undertake any real measures to reform the system for mental health care and introduce new means to support the identification, treatment and deinstitutionalization of individuals with mental health conditions. The most recent Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) report underlined the persistent failure by the Bulgarian authorities to address most of the fundamental shortcomings and to implement the specific recommendations repeatedly made, including those relating the mental health care and treatment.⁴²⁵ The report re-iterated findings from the previously issued CPT's public statement addressing the persistent lack of implementation of long-standing recommendations concerning the situation of persons placed in psychiatric hospitals, including the phenomenon of physical ill-treatment of social care residents and patients with psychiatric disorders with the authorities failing to take necessary measures to eradicate this totally unacceptable practice.⁴²⁶

⁴²⁵ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Report to the Bulgarian Government on the periodic visit to Bulgaria carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 1 to 13 October 2021, available at: <https://bit.ly/3liYwEN>.

⁴²⁶ Council of Europe, Public statement on Bulgaria, issued on 4 November 2021, available at: <https://bit.ly/3YQEcse>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | Valid until 4 March 2025 |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2023? | 173,709 |

The Bulgarian asylum system does not require any additional residence permit to be issued by the immigration police, besides the document attesting having received an international protection status. Hence, the international protection granting act of the asylum authority SAR is sufficient for the protection holder to be able to apply for an identity document that is automatically issued. This arrangement applies also to TP beneficiaries. The decision of the government to grant temporary protection is therefore sufficient for them to be *automatically* issued the respective TP document, if and when they approach a registration office.⁴²⁷

Temporary protection is granted upon an oral request made in TP registration offices or SAR reception centres (see [Registration under temporary protection](#)). The process used to take from 5 to 15 minutes. Otherwise, the registration officer has to verify the documents, presented by the person, attesting the existence of the pre-conditions to be recognised as a beneficiary of temporary protection. Once this is established, temporary protection is provided immediately and automatically, and a TP card is directly issued and provided to the person.⁴²⁸

However, at the beginning of 2024, following the second extension of duration of temporary protection until 4 March 2025, the SAR announced⁴²⁹ that the renewal of the issued TP id. cards could be done both at SAR centers as well as the national police stations until 31 March 2024. SAR explicitly instructed that after this date the renewal of the TP cards would be available only the SAR centers in Sofia, Harmanli and Banya. However, in practice the police stations in many cities, including the capital Sofia, refused to proceed with the renewals and kept issuing only new TP cards, which caused queues and crowds in SAR centers in Sofia.

The TP document is valid until 4 March 2025.

The scope of rights to which the TP holders are entitled are outlined by the LAR⁴³⁰ and apply for the duration of the temporary protection status. The displaced persons who are granted temporary protection have the right to:

- ❖ remain in the country;
- ❖ work and have access to vocational trainings;
- ❖ appropriate accommodation or means of accommodation if necessary;
- ❖ social assistance;
- ❖ health insurance, medical assistance and services under the conditions and procedures applicable to Bulgarian citizens, with the exception of medical assistance provided under Regulation (EEC) No. 1408/71 on the application of social security schemes to employed

⁴²⁷ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

⁴²⁸ Registration card of a foreigner granted temporary protection in the Republic of Bulgaria, issued on the basis of Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

⁴²⁹ State Agency for Refugees, Удължаване на срока на временната закрила до 04.03.2024г., available in Bulgarian at: <https://bit.ly/3Vunxwn>.

⁴³⁰ Article 39(1) LAR.

persons, to self-employed persons and to members of their families moving within the EU (amended, St.G.№32/22 enforced on 26 April 2022.);

- ❖ to return freely to their country of origin.

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

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

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

In 2023, the SAR initiated draft amendments⁴³¹ of the national asylum law, which among other envisaged to introduce the right of temporary protection holders to terminate their temporary protection in Bulgaria.

2. Access to asylum

Article 69 of the national asylum law establishes the right for TP holders to submit an individual asylum application.⁴³² However, the asylum procedure is not opened and the application of the TP holder is not examined or decided prior the end of duration of the TP, if such a decision triggering the Temporary Protection Directive is adopted by the EU Council and implemented through a follow-up decision of the national government.⁴³³

On 10 March 2022, the national government adopted Decision No.144,⁴³⁴ which granted a temporary protection to all displaced persons from Ukraine who sought asylum in Bulgaria and which entered into force on the date of its publication on 14 March 2022. The decision was given explicitly a retroactive effect to cover all persons displaced from Ukraine from 24 February 2022.

Hence, until 14 March 2022 all Ukrainian refugees who applied for asylum in Bulgaria were still registered as asylum seekers. From 15 March 2022 onwards, any Ukrainian refugee who entered the country and declared to be seeking protection before the authorities has to be immediately issued a

⁴³¹ Law on Asylum and Refugees draft amendments, published for public consultations on 5 January 2024, available in Bulgarian at: <https://bit.ly/49yPqHK>.

⁴³² Article 68(1), item 2 LAR.

⁴³³ Ibid.

⁴³⁴ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

document⁴³⁵ certifying their legal status as a person granted a temporary protection in Bulgaria and valid for its duration.⁴³⁶

In this respect, on 8 April 2022, the asylum authority SAR issued an executive order⁴³⁷ to instruct its staff on how to proceed with the pending individual international protection applications from persons entitled to temporary protection,⁴³⁸ which were opened *after* the publication of the government's Decision No.144.⁴³⁹ In essence, the instructions were to discontinue these asylum cases, to immediately issue a TP document to the applicant, and to provide information about the right to re-open the individual asylum procedure after the end of the TP. Throughout 2022, 810 asylum seekers from Ukraine discontinued their open asylum procedures opened prior to the enactment of the TP in Bulgaria on 14 March,⁴⁴⁰ in order to be able to avail themselves of more favourable conditions in terms of access to immediate documentation, accommodation and food provision, arranged through the HAP Programme. 501 humanitarian status holders, already granted this type of international protection, opted to retain it.⁴⁴¹

In 2023, the SAR initiated draft amendments⁴⁴² of the national asylum law, which among other envisaged to introduce the right of temporary protection holders to be able to apply prior its expiration for international protection and granted a subsidiary protection as a minimum in an expedited determination procedure.

B. Family reunification

1. Family reunification as provided under the Temporary Protection Directive

The national law envisages⁴⁴³ that TP beneficiaries have the right to be reunited with a spouse and their minor and unmarried children, if they also request to benefit from temporary protection in the country, regardless of their nationality. The only distinction and exception from the TPD family definition concerns the unmarried partners in a stable relationship as these are not recognised as family members by the national family law⁴⁴⁴. The same family reunification procedure⁴⁴⁵ as for beneficiaries of international protection applies.

In practice, as far as Ukrainian nationals do not need a visa to enter the EU in principle, and Bulgaria in particular, no decision has to be issued beforehand, if family members live in another country; instead, they only have to register as temporary protection holders upon arrival in order to be able to receive their TP card; family members obtain the same scope of rights as the original TP beneficiary.

Extended circle of family members can also enjoy reunification in Bulgaria under the TP scheme.⁴⁴⁶ In such case the reunification has to be authorized in a special procedure. The asylum authority can authorize the reunification with other close relatives (as, for example, can be considered the parent of one of the spouses), if it is proved that they lived together as part of the household of a TP beneficiary

⁴³⁵ Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

⁴³⁶ 24 February 2023.

⁴³⁷ State Agency for Refugees, Order №RD05-263 from 8 April 2022, available in Bulgarian, Ukrainian and Russian at: <https://bit.ly/49XU4PL>.

⁴³⁸ State Agency for Refugees, Order No.3Д05-263 from 8 April 2022, available at: <https://bit.ly/3MOy6UG>.

⁴³⁹ COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

⁴⁴⁰ Source: SAR 2022 statistics.

⁴⁴¹ Ibid.

⁴⁴² Law on Asylum and Refugees draft amendments, published for public consultations on 5 January 2024, available in Bulgarian at: <https://bit.ly/49yPqHK>.

⁴⁴³ Article 39a(1) LAR.

⁴⁴⁴ Article 1 Family Code.

⁴⁴⁵ Article 34 LAR.

⁴⁴⁶ Article 39a(2) LAR.

at the time of the events, which triggered the temporary protection enactment by the EU and provided that in the country of origin they were dependent on the TP beneficiary. The additional difficulties that could arise if they are not reunified with the TP beneficiary, have to be assessed on a case-by-case basis. When the location of the family members is unknown, the SAR has to initiate search and tracing in cooperation with UNHCR, Red Cross and other relevant organizations.

2. Family reunification beyond the Temporary Protection Directive

The general immigration law arranges a family reunification procedure for third country nationals married before or after they have obtained their Bulgarian residence permit.⁴⁴⁷ This permit should have been granted with a minimum one-year duration. Material conditions such as accommodation, income and health insurance do apply. However, as the TP cards are not recognised as identity documents in the general law on Bulgarian identity documents,⁴⁴⁸ but only in national asylum law,⁴⁴⁹ these were not considered as regular residence permits/documents under the general immigration legislation, therefore the family reunification procedure within its scope is not accessible for temporary protection holders.

In 2023, the SAR initiated draft amendments⁴⁵⁰ of the national asylum law, which among other envisaged to include TP cards among regular identity documents. If adopted, it will allow the TP holders to use the general immigration family reunification procedures as well.

C. Movement and mobility

The beneficiaries of temporary protection enjoy unlimited freedom of movement with the territory of the country, including more liberal approach with regard to their address registration beyond the normal deadlines established by the law.⁴⁵¹ The address registration is necessary to access to social assistance, services and support, which are provided depending on the region and municipality in which the applicant resides.

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

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

⁴⁴⁷ § 1a Additional clauses, Law on Foreigners in Republic of Bulgaria (LARB); Article 12 LARB Regulations.

⁴⁴⁸ Article 14 Law on Bulgarian identity documents.

⁴⁴⁹ Article 40 LAR.

⁴⁵⁰ Law on Asylum and Refugees draft amendments, published for public consultations on 5 January 2024, available in Bulgarian at: <https://bit.ly/49yPqHK>.

⁴⁵¹ Article 6(1) LARB Regulations – at the border on entry; Article 28(3) LARB in conjunctions with Article 9(2) LARB Regulations – in 3 days after settling in a private accommodation.

D. Housing

Indicators: Housing

- | | |
|-----------------------------------------------------------------------------------------------|-----------------------|
| 1. For how long are temporary protection beneficiaries entitled to stay in reception centres? | Not applicable |
| 2. Number of beneficiaries staying in reception centres as of 12/2023 | Not applicable |
| 3. Number of beneficiaries staying in private accommodation as of 12/2023 | 43,927 ⁴⁵² |

According to national law, the responsibility to organise the provision of the temporary protection and all related arrangements lies directly with the Bulgarian government, assisted by a special TP task force.⁴⁵³

Initially, after the outbreak of war and the first arrivals of people displaced from Ukraine at the end of February 2022, accommodation for displaced persons was provided privately, mostly by hotels and guest houses, predominantly in the North-Eastern region and along the Black Sea coast, as most were empty off the touristic season. On 10 March 2022, the government adopted a Humanitarian Aid Programme for the displaced persons from Ukraine (HAP Programme),⁴⁵⁴ which retroactively funded accommodation and food provision for all Ukrainian TP holders hosted in officially licensed resort, hotel and guest-type facilities; the validity of the measure initially extended only until 31 May 2022.⁴⁵⁵

On 20 May 2022, facing the end of the approved HAP Programme period, the government adopted a decision to relocate TP holders to government or municipal resort facilities until the end of the temporary protection regime. However, the government and municipal agencies were unable to organise fast enough the necessary logistics and in practice only some of the TP holders were relocated to public reception facilities. The relocation was also opposed by the Ukrainian TP holders, due to a lack of information regarding the locations and conditions of new accommodation facilities, as well as whether these new locations would also provide for access to schools, healthcare and social services. Therefore, on 29 July 2022, the government adopted the decision to extend until 30 September 2022 the HAP Programme.⁴⁵⁶

As previously mentioned, on 1 August 2022 the Bulgarian Parliament was dissolved. The caretaker cabinet, which took over on 2 August was appointed by - and accountable to - President Rumen Radev, known for his anti-refugees⁴⁵⁷ and pro-Russia⁴⁵⁸ positions. Although the caretaker cabinet initially extended⁴⁵⁹ the HAP Programme under the same conditions until 31 October 2022, later it fully abolished it. In its place, the caretaker cabinet adopted a new scheme,⁴⁶⁰ which was met by widespread criticism for having effect only until 15 November 2022. Other major flaws concern the requirement that all TP holders have to be relocated from the hotels to government/municipal resort facilities, which are not only highly unsuitable for this purpose, but also utterly insufficient as capacity; the exclusion from any accommodation arrangements all the newly arriving after 31 October Ukrainian refugees; as well as the refusal to provide from this date onward any nutrition to any of the TP holders - newly arriving or already in Bulgaria, including the vulnerable categories of individuals.

⁴⁵² As of 31 December 2023, out of 52,125 TP holders who remained in Bulgaria 8,198 BTPs were provided state sponsored accommodation.

⁴⁵³ Articles 80 – 81 LAR.

⁴⁵⁴ COM №145 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3H2ra5w>.

⁴⁵⁵ Ministry of Tourism's unified registration portal for hospitality services, available in Bulgarian at: <https://bit.ly/3FdNp7b>.

⁴⁵⁶ COM №535 from 29 July 2022.

⁴⁵⁷ Dariknews, Дебатът на годината: Радев vs Герджиков, 18 November 2021, available in Bulgarian at: <https://bit.ly/3EHRv7C>.

⁴⁵⁸ Radio Free Europe, Bulgarian President Did not Sign Document Backing Ukraine Because of Wording on NATO Membership, available at: <https://bit.ly/3rXoA8g>.

⁴⁵⁹ COM №665 from 15 September 2022.

⁴⁶⁰ COM №856 from 31 October 2022.

Following said criticism, on 16 November the caretaker cabinet adopted a new decision which partially reinstated the HAP Programme,⁴⁶¹ allowing the TP holders already accommodated in hotels and licensed guest houses to remain there until the end of the temporary protection regime, and allowed for the provision of government-funded accommodation to newly arriving Ukrainian refugees, although only in the government/municipal resort facilities with available places. From 16 November 2022 onwards however, the cabinet established that measures on food assistance to TP beneficiaries would be revoked. None of the following amendments of the HAP Programme changed this situation.

Another highly criticized measure was the decision of the TP Task Force of the caretaker cabinet to dedicate the detention centre of Elhovo, built with EU funding and designed for detention of irregular migrants entering from Türkiye, to be used as an initial reception and internal relocation hub for all arrivals from Ukraine that took place after the end of October 2022. This centre consists of containers, man and women have to share common bathrooms with no other services, amenities or utilities and food or healthcare assistance are not provided. On 4 November 2022, a group of 25 newly arrived Ukrainian refugees were accommodated in the Elhovo centre with no food, medical aid, social assistance or information provided.⁴⁶² The group grew to count 31 individuals who, after spending in three weeks without undergoing any identification process or receiving information about their future relocation and more permanent accommodation, opted to leave Bulgaria and seek refuge in Romania. Since then,⁴⁶³ 611 displaced persons from Ukraine passed through the Elhovo center for an average period of 3 to 5 days.⁴⁶⁴

As of end of March 2024, the situation described remained unchanged.

Reception conditions, provided in reception-and-registration centres of the asylum authority, State Agency for Refugees (SAR) are accessible under the national legal arrangements⁴⁶⁵ only to persons seeking international protection. The beneficiaries of the temporary protection as well as the beneficiaries of the international protection do not have access to them.

Forms of reception conditions

The Humanitarian Aid Programme, adopted and applied until 15 November 2022 envisaged provision of food and accommodation. The types of assistance such as vouchers, different financial allowances have been made accessible by the law⁴⁶⁶ to TP holders under the rules and conditions of the general social welfare system.

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

⁴⁶¹ COM №909 from 16 November 2022.

⁴⁶² Bulgarian Helsinki Committee, Who accommodated Ukrainian refugees in Elhovo detention center?, available in Bulgarian at: <https://bit.ly/3VsIOUu>.

⁴⁶³ From 4 November 2022 until 1 March 2024.

⁴⁶⁴ Source: Elhovo Regional Security Police Directorate, Migration department.

⁴⁶⁵ Article 29 LAR.

⁴⁶⁶ Article 39 (1), item 4 LAR, Article 2(6) Law on Social Assistance.

E. Employment and education

1. Access to the labour market

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

According to the law,⁴⁶⁷ persons granted temporary protection have the right to work and vocational training. It is sufficient that they have been issued a TP card; no additional permits or certificates are required in order for beneficiaries of temporary protection to be employed, to practice a profession or to carry out an independent commercial or business activity in Bulgaria, other than the usual legalization of university diplomas⁴⁶⁸ implemented locally by a special national administration.⁴⁶⁹

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

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

For the beneficiaries of temporary protection, who are not accommodated at state expense, and who have found and started work, the government adopted additional material incentives. From 6 June 2022, working TP beneficiaries who secured their own accommodation were entitled to financial assistance of BGN 365 monthly for a period of three months, to cover rent and utility costs (electricity, heating, water, Internet access, etc.). The government provided an additional financial incentive for employers who hired displaced persons from Ukraine, which is still in place. If an employer hired a beneficiary of temporary protection, who was already registered at the Labor Bureau as unemployed, the employer would be entitled to receive as assistance a part of the salary to the amount of BGN 710,00 monthly (the national minimum wage) for the period of the subsidized employment, as well as an amount for social and health insurance payable by the employer, which are to be covered by the national budget. These incentives were funded under the EU Solidarity – Human Resources Development Programme.⁴⁷⁰

The respective national agencies (Employment Agency, Agency for Social Assistance, Ministry of Labour and Social Policy) stated to be unable to provide information on the number of temporary protection beneficiaries who accessed the labour market in 2022.⁴⁷¹ The only information available is the number of TP beneficiaries who found employment through governments employment services and schemes, who in 2022 were 2,198 and and 1,484 in 2023.

⁴⁶⁷ Article 39(1), item 2 LAR.

⁴⁶⁸ The Hague Convention from 5 October 1961 (Apostille Convention), ratified by Ukraine.

⁴⁶⁹ National Center for Information and Documentation (НАЦИД), available at: <https://nacid.bg/en/>.

⁴⁷⁰ National Employment Agency portal, see at: <https://bit.ly/3OWpixh>.

⁴⁷¹ TP Task Force-NGO meeting, held on 23 November 2022.

2. Access to education

Access to education is guaranteed for TP beneficiaries under the general national legislation.⁴⁷² In Bulgaria, compulsory education in state and municipal educational institutions - kindergartens and schools - is free of charge and therefore completely accessible to all children. Education is compulsory for all children from 4 to 7 years old (kindergarten) and from 7 to 16 years old (from 1st to 7th grade), regardless of their citizenship or residence permit.

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

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

During the second semester of the 2021/2022 school year, namely February-June, kindergartens admitted 84 children with temporary protection whereas 439 pupils with temporary protection were enrolled in the schools. During the second half of the year for the 2022/2023 academic year 512 children enrolled in pre-school groups distributed among 220 kindergartens and 1,226 students in schools distributed among 431 schools. In the 2022/2023 school year, the kindergartens admitted 737 children with temporary protection whereas 2,035 pupils with temporary protection were enrolled in the schools. Out of them 291 were first graders. In 2023/2024, the kindergartens admitted 882 children with temporary protection whereas 2,886 pupils with temporary protection were enrolled in the schools., of whom 381 children were first graders.

According to the Ministry of Education,⁴⁷³ the overall small number of children with temporary protection enrolled in Bulgarian schools and kindergartens is due to the resumption of distance learning organised by the schools in Ukraine, as well as the requirement of the Ministry of Health to unify the immunization calendars between the two countries. Therefore, the two main obstacles for Ukrainian children to make use of the local education system are the national differences between vaccination schedules⁴⁷⁴ and school curricula. Especially the latter motivated many parents to keep their children enrolled in the largely available and accessible Ukrainian online education forms, in order to avoid any delays in their educational path.

The Bulgarian school system in general suffers huge deficiencies in providing alternative forms of education to children with special needs.⁴⁷⁵ Where such forms were available however, Ukrainian children did not have obstacles to access them.

The law provides for access to education and vocational training for all TP beneficiaries without any conditions or criteria to access it, or limitations based on age.⁴⁷⁶

⁴⁷² Article 9 Law on Pre-school and School Education (LPSE).

⁴⁷³ Ministry of Education, exh. N 1104-6 from 5 January 2023.

⁴⁷⁴ Ministry of Health, Mandatory vaccination schedule, available in Bulgarian at: <https://bit.ly/3OT1g6f>.

⁴⁷⁵ UNICEF, Обучение на деца със специални образователни потребности в дигитална среда, published on 18 June 2020, available at: <https://uni.cf/3JJrJlv>.

⁴⁷⁶ Article 39(1), item 2 LAR.

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

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

Obstacles arose only with respect to medical professions. In order to acquire the right to practice their profession in Bulgaria, doctors or nurses with temporary protection had to take a Bulgarian language exam focused on the professional terminology. Such exams were organized and conducted by the Center for Assessment in Preschool and School Education.⁴⁷⁷ The process for recognizing the medical qualifications of people fleeing the war in Ukraine remains cumbersome despite shortage of qualified medical staff in Bulgaria, particularly in rural areas, and the EC Recommendations⁴⁷⁸ in that regard.

F. Social welfare

Access to social welfare system and different types of social assistance available is regulated by the law and is provided to all TP beneficiaries⁴⁷⁹ under the same conditions and on the same level as for nationals.⁴⁸⁰ It should be noted, however, that the different types of social, but especially financial assistance provided by the Bulgarian social welfare system are scarce.

The national authority responsible for granting social assistance is the Agency for Social Assistance (ASA)⁴⁸¹ under the Ministry of Labour and Social Policy; the provision of social welfare and assistance is geographically distributed and therefore tied to the requirement that the applicant resides in the municipality where they have submitted the application for assistance. Regarding TP beneficiaries, this requirement was considered fulfilled with they had made an address registration with the police.

In 2022, a total of 50,080 applications for one-time assistance (BGN 375,00) were submitted by temporary protection holders. Out of them, 49,128 applications were granted assistance, positively affecting 85,088 beneficiaries. In 2023, a total of 2,641 applications for one-time assistance (BGN 375,00) were submitted by temporary protection holders. Out of them, 2,440 applications were granted assistance, positively affecting 3,638 beneficiaries.

In September 2022 the ASA began the implementation⁴⁸² of EU funded project⁴⁸³ for distribution of 40,000 vouchers with a nominal value of BGN100 (EUR 51,24) for meeting initial needs for food, clothing, school supplies, hygiene materials and other essential products of the TP holders. As of the end of 2023 altogether 35,566 TP holders received such support with priority given to children and

⁴⁷⁷ Center for Assessment in Preschool and School Education, Exam requirements and schedule, available in Bulgarian at: <https://bit.ly/3H5MEyC>.

⁴⁷⁸ European Commission, Recommendation (EU) 2022/554 of 5 April 2022 on the recognition of qualifications for people fleeing Russia's invasion of Ukraine, available at: <https://bit.ly/3IKXWYs>.

⁴⁷⁹ Article 39(1), item 3 LAR.

⁴⁸⁰ Article 2 (6) Law on Social Assistance.

⁴⁸¹ Агенция за социално подпомагане, available in Bulgarian at: www.asp.government.bg.

⁴⁸² Agency for Social Assistance, reg. N 63-00-123#1 from 4 January 2024.

⁴⁸³ ASA, Project No. BG05FMOP001-6.001 "Provision of vouchers to provide food and essential goods for displaced persons from Ukraine", funded by EU Operational Programme for food and/or basic material assistance under the Fund for European Aid to the Most Deprived.

adults, taking care of children. In total 39,923 vouchers were distributed, with another 87,600 social inclusion support rendered as an additional measure.

The Social Assistance Agency⁴⁸⁴ does not carry out a vulnerability assessment before the provision of assistance. If a vulnerability or special needs are stated the ASA refers these applicants, including those granted temporary protection, to an appropriate licensed service or care provider based on a preliminary needs assessment.

In 2022, a total of 27 cases was referred by the ASA to specialized service providers (13 cases to different types of crisis centers, 1 case to a social rehabilitation center, 10 cases to community support centers and 3 cases to interim protection facilities). In 2023, 2 additional cases were referred to crisis centers and 1 TP holder was accommodated in a specialised dementia care facility.

In 2022, 16 TP holders with disabilities were provided an individual assessment under the requirements of the Disabilities Act; 14 were later granted monthly financial allowance, 2 were granted financial aid to purchase or repair specialized equipment or device and 2 were appointed a personal assistant. In 2023 these were 97 TP holders, of whom 80 individuals were rendered monthly financial allowance and 16 were appointed a personal assistant.

Special protective measures were also applied with respect to the identified unaccompanied children. Since 24 February 2022 until 31 December 2023 in total, 184 children with temporary protection were identified as unaccompanied by the ASA offices. Altogether 17 of them were referred to different types of protected facilities, namely 2 children to the Central Children's Hospital, 2 children to a crisis center and the rest 42 children appointed caregivers among the accompanying relatives.

Since 2018, the Bulgarian Helsinki Committee has been litigating against the unlawful refusal of child care support to the beneficiaries of subsidiary protection. In 2022 the ASA applied same approach toward the child support to the beneficiaries of temporary protection. Despite the unanimous jurisprudence of the national courts proclaiming the practice unlawful and discriminatory⁴⁸⁵ in more than 160 positive court decisions⁴⁸⁶ ever since, the Agency for Social Assistance continued to maintain it until the date of this report.

G. Health care

Access to health care for the beneficiaries of temporary protection was initially limited by law to emergency care only. The law was urgently amended in April 2022 to entitle TP beneficiaries the same level of access to health care as nationals.⁴⁸⁷

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

In Bulgaria, the health care system provides an extended package of medical of services and treatments, guaranteed and paid for through the budget of the National Health Insurance Fund (NHIF). In order to have access to this free of charge health care package, all persons who have reached the age of majority are required to pay a monthly health insurance fee in the amount of 8% of their salary or if unemployed, the national minimum wage, i.e. minimum health care fee of BGN 28,40 monthly in

⁴⁸⁴ Agency for Social Assistance, reg. N 92-00-0358#1 from 5 January 2023.

⁴⁸⁵ First decision №6608 from 13 November 2018, Administrative Court Sofia-City, 61st chamber, case №5349/2018.

⁴⁸⁶ Bulgarian Helsinki Committee – 2018: 1 court decision, 2019: 13 court decisions, 2020:23 court decisions, 2021: 20 court decisions, 2022: 22 court decisions, 2023: 72 court decision / Foundation Access to Rights – 2023: 11 court decisions.

⁴⁸⁷ State Gazette No. 32/22 from 26 April 2022, enforced on the same date.

2023. For children under 18 years of age and retired persons, as well as for some other categories, e.g. military personnel, monthly health fees are covered at the state expense.

In May 2022, the government adopted a decree⁴⁸⁸ with which it undertook the obligation to pay the health insurance fee for the entire duration of the temporary protection of certain categories of TP beneficiaries (children below 18 years of age and elderly people, over 63 years of age). For all the remaining TP beneficiaries, i.e. those from 18 to 63 years of age, the government took responsibility for paying their health insurance fees for the first three months of the temporary protection. After these first three months, TP beneficiaries become responsible for the payment of the health insurance fees. If in the meantime they managed to find a job and employment, the employer will have the obligation to cover the monthly health care fee.

The main obstacle for the TP beneficiaries to access health care in Bulgaria was the overall lack of GPs, which resulted in difficulties for those in need to register as patients in a practice.⁴⁸⁹

⁴⁸⁸ COM №69 from 5 May 2022, State Gazette No.35 from 10 May 2022, enforced on the same date.

⁴⁸⁹ news.bg, „Личните лекари изчезват до 5 години, недостигът е 73%“, published on 22 March 2022, available in Bulgarian at: <https://bit.ly/3lQhByl>; also, National Association of General Practitioners, „Личните лекари в България се топят“, published on 29 January 2023, available in Bulgarian at: <https://bit.ly/40GKhso>.

Cyprus

2023 Update



CYPRUS
REFUGEE
COUNCIL

Temporary Protection Procedure

A. General

Title (EN)	Original Title (XX)	Web Link
Refugee Law 2000 (6(I)/2000)	Ο περί Προσφύγων Νόμος του 2000 (6(I)/2000)	http://bit.ly/1O3Odb4 (GR)

Cyprus transposed the Temporary Protection Directive in 2004 into the national Refugee Law.⁴⁹⁰ The TPD was activated by a decision issued by the Council of Ministers on 22 March 2022.⁴⁹¹

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

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

Temporary protection was initially intended to last for one year only, with the possibility to be extended depending on the situation in Ukraine. At a later stage, temporary protection was extended to the above categories of persons living in Ukraine up to the 1 February 2022.⁴⁹²

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

From the activation of the Temporary Protection Directive until 31 December 2023, 20,923 individuals have been registered in Cyprus making it one of the highest per capita recipients of Ukrainian refugees.⁴⁹³ There is no available data indicating the gender or age of persons that have been registered for temporary protection.

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

⁴⁹⁰ Articles 20-20IB, Refugee Law.

⁴⁹¹ Decision (No 33/2022) of 22 March 2022 on management of influx of displaced persons from Ukraine, Διαχείριση Εισροών εκτοπισθέντων απο την Ουκρανία. (Decision has not yet been published in the official gazette of the Republic of Cyprus). More information can be found at EUAA, 'Temporary protection for displaced persons from Ukraine', available at: <https://tinyurl.com/43zdyhkr> (click on Cyprus for specific information).

⁴⁹² Excerpt from the Minutes of the Cabinet Meeting Council of 4 May 2022, available in Greek at: <https://bit.ly/4azgLdS>.

⁴⁹³ Kathimerini, *Large proportion of refugees from Ukraine in Cyprus in relation to population*, 12 January 2024, available at: <https://tinyurl.com/yc7kf5ax>.

B. Qualification for temporary protection

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

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

Persons who had reached Cyprus before 24 February 2022 were initially not eligible for temporary protection, however from May 2022, temporary protection was extended to persons who reached Cyprus from 1 February 2022 onwards.⁴⁹⁴

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

Persons fleeing Ukraine who do not fall under the scope of the temporary protection regime may access the asylum procedures and apply for international protection. The asylum procedure was accessed in 2022 by Ukrainian nationals, with 53 persons applying in total. In 2023, 24 persons applied for asylum.⁴⁹⁵

C. Access to temporary protection and registration

1. Admission to territory

As Cyprus does not have land borders, the main point of entry for people fleeing Ukraine is via air travel. There are no reports of people fleeing Ukraine being refused entry at the airport. Prior to the activation of the TPD, Ukrainian nationals had access to Cyprus without a visa for a stay of 90 days. Following the activation of the TPD access to territory was facilitated for persons fleeing Ukraine as entry continued to be permitted without visa for all passports and other documents in accordance with the EU guidelines, including valid biometric and non-biometric passports, irrespective of the date of expiration; expired biometric and non-biometric passports; identification cards issued by the Government of Ukraine; internal passports; temporary Travel Documents issued by the Government of Ukraine; and permanent or temporary residence permits issued by the Government of Ukraine. The above requirements applied to all displaced persons from Ukraine that wanted to enter the Republic of Cyprus legally, either by land or by sea. Furthermore, people who had returned to Ukraine and were seeking to re-enter the country were also permitted to do so.⁴⁹⁶

From 2023 onwards, Ukrainian citizens who wish to visit Cyprus and are holders of a biometric passport do not need a visa to visit and stay in Cyprus for up to 90 days. However, Ukrainian citizens that do not

⁴⁹⁴ Ibid.

⁴⁹⁵ Official statistics by the Asylum Service.

⁴⁹⁶ Information provided by Cyprus Refugee Council.

have a biometric passport, are required to apply for an entry visa no earlier than 3 months and no later than 3 days before the trip to Cyprus.⁴⁹⁷

2. Freedom of movement

Individuals entitled to temporary protection not holding a biometric passport or biometric travel document do not experience any issue in moving within the country's territory. Furthermore, there is no information indicating that they experienced any issues regarding attempts to continue their journey towards other European countries.⁴⁹⁸

3. Registration under temporary protection

The Asylum Service is responsible for registering temporary protection applications. Initially, applications could be submitted online via the website of the Asylum Service or in person at the Asylum Service for persons residing in Nicosia or at the district offices of the Aliens and Immigration Unit (AIU) in Larnaka Limassol, Paphos, and Famagusta. From the end of 2022 and onwards, applications can only be registered online or at the Asylum Service in Nicosia.⁴⁹⁹

The total number of staff responsible for examining temporary protection applications at the end of 2023 was 2.

As Cyprus does not have land borders, the main entry point for persons fleeing Ukraine is via air travel. When persons fleeing Ukraine arrive in Cyprus and express their intention to apply for temporary protection at the airport, they are informed to contact the Asylum Service and/or the AIU of the district they will be residing in. As the majority of persons reaching Cyprus have family members or acquaintances in Cyprus, most of them were guided by the latter. There are no specific time limits laid down in law for individuals to make their application.

Applicants are requested to provide the following documents in order to prove they fall under the scope of temporary protection:⁵⁰⁰

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

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

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

Applicants who are refused registration under the temporary protection regime are not informed of the possibility to access appeal procedures, however in such cases an appeal could be submitted under the general rules for all administrative decisions. To date, there is no information of any such cases. It is possible for such applicants to submit a subsequent application but there is no information on the procedure, criteria or chances of success. According to the Asylum Service, where persons are found not to be eligible for temporary protection they are informed of the right to apply for asylum. However, there have been reports of persons being turned away from AIU when seeking to apply for asylum.⁵⁰¹

⁴⁹⁷ Ministry of Foreign Affairs, *Πληροφορίες για τους Ουκρανούς Επισκέπτες στην Κύπρο*, available at: <https://tinyurl.com/yh2uye4t>

⁴⁹⁸ Ibid.

⁴⁹⁹ Ibid.

⁵⁰⁰ Cyprus Asylum Service, Official website, available at: <https://bit.ly/3njLwPG>.

⁵⁰¹ Information provided by Cyprus Refugee Council.

4. Legal assistance

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

5. Information provision and access to NGOs

According to the Refugee Law,⁵⁰² the Asylum Service shall provide persons enjoying temporary protection with a document, in a language they understand, in which the provisions of this Law or any other law relating to temporary protection are clearly stated. In practice, there are 2 leaflets available, one for adults and the other for children including unaccompanied and separated children, both with very basic information.⁵⁰³ Furthermore, the Asylum Service has provided basic information on their website, including links to information leaflets prepared by EUAA in Ukrainian and English.⁵⁰⁴ A helpline was also set-up for information to be provided, however this was not offered in Ukrainian. No information specifically tailored to the needs of vulnerable individuals is provided.

Other sources of information are provided by CY4UA, an international group of volunteers who are based in Cyprus⁵⁰⁵ and the UNHCR office in Cyprus.⁵⁰⁶

D. Guarantees for vulnerable groups

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

⁵⁰² Article 20 ΣΤ, Refugee Law.

⁵⁰³ Cyprus Asylum Service, official website, available at: <https://bit.ly/3lsFo7y>.

⁵⁰⁴ Ibid.

⁵⁰⁵ CY4UA, information available at: <https://bit.ly/3Uon0LJ>.

⁵⁰⁶ UNHCR Cyprus, *Persons arriving from Ukraine*, available at: <https://bit.ly/3ZptObf>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of temporary protection?		
2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive?		
	As of 28 February 2023	14,495
	As of 31 December 2023	19,267
	As of March 2024	19,984 ⁵⁰⁷

According to information provided by the Asylum Service, the decision granting Temporary protection is issued on the same day the application is registered by the Asylum Service and a notification is issued.⁵⁰⁸ Furthermore, the decision covers all the members of the family included in the application. In practice, the decision is often issued on the same day or within 2-3 days at the latest. After receiving the notification issued by the Asylum Service, the main applicant and family members included in the same application have 2 working days to visit any district Aliens and Immigration Unit of the Police to submit biometric data, which is necessary for the issuance of a residence permit. Applicants residing in Nicosia can apply for the issuance of a biometric residence permit by visiting the offices of the Civil Registry and Migration Department. Unlike beneficiaries of international protection, an appointment is not required for the submission of biometric data or for the issuance of a residence permit; beneficiaries are instructed to simply visit the Immigration Office of their district.⁵⁰⁹

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

Temporary protection was initially valid until 4 March 2023 and all residence permits regardless of date of issuance are also valid until the above-mentioned date. In view of the decision to extend Temporary Protection until 4 March 2024, all residence permits have also been automatically extended until 4 March 2024.⁵¹⁰ The status of Temporary Protection and all residence permits are expected to be automatically extended until 4 March 2025, however to date the decision has not been published.

Regarding access to rights, according to the Refugee Law,⁵¹¹ rights are not connected to the issuance of the residence permit and indeed in practice the majority of rights (accommodation, health, labour, etc.) can be accessed with the Notification issued by the asylum service and prior to the residence permit being issued. In any case, as temporary protection status and the residence permit are granted in a timely manner there have been no issues with regards to accessing rights.

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

⁵⁰⁷ Information provided by the Civil Registry and Migration Department.

⁵⁰⁸ EUAA, *Temporary protection for displaced persons from Ukraine – Cyprus*, available at: <https://bit.ly/3LMe7Yi>.

⁵⁰⁹ Ibid.

⁵¹⁰ Ministry of Interior, *Announcement concerning the extension of the temporary protection status to Ukrainian citizens in Cyprus*, 14 February 2023, available at: <https://bit.ly/3n53hSQ>.

⁵¹¹ Article 20H, Refugee Law.

2. Access to asylum

According to the Refugee Law,⁵¹² beneficiaries of temporary protection have a right to apply for international protection at any time. Furthermore, persons eligible to temporary protection, but having not yet started the registration process, have a right to apply for asylum, however they may be encouraged in practice to apply for temporary protection. Overall, there is no available information indicating persons eligible to TP or TP holders accessing the asylum procedures. In any case, considering the extremely large backlog it is expected that such cases would be examined with very long delays.

B. Family reunification

The family reunification provisions of the TPD have been included in national Law and reflect the wording of the TPD. There is no information available on a procedure for persons to request family reunification through the TPD, although such a request could be sent to the Migration Department that examines family reunification requests. To date, there has been no case reported in which a TP holder needed to apply for family reunification in order to reunite with family members.

C. Movement and mobility

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

Once beneficiaries of TP are registered, they have freedom of movement towards other EUMS and can exit Cyprus for 90 days without losing their status. In case they are out of the country for a period that exceeds 90 days, their residence permit may be cancelled. However, in practice this is not implemented.⁵¹³ Furthermore, there are no issues for beneficiaries of temporary protection who wished to temporarily return to Ukraine and no evidence of refusal of entry or other difficulties for people who have returned to Ukraine and are seeking to re-enter the country.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?	N/A
2. Number of beneficiaries staying in reception centres:	
as of 12/2022:	2,900
as of 12/2023:	N/A
3. Number of beneficiaries staying in private accommodation as of 12/2023	N/A

In order to provide accommodation to beneficiaries of temporary protection, the Deputy Ministry of Tourism (DMoT)⁵¹⁴ had been delegated by the Council of Ministers as the authority to establish lease

⁵¹² Article 20(3)(a), Refugee Law.

⁵¹³ Information provided by Cyprus Refugee Council.

⁵¹⁴ Deputy Ministry of Tourism, *Official website*, available at: <https://bit.ly/3TKapk0>.

agreements with hotels.⁵¹⁵ The DMoT contracted private hotels for this purpose and this has been the only form of accommodation provided to TP beneficiaries. As of March 2023, a total of 21 hotels and apartments were contracted for this purpose, specifically 19 in Famagusta district, 1 in Agros (Limassol district) and 1 in Polis Chrysochous (Paphos District).⁵¹⁶

Initially there was no limitation on the duration of stay and, although availability was limited, there were few complaints by beneficiaries of not being able to access such accommodation. The duration of stay was later set at 6 months. These arrangements were initially planned until March 2023 and as of March 2023, 2900 TP beneficiaries were hosted in hotels or apartments.

In April 2023, in view of the approaching summer season and the estimated high numbers of tourists arriving on the island, many of the contracted hotels did not want to continue hosting TP beneficiaries. According to articles in the media government agencies had notified approximately 3,000 Ukrainian refugees who were accommodated in 21 hotels throughout Cyprus that they had until 31 May 2023 to find accommodation elsewhere.⁵¹⁷

However, in May 2023 an extension of the policy regarding the accommodation of TP beneficiaries was announced by the Deputy Minister of Social Welfare, according to which accommodation will continue to be provided for vulnerable Ukrainians.⁵¹⁸ The announcement also mentioned the provision of assistance for the integration of TP beneficiaries, including a series of workshops, on-site briefings, personalized interviews, as well as a workshop for pairing employers and employees.

In August 2023 the policy regarding the accommodation was determined as follows:⁵¹⁹

- ❖ TP beneficiaries who have been staying in hotels from 1 March 2023 onwards, are entitled to accommodation with full board for six months from the date they received temporary protection from the Asylum Service or until 4 March 2024, whichever date is earlier.
- ❖ TP beneficiaries already staying in hotels on 28 February 2023, are entitled to accommodation with full board until 31 May 2023. In the event that six months have not been completed from the date they received temporary protection from the Asylum Service, the accommodation will continue until the completion of six months.

At the end of 2023, the hotel accommodation program for newly arrived Ukrainians has been terminated.⁵²⁰

In August 2022, the Ministerial Council had approved a Rent Subsidy Scheme for displaced persons from Ukraine who are granted temporary protection status and have been accommodated in hotel units.⁵²¹ However, up until March 2023 this had yet to be implemented.⁵²² In May 2023, an announcement⁵²³ was made allowing access to the Scheme through an online application.⁵²⁴ According to the criteria only persons eligible to apply are those who were displaced from Ukraine, from or after

⁵¹⁵ EUAA, *Temporary protection for displaced persons from Ukraine – Cyprus*, available at: <https://bit.ly/3LMe7Yi>.

⁵¹⁶ Deputy Ministry of Tourism.

⁵¹⁷ AlphaNews, *Checkout for 3,000 Ukrainian refugees from hotels, ahead of summer*, 23 April 2023, available in Greek at : <https://tinyurl.com/25bwu8rb> ; Philelefttheros, *No more hosting Ukrainian refugees in hotels*, 12 May 2023, available at: <https://tinyurl.com/mu9mjz8r>.

⁵¹⁸ Press and Information Office, *Official announcement of the Deputy Minister of Social Welfare*, 23 May 2023, available at: <https://tinyurl.com/yea8afzz>.

⁵¹⁹ Ministerial Decision, No.94.379, 8 February 2023, *Policy on Management of flows of displaced persons from Ukraine*, available at <https://tinyurl.com/rsubzbx6>.

⁵²⁰ Information provided by Cyprus Refugee Council.

⁵²¹ Ministerial Decision, No.93.493, 22 August 2022, *Provision of Financial assistance to displaced persons from Ukraine*, available in Greek at: <https://bit.ly/3JT9nO2>.

⁵²² Information provided by Cyprus Refugee Council.

⁵²³ Deputy Ministry of Social Welfare, *Announcement on Rent Subsidy Scheme for displaced persons from Ukraine*, 24 May 2023, available in Greek at: <https://tinyurl.com/cj3zb4df>.

⁵²⁴ Application for the provision of a rent subsidy to displaced persons from Ukraine who have secured Temporary Protection status, available in English at: <https://tinyurl.com/49ua22y8>.

24 February 2022 and who, at the time of submission of the application, resided from the date of their arrival in the Republic of Cyprus and who continue to stay in hotels or other accommodation designated by the Republic of Cyprus and have not secured any other place of residence. Those who have secured another place of residence are not entitled to apply. There is no data available of the number of persons that have accessed this Scheme.

According to the Accountant General, as reported before Parliament, in 2022, the hospitality expenditure amounted to €10 million, while in the first half of 2023 the expenditure amounted to €17 million, recalling the decision of the Council of Ministers to approve another €21.5 million covering the period until March 2024.⁵²⁵

The above arrangements are not connected in any way to the general reception system and beneficiaries of TP are not entitled to access reception conditions.

E. Employment and education

1. Access to the labour market

Beneficiaries of temporary protection have access to the labour market under the same conditions as nationals. There are no specific measures in place to facilitate access to the labour market, however the immediate access to the status and to the labour market under the same conditions as nationals which was widely known among employers facilitated high numbers of TP securing employment.⁵²⁶ Beneficiaries are entitled to equal treatment to nationals with regard to employment with no exception for specific rights. There are no specific measures in place directed at combating labour exploitation of temporary protection beneficiaries. Furthermore, there is no data available on the number of temporary protection beneficiaries who accessed the labour market, however there are no indications that TP beneficiaries have any obstacles in accessing the labour market.

2. Access to education

The Law provides access to education for child beneficiaries of temporary protection under the same conditions provided to nationals, according to which, school attendance is compulsory for children from the age of 4 years and 8 months until they reach the age of 15 or until the completion of the secondary school cycle, whichever comes first.⁵²⁷ Access to education is limited to under 18 and to public schools.

In practice,⁵²⁸ for children to access primary education for TP beneficiaries, an application must be submitted to the public school in the educational district in which they live, or to another school in the district if there are no vacancies. The following options can be selected:

- ❖ attend a public school and follow the Cyprus educational program;
- ❖ stay at home and study online in the morning according to the Ukrainian educational program. If this option is selected, parents/guardians must submit a corresponding written application.

⁵²⁵ Sigma, *The Accountant General of the Republic presented data on the cost of hosting Ukrainian refugees, following Russia's invasion of the country*, 12 October 2023, available in Greek at: <https://tinyurl.com/3enyb9b9>.

⁵²⁶ Information provided by Cyprus Refugee Council under the <https://www.helprefugeeswork.org/> initiative.

⁵²⁷ Article 20H (2), Refugee Law.

⁵²⁸ Ministry of Education, *Announcement of the Ministry of Education regarding the arrangements for the attendance of children from Ukraine in public schools*, 13 April 2022, available in Greek at: <https://tinyurl.com/mseytsbx>; Ministry of Education, *Information for Ukrainian refugees*, available at: <https://tinyurl.com/fsnwbw2>; Embassy of Ukraine in the Republic of Cyprus, official facebook page; <https://tinyurl.com/yycn3ykr>.

For children to access secondary education, an application must be submitted for admission to a public school and the following options can be selected:

- ❖ enroll in a public school in the educational district in which they live and follow the curriculum if they speak Greek;
- ❖ enroll in a high school that offers a program for students that do not speak Greek, based on the existing policy for children with a migrate background;
- ❖ enroll in a public school of the educational district in which they live, but at the same time stay at home and attend online classes in the morning according to the Ukrainian educational program, If this option is selected the parents/guardians must submit an appropriate written application.

The above applications can be submitted by parents/guardians at the respective district offices during the formal registration (enrollment) of their children in public schools. For children attending online classes the parent/guardian will assume responsibility for the child's safety during online education and the obligation to provide the school where they are registered with an interim and final written confirmation of attendance at online classes according to the Ukrainian educational program.

Afternoon Greek language courses have also been set up by the Ministry of Education for Ukrainians, for both adults and children.⁵²⁹ Furthermore, children from Ukraine can access psychological support provided by the Educational Psychology Service of the Ministry of the Ministry of Education that can be accessed through the school in which the child is registered.⁵³⁰

In cases of a child beneficiary that is identified as having special needs, they will be supported under the same conditions as nationals.

To date there is no statistical information available on the number of child beneficiaries of temporary protection who have accessed education.

Regarding access to higher education the University of Cyprus (UCY, a State university) provided 10 scholarships to Ukrainian refugees, whose studies were abruptly interrupted by the Russian invasion. Specifically, the UCY announced that ten scholarships would be awarded, five at undergraduate level and five at postgraduate level, as well as scholarships to attend courses at the Greek Language School of the University of Cyprus. The scholarships cover tuition fees as well as monthly living expenses.⁵³¹ The Cyprus University of Technology (CUT), also a State university, provided ways to facilitate access to the University either for Ukrainian students to transfer or for Ukrainian high school graduates that have arrived in Cyprus as refugees from Ukraine and wish to study at the Cyprus University of Technology.⁵³² Frederick University, a private university introduced a special-purpose scholarship scheme for all students whose studies have been affected by the conflicts. The scholarships apply to all undergraduate studies, fully cover the tuition fees of the first year and 50% of fees for subsequent years.⁵³³

The Law provides for access to education/vocational training for adults.⁵³⁴ In practice, however, no trainings have been organised specifically for beneficiaries of TP.

⁵²⁹ Ministry of Education, Sport and Youth, information available in Greek at: <https://tinyurl.com/4hmmymd2>.

⁵³⁰ Ministry of Education, Sport and Youth, Educational Psychology Service, *Educational Psychology Service*, available at: <https://tinyurl.com/bdfd3h88>.

⁵³¹ Phileleftheros, *University of Cyprus: Scholarships to refugees from Ukraine*, 16 March 2022, available in Greek at: <https://bit.ly/409RKAq>.

⁵³² Cyprus University of Technology, *Application by students or candidate students from war plagued Ukraine*, 19 May 2022, available at: <https://bit.ly/3JLmsci>.

⁵³³ Frederick University, *Support measures for students affected by the war in Ukraine*, 9 March 2022, available at: <https://bit.ly/40d007C>.

⁵³⁴ Article 20H (1)(β), Refugee Law.

F. Social welfare

According to the Law, beneficiaries of temporary protection have a right to receive social assistance and livelihood support when they lack sufficient resources.⁵³⁵ In practice, social welfare is not provided to temporary protection beneficiaries under the same conditions and on the same level as for nationals or as legally residing third-country nationals. Instead, they only have access to a one-off financial allowance as follows:

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

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

On the 22 August 2022, the Ministerial Council approved a monthly financial assistance of €102 for early childhood care for children aged up to 4 years and 8 months provided that the parent/guardian is working.⁵³⁶ However, access to this provision did not become available until March 2023.⁵³⁷ There is no information on the number of children that have accessed this assistance.

G. Health care

According to the Law,⁵³⁸ beneficiaries of temporary protection have access to medical care, in case they do not have sufficient resources, which includes at least first aid care and the necessary treatment of diseases. Furthermore, the Law states that they have access to necessary medical or other assistance, as long as they have special needs, in particular unaccompanied minors or persons who have suffered torture, rape or other serious forms of mental, physical or sexual violence.⁵³⁹

In practice, TP beneficiaries have not been given access to the same health care as nationals, or as legally residing third-country nationals including beneficiaries of international protection who have access to the National Health System (GESY). Instead, medical care is provided under the same conditions as provided to asylum seekers which entails access to the public health system (State hospitals and other State medical services) for care beyond emergency care or essential treatments but does not allow access to private doctors/professionals and private medical services available on the GESY (see [AIDA Country Report on Cyprus: Health Care](#)). Access is facilitated by presenting the Notification that they are registered as TP holder. There is no available data on the number of beneficiaries of TP who have accessed public health care or any issues or obstacles.

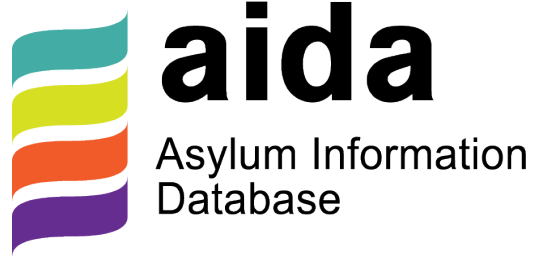
⁵³⁵ Article 20H (1)(δ), Refugee Law.

⁵³⁶ Ministerial Decision, No.93.493, *Provision of Financial assistance to displaced persons from Ukraine*, 22 August 2022, available in Greek at: <https://bit.ly/3JT9nO2>.

⁵³⁷ Deputy Ministry of Social Welfare, *Application for Financial Support for the Care of Children Displaced from Ukraine up to the Age of 4 Years and 8 Months*, 20 March 2023, available in Greek at: <http://bit.ly/3IU9kth>.

⁵³⁸ Article 20H (1)(ε), Refugee Law.

⁵³⁹ Article 20H (1)(στ), Refugee Law.



Germany

2023 Update



Temporary Protection Procedure

A. General

The Council Directive 2001/55/EC (Temporary Protection Directive) is formally implemented into the German legal framework in Section 24 of the Residence Act. Section 24 defines the status (para. 1), includes exceptions to the status (para. 2), details the rules on the distribution of protection seekers between the Federal States (para. 3, 4) and includes the rights and obligations of the protection seeker on housing and regarding information on the status (para. 5, 7). Paragraph 6 of Section 24, which originally included conditions on the right to work was repealed in May 2022 due to its non-conformity with Art. 12 of the Temporary Protection Directive.⁵⁴⁰

Following the EU Council decision on the activation of the Temporary Protection Directive on 7th March 2022, the German Federal Government introduced the “Ukraine-Residence-Transitional Regulation” (*Ukraine-Aufenthalts-Übergangsverordnung, subsequently cited as Ukraine-Aufenthalts-VO*) which was prolonged and amended by the regulations from 26th April, 24th August and 28th November 2022, 24 May 2023 and 24 November 2023.⁵⁴¹ The regulation and its successors mainly cover rules on legal entry and stay of Ukrainian nationals and foreigners residing in Ukraine until 24th February 2022. The initial Ukraine-Aufenthalts-VO introduced an exemption to the need for a residence permit and guaranteed legal entry and stay. With the amended regulation of August, as of 1st September legal stay is only awarded for the first 90 days after arrival, a residence permit is required afterwards. Additionally, in the amended regulation of August 2023, a cessation clause was included following which the legal stay ends once a negative final decision on the application for a residence permit has been issued.

In addition, the Federal Ministry of the Interior circulated several letters and recommendations to the Ministries of the Interior of the Federal States regarding the scope, the procedures and further rights awarded to those seeking and afforded temporary protection fleeing from Ukraine.⁵⁴² Whereas some Federal States contested the legal nature of these circulations (See [Registration under temporary protection](#)), others forwarded the circulation letters to the local central immigration authority (ZAB)⁵⁴³ and others included or amended the content in their state decrees. There is no information available on whether all of the recommendations from the circulation letters have been implemented in all Federal States, however regarding the claim of persons with disabilities, a Court followed the circulation letter of the Ministry (See [Health Care](#)). The Federal States which introduced state decrees are for example **Baden-Wuerttemberg** on the distribution of people from Ukraine,⁵⁴⁴ **Berlin** on the distribution and on the scope of temporary protection,⁵⁴⁵ **Lower Saxony** on the distribution, social benefits and scope of

⁵⁴⁰ Deutscher Bundestag, *Beschlussesempfehlung und Bericht des Ausschusses für Arbeit und Soziales zu dem Gesetzentwurf der Bundesregierung, Drucksache 20/1768*, available in German at: <https://bit.ly/3JmVZTm>, 33.

⁵⁴¹ For the currently enforced “Ukraine-Residence-Transitional Regulation” and the previous versions see: buzer.de, *Änderungen an Ukraine-Aufenthalts-Übergangsverordnung (UkraineAufenthÜV)*, available in German at: <https://bit.ly/3Hbvizl>.

⁵⁴² Overview accessible via Informationsverbund Asyl & Migration, *Informationen zu Schutzsuchenden aus der Ukraine*, lastly updated 16 January 2023, available in German at: <http://bit.ly/3QMRvXY>.

⁵⁴³ See e.g. an overview on the forwarded recommendations by Thuringia: Refugee Council Thuringia, *Gesetze, Verordnungen und Erlasse*, available in German at: <https://bit.ly/3iQtcvR>.

⁵⁴⁴ Ministry of Justice Baden-Wuerttemberg, *Allgemeinverfügung zur landesinternen Verteilung von Vertriebenen aus der Ukraine im Sinne des Durchführungsbeschlusses (EU) 2022/382 des Rates vom 4. März 2022 zur Feststellung des Bestehens eines Massenzustroms von Vertriebenen aus der Ukraine im Sinne des Artikels 5 der Richtlinie 2001/55/EG und zur Einführung eines vorübergehenden Schutzes*, 12 May 2022, available in German at: <https://bit.ly/3XFYAMs>.

⁵⁴⁵ Senate Berlin, *Senatsbeschluss vom 05.04.2022 zur Zuweisung von Kriegsflüchtlingen nach Berlin*, 05 April 2022; Senate Berlin, *Berliner Senatsbeschluss vom 16.08.2022 zur Unterstützung von nicht-ukrainischen Drittstaatsangehörigen, die in der Ukraine vor Ausbruch des Krieges studiert haben, infolge des Krieges nach Deutschland geflohen sind und ihr Studium in Berlin fortsetzen möchten*, 16 August 2022, available in German at: <https://bit.ly/3QSeMI7>.

temporary protection,⁵⁴⁶ **Schleswig-Holstein** on the distribution, social benefits and scope of temporary protection.⁵⁴⁷ The Federal State decrees do vary in detail, as they are adjusted to different Federal States' administrative systems.

On the scope for those eligible to temporary protection, the Federal Government distinguishes in its circulation letters between three groups, namely (1) Ukrainian citizens, persons granted international protection in Ukraine and their family members, (2) non-Ukrainian nationals with permanent residency in Ukraine and (3) non-Ukrainian nationals with a temporary residence in Ukraine.⁵⁴⁸ The criteria for obtaining temporary protection vary accordingly. Ukraine nationals and international protection holders shall be awarded temporary protection, for the other two groups additional criteria apply (see [Qualification for temporary protection](#)).

Concerning the entitlement to social benefits, the legal framework has been reformed comprehensively since the activation of temporary protection. Prior to the legal reforms, applicants as well as beneficiaries of temporary protection were granted social benefits under the Asylum Seeker's Benefits Act.⁵⁴⁹ As of 1st June 2022 applicants for temporary protection if they fulfil additional criteria (see [Qualification for temporary protection](#)), as well as beneficiaries for temporary protection are entitled to Social benefits under the regular Social Code.⁵⁵⁰ Thereby they receive the same benefits as German nationals regarding unemployment benefits, housing allowances, health care, access to the job market, support measures such as language courses, child and parental benefits, and educational support programs.⁵⁵¹ These are higher than those under the Asylum Seeker Benefits Act (see [Social Welfare](#)). In practice, the implementation of the legal framework concerning applicants for temporary protection is contested, especially if they are third-country nationals (see [Qualification for temporary protection](#)).

Main legislative acts relevant to procedure for and content of temporary protection

Title (EN)	Original Title (DE)	Web Link
Ukraine-Residence-Transitional Regulation	<i>Ukraine-Aufenthalts-Übergangsverordnung</i>	https://bit.ly/3Hbvizl (DE)
Executive decree on the Acceptance of foreign passports and alternative identity documents	Allgemeinverfügung über die Anerkennung ausländischer Pässe und Passersatzpapiere	https://bit.ly/3kp7pvE (DE)

⁵⁴⁶ For an overview see: Refugee Council of Lower Saxony, *Erlasse und Informationen der Niedersächsischen Landesregierung*, available in German at: <http://bit.ly/3QN7gOC>.

⁵⁴⁷ Ministry of Interior Schleswig-Holstein, published by Refugee Council Schleswig-Holstein, *Zusammengefasste Erlassregelung zur Aufnahme von Kriegsvertriebenen aus der Ukraine*, 17 June 2022, available in German at: <http://bit.ly/3QRGIMw>.

⁵⁴⁸ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, earliest version 14 March 2022, available in German at: <https://bit.ly/3HbUKoW>, amended by the version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, amended by version of 05 September 2022, available in German at: <https://bit.ly/3IXm4by>.

⁵⁴⁹ For the social benefits granted under the Asylum Seeker's Benefits Act, see [General Report - Reception Conditions](#).

⁵⁵⁰ For the amended legal framework see: buzer.de, *Änderungen durch Gesetz zur Regelung eines Sofortzuschlages und einer Einmalzahlung in den sozialen Mindestsicherungssystemen sowie zur Änderung des Finanzausgleichsgesetzes und weiterer Gesetze*, last amended 01 November 2022, available in German at: <http://bit.ly/3WC1vaF>; Federal Ministry of the Interior, *Neuregelungen im Aufenthaltsgesetz zum 01.06.2022 aufgrund des „Gesetzes zur Regelung eines Sofortzuschlages und einer Einmalzahlung in den sozialen Mindestsicherungssystemen sowie zur Änderung des Finanzausgleichsgesetzes und weiterer Gesetze“*, 27 May 2022, available in German at: <https://bit.ly/3wfwU0q>.

⁵⁵¹ For an overview see: GGUA, *Sozialrechtliche Rahmenbedingungen mit Aufenthaltserlaubnis nach § 24 AufenthG bzw. nach Antrag auf vorübergehenden Schutz*, 01 September 2022, available in German: <https://bit.ly/3QN3G7r>.

Main implementing legislative guidelines relevant to procedure for and content of temporary protection

Title (EN)	Original Title (DE)	Web Link
Circulation letters on the implementation of the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government	Rundschreiben zur Umsetzung des EU-Ratsbeschlusses zur Einführung eines vorübergehenden Schutzes	earliest version 14 March 2022: https://bit.ly/3HbUKoW (DE), amended by the version of 14 April 2022: https://bit.ly/3QQei5b (DE), amended by version of 05 September 2022: https://bit.ly/3lXm4by (DE)
Recommendation on onward migration of Ukrainians and the handling of the European Registration Platform	Rundschreiben zum Umgang mit Treffermeldung in der Europäischen Registrierungsplattform im Zusammenhang mit der Fluchtbewegung aus der Ukraine	https://bit.ly/3weUvD4 (DE)
Circulation letter on the change of applicable legal framework for social benefits	Rundschreiben zur Registrierung von Kriegsgeflüchteten aus der Ukraine ab dem 1. Juni 2022	https://bit.ly/3XEtHla (DE)

Besides the legal framework on temporary protection, the German government introduced a special procedure for Jewish Ukrainians. Following Section 23 (2) Residence Act in conjunction with the circulation of the Federal Ministry of Interior,⁵⁵² Ukrainian nationals, stateless or third-country nationals with a legal residence permit for more than 90 days in Ukraine, who are Jewish and were legally staying in Ukraine before 24th February 2022, who speak a certain level of German (A1) and who are welcomed by a local Jewish community⁵⁵³ directly qualify for a long term residence permit 'settlement permit' (Niederlassungserlaubnis). Their family members qualify for a short-term residence permit.

Statistics

Temporary protection statistics		
	Until March 2023	Until February 2024
Number of persons registered in the Central Register of Foreigners (<i>Ausländerzentralregister</i> (AZR))	1,072,248	1,139,689
Holders of a residence permit for temporary protection under Section 24 Residence Act	778,799	941,559
Persons having received a fictional approval (i.e. application is currently being assessed)	123,898	75,929

⁵⁵² Federal Ministry of Interior, *Anordnung des Bundesministeriums des Innern gemäß § 23 Abs. 2 des Aufenthaltsgesetzes über die Aufnahme jüdischer Zuwanderer aus der ehemaligen Sowjetunion mit Ausnahme der Baltischen Staaten*, last amended 18 March 2022, available in German at: <http://bit.ly/3wfl8lk>.

⁵⁵³ This criterion does not need to be proven by the applicant. Instead, the Central Jewish Welfare Office checks whether the applicant may enter a local Jewish community. Access to the local Jewish community is usually granted if the applicant is of Jewish decent. See: Bundesamt für Migration und Flüchtlinge, *Jüdische Zuwandernde - Guide to the Special Acceptance Procedure Ukraine*, available at: <http://bit.ly/3J1F8Ws>.

Persons having applied for temporary protection but having not yet received fictional approval	127,713	35,248
Have not applied for temporary protection and do not possess a residence permit	41,838	No numbers available
Persons who have been deregistered from the Central Register of Foreigners (AZR), due to permanent departure or death	-	307,526

Source: Migration Media Service, *Flüchtlinge aus der Ukraine*, last amended February 2024, available in German at: <http://bit.ly/3D0Jvgr>.

As of January 2024, among those registered, 97% are of Ukrainian nationality, around 65% percent of the registered persons are female, about 30.7% are under 18 years old.⁵⁵⁴ As of November 2023, among those who fled Ukraine who do not possess Ukrainian nationality, were mainly Russians (4,697), Azerbaijani (3,326), Vietnamese (2,324), Georgian (2,261), Armenian (2,235) and Nigerian (2,231) nationality.⁵⁵⁵ In November 2023, 59% of those who permanently departed from Germany were between 18 and 60 years old, 61.5% of those who departed were women.⁵⁵⁶

B. Qualification for temporary protection

Eligibility for Temporary Protection

Implementing the Council Decision 2022/382, the Federal Government defined in its circulation letters three groups for which temporary protection shall or can be granted.⁵⁵⁷ While the legal nature of the circulation letters is contested, the applicability of the criteria set out in the Council Decision 2022/382 to these three groups and is not disputed in Germany.

To the first group temporary protection shall be granted without further criteria. This group includes:

- ❖ Ukrainian citizens, who were residing in Ukraine before 24th February 2022
- ❖ Stateless persons and foreign citizens who obtained international protection in Ukraine⁵⁵⁸
- ❖ Family members of these groups

⁵⁵⁴ Migration Media Service, *Flüchtlinge aus der Ukraine*, last amended February 2024, available in German at: <http://bit.ly/3D0Jvgr>.

⁵⁵⁵ Federal government, *response to parliamentary request, Drucksache 20/9973*, available in German at: <https://bit.ly/3UMA9yq>.

⁵⁵⁶ Statistisches Bundesamt, *Starker Zuwachs an ukrainischen Staatsbürgern seit Ende Februar 2022*, lastly amended 2024, available in German at: <https://bit.ly/3SB8VYZ>.

⁵⁵⁷ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, earliest version 14 March 2022, available in German at: <https://bit.ly/3HbUKoW>, amended by the version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, amended by version of 05 September 2022, available in German at: <https://bit.ly/3IXm4by>.

⁵⁵⁸ International protection meaning under the GFK, subsidiary protection under Directive 2011/95/EU or other national equal protection status, according to Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, earliest version 14 March 2022, available in German at: <https://bit.ly/3HbUKoW>, amended by the version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, amended by version of 05 September 2022, available in German at: <https://bit.ly/3IXm4by>.

Family members include:

- ❖ The spouse. There have been differing court rulings on if permanent partners are considered as family members as well. The administrative court of Cologne, **North-Rhine** Westphalia decided that, the permanence of a partnership is determined in the same way as permanent partnership of EU citizens under the German Freedom of Movement Act, implementing the Citizens Rights Directive 2004/38/EC, following which it must be made plausible that the partnership is exclusive and be of such a nature that the partners are willing to support each other financially and emotionally in life.⁵⁵⁹ This interpretation is in line with the Recommendation letters by the Federal Ministry of Interior.⁵⁶⁰ In contrast, the administrative court of Munich, **Bavaria**, decided that, in German national law, permanent partners are not considered equivalent to married couples, which in turn makes Council Decision 2022/382 not applicable for permanent partners in Germany.⁵⁶¹
- ❖ Minor children and close relatives who were living within the family before 24th February 2022 and are dependent on the original protection seeker. Dependence requires financial or actual physical or psychological full or at least prevailing dependence. In this last category also children who turned 18 shortly before the application for temporary protection may be included.

According to the Administrative Court of Greifswald, Mecklenburg-Western Pomerania, family members are eligible for temporary protection irrespective of whether they themselves were residing in Ukraine before 24th February, except for those close relatives who are dependent on a Ukrainian family member.⁵⁶²

Secondly, temporary protection shall also be awarded to foreigners with a permanent residence permit in Ukraine, if the *prima facie* presumption that they cannot return to their home country is not revoked. This includes cases where a custodian of a minor Ukrainian child is a third country national, and holder of a permanent residence permit in Ukraine. The *prima facie* presumption is revoked if the country of origin information suggests that the home country is generally safe.⁵⁶³ The Higher Administrative Court of Berlin-Brandenburg decided that the *prima facie* presumption can regularly be revoked for Vietnamese nationals.⁵⁶⁴ . If the *prima facie* assumption is revoked, the local authorities would then need to assess whether the person can return safely under the criteria set out below. In the case of family members in Germany, family ties constitute a prevailing reason over the criteria of safe return.⁵⁶⁵

The third group consists of all other persons who were legally residing (more than 90 days) in Ukraine before 24th February but without a permanent residence permit. They may also be awarded temporary protection under additional criteria. They need to prove their legal residence in Ukraine and establish that they cannot return safely to their home country. In defining “safe and durable return” and the procedures to establish whether a person can return safely, the Federal Government relies on the

⁵⁵⁹ Administrative court Cologne, Decision 12 L 662/23, 12 July 2023, available in German at: <https://bit.ly/3wa7OrG>.

⁵⁶⁰ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, earliest version 14 March 2022, available in German at: <https://bit.ly/3HbUKoW>, amended by the version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, amended by version of 05 September 2022, available in German at: <https://bit.ly/3lXm4by>.

⁵⁶¹ Administrative court Munich, Decision M 4 S 23.2442, 1 September 2023, available in German at: <https://bit.ly/4bA6G0N>.

⁵⁶² Administrative Court Greifswald, Decision 2 A 404/23 HGW, 1 August 2023, available in German at: <https://bit.ly/49g2SjH>.

⁵⁶³ Sebastian Klaus, *Aufenthaltsrechtliche Situation ukrainischer Geflüchteter*, Asylmagazin Vol. 6, 2023, 188 – 194, 192, available in German at: <https://bit.ly/49gf2sL>.

⁵⁶⁴ Higher Administrative Court Berlin-Brandenburg, Decision 11 S 8/23, 23 March 2023, available in German at: <https://bit.ly/42F7Fc0>.

⁵⁶⁵ Informationsverbund Asyl & Migration, *Fragen und Antworten: Perspektiven für nicht-ukrainische Staatsangehörige, die aus der Ukraine geflüchtet sind*, 3 February 2023, available in German at: <http://bit.ly/40woweP>.

Communication of the Commission from 21st March 2022.⁵⁶⁶ Accordingly, the procedure to establish whether a person can return safely constitutes a sui generis procedure where factors such as armed conflict, systemic human rights violations, ongoing violence, risk of persecution or inhumane and degrading treatment in the home country need to be evaluated. As set forth in the Communication from the Commission, the Federal government underlines in their circulation letters that not only factors of safety shall be evaluated but also whether the applicants still have special ties to their home country or whether they are rather alienated.⁵⁶⁷ This criterion of ‘alienation’ or ties to the home country does not exist in the German law for the assessment of ‘safe return’ in the asylum procedure and therefore constitutes a sui generis assessment of ‘safe return’ for applicants for temporary protection. Additionally, the local authorities (*Ausländerbehörde der Länder*) may use Section 60 para. 5 of the Residence Act as criterion which references the ECHR and paragraph 7, where a concrete threat to life, body or freedom precludes extradition to the home country. Generally, this sui generis procedure needs to be applied individually. In the case of a Libyan national, the Higher Administrative Court of Saxony, decided that, due to the relatively privileged position as medical practitioner, it is proven that the applicant would be able to sustain his living and therefore can return safely to Libya.⁵⁶⁸ The Federal Government decided that, for people fleeing Ukraine who are of Eritrean, Syrian and Afghan nationality, it is generally established that they cannot return safely to their home countries.⁵⁶⁹ From January 2023, North-Rhine Westphalia decided to extend the list to Iranian nationals, in line with the removal ban (see [General report – Differential treatment of specific nationalities – Iran](#)).⁵⁷⁰

Temporary protection is awarded to the respective groups if they arrived in Germany on 24th February or afterwards. For those falling under group one and two the eligibility for temporary protection is also extended to those who arrived shortly before 24th February 2022 (max. 90 days) for various reasons (e.g., holidays, work, fleeing because of aggravating conflict).⁵⁷¹

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

⁵⁶⁶ European Commission, *Communication from the Commission on Operational guidelines for the implementation of Council implementing Decision 2022/382 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection*, 21 June 2022, available at: <http://bit.ly/3CTTQuM>.

⁵⁶⁷ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, earliest version 14 March 2022, available in German at: <https://bit.ly/3HbUKoW>, amended by the version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, amended by version of 05 September 2022, available in German at: <https://bit.ly/3lXm4by>.

⁵⁶⁸ Higher Administrative Court Saxony, Decision 3 B 141/23, 6 September 2023, available in German at: <https://bit.ly/49D0NhJ>.

⁵⁶⁹ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, earliest version 14 March 2022, available in German at: <https://bit.ly/3HbUKoW>, amended by the version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, amended by version of 05 September 2022, available in German at: <https://bit.ly/3lXm4by>.

⁵⁷⁰ Asyl.net, *Iranische Staatsangehörige aus der Ukraine erhalten vorübergehenden Schutz*, 19 January 2023, extracts available in German at: <https://bit.ly/3SEPFKb>.

⁵⁷¹ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, earliest version 14 March 2022, available in German at: <https://bit.ly/3HbUKoW>, amended by the version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, amended by version of 05 September 2022, available in German at: <https://bit.ly/3lXm4by>.

Temporary protection is awarded retrospectively from the day of arrival to 4th March 2025, following the Council decision of 19 September 2023 to extend temporary protection for one year until 4 March 2025.⁵⁷²

Other forms of protection available to people who fled Ukraine

In addition to temporary protection under Section 24 Residence Act, people fleeing Ukraine can apply for several other residence permits. First, there is the possibility to apply for asylum following the regular asylum procedure (see [General Report – Regular Procedure](#)). As of November 2023, 2.4% of those registered in the Central Registry of Foreigners applied for Refugee Protection, only 0.005% persons have been granted Refugee Protection.⁵⁷³ NGOs and legal practitioners do not advise to apply for asylum in most cases, due to the restrictions in the freedom of choosing a place to live, restrictions in access to the job market and the length of the procedure (see [General Report – Reception Conditions](#)).

Secondly, people fleeing Ukraine can apply for any other residence permits from within Germany.⁵⁷⁴ In November 2023, most people still had different provisional residence permits, which are awarded during the time of the application for the different residence permits. Among those who received a non-provisional residence permit, 0.2% received a residence permit due to being born in Germany and having at least one parent who possesses a residence permit in Germany following Section 33 Residence Act. 0.13% received the status of tolerated stay ('Duldung'), 0.09% received a residence permit as family members of EU citizens following Section 5 Freedom of Movement Act (Freizügigkeitsgesetz/EU) which implements Directive 2004/58/EC.⁵⁷⁵ Usually applicants need to fulfil undergo a visa procedure before entering Germany, but following Section 3 Ukraine-Aufenthalts-VO people fleeing Ukraine are not only allowed to the territory for the first 90 days but also exempted from this procedure. However, difficulties in obtaining these residence permits stem from (a) possible conflicts with an application for temporary protection and (b) material preconditions of the residence permits.

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

Section 19f para 1 no. 2 and para 2 no. 1 Residence Act entail conflict clauses for several residence permits, following which simultaneous applications for temporary protection and e.g., residence permits for students under Section 16b Residence Act, residence permits for academic qualified workers under Section 18b Residence Act and residence permits for European Voluntary Service under Section 19e Residence Act are mutually exclusive. However, it is contested when these collusion clauses are applicable. Applicants for temporary protection are not per se excluded from applying for other residence permits, if the application for the other residence permit was lodged within the 90 days of legal stay before or without applying for temporary protection. Applicants for temporary protection are also not excluded from applying for other residence permits if they apply for other residence permits after their application for temporary protection has been declined. However, in this case applicants may be required to undergo the visa procedure since their stay is no longer legal following the cessation clause in Section 2 para. 3 Ukraine-Aufenthalts-VO.⁵⁷⁶ The conflict clauses may apply in situations

⁵⁷² Ibid.

⁵⁷³ Federal government, *response to parliamentary request, Drucksache 20/9973*, available in German at: <https://bit.ly/3UMA9yq>.

⁵⁷⁴ E.g., student or vocational training visa Section 16 a, b Residence Act; skilled worker Section 18 a, b Residence Act; humanitarian visa Section 25 Residence Act; family reunification visa Section 27 Residence Act.

⁵⁷⁵ Federal government, *response to parliamentary request, Drucksache 20/9973*, available in German at: <https://bit.ly/3UMA9yq>.

⁵⁷⁶ The Ministry of Interior is aware that obliging people to undergo a visa procedure in Ukraine is currently unreasonable and that therefore exceptions to this obligation can be made, see: Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, 13.

where an application for temporary protection has been lodged, is not yet decided upon and an application for one of the other residence permits listed above has been filed subsequently. But even in these cases it has been argued that at least for some of the above listed residence permits the exemption clause shall not apply because it would violate EU law.⁵⁷⁷ There is no information available how this issue has been settled in practice. However, in literature, the view prevails, that the application for temporary protection is mutually exclusive to the other applications for residence permits listed above.⁵⁷⁸

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

b. material preconditions for other residence permits

It may though be difficult for people fleeing Ukraine to fulfil the requirements for residence permits during their 90 days of legal stay in Germany. For most of the residence permits a proof of economic self-reliance is required and a valid passport.⁵⁷⁹ Additionally, often language certificates are required.⁵⁸⁰ In cases where people apply for residence permits for work the Federal Employment Agency needs to give their permission.⁵⁸¹ This involves for some residence permits the evaluation whether there are German workers who have precedence over foreign workers (*Vorrangprüfung*).

C. Access to temporary protection and registration

1. Admission to territory

Entry conditions

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

Additionally, people fleeing Ukraine are exempted from pass holding requirements. Usually, third country nationals are required to hold a passport or a substitute to enter and stay in Germany.⁵⁸² This does not apply for those who fall under the scope of Section 24 Residence Act. According to the decree of the Ministry of Interior, not only passports but also Ukrainian-ID cards are regarded as equivalent proof of identity.⁵⁸³ Furthermore, people falling under the scope of Section 24 of the Residence act are generally exempted from passport holding requirements and cannot be punished for not having any identity documents.⁵⁸⁴ The exemption only applies as long as the acquisition of a passport or equivalent identity card constitutes an unreasonable burden. This exemption of the pass holding requirement is justified by Federal Ministry of Interior with the fact that the situation of people fleeing from Ukraine is

⁵⁷⁷ It has been argued that the scope of Directive (EU) 2016/801 of 11. May 2016 also includes applicants for temporary protection. For the argumentation see: Informationsverbund Asyl & Migration, *Fragen und Antworten: Perspektiven für nicht-ukrainische Staatsangehörige, die aus der Ukraine geflüchtet sind*, last amended 3 January 2023, available in German at: <http://bit.ly/3ZLYgh6>.

⁵⁷⁸ Sebastian Klaus, *Aufenthaltsrechtliche Situation ukrainischer Geflüchteter*, Asylmagazin Vol. 6, 2023, 188 – 194, 193, available in German at: <https://bit.ly/49gf2sL>.

⁵⁷⁹ Section 5 (1) Residence Act.

⁵⁸⁰ See e.g., student residence permit Section 16b (5) Residence Act.

⁵⁸¹ Section 18 (2) Residence Act.

⁵⁸² Section 3 (1) Residence Act.

⁵⁸³ Federal Ministry of Interior, *Allgemeinverfügung über die Anerkennung ausländischer Pässe und Passersatzpapiere*, 18 March 2022, available in German at: <https://bit.ly/3kp7pvE>.

⁵⁸⁴ Federal Ministry of Interior, *Ausländerrechtliches Pass- und Dokumentenwesen*, 18 March 2022, available in German at: <https://bit.ly/3WIHmTI>.

comparable to those who flee a natural disaster and are therefore not able to obtain identity documents.⁵⁸⁵

However, those entering Germany without any identity documents may be hindered in practice to enter Germany. NGOs active in the border region to Poland continue to raise allegations against the federal police of racial profiling.⁵⁸⁶ The allegations are not new, in 2022 it has already been criticised that the police checks amount to racial profiling since mostly black people are being checked.⁵⁸⁷ Although not specifically designed to border regions, for the first time data confirms these allegations. A study from 2023 confirms that people with external characteristics suggesting a non-German descent are being checked by the police more often than those not possession these characteristics.⁵⁸⁸ The federal police justify the checks, stating that they are necessary to prevent that people who do not fall under the scope of temporary protection do not take advantage of the facilitated entry requirements.⁵⁸⁹ However, the European Commission against Racism and Intolerance maintains its critique from earlier years, that Germany does not put enough effort in the elimination of racial profiling of the police.⁵⁹⁰

Other measures which facilitate travelling to Germany

The German federal railway company (Deutsche Bahn) provided long distance trains from Poland to Berlin, Dresden, Nuremberg and Munich where people fleeing Ukraine could travel without a ticket. According to the press, in February 2023 around 80 people arrive daily via these trains from Poland.⁵⁹¹ This extraordinary trains were discontinued on 15 April 2023, when the last train arrived still carrying 180 passengers from Ukraine.⁵⁹² Persons solely needed to carry a passport or proof of former residence permit from Ukraine. If they want to continue their journey, since 1st March 2022, people who fled from Ukraine further receive tickets free of charge, which are distributed at Arrival centres.⁵⁹³ According to the Deutsche Bahn 550,000 free tickets were distributed between March 2022 and February 2023.⁵⁹⁴

2. Freedom of movement

Since people fleeing from Ukraine are exempted from any passport holding requirements, in theory they may move freely within the territory. In order to facilitate mobility to other European countries, the Federal governments instructs the local immigration authorities to award travel documents to Ukrainian nationals where their identity can be established through other means.⁵⁹⁵ Third country nationals shall contact the embassies of their home countries in Germany if that is not considered unreasonable.⁵⁹⁶

⁵⁸⁵ Ibid.

⁵⁸⁶ Rbb.de, *Oberbürgermeister René Wilke lehnt stationäre Grenzkontrollen weiter ab*, 16 August 2023, available in German at: <https://bit.ly/49glb8j>.

⁵⁸⁷ Hendrik Lasch, *Dauerkontrolle am Dresdner Bahnhof*, 29 August 2022, available in German at: <http://bit.ly/3D0mpXd>.

⁵⁸⁸ Maximilian, Müller; Alex, Wittlif, *Racial Profiling bei Polizeikontrollen. Indizien aus dem SVR-Integrationsbarometer*, SVR-Policy Brief, March 2023, available in German at: <https://bit.ly/3w9e4jp>.

⁵⁸⁹ Federal government, *Response to parliamentary question by The Left, 20/3753*, 28 September 2022, available in German at: <https://bit.ly/3ZKJiyj>; Rbb.de, *Oberbürgermeister René Wilke lehnt stationäre Grenzkontrollen weiter ab*, 16 August 2023, available in German at: <https://bit.ly/49glb8j>.

⁵⁹⁰ European Commission against Racism and Intolerance, *ECRI Conclusions on the implementation of the Recommendations in respect of Germany subject to interim follow-up*, 29 June 2022, available at: <https://bit.ly/3GU3cHQ>.

⁵⁹¹ Merkur.de, *Deutsche Bahn: 550.000 kostenlose Tickets für Ukraine-Flüchtlinge vergeben*, 21 February 2023, available in German at: <http://bit.ly/3mLvNJg>.

⁵⁹² Zeit.de, *Letzter Sonderzug aus Ukraine am Messebahnhof angekommen*, 16 April 2023, available in German at: <https://bit.ly/3uy6VZA>.

⁵⁹³ Deutsche Bahn, *Help for refugees from Ukraine*, available at: <http://bit.ly/3iKFZA3>. The ticket was introduced on the 1st of March and was still available in January 2023.

⁵⁹⁴ Merkur.de, *Deutsche Bahn: 550.000 kostenlose Tickets für Ukraine-Flüchtlinge vergeben*, 21 February 2023, available in German at: <http://bit.ly/3mLvNJg>.

⁵⁹⁵ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, 14 April 2022, available in German at: <https://bit.ly/3QQuei5b>.

⁵⁹⁶ Ibid.

What is considered unreasonable is not conclusively defined or listed in the law but must be determined based on the facts of the individual case.⁵⁹⁷ The burden of proof lies with the third country national.⁵⁹⁸ However, the German authorities need to inform third country nationals about the extent of proofs third country nationals need to provide and the necessary steps to be taken by third country nationals.⁵⁹⁹ Examples for cases where contacting the embassies of their home countries have been considered unreasonable include *inter alia*: possible threats to family members who remained in the home country by authorities of the third country; if the embassy requires declarations of ‘repentance’ and ‘voluntary return’ and if the visit to the embassy and the application for a passport exceed the financial means of third country nationals and cannot be covered otherwise.⁶⁰⁰

During the assessment of the eligibility criteria for temporary protection, applicants for temporary protection are obliged to reside in the municipality to which they have been allocated.⁶⁰¹ Following Section 24 (3) Residence Act applicants are allocated throughout Germany according to the “Köngisteiner Schlüssel”.⁶⁰² In contrast to the distribution of applicants for international protection, for applicants for temporary protection the place of residence of extended family members is taken into account in the distribution process.⁶⁰³ In order to adequately respond to the amended distribution criteria the Federal Office for Migration and Refugees designed a new platform (named *FREE*), through which the distribution of people who fled Ukraine is managed.⁶⁰⁴ This system is completely independent from the distribution system for applicants of international protection (*EASY*) and should - according to the Federal Agency of Migration and Refugees – enable faster and uncomplicated proceedings.⁶⁰⁵ However, bigger cities such as Berlin and Hamburg record a higher number of people from Ukraine and demand a change in the distribution system.⁶⁰⁶

3. Registration under temporary protection

Registration procedure and responsible authorities

From 1st September 2022 applications for temporary protection need to be made de facto within 90 days of arrival. Within these 90 days people fleeing Ukraine may stay without a residence permit in Germany. Despite the fact that applications may in law be lodged at any time, the 90 days restriction for legal stay without a residence permit in combination with the fact that applications for other residence permits may bar the possibility to apply for temporary protection under Section 24 entail that an application for temporary status needs to be made within these 90 days of arrival. If no application for temporary protection is made within this time period, applicants can however apply for other residence permits e.g. asylum (see [General Report – Residence Permit](#)). In order to receive temporary protection, social benefits and housing, prompt registration and an application is necessary.

The procedure to receive temporary protection in Germany requires registration, the collection of personal data (taking fingerprints, saving in the AZR) and a formal application for temporary protection. These steps may be merged or done in a different order depending on the local administrative proceedings.

⁵⁹⁷ Federal government, *response to parliamentary request, Drucksache 18/9133*, available in German at: <https://bit.ly/3Yqr909>.

⁵⁹⁸ Kerstin Becker, Nadja Sabrowski, *Die Unzumutbarkeit der Passbeschaffung*, *Asylmagazin* 1-2/2018, at 18f.

⁵⁹⁹ *Ibid.*

⁶⁰⁰ *Ibid.*

⁶⁰¹ Section 24 (5) Residence Act

⁶⁰² See [General Report – Asylum Procedure](#).

⁶⁰³ ProAsyl, *Information for refugees from Ukraine*, 4 March 2022, available at: <http://bit.ly/3iL3qct>.

⁶⁰⁴ Federal Office for Migration and Refugees, *IT-Fachanwendung: "FREE" im Einsatz*, 01 June 2022, available in German at: <http://bit.ly/3XFeQNJ>.

⁶⁰⁵ *Ibid.*

⁶⁰⁶ Mdr.de, *So werden Ukraine-Flüchtlinge in Deutschland verteilt*, 01 June 2023, available in German at: <https://tinyurl.com/3wjnvyw>.

a. registration

The responsible authorities for registration are the local immigration authorities. As for asylum seekers (see [General Report – Short overview of the asylum procedure](#)) applicants for temporary protection may generally apply at reception facilities, local immigration authorities and the police at the border and in every city. In for example **Berlin, Hamburg and Munich**, registration is centralised in certain Reception centres.⁶⁰⁷ Subsequently, applicants are allocated to the responsible state and city under the so called “Königsteiner Schlüssel”.⁶⁰⁸ E.g., in **Berlin** since 1st June 2022 people arriving need to register first at a welcome centre, where a first decision on their local distribution is taken. Only if the applicants are allocated to Berlin, they can book an appointment with the foreigner’s office (LEA) to apply for Temporary Protection. As proof of registration a “proof of arrival” is issued.

b. collection of fingerprints and personal data

Since 1st June 2022 the collection of fingerprints and personal data (photos and corporal details) in the AZR is mandatory not only for the application process but also as a prerequisite in order to receive social benefits.⁶⁰⁹ For all applicants above the age of fourteen years the collection of fingerprints is mandatory, for those between six and fourteen years it should be made, only for those under six years old no fingerprints are taken. A derogation from the obligation concerning children between six and fourteen years is possible, but there are no official indications as to in which cases. The city of Berlin for example only carries out the collection of personal data if there are any doubts about the age.⁶¹⁰ Vulnerable applicants may be excluded from the requirement. In these cases, the local authority ZAB is required to assess individually if the collection of fingerprints is reasonable and adequate.⁶¹¹

Making the collection of personal data a prerequisite for receiving social benefits has been criticised by civil society organisations and by the press. While the government justifies the amended Section 49 para 4a with security concerns, it has been argued that first personal data is already submitted to the authorities due to the biometric pass requirement. Additionally, civil society organisations fear that the extensive collection of data may reinforce existing prejudices of protection seekers as criminals, since the collection of data for applicants resembles the collection of data for criminals and for those who illegally crossed the border to Germany.⁶¹²

c. Application and “Fictional approval”

The application itself can be done online or at the corresponding reception centre or immigration authority after or in parallel to the registration. It is sufficient to claim temporary protection orally in order to enter the application procedure. As people fleeing Ukraine are exempted from visa and passport requirements the lack of a passport is not regarded as an exclusion ground. However, applicants need to substantiate their claim in a reasonable manner and need to present proof of Ukrainian citizenship

⁶⁰⁷ Berlin Administration, Aufenthaltsgewährung zum vorübergehenden Schutz für Geflüchtete aus der Ukraine – Zuweisungsentscheidung, available in German at: <http://bit.ly/3HdOkW9>; Hamburg Administration, FAQ: Informationen für Schutzsuchende aus der Ukraine, last amended 3 January 2023, available in German at: <http://bit.ly/3Wm1Hry>. Munich Administration: Solidarität mit der Ukraine, available at: <http://bit.ly/3ZHxO3g>.

⁶⁰⁸ See [General Report – Asylum Procedure](#).

⁶⁰⁹ Section 49 para 4a Residence Act and Section 81 para 7. See also: Federal Ministry of Interior, Registrierung von Kriegsgeflüchteten aus der Ukraine ab dem 1. Juni 2022, 25 April 2022, available in German at: <https://bit.ly/3Xl0ZfL>.

⁶¹⁰ Flüchtlingsrat Berlin, Kriegsflüchtlinge Ukraine, 8 December 2022, available in German at: <https://tinyurl.com/5t5chr94>.

⁶¹¹ Ibid.

⁶¹² Marie, Frank, Diskriminierung von Geflüchteten: Schutz und Vorurteil, taz, 14 May 2022, available in German at: <https://bit.ly/3XcTLKF>; GGUA, Änderungen ab 1. Juni 2022 für Geflüchtete aus der Ukraine mit Aufenthaltserlaubnis nach § 24 AufenthG oder nach Antrag auf § 24 AufenthG, 27 May 2022, available in German at: <https://bit.ly/3ZCO7TE>.

or proof of legal residence in Ukraine.⁶¹³ As proof for Ukrainian citizenship, a Ukrainian passport and Ukrainian ID-card (those delivered from 2015 onwards) are accepted. Additionally, the stateless persons travel document, a refugee travel document, travel documents for children and diplomatic passports are accepted.⁶¹⁴ If persons lack proof of identity they may be required to obtain a substitute from the Ukrainian embassy or in the case of third country nationals from the embassy of their home country if this is not considered unreasonable.⁶¹⁵ The local immigration authorities may also exceptionally accept expired identity documents.⁶¹⁶

It has been observed that third country nationals' access to apply for temporary protection is often hindered and they are instead pressured to apply for asylum. In the beginning the local immigration authorities often interpreted the applications of third country nationals as asylum claims and not as applications for temporary protection. In other cases, applicants have been impeded by the immigration authorities in lodging their application with the justification that they must claim asylum.⁶¹⁷ As such in many cases no access to the procedure under Section 24 of the Residence Act is granted. This practice of the immigration authorities does not follow the recommendations in the circulation letters. And at least the first practice, where an application has been interpreted autonomously by the immigration authorities as an asylum claim, has been condemned by several courts.⁶¹⁸ According to the civil society organisation ProAsyl this practice is still, however, pursued in some cases.⁶¹⁹ Although they can help in the aftermath to change the application towards a temporary protection permit, this practice has consequences for the persons affected as it leads to lesser material reception conditions or more insecurities concerning permit of residence.

Even if access to the procedure under Section 24 of the Residence act is granted for third country nationals, some ZAB further argue that if parallel applications for temporary protection and international protection are filed, the legal regime of the asylum procedure supersedes the procedure under Section 24 of the Residence act.⁶²⁰ This is, however, not reflected in law. Section 32a Asylum Act states that the asylum procedure has to be on hold as long as the applicant is beneficiary of temporary protection. The legal regime of the asylum procedure is though disadvantageous (on the general procedure see [General Report – Asylum Procedure](#)). The “Fictional approval” which is usually to be granted upon application for temporary protection and grants access to social benefits (see Qualification for temporary protection) may be revoked following Section 55 of the Asylum Act (AsylG). This may give rise to a Dublin procedure. Additionally, restrictions to the freedom of movement “residence obligation” (*Residenzpflicht*) under Section 47 AsylG and to access to the labour market under Section 61 AsylG may be imposed. Whereas applicants may apply and be granted other residence permits while the application for temporary protection is assessed due to fictional approval, no other residence permit may be awarded during an asylum procedure.⁶²¹ Consequently, for example third country nationals who were formerly studying in Ukraine may not receive a study permit under 16b of the Residence Act even though they were accepted at a German university in the meantime and as such qualify for a study residence permit if they applied for asylum or were pressured into the asylum procedure in parallel to

⁶¹³ Federal Ministry of Interior, *Allgemeinverfügung über die Anerkennung ausländischer Pässe und Passersatzpapiere*, 18 March 2022, available in German at: <https://bit.ly/3kp7pvE>.

⁶¹⁴ Berlin Administration, *Verfahrenshinweise zur Erfassung von Flüchtlingen aus der Ukraine im Melderegister*, 14 April 2022, available in German at: <https://bit.ly/3J5scil>.

⁶¹⁵ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, version of 14 April 2022, available in German at: <https://bit.ly/3QQei5b>, 15.

⁶¹⁶ Berlin Administration, *Verfahrenshinweise zur Erfassung von Flüchtlingen aus der Ukraine im Melderegister*, 14 April 2022, available in German at: <https://bit.ly/3J5scil>.

⁶¹⁷ Dorothee Frings, *Sozialleistungen für Geflüchtete aus der Ukraine ab dem 1. Juni 2022*, *Asylmagazin* 6/22, 206, available in German at: <https://tinyurl.com/59h4hze5>.

⁶¹⁸ Higher Administrative Court of Baden-Wuerttemberg, Decision 11 S 1469/22, 02.08.2022, available in German at: <http://bit.ly/3QTdCvS>.

⁶¹⁹ Information provided by ProAsyl, 14 March 2024.

⁶²⁰ Dorothee Frings, *Sozialleistungen für Geflüchtete aus der Ukraine ab dem 1. Juni 2022*, *Asylmagazin* 6/22, 206, available in German at: <https://tinyurl.com/59h4hze5>.

⁶²¹ Section 10 of the Residence Act.

their application for temporary protection. At least for these cases where students are concerned **Berlin, Hamburg, Bremen** and **North Rhine-Westphalia** have decided that third country nationals fleeing Ukraine should generally be awarded a “Fictional approval” and be allowed to work and continue their studies in Germany.⁶²² Another possible disadvantage stems from the differing assessment of ‘safe return’ under the different regimes.

The view that the asylum procedure supersedes the procedure under Section 24 of the Residence is not reflected in the law. Instead, the circulation letters explain that an application for asylum can be made in parallel to the application for temporary protection.⁶²³ If temporary protection is granted under Section 24 of the Residence Act, the asylum procedure shall be suspended.⁶²⁴ NGOs and legal practitioners argue that because an application for asylum under Section 13 AsylG requires an individual persecution for one of the persecution grounds, the local ZAB can only refer applicants to the asylum procedure if the applicants explicitly claimed individual persecution. If general protection is claimed by those who fall under the scope of Section 24 of the Residence Act, it is to be understood primarily as a claim for temporary protection under Section 24.⁶²⁵ Secondly, it is argued that because the grounds for protection under Section 24 Residence Act are overlapping but wider than those under Section 13 AsylG, the asylum procedure cannot supersede the procedure for temporary protection. Under Section 24 the assessment of safe return to the home country includes not only an assessment of risks and the living conditions in the home country but also examine the ties to Ukraine and alienation of the home country.

Once all necessary steps for the application are completed, a “Fictional approval” (*Fiktionsbescheinigung*) shall be granted under Section 81 paragraph 3 of the Residence Act. As to the scope of entitlements under “Fictional approval” the circulation letters instruct to include the annotation “Access to labour market granted” on the “Fictional approval” document, which grants immediate access and unrestricted to the job market. Additionally, a reference to the application for temporary protection under Section 24 of the Residence Act shall be made to facilitate access to integration measures and social benefits.

The legislative framework on social benefits for applicants was amended by the Federal Government in May 2022 (See General). As of 1st June 2022, holders of a “Fictional approval” document on which the reference to Section 24 is made and whose personal data has been registered in the AZR are by law entitled to receive social benefits under the regular Social Code.⁶²⁶

Despite these instructions in the circulation letter and the amended legal framework, in practice the scope of entitlements under “Fictional approval” is contested. In the beginning, some local authorities did not grant “Fictional approval” automatically upon application for temporary protection, which hindered access to social benefits and housing. Recently several courts have confirmed already existing case law that “Fictional approval” is to be granted automatically for applicants for all kinds of

⁶²² Berlin Senate, *Berliner Senat beschließt vorläufiges Aufenthaltsrecht für nicht-ukrainische Drittstaatsangehörige, die wegen des Krieges in der Ukraine geflohen sind und ihr Studium in Berlin fortsetzen wollen*, press release 16 August 2022, available in German at: <http://bit.ly/3CWw5SP>; Bremen Senate for Interior, Senate for economy and ports: *Studenten aus Drittstaaten aus der Ukraine erhalten eine reelle Perspektive*, press release 17 May 2022, available in German at: <http://bit.ly/3HeWu0I>; Authorities for Interior, Sports, Science, Research, Equality and municipalities, *Welcome to Hamburg*, 19 August 2022, available at: <https://bit.ly/3XHn2wM>; Ministry of Interior, Children, Youth, Family, Equality, Migration and Integration North Rhine-Westphalia, *Verfahren bei nicht-ukrainischen drittstaatsangehörigen Studierenden aus der Ukraine*, 17 October 2022, available in German at: <https://bit.ly/3kjLlGp>.

⁶²³ Federal Ministry of the Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, 05 September 2022, available in German at: <https://bit.ly/3IXm4by>, 13.

⁶²⁴ Section 32a AsylG.

⁶²⁵ Rainer Hofmann (Ed.), *Ausländerrecht*, Section 24, para. 39.

⁶²⁶ Federal Ministry of the Interior, *Registrierung von Kriegsgeflüchteten aus der Ukraine ab dem 1. Juni 2022*, 25 May 2022, available in German at: <https://bit.ly/3XEtHla>.

protection.⁶²⁷ In reaction to these court rulings the local authorities and the Federal States have adapted their practices.⁶²⁸

Additionally, it has been noted by many non-governmental organisations that for applicants who are non-Ukrainians (group 2 and 3 in categories of applicants, see [Admission to territory](#)) a reference to Section 24 of the Residence Act is not made on the “Fictional approval” document and access to the job market is not granted.⁶²⁹ Neither the law, nor the circulation letters or the instruction of the Federal Employment Office⁶³⁰, who is the responsible authority to grant social benefits, distinguish in the scope of entitlements between the different groups who may qualify for temporary protection. The conflicting interpretations of the authorities and courts on the Federal, state and local level lead to a legal black hole in which applicants for temporary protection who are third country nationals do not receive any social benefits during the application procedure and are not granted access to the job market either.⁶³¹ Some administrative courts have ruled in favour of the second interpretation,⁶³² following which a distinction between the different applicants can be made. They argue that the circulation letters of the Federal government are not legally binding and that there is no legal basis which obliges the ZAB to add a reference to Section 24 or to grant immediate access to the job market. Consequently, the ZAB may decide within a margin of discretion. Some NGOs and advocates argue though that the circulation letter is legally binding because it is to be understood as executive order from the Federal Ministry of Interior (*Bundesministerium des Inneren, und für Heimat (BMI)*).⁶³³ In another case concerning health benefits of people with disabilities, the Social Court of Nuremberg has understood such a letter as strong indication (See [Health Care](#)).

In sum, despite the extended scope of those eligible for temporary protection (see [Qualification for temporary protection](#)) access to the procedure and to the rights awarded during the procedure is in practice often restricted for third country nationals by the ZAB, leading to situations where third country nationals do not receive any social benefits, neither under the Social Code nor under the Asylum Seeker’s Benefits Act and are not allowed to work.

Lastly, according to the ECRE update of November 2022, there have been cases where Ukrainian nationals were refused access to the application procedure for temporary protection in Germany because they had received a registration certificate in Poland.⁶³⁴ According to the civil society organisation ProAsyl, such refusals are increasingly happening.⁶³⁵ This practice would go hand in hand with a tenses climate towards refugees in general but also specifically against people fleeing from Ukraine, as a growing narrative accuses refugees of coming to Germany solely because of its material reception conditions. These refusals, however, would not be legal. If the person fleeing from Ukraine has an entitlement to temporary protection, the German authorities have to grant it, no matter if the person has already been registered – and not already been granted – a permit of residence in another

⁶²⁷ Administrative Court of Aachen, Decision 8 L 527/22, 26 August 2022, available in German at: <http://bit.ly/3IUmNdB>; Higher Administrative Court of Baden-Wuerttemberg, Decision 11 S 1467/22, available in German at: <http://bit.ly/3keGGBR>.

⁶²⁸ Ministry of Justice and Migration Baden-Wuerttemberg, *Geflüchtete aus der Ukraine: weitere Informationen und Hinweise*, 28 September 2022, <https://bit.ly/3HhfhZj>, 6.

⁶²⁹ Flüchtlingsrat NRW, *Drittstaatsangehörige aus der Ukraine: SGB-II-Anspruch auch mit Fiktionsbescheinigung*, 20 February 2023, <https://tinyurl.com/vn7nfmnr>.

⁶³⁰ Federal Employment Office, *Fachliche Weisungen „Bearbeitung von Fällen mit Aufenthaltstitel nach § 24 AufenthG oder entsprechender Fiktionsbescheinigung“*, 23 May 2022, available in German at: <https://bit.ly/3iPAP5K>.

⁶³¹ Dorothee Frings, *Sozialleistungen für Geflüchtete aus der Ukraine ab dem 1. Juni 2022*, *Asylmagazin* 6/22, 205f.

⁶³² Administrative Court of Aachen, Decision 8 L 527/22, 26 August 2022, available in German at: <http://bit.ly/3IUmNdB>; Higher Administrative Court of Baden-Wuerttemberg, Decision 11 S 1467/22, 26 October 2022, available in German at: <http://bit.ly/3keGGBR>.

⁶³³ Feedback from NGOs obtained at the conference “Netzwerktagung Migrationsrecht”, November 2022.

⁶³⁴ European Council for Refugees and Exiles (ECRE), *Information Sheet – Measures in response to the arrival of displaced people fleeing the war in Ukraine*, November 2022, available at: <https://bit.ly/3kj82qu>, 20.

⁶³⁵ Information provided by ProAsyl, 14 March 2024.

European country. The issuance of temporary protection in Germany might however lead to a refusal in another European country.⁶³⁶

Appeal procedure

Applicants whose application for temporary protection has been rejected can appeal at the regular local administrative court following Section 42 Code of Administrative Court Procedure (VwGO). In contrast to the shorter period to appeal in the asylum procedure (see [General Report – Regular procedure - Appeal](#)), applicants have one month to appeal.⁶³⁷ The appeal has no automatic suspensive effect though.⁶³⁸ Consequently, if the 90 days of legal stay under the Ukraine-AufenthaltsVO have been exceeded, a request for interim measures must be filed in order to guarantee that the stay in Germany remains legal.⁶³⁹

4. Legal assistance

In general, provisions on free legal assistance for protection seekers are rare in Germany ([General Report – Regular Procedure - Legal Assistance](#)). No rules on access to (free) legal assistance exist for applicants for temporary protection. Therefore, there is no centralised system where applicants for temporary protection can seek legal aid.

In practice legal assistance is provided by the various civil society and welfare associations (such as Caritas e.V., Paritaetischer, AWO, PRO ASYL, Refugee Law Clinics) and the regional refugee councils. These organisations usually provide the legal assistance free of charge.

Despite the lack of general rules on the provision of legal assistance, the German authorities do cooperate with civil society organisations. Especially the main welfare associations such as the Caritas e.V., Paritaetischer and AWO are often present in first reception centres. Additionally, the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge, (BAMF)*) provides an online platform where applicants can search for the nearest advice opportunities.⁶⁴⁰ It seems that at least the access to information on where legal advice can be sought is easier for temporary protection seekers, compared to the situation of international protection seekers.

5. Information provision and access to NGOs

According to Section 24 paragraph 7 Residence Act applicants need to be informed about their rights and duties in written and in a language, they are able to understand. No further rules exist which specify in what form information needs to be provided.

In practice, it seems that the German Government is putting effort in publishing and centralising as much information on the situation as possible and in various languages. The German Federal Ministry of Interior has launched a web portal accompanied by an app where information on entry, stay and return, accommodation, health, work and social benefits, integration, mobility, education, family issues and vulnerable groups are gathered.⁶⁴¹ Through the web portal people can apply online for temporary protection. Even regional Ukrainian community telegram channels are listed. The website and the app

⁶³⁶ Informationsverbund Asyl & Migration, *Informationen zu Schutzsuchenden aus der Ukraine*, available in German at: <https://tinyurl.com/mw4x4vfn>.

⁶³⁷ Section 74 VwGO.

⁶³⁸ Section 84 Residence Act.

⁶³⁹ Section 80 paragraph 5 VwGO.

⁶⁴⁰ Bundesamt für Migration und Flüchtlinge, *BAMF Navigation in the Fields of Asylum Procedure and Integration*, available at: <http://bit.ly/3ZOKUQX>; Bundesamt für Migration und Flüchtlinge, *The Germany4Ukraine Informational Guide*, available at: <http://bit.ly/3ZCUeY6>.

⁶⁴¹ Bundesamt für Migration und Flüchtlinge, *The Germany4Ukraine Informational Guide*, available at: <http://bit.ly/3ZCUeY6>.

are available in German, English, Ukrainian and Russian and a version in easy language and sign language is provided.⁶⁴² This web portal is regularly updated and thus also informs about the extension of the Temporary Protection Directive and its impact on German regulations. Although it provides some information on the possibility of vocational training or work, it does not particularly aim to inform about different options for long-term stay after the end of the Temporary Protection Directive.

Additionally, the Federal Office for Migration and Refugees has published a Q&A section and a video on the first steps in German, English, Russian and Ukrainian on mainly integration and entry issues.⁶⁴³ In cities close to the border and in cities where there are high numbers of arrivals, welcome centres have been set up directly in train stations. Here people are provided with information, interpretation, snacks and first assistance and in some cases they may already register.⁶⁴⁴ Due to the decreased numbers of arrivals, some of these welcome centres closed in the course of 2022.⁶⁴⁵ It has been criticised though that the available information sur place was often not tailored to the needs of vulnerable individuals.⁶⁴⁶

Alongside the information channels of the state, civil society organisations and refugee councils are active in distributing information. One main source of information is the platform “handbook Germany”.⁶⁴⁷ There is a section specifically tailored to people fleeing Ukraine, made available in Ukrainian, Russian, English and German. Applicants can access official information but also reach out to local communities and explore hidden hints of people who have already established a new live in Germany. Another main provider of information is PRO ASYL. They regularly update a comprehensive information sheet especially focusing on the practical problems in the application process, such as the difficulties for third country nationals mentioned above (See section [Qualification for temporary protection](#)).⁶⁴⁸ Information on regional specifics is mostly gathered and published by the refugee councils.⁶⁴⁹ Information for social workers and legal practitioners who assist people fleeing Ukraine is made available by the network “Informationsverbund Asyl und Migration”.⁶⁵⁰ Information of civil society organisations seems to be more comprehensive in relation to integration issues, especially on a regional level. They do not solely inform about the administrative process but also about possibilities to integrate further into German society and other possible, more long-term residence permits.

D. Guarantees for vulnerable groups

Identification of individuals who need specific procedural guarantees

As stated in the AIDA report 2023 on Germany, there is no systematic identification mechanism for individuals with specific needs in place (see [General Report – Identification](#)). The identification of people

⁶⁴² Ibid.

⁶⁴³ Bundesamt für Migration und Flüchtlinge, ‘Information for refugees from Ukraine’, available at: <http://bit.ly/3ZM87DC>.

⁶⁴⁴ See e.g. Cologne, *Neues Ankunftszentrum am Breslauer Platz eröffnet*, press release 13 March 2022, available in German at: <http://bit.ly/3HgFjvv>;

⁶⁴⁵ See e.g. Diakonie Dresden, *Ukraine-Hilfe am Hauptbahnhof: Diakonie Dresden zieht Bilanz*, 25 July 2022, available in German at: <http://bit.ly/3XGB8hZ>.

⁶⁴⁶ Sonja Smolenski, *Geflüchtete aus Ukraine mit Behinderung: Voller Barrieren*, taz, 06 April 2022, available in German at: <http://bit.ly/3Wf8pzO>.

⁶⁴⁷ Handbook Germany, *Important information on entry and residence for people fleeing Ukraine*, last amended 18 January 2023, available at: <http://bit.ly/3CX5GV0>.

⁶⁴⁸ ProAsyl, *Information for refugees from Ukraine*, last amended 10 January 2023, available at: <https://bit.ly/3iL3qct>.

⁶⁴⁹ See e.g. Refugee Council Berlin, *Antrag auf Aufenthaltserlaubnis beim Berliner Landesamt für Einwanderung LEA*, 08 December 2022, available at: <https://bit.ly/3Xmgwfi>; Refugee Council Bavaria, *Ukraine: Einreise und Schutz in Deutschland*, 20 November 2022, available in German and Ukrainian at: <http://bit.ly/3IXGi57>; Refugee Council Lower-Saxony, *Aktualisierte Informationen für Geflüchtete aus der Ukraine*, available at: <http://bit.ly/3CZ4qk6>.

⁶⁵⁰ Informationsverbund Asyl & Migration, *Informationen zu Schutzsuchenden aus der Ukraine*, last updated 16 January 2023, available in German at: <http://bit.ly/3QMRvXY>.

with specific needs is generally the remit of the Federal States and varies accordingly. Already in March a delegation of the commissioners for people with disabilities from the Federal States and the federal commissioner urged the government to include the identification of disabilities and special needs in the arrival procedure for Ukrainians.⁶⁵¹

The Federal government did though initiate a federal coordination and contact platform (*Bundeskontaktstelle für geflüchtete mit Behinderung und Pflegebedürftige*), which aims at identifying reception and care needs prior to the flight from Ukraine in order to facilitate quick distribution to the Federal States and to reception centres which comply with the needs identified. As of January 2024, 1,494 inquiries have been processed and 295 people have been distributed in this manner since May 2022.⁶⁵² No information was provided as to why this number is so low and how the distribution system exactly works. Additionally, the Federal platform serves to disseminate information on social welfare and support measures for people with specific needs and to coordinate volunteer run initiatives and state actors which are working with people with specific needs.

The press and the opposition criticise that the platform does not remedy the fact that no systemic identification mechanism exists. Firstly, it has been criticised that those who are already on German territory are not coordinated by the federal platform. Instead, they are remitted to the Federal States' facilities. Berlin acknowledged its responsibility for the identification of persons with special needs. In its decree the city of Berlin intended to established a transfer zone where in a pre-screening special needs for individuals with mental, physical and care needs shall be identified and the distribution process shall be adopted accordingly.⁶⁵³ Additionally, in the pre-screening procedure persons who identify as LGBTIQ+ and/or show other vulnerabilities shall be allocated only to Federal States where the infrastructure for the special needs regarding guidance and/or care is well developed. It is though not specified which Federal States are deemed to have a good infrastructure. However, Berlin seems to be a best practice example since most Federal States did not introduce screening procedures. According to the press, the dispersion of responsibility between the Federal government and the Federal States often leads to a situation where no information or guidance is accessible for people with specific needs at highly frequented points of arrival.⁶⁵⁴ Additionally, advisory service is mainly run by voluntary initiatives and lacks financial and organisational resources.⁶⁵⁵

Procedure for unaccompanied minors

The procedure for non-accompanied minors who fled Ukraine is the same as for any unaccompanied foreign minor arriving in Germany (see [General Report – Legal representation of unaccompanied children](#)). Following Section 42a Social Code VIII, unaccompanied children are taken into the provisional care of the youth welfare office (Jugendamt). This procedure is also adopted for children who arrived in Germany alone but who have relatives in Germany. In that case, in the stage of 'provisional care taking' the youth welfare office reviews whether the relatives are "suitable" for the caretaking of the child. During the procedure the child may stay with their relatives.⁶⁵⁶ Unaccompanied minors who fled Ukraine have access to the same benefits as German and foreign children legally residing in Germany.⁶⁵⁷

⁶⁵¹ Federal Government Commissioner for Matters relating to Persons with Disabilities, 'Ukrainekrise: Appell der Behindertenbeauftragten von Bund und Ländern', 08 March 2022, available at: <http://bit.ly/3HfncU>.

⁶⁵² Federal Government, *Response to parliamentary question by The Left, 20/4642*, 24 November 2022, available in German at: <https://bit.ly/3lWoVSc>.

⁶⁵³ Berlin Senate, *Senat beschließt Verfahren zur Unterstützung für besonders schutzbedürftige Geflüchtete aus der Ukraine*, press release 05 April 2022.

⁶⁵⁴ Sonja Smolenski, *Geflüchtete aus Ukraine mit Behinderung: Voller Barrieren*, taz, 06 April 2022, available in German at: <http://bit.ly/3Wf8pzO>.

⁶⁵⁵ Ibid.

⁶⁵⁶ Federal Ministry of Family Affairs, Senior Citizens, Women and Youth, *Unbegleitet und begleitet nach Deutschland einreisende Kinder und Jugendliche aus der Ukraine in der Kinder- und Jugendhilfe*, 4 April 2022, available in German at: <https://bit.ly/3WqxbNf>.

⁶⁵⁷ Section 6 (2) Social Code VIII.

Assistance for victims of torture or traumatised people

From 1st June 2022 people who applied for temporary protection are supposed to have the same access to social welfare and healthcare as Germans. In this regard those who are in need of specialised treatment may access existing psychological, medical and psychiatric services provided for traumatised people and/ or victims of sexualised crimes and war crimes in Germany. A specific hotline where initial counselling is offered and through which other programmes may be contacted was initiated by the Federal Ministry of Family, Seniors, Women and Youth (*Bundesministerium für Familie, Senioren, Frauen und Jugend (BMFSFJ)*).⁶⁵⁸

However, in practice, access to these services varies between Ukrainian nationals and third country nationals who fled Ukraine stemming from the differentiated wording on the Fictional approval. As this is not only the case for mental health services but more general for access to all sorts of social welfare and healthcare, the issues arising in connection with the different references on the “Fictional approvals” are discussed under [Registration under temporary protection](#).

⁶⁵⁸ Federal Ministry of Family Affairs, Senior Citizens, Women and Youth, *Helpline Ukraine unterstützt geflüchtete Familien bei Sorgen und Problemen*, press release, 06 June 2022, available in German at: <http://bit.ly/3kpt2Mm>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | Until 4 th March 2025 |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 3 February 2024? | 941,559 ⁶⁵⁹ |

The residence permit under Section 24 Residence Act is to be awarded retrospectively from the day of arrival until the 4th March 2025. The German government has adopted the so-called *Ukraine-residence permit-continued validity-regulation* (Ukraine-Aufenthaltsurlaubnis-Fortgeltungsverordnung) in December 2023, which prolongs the validity of the residence permits for one year.⁶⁶⁰ This prolongation happens automatically; the beneficiaries do not have to do anything. Thereby the German government extends the validity date foreseen in the EU Council decision and in operational guidelines. The German government argues that possible prolongations of temporary protection under subsequent EU Council decision shall already be covered by the initial decision on the duration of the residence permit. A response to an Ad-hoc Query on the extension of residence permits for beneficiaries of temporary protection shows however that the permits will be withdrawn if the EU Council does not prolong the Council decision.⁶⁶¹

The responsible authority for the assessment of the eligibility criteria and for granting the residence permit are the local ZAB.⁶⁶² After all the relevant steps for registration and application have been completed, the local ZAB assesses whether a residence permit will be awarded. If a positive decision is issued by the local authorities, the electronic residence permit will be printed by the Federal Printing Office (*Bundesdruckerei*) in Berlin. According to an informational letter of the Federal Ministry of Interior for the local ZAB, the electronic function of the residence permits ends with the validity of the initial residence permit. Hence, according to the Ministry, “it cannot be ruled out”, that people will apply for a new card.⁶⁶³ Applying for a new card can take quite some time as most of the local authorities are overburdened. This is, however, not solely due to a high number of applications for residence permits from Ukraine but a general problem of the immigration authorities.⁶⁶⁴ There is no specific data on the waiting times for applicants for a residence permit under Section 24 for the approval. In general, some local authorities estimate the waiting times for the processing of requests and applications between six and eight months, others estimate up to twelve months (see [General Report – Content of international protection](#)).⁶⁶⁵ However, from the high number of beneficiaries of temporary protection among those

⁶⁵⁹ In addition to those beneficiaries, 111,493 applications concerning the temporary protection residence permits are pending, see: Mediendienst Integration, *Ukrainische Flüchtlinge*, available in German at: <https://tinyurl.com/5anxbp79>.

⁶⁶⁰ Flüchtlingsrat Niedersachsen, *Aufenthaltsrecht in Deutschland (Ukraine)*, available in German at: <https://tinyurl.com/jrzzj83a>.

⁶⁶¹ European Migration Network, Ad-Hoc Query on 2022.55, *Extension of certificates/residence permits for beneficiaries of temporary protection*, 4 December 2022, available at: <http://bit.ly/3kUTf62>, 11/12.

⁶⁶² Federal Government, *Zuständigkeit des Bundes und der Länder im Bereich Asyl- und Aufenthaltsrecht - Gesetzgebungskompetenzen und Verwaltungszuständigkeit*, 29 August 2022, available in German at: <https://bit.ly/3CYrlqg>, 5.

⁶⁶³ Federal Ministry of Interior, Informational letter, 24 November 2023, available in German at: <https://tinyurl.com/y7hcm8d6>.

⁶⁶⁴ Tagesschau.de, *Bis zu 15 Stunden warten für einen Termin*, 8 September 2023, available in German at: <https://tinyurl.com/2s3haady>.

⁶⁶⁵ Tagesschau, *Ausländerbehörden beklagen Überlastung*, 25 August 2022, available in German at: <http://bit.ly/3ZEO5Lb>.

who arrived in Germany from Ukraine,⁶⁶⁶ it can be deduced that the processing times for applicants for temporary protection do not regularly exceed one year.

The residence permit entitles beneficiaries to the same social benefits as German nationals under the regular Social Code (see [Social welfare](#)).

Freedom of movement for temporary protection beneficiaries across the EU

Germany generally acknowledges the non-application of Art. 11 of Directive 2001/55/EC thereby awarding freedom of movement for temporary protection beneficiaries. In order to facilitate freedom of movement and to guarantee that beneficiaries do not receive social benefits in several Member States at the same time, the local authorities shall make use of the EU Temporary Protection Directive Platform (TPD Platform). Since applicants for temporary protection are systematically subject to the collection of personal data and fingerprints in the process of registration (See [Registration under temporary protection](#)) these sets of data shall also be used automatically for the TPD Platform upon registration.⁶⁶⁷

In cases where beneficiaries of temporary protection in Germany transfer their permanent residence to another member state, the temporary protection status ceases along with the entitlement to social benefits and the above-mentioned rights.⁶⁶⁸ The local ZAB is required to confirm that the emigration to another member state is of permanent nature.⁶⁶⁹ There are several factors by which the ZAB may assume a permanent emigration. If a new application for temporary protection is lodged in another member state, the TPD Platform produces a notification received by the BAMF. The BAMF then contacts the responsible ZAB which considers the notification as proof of permanent emigration.⁶⁷⁰ The ZAB then informs the Social Welfare Office and/or the Federal Employment Office to order the cessation of any social benefits. Permanent emigration is further supposed if the person emigrated for more than six months without prior consultation and justification with the ZAB.⁶⁷¹

Beneficiaries of temporary protection who immigrated from other Member States are entitled to receive temporary protection in Germany. Upon registration in Germany, the local authorities consult the TPD platform.⁶⁷² This serves to guarantee that the other member state ceases their disbursement of social benefits. With the conferral of temporary protection in Germany, the protection holder is entitled to comprehensive social benefits in Germany (see [Social welfare](#)).

2. Access to asylum

Applicants and beneficiaries for temporary protection may apply for asylum. However, their application is suspended for the time of validity of the temporary protection residence permit.⁶⁷³ This applies as well for those who were seeking asylum before 2022. Those asylum requests are now 'on hold' while they

⁶⁶⁶ Migration Media Service, *Flüchtlinge aus der Ukraine*, last amended 10 January 2023, available in German at: <http://bit.ly/3D0Jvgr>.

⁶⁶⁷ Federal government, *Response to parliamentary question by The Left*, 20/2495, 27 June 2022, available in German at: <https://tinyurl.com/ynax5xvu>.

⁶⁶⁸ Federal Ministry of Interior, *Umgang mit Treffermeldung in der Europäischen Registrierungsplattform im Zusammenhang mit der Fluchtbewegung aus der Ukraine*, 08 August 2022, available in German at: <https://bit.ly/3weUvD4>.

⁶⁶⁹ Section 51 (1) no. 6 Residence Act.

⁶⁷⁰ Federal Ministry of Interior, *Umgang mit Treffermeldung in der Europäischen Registrierungsplattform im Zusammenhang mit der Fluchtbewegung aus der Ukraine*, 08 August 2022, available in German at: <https://bit.ly/3weUvD4>.

⁶⁷¹ Section 51 (1) no. 7

⁶⁷² Federal Ministry of Interior, *Umgang mit Treffermeldung in der Europäischen Registrierungsplattform im Zusammenhang mit der Fluchtbewegung aus der Ukraine*, 08 August 2022, available in German at: <https://bit.ly/3weUvD4>.

⁶⁷³ Section 32a (1) AsylG; Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, 05 September 2022, available in German at: <https://bit.ly/3lXm4by>.

are provided temporary protection. Thus, there are no Court decisions or positioning by the authorities on how the war affects the possibility of international protection. However, the recognition rate for asylum seekers after the war started in the Crimea region in 2014 was relatively low and until now there seem to be still some ‘protected’ parts in Ukraine. According to a study concerning the long-term perspective of Ukrainian refugees in Germany, this indicates to a small possibility that refugees from Ukraine would be granted international protection after the temporary protection mechanism expires.⁶⁷⁴ If the residence permit under temporary protection expires, former temporary protection holders have one month to notify the authorities that they want the asylum procedure to continue, otherwise the asylum application is regarded as withdrawn.⁶⁷⁵

B. Family reunification

1. Family reunification as provided under the Temporary Protection Directive

In Germany, family members present on German territory fall under the scope of Section 24 Residence Act and may therefore apply for temporary protection themselves. As such, they do not need to go through a family reunification procedure (see [Qualification for temporary protection](#)). Family members thus only need to apply for family reunification if they are currently residing in another member state or in a third country.⁶⁷⁶

The procedure for family reunification of family members of temporary protection holders differs from the family reunification procedure for refugees (see [General Report – Family Reunification](#)) and other foreigners. As for refugees, family reunification is facilitated under the temporary protection regime. Temporary protection beneficiaries neither need to prove that they can cover the cost of livelihood for their family members, nor that they provide sufficient living space for their family members.⁶⁷⁷ Differing from the family reunification procedure for refugees, there is no time limit for the application for family reunification.⁶⁷⁸ For family reunification under the temporary protection framework, it is required that the family ties have been disrupted as a consequence from the war in Ukraine or the flight.⁶⁷⁹ For those family members who are present in another EU member state, no additional criteria apply. For those family members who are present in a third country, the person needs to be “in need for protection”. Following the considerations in paragraph 14 of the EU Council decision, a family member is deemed to be “in need for protection” if the person fled Ukraine for the same reasons as the temporary protection beneficiary.⁶⁸⁰ Family reunification is generally only connected to family ties and does not vary by nationality.

Persons eligible for family reunification are:

- ❖ Spouse or registered partner
- ❖ Minor unmarried children
- ❖ Minor unmarried children of the spouse or registered partner

⁶⁷⁴ Schneider, Jan, Daueraufenthalt, Rückkehr oder zirkuläre Mobilität? Optionen für ukrainische Kriegsflüchtlinge nach dem vorübergehenden Schutz, Sachverständigenrat für Integration und Migration, 2024, available in German at: <https://tinyurl.com/zc7eytn7>.

⁶⁷⁵ Section 32a (2) AsylG.

⁶⁷⁶ Section 29 (4) no. 2 Residence Act.

⁶⁷⁷ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, 05 September 2022, available in German at: <https://bit.ly/3lXm4by>.

⁶⁷⁸ Section 29 (4) Residence Act.

⁶⁷⁹ Section 29 (4) no. 1; Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, available in German at: <https://bit.ly/3lXm4by>.

⁶⁸⁰ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, 05 September 2022, available in German at: <https://bit.ly/3lXm4by>.

Those who successfully went through the family reunification procedure will obtain temporary protection under Section 24 Residence Act as their family sponsor. They are thereby entitled to the same rights and will be awarded a residence permit which is irrespective of the family members status. However, those who received temporary protection following family reunification are not entitled to further family reunification.⁶⁸¹

2. Family reunification beyond the Temporary Protection Directive

Other family members who do not fall under the scope of Section 29 paragraph 4 Residence Act may qualify for family reunification under Section 36 paragraph 2 Residence Act. They need to prove that their non residence with the family members would constitute undue hardship. In these cases, again, no proof of secured livelihood and living space is required.⁶⁸² Their residence permit is then linked to the residence permit of the family member until a minor family member turns 18 or unless the family sponsor dies.⁶⁸³

C. Movement and mobility

Beneficiaries of temporary protection generally enjoy freedom of movement within Germany and the EU. They may travel to any destination in Germany and travel to another EU member state for 90 days within 180 days.⁶⁸⁴ Additionally, beneficiaries of temporary protection may also travel to other countries, including Ukraine.⁶⁸⁵ For travelling outside of the EU temporary protection beneficiaries only need to comply with the visa requirements of the country they want to travel to. This often requires a biometric passport. Due to the facilitated entry conditions in Germany (see [Admission to territory](#)) some of the temporary protection beneficiaries may not have a biometric passport. In these cases, “travel documents for aliens” shall be issued (see [General Report – Travel documents](#)).⁶⁸⁶ In cases where beneficiaries of temporary protection do not possess travel documents and need “travel documents for aliens” problems may though arise from the currently prolonged waiting times for the issuance of documents by the local authorities.⁶⁸⁷ Travelling abroad only influences the validity of the residence permit if the absence from Germany exceeds six months or if the absence is deemed to be permanent (see [Residence permit](#)).

However, as of 1st June 2022, beneficiaries of temporary protection are generally obliged to reside for three years in the municipality to which they have been allocated in the determination procedure.⁶⁸⁸ According to Section 12a (9) the Federal States have the right to implement regional rules specifying or adopting the legal framework on the restrictions of the place of residence. **North Rhine-Westphalia**

⁶⁸¹ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, 05 September 2022, available in German at: <https://bit.ly/3IXm4by>. This is based on the considerations in Section 27 and Section 30 (4) Residence Act.

⁶⁸² For minor family members Section 34 Residence Act, for family members above 18 years Section 30 (3) and Section 31 Residence Act.

⁶⁸³ Ibid.

⁶⁸⁴ Bundesamt für Migration und Flüchtlinge, *Fragen und Antworten zur Einreise aus der Ukraine und zum Aufenthalt in Deutschland*, 01 December 2022, available at: <http://bit.ly/3wi5mMs>.

⁶⁸⁵ Bundesamt für Migration und Flüchtlinge, *Fragen und Antworten zur Einreise aus der Ukraine und zum Aufenthalt in Deutschland*, 01 December 2022, available at: <http://bit.ly/3wi5mMs>.

⁶⁸⁶ Federal Ministry of Interior, *Circulation letters on the implementation of the the EU Council decision on the activation of the Temporary Protection Directive the German Federal Government*, 05 September 2022, available in German at: <https://bit.ly/3IXm4by>.

⁶⁸⁷ Tagesschau, *Ausländerbehörden beklagen Überlastung*, 25 August 2022, available in German at: <http://bit.ly/3ZEO5Lb>.

⁶⁸⁸ Section 12a (1) Residence Act (last amended 23.5.2022). The obligation to reside already applied for beneficiaries of international protection (see [General Report - Content of International Protection, Freedom of movement](#)), only the scope has been extended to beneficiaries of temporary protection. For former versions of Section 12a (1) Residence Act see: <http://bit.ly/3WfWv8V>.

decided to suspend the obligation of the place of residence for temporary protection holders.⁶⁸⁹ Consequently, temporary protection holders who have been granted a residence permit in North Rhine-Westphalia are free in choosing their place of residence within North Rhine-Westphalia. But if they want to move to another state, temporary protection beneficiaries have to apply for a lift of the restriction of the place to reside at the local authorities.⁶⁹⁰ NGOs have criticised that the suspension of the obligation to live in a specific municipality has been lifted only for beneficiaries of temporary protection and not for beneficiaries of refugee status or subsidiary protection. The “Gemeinnützige Gesellschaft zur Unterstützung Asylsuchender” (GGUA) claims that thereby a two-tier system among residence permits is introduced which hinders integration of those with other residence permits.⁶⁹¹

Return to Ukraine and Re-entrance to Germany

Applicants for temporary protection and beneficiaries of temporary protection may return to Ukraine for short stays. Their non-permanent return does not have an influence on their application for temporary protection. Permanent return is assumed if the person is absent for more than six months or if the return is by nature permanent.⁶⁹² The return is assumed to be of permanent nature if third country nationals have *inter alia* resigned from working and housing contracts and if they are taking all their possessions with them.⁶⁹³ In October 2022, the party leader of the Christian-Union Friedrich Merz claimed that many Ukrainians were exploiting the social welfare system in Germany through this possibility of travelling back and forth.⁶⁹⁴ According to him many Ukrainians travelled to Germany, applied for temporary protection and consequently receive social benefits, even though they are residing in Ukraine.⁶⁹⁵ No evidence proves these allegations; to the contrary, a study by the Federal Ministry of Interior shows that 42% of interviewed people who fled from Ukraine plan to stay in Germany.⁶⁹⁶ According to media investigations, the allegations were based on pro-Russian Social-Media accounts.⁶⁹⁷

D. Housing

Indicators: Housing

- | | |
|-----------------------------------------------------------------------------------------------|---------------|
| 1. For how long are temporary protection beneficiaries entitled to stay in reception centres? | No fixed date |
| 2. Number of beneficiaries staying in reception centres | Not available |
| 3. Number of beneficiaries staying in private accommodation as of 12/2023 | Not available |

Accommodation model and practice

Temporary protection beneficiaries are not obliged to stay in accommodation centres. They can freely take any housing opportunities on the regular housing market. As beneficiaries of temporary protection

⁶⁸⁹ Ministry of Children, Youth, Family Affairs, Equalit, Migration and Integration North Rhine-Westphalia, *Zuweisung nach dem Flüchtlingsaufnahmegesetz (FlüAG)*, 30 August 2022, available in German at: <https://bit.ly/3WqxcAW>.

⁶⁹⁰ Section 12a (5) Residence Act.

⁶⁹¹ GGUA, *Keine kommunale Wohnsitzauflage in NRW für Geflüchtete aus der Ukraine mit Aufenthaltserlaubnis nach §24 AufenthG*, 26 November 2022, available in German at: <http://bit.ly/3kkaME1>.

⁶⁹² Section 51 (1 Nr. 6,7) Residence Act.

⁶⁹³ Federal Ministry of Internal Affairs, *Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz*, available in German at: <https://bit.ly/3L62MSH>, at 51.1.5.

⁶⁹⁴ Herbert Kordes, Lara Straatmann, *Wie Merz Kreml-Propaganda verbreitete*, tagesschau.de 06 October 2022, available in German at: <http://bit.ly/3CZgEsW>.

⁶⁹⁵ Ibid.

⁶⁹⁶ Federal Ministry of Interior, *Befragung ukrainischer Kriegsflüchtlinge*, 04 April 2022, available in German at: <http://bit.ly/3QT54oV>.

⁶⁹⁷ Herbert Kordes, Lara Straatmann, *Wie Merz Kreml-Propaganda verbreitete*, tagesschau.de 06 October 2022, available in German at: <http://bit.ly/3CZgEsW>.

are eligible for regular social benefits under the Social Code, they are eligible for the same housing allowances as German nationals (see [Social welfare](#)).

Nevertheless, in practice beneficiaries of temporary protection have access to reception facilities. Access to reception centres and emergency centres is awarded from the moment of arrival until the temporary protection beneficiaries find regular accommodation.⁶⁹⁸ According to a study, published in October 2022, 74% percent of the 11,225 interviewees lived in private accommodation, 17% in hotels and 9% in reception centres.⁶⁹⁹ Since accommodation is organised mainly by the Federal States and municipalities, no conclusive data exist on the reception capacities which are reserved for beneficiaries of temporary protection. Upon request by the “Migration Media Service” (*Mediendienst Integration*), Bavaria responded in February 2024 that they accommodated 49,000 people who fled Ukraine in state owned reception facilities.⁷⁰⁰ Hamburg accommodated 17,000 and Berlin 3,000, as of November 2022.⁷⁰¹

Especially in the beginning of the war, many cities did not have enough reception capacities and introduced emergency shelters and rented hotel rooms for Ukrainians. The solutions provided by the Federal States heavily differ. Whereas some Federal States try to avoid mass accommodations, the district government Arnsberg in North Rhine Westphalia focuses on bigger emergency shelters.⁷⁰² Hamburg, as of 5th January 2023 rented rooms in 83 hotels with an overall capacity for 6,876 people.⁷⁰³ For those staying in hotels mobile social workers are available for assistance and guidance.⁷⁰⁴ In Cologne the municipality rather used public areas such as exhibition grounds and the parking slots of a stadium for emergency shelters. The municipality seems to react according to the demands: the emergency shelters on the exhibition grounds and in the stadium were first used in March where 1,100 places for people from Ukraine were provided on exhibition grounds, 600 next to the stadium.⁷⁰⁵ After the closure of both emergency shelters in summer 2022, in November and December 2022 the same places were used again and the infrastructure of tents and containers had to be rebuilt, this time with less capacities, 480 places next to the stadium,⁷⁰⁶ 800 on exhibition grounds.⁷⁰⁷ According to the municipality social workers will be on the ground for guidance and assistance.⁷⁰⁸ In emergency shelters sometimes the distribution of food and clothing is centralised but there is no unified system on the available support in reception facilities.

Usually the reception facilities are run by one of the main welfare associations such as “Caritas”, “Arbeiterwohlfahrt (AWO)”, “Paritätischer Wohlfahrtsverband” and “Diakonie”. The situation has not changed in 2023. The accommodation centres are used for both temporary protection beneficiaries and

⁶⁹⁸ Bundesamt für Migration und Flüchtlinge, Unterbringung und Wohnraum für Geflüchtete aus der Ukraine, , available at: <http://bit.ly/3K4dW9y>.

⁶⁹⁹ Federal Institut for Population Research, *Geflüchtete aus der Ukraine in Deutschland - Flucht, Ankunft und Leben*, December 2022, available in German at: <http://bit.ly/3IZildQ>, 8.

⁷⁰⁰ Br24.de, Geflüchtete aus der Ukraine: So ist die Lage in Bayern, 22 February 2024, <https://tinyurl.com/yn6s6xee>.

⁷⁰¹ Migration Media Service, *Flüchtlinge aus der Ukraine*, last amended 10 January 2023, available in German at: <http://bit.ly/3D0Jvgr>.

⁷⁰² Bezirksregierung Arnsberg, *Ukraine-Krieg, Informationen für Kommunen*, last revised 01.10.2022, available in German at: <http://bit.ly/3ZIMCDr>.

⁷⁰³ Hamburg, *Interim Facilities – Overview on hotels, version 05.01.2023*, available at: <http://bit.ly/3QMvxEF>.

⁷⁰⁴ Hamburg, *Foedern und Wohnen: Geflüchtete aus der Ukraine, FAQs*, 18 January 2023, available at: <http://bit.ly/3HcET9C>.

⁷⁰⁵ 24Rhein, *Ukraine-Flüchtlinge in Köln: Zeltstadt am Südstadion wird aufgebaut*, newspaper article, 05.04.2022, available in German at: <http://bit.ly/3GNS9zX>. Kölner Express, *Ukraine W-Lan, Feldbetten, hohe Sicherheit: So sieht die neue Notunterkunft in der Köln-Messe aus*, 15 March 2022, available in German at: <http://bit.ly/3iH8K0B>.

⁷⁰⁶ Rhein24, *Container statt Party-Festzelt: Erneut Unterkunft für Geflüchtete am Südstadion geplant*, newspaper article, 02 November 2022, available in German at: <http://bit.ly/3wbSo2X>.

⁷⁰⁷ Rhein24, *Stadt Köln mietet Messehalle für Ukraine-Geflüchtete an*, 29 November 2022, available in German at: <http://bit.ly/3WfEgQQ>.

⁷⁰⁸ Municipality of Cologne, *Stadt Köln schafft neue Plätze auf Gelände am Südstadion*, press release, 02 November 2022, available in German at: <http://bit.ly/3ZlqKrU>.

people seeking asylum coming from different countries independently of the Ukraine war. Thus, the German government and the Federal States are still providing overcrowded emergency shelters. The former airport Tegel in Berlin is for example still used as a reception centre, as all other centres in Berlin are completely full. It has capacities for approximately 3000 people and its usage has been prolonged until December 2024.⁷⁰⁹ Conditions in these shelters are quite hostile (for more detailed information see [General Report](#)).⁷¹⁰

In addition to the emergency shelters and rented hotels, Germany heavily relies on private accommodations. Amongst the 8,300 people from Ukraine interviewed who are living in private flats, 60% were living alone or with the people they fled with, 15% moved to already in Germany residing family members or friends and 4% lived with other people.⁷¹¹ 16% of the interviewed persons stated that they have been allocated to their current accommodation by the authorities. The study only interviewed persons with Ukrainian nationality, no general statistics on the accommodation scheme for temporary protection holders are available. While there is no uniform organisation of the distribution to private accommodation, the Federal Government refers to and cooperates with the private initiative “#Unterkunft Ukraine”⁷¹² for housing. A link to the initiative can be found on the Federal website for the assistance of people who fled Ukraine.⁷¹³ Because the organisation of private housing is decentralised no details on profiles of hosts and types of private accommodations are available. Portraits of some hosts have been published by the initiative “#Unterkunft Ukraine”.⁷¹⁴ Besides private initiatives such as “#Unterkunft Ukraine” and “Warmes Bett”,⁷¹⁵ some Federal States and municipalities directly assist with the placement of people who fled Ukraine with private hosts through their own online portals.⁷¹⁶ There is no direct financial compensation by the Federal government or States for hosts of private accommodations. As beneficiaries of temporary protection, as well as applicants are generally entitled to housing allowances, private hosts and beneficiaries of temporary protection or applicants need to negotiate compensation models privately.

Risks of human trafficking

While the number of registered suspected cases for human trafficking are below ten,⁷¹⁷ according to the Federal Police and the Federal States’ Police, evidence points to an increase in human trafficking of women and children coming from Ukraine. Especially at the Berlin main station where many people from Ukraine arrive, the Federal Police observed men who offer money for accommodation and sweets to children.⁷¹⁸ The Federal Police therefore published a leaflet to warn Ukrainian women and children.⁷¹⁹ The Federal government formally acknowledges the risks stemming from private accommodation and

⁷⁰⁹ Tagesspiegel.de, *Notunterkunft in Berlin-Tegel: Geflüchtete müssen bis Ende 2024 aus ehemaligen Flughafen raus*, 11 July 2023, available in German at: <https://bit.ly/49aKrMW>.

⁷¹⁰ Sz.de, *Gelandet in Tegel: Die größte Flüchtlingsunterkunft Deutschlands*, available in German at: <https://bit.ly/3uG9KI6>.

⁷¹¹ Federal Institut for Population Research, *Geflüchtete aus der Ukraine in Deutschland - Flucht, Ankunft und Leben*, December 2022, available in German at: <http://bit.ly/3IZildQ>, 8.

⁷¹² #Unterkunft Ukraine, available at: <http://bit.ly/3QQRS47>.

⁷¹³ Bundesamt für Migration und Flüchtlinge, *Unterbringung und Wohnraum für Geflüchtete aus der Ukraine*, available at: <http://bit.ly/3K4dW9y>.

⁷¹⁴ #Unterkunft Ukraine, available at: <http://bit.ly/3QQRS47>.

⁷¹⁵ Warmes Bett, available at: <https://bit.ly/3QND1Hs>.

⁷¹⁶ See e.g. Bonn, *Kontaktformular – Ukraine-Krise Aufnahme von Bürger*innen*, available in German at: <https://bit.ly/3XpmDzA>.

⁷¹⁷ Bundesweiter Koordinierungskreis gegen Menschenhandel e.V., *Menschenhandel und Ausbeutung im Kontext des Ukrainekriegs – Eine Untersuchung aus Sicht spezialisierter Fachberatungsstellen zur Situation in Deutschland*, report, 14 December 2022, available in German at: <http://bit.ly/3GOYGus>, 21.

⁷¹⁸ Rbb24, *Deutschland ist eines der Hauptzielländer des Menschenhandels*, newspaper article, 16 March 2022, available in German at: <http://bit.ly/3ZmkoaP>.

⁷¹⁹ Federal Police, *Schutz vor Menschenhandel und Ausbeutung*, lastly updated 07 April 2022, available at: <http://bit.ly/3WmgZwJ>.

extended its funding for projects against human trafficking.⁷²⁰ A specific project for the prevention of human trafficking of people fleeing Ukraine, funded by the Federal government was set up in August by the association “Federal Coordination Circle against Human Trafficking” (*Bundesweiter Koordinationskreis gegen Menschenhandel e.V.*). In a first report on the new project, the association criticises that no systematic support is available for those accommodated in private households.⁷²¹ The association further criticises that the existing concepts and standards for the prevention of violence in public reception facilities are often not adhered to and that therefore there is an increased risk especially for women and children to become victims of violence in public mass reception facilities.⁷²² The Federal Commissioner for Antiziganism claims that especially Sinti and Roma faced discrimination in accommodation centres in Germany.⁷²³

Issues accessing housing in practice

There are no reports of cases where beneficiaries of temporary protection have been denied access to reception facilities. However, for applicants for temporary protection, there seems to be a discrepancy between Ukrainian nationals and third country nationals. Alongside the fact that applicants for temporary protection who are third country nationals in some cases do not receive social benefits (see [Registration under temporary protection](#)), incidents of expulsions of third country nationals from reception centres have been reported.⁷²⁴

Similar to what has been reported for international protection beneficiaries (see [General Report – Content of International Protection – Freedom of Movement](#)) problems arise from the fact that in the law beneficiaries of temporary protection are responsible for finding accommodation themselves,⁷²⁵ whereas in practice it is difficult for temporary protection holders to find apartments on their own. Therefore, many temporary protection holders are forced to stay in the reception centres or emergency shelters for longer periods. Additionally, people who were first accommodated in private flats report that they had to move to reception centres after several months, since the private accommodation were only meant as emergency measures and are not suitable for longer periods.⁷²⁶ The lack of long-term housing opportunities alongside with the continued high numbers of arrivals from Ukraine lead to a dense situation especially in bigger cities. In Berlin and Hamburg, around 99% percent of the reception capacities were occupied at the end of September 2022.⁷²⁷ In Brandenburg, Mecklenburg-Vorpommern and Lower Saxony 80% are currently occupied.⁷²⁸ According to the administration of Berlin 10,000 additional places are required, 3,200 shall be built as emergency shelters in tents on the territory of the former airport Berlin-Tegel.⁷²⁹ The local administration of Augsburg claims that nearly all of the 67

⁷²⁰ Federal Ministry of Family Affairs, Senior Citizens, Women and Youth, *Geflüchtete Frauen und Kinder aus der Ukraine vor Menschenhandel schützen*, press release, 29 July 2022, available in German at: <http://bit.ly/3Hbruyt>.

⁷²¹ Bundesweiter Koordinierungskreis gegen Menschenhandel e.V., *Menschenhandel und Ausbeutung im Kontext des Ukrainekriegs – Eine Untersuchung aus Sicht spezialisierter Fachberatungsstellen zur Situation in Deutschland*, report, 14 December 2022, available in German at: <http://bit.ly/3GOYGus>, 13f.

⁷²² Ibid, p. 15f.

⁷²³ Federal Ministry of Family Affairs, Senior Citizens, Women and Youth, *Antiziganismusbeauftragter fordert diskriminierungsfreien Umgang mit geflüchteten Roma aus der Ukraine*, press release, 29 September 2022, available in German at: <http://bit.ly/3HhD6jH>.

⁷²⁴ Anna-Elisa Jakob, *Geflüchtete in Obdachlosigkeit geschickt*, Hinz&Kunzt, 16 August 2022, available in German at: <https://bit.ly/3HbYZ3N>.

⁷²⁵ Section 22 Social Code II

⁷²⁶ Maria Fischer, *Ukrainer*innen in Privatunterkünften: Immer noch prekäres Wohnen*, taz, 22 September 2022, available in German at: <http://bit.ly/3IYWLPJ>.

⁷²⁷ Silke Mehring, *Leichtbauhallen in Tegel geplant Unterbringung von Ukraine-Flüchtlingen in Berlin wird immer komplizierter*, rbb24, 02 December 2022, available in German at: <http://bit.ly/3wdFPUT>; Migration Media Service, *Flüchtlinge aus der Ukraine*, last amended 10 January 2023, available in German at: <http://bit.ly/3D0Jvgr>.

⁷²⁸ Migration Media Service, *Flüchtlinge aus der Ukraine*, last amended 10 January 2023, available in German at: <http://bit.ly/3D0Jvgr>.

⁷²⁹ Thomas Frey, *Ukraine-Ankunftszentrum wird um 3200 Plätze erweitert*, Berliner Woche, 06 January 2023, available in German at: <http://bit.ly/3CY9Jjy>.

accommodation centres are occupied and that the city is considering using sports facilities of local schools as emergency shelters.⁷³⁰ The authorities on the local, state and federal level blame each other for the shortcomings. While the local authorities are by law responsible for the accommodation of applicants for temporary protection,⁷³¹ they claim that they do not have enough financial and housing resources to fulfil the current need. They therefore ask the Federal States to vacate more housing properties.⁷³² The Federal States in turn urge the Federal government to strengthen their efforts and to take up a coordinating role.⁷³³ According to the Minister of North Rhine-Westphalia, the statement of the Federal government that 4,000 federal properties shall be made available for additional accommodation facilities is misleading, since most of these properties are farmland and thus not suitable for quick usage.⁷³⁴ In North Rhine-Westphalia, only 3 out of 39 proposed facilities by the Federal government are suitable for accommodating people.⁷³⁵

E. Employment and education

1. Access to the labour market

Since 1st June 2022 temporary protection beneficiaries have unrestricted access to the labour market. No limitation or further requirements apply for self-employment and for employees. The residence permit for temporary protection must include the annotation that access to the labour market is granted but this is merely of declaratory nature. Temporary protection beneficiaries are consequently treated equally compared to German nationals. They may for example make the same use of general support programmes (e.g., workshops on how to draft applications, search and information portals) or specific support programmes tailored to the needs of foreign workers (e.g. integration courses, vocational trainings). The Federal Employment agency created a website for those who fled Ukraine where all the information on access to labour market and available support programmes is provided in different languages.⁷³⁶

In some sectors foreigners, irrespective of the type of residence permit, need to recognise their qualifications in order to work in their former profession. Recognition is only necessary for legally regulated professions such as nursing or in education.⁷³⁷ However, a recognition of qualifications is always useful as it leads to more chances on the labour market. As stated in the general report (see [General Report – Content of International Protection – Access to the labour market](#)), this may constitute a practical hurdle to access the labour market.

There are no official statistics on the labour market available which distinguish between the type of residence status. Available data only distinguishes between different nationalities and is only available until August 2023. Regarding Ukrainian nationals in Germany, the number of those employed rose from

⁷³⁰ Aichacher Zeitung, *Bald wieder Notunterkünfte in Turnhallen?*, 16 January 2023, available in German at: <http://bit.ly/3z29fH0>.

⁷³¹ §44 AsylG in conjunction with the different Federal state's Reception laws: e.g. §1 Landesaufnahmegesetz Hesse; §4 Landesaufnahmegesetz Brandenburg; §2 Flüchtlingsaufnahmegesetz North Rhine-Westphalia.

⁷³² The Federal Network of Municipalities (Städtetag) already asked for financial assistance in June and September 2022, see: Deutscher Städtetag, *Städtetag fordert neuen Flüchtlingsgipfel*, press release of 09 June 2022 and 13 September 2022, available in German at: <http://bit.ly/3kvk8gw> and <http://bit.ly/3ZLsgto>.

⁷³³ Zeit online, *Länder und Kommunen fordern mehr Abstimmung bei der Aufnahme*, 17 March 2022, available in German at: <http://bit.ly/3WhSbG8>.

⁷³⁴ Deutschlandfunk, *NRW-Ministerpräsident Wüst fordert bei Unterbringung mehr Unterstützung vom Bund*, 16 January 2023, available in German at: <http://bit.ly/3QPVaUY>.

⁷³⁵ Westfälische Nachrichten, *Notunterkünfte in NRW fallen durch - nur drei geeignete Bundes-Immobilien*, 04 January 2023, available in German at: <http://bit.ly/3kiPzdG>.

⁷³⁶ Federal Employment Office, *Unterstützung für Geflüchtete aus der Ukraine*, available at: <http://bit.ly/3QP4rNb>.

⁷³⁷ More detailed information can be found on the official Federal Government website concerning professional recognition, available at: <https://tinyurl.com/9kwyybcs>.

65,450 to 197,660 between February 2022 and August 2023.⁷³⁸ Amongst those, 27,640 are without professional degree, 35,540 with a vocational training degree and 41,940 with an academic background. No data exists for 92,540 employees.⁷³⁹

The Federal State of Berlin has initiated a counselling centre for ‘Migration and Good Work’ that, in general, shall help immigrants in precarious working situations exercising their labour and social rights. In this context they have published specific informational sheets for people fleeing from Ukraine concerning German labour law and the protection against undocumented and exploiting labour.⁷⁴⁰

Also, the Federal Government maintains a service centre against labour exploitation, forced labour and human trafficking which that, however, is not specifically focused on temporary protection beneficiaries. Nonetheless, they have also published two informational sheets with regards to people coming from Ukraine.

2. Access to education

Education for children

Since education is governed by the Federal States, the legal framework slightly differs.⁷⁴¹ In general, children, irrespective of their nationality and residence permit, are entitled and obliged to education from the age of 5-7 years and for a period of at least 9 years. For children who fled from Ukraine, access to education is guaranteed but the timeline differs depending on the Federal State: from the moment of arrival in Berlin, 3 months after arrival in Bavaria and Thuringia, in Baden-Württemberg 6 months after arrival, or from the moment when the child has been allocated to a municipality as in North Rhine-Westphalia.⁷⁴² Foreign children enter the same school system as German nationals. Children are obliged to follow elementary school for four years and subsequently attend different forms of High schools.

From 24 February 2022 until 18 February 2024 218,914 children who fled from Ukraine accessed education.⁷⁴³ The data is slightly vague, since no unified definition of who is counted as child exists. For example, Hesse only counts children with Ukrainian nationality.⁷⁴⁴ Further vagueness stems from the fact that some Federal States only enregister children who attend public schools, while others collect data also from private schools.⁷⁴⁵

Different programmes exist for foreign children to facilitate their integration in the German school system. In several Federal States “Welcome Classes” or “Preparation classes” exist where the schedule is tailored to the need of children whose mother tongue is not German. In other Federal States children are directly integrated in regular classes and attend German language courses on the side.⁷⁴⁶

⁷³⁸ Federal Employment Office, *Migration und Arbeitsmarkt*, last updated December 2022, available in German at: <http://bit.ly/3ZPGp8Y>.

⁷³⁹ Ibid.

⁷⁴⁰ Berliner Beratungszentrum für Migration und Gute Arbeit, *Flyer zum Schutz vor undokumentierter Arbeit*, available at: <https://tinyurl.com/mvmjmt8a>; Berliner Beratungszentrum für Migration und Gute Arbeit, *Flyer zum Arbeitsrecht für neuankommende Menschen aus der Ukraine*, available at: <https://tinyurl.com/y9fbkup3>.

⁷⁴¹ E.g., Para. 73-77 School Act Baden-Wuerttemberg, Para 37,38 School Act North Rhine Westphalia or Para 28 School Act Saxony.

⁷⁴² Deutsches Schulportal, ‘Wie Schulen geflüchtete Kinder aus der Ukraine aufnehmen’, 11 March 2022, available in German at: <http://bit.ly/3D068Sk>.

⁷⁴³ Kultusministerkonferenz, *Geflüchtete Kinder/Jugendliche aus der Ukraine*, last available data from week 12-18 December 2022, available in German at: <http://bit.ly/3XKPVZg>.

⁷⁴⁴ Ibid.

⁷⁴⁵ Ibid.

⁷⁴⁶ Deutschlandfunk, *Wie geflüchtete Kinder aus der Ukraine in Detuschland beschult werden*, 7 June 2023, available in German at: <https://tinyurl.com/3rttjrsd>.

In addition to the already existing programmes for foreign children, the German network of ministers of education (Kultusministerkonferenz, KMK) acknowledges that there are specific challenges stemming from the increased number of children who fled Ukraine. According to a study published in May 2022 the main challenge stems from the lack of teachers. According to the study 13,500 – 19,400 additional teachers are required to react to the rising number of children who fled Ukraine.⁷⁴⁷ To address the lack of teachers, a task force of the network of Ministries of education envisages to facilitate the recognition of degrees of Ukrainian teachers and several Federal States have assured that additional money will be provided for the employment of teachers.⁷⁴⁸ Until September 2022, only 2,700 teachers from Ukraine were working in German schools.⁷⁴⁹ However, the lack of teachers still seems to be a big issue. In the Federal State of North Rhine Westphalia for example, around 6,700 educational jobs remained vacant in June 2023.⁷⁵⁰ The KMK predicted in December 2023 that up to 68,000 teachers will lack until 2035.⁷⁵¹

The task force further acknowledges that children coming from Ukraine may be present in Germany only for a limited period depending on how long the war lasts and that currently there are many Ukrainian schools which continue to provide remote classes for their pupils. While unity exists to the point that children may not generally be exempted from the obligation to attend school in Germany, the opinions on how the material provided by Ukrainian schools may be integrated in German classes differ.⁷⁵² The material provided by Ukrainian schools may be used by the teachers in Germany or families may be required to educate their children with the Ukrainian school materials privately. In Saxonia children from the 9th grade have the possibility to be exempted from the obligation to attend school in order to acquire the Ukrainian degrees. They need to apply for the exemption and prove that they attend online classes from Ukrainian schools.⁷⁵³

Equal access to education for children with special needs is regulated under the Social Code and is guaranteed irrespectively of the residence permit.⁷⁵⁴ The procedure to identify specific needs and the measures introduced to address specific needs vary in the different Federal States. In general support programmes exist for specific needs in relation to emotional and social development, physical and motoric development, learning difficulties, mental disabilities and language barriers. Support programmes may consist of *inter alia* adjusted material and schedules, individual or group-based assistance in class and alternative schooling systems. Despite the intention of the Federal States ministers and the plea by the UNESCO Commission to strengthen efforts for a more inclusionary schooling system, in Germany the quota of children with specific needs who attend specific schools remains high.⁷⁵⁵

(Higher) Education for young people and adults

The network of Ministries of education intends to facilitate access to education beyond the mandatory 9 years of schooling. In a decree, the ministers recognised that young adults above 16 shall also have

⁷⁴⁷ Institut der deutschen Wirtschaft (IW), *Mögliche Auswirkungen des Krieges in der Ukraine im deutschen Bildungssystem*, 29 May 2022, available in German at: <http://bit.ly/3XKuXJK>.

⁷⁴⁸ Kultusministerkonferenz, *Beschulung der schutzsuchenden Kinder und Jugendlichen aus der Ukraine im Schuljahr 2022/2023*, 23 June 2022, available in German at: <https://bit.ly/3CZx44H>.

⁷⁴⁹ Deutschlandfunk, *Wie geflüchtete Kinder aus der Ukraine in Detuschland beschult werden*, 7 June 2023, available in German at: <https://tinyurl.com/3rttjstrd>.

⁷⁵⁰ Tagesspiegel, *Man kann die Lage nicht aushalten – Viele Schulden sind überfordert durch die enorme Zahl geflüchteter Kinder*, 16 June 2023, available in German at: <https://tinyurl.com/ye26ewwa>.

⁷⁵¹ Deutsches Schulportal, *Lehrermangel verschärft sich weiter – bis 2035 fehlen 68,000 Lehrkräfte*, 6 March 2024, available in German at: <https://tinyurl.com/25nkxj2j>.

⁷⁵² Deutsches Schulportal, *Wie Schulen geflüchtete Kinder aus der Ukraine aufnehmen*, 11 March 2022, available in German at: <http://bit.ly/3D068Sk>.

⁷⁵³ Sachsen, *Kinder und Schule*, press release 01 November 2022, available in German at: <http://bit.ly/3QVRvFs>.

⁷⁵⁴ Section 112 SGB IX.

⁷⁵⁵ Deutsche UNESCO-Kommission, *Empfehlungen Inklusives Bildungssystem*, available in German at: <https://bit.ly/3XpUBDT>, 3.

access to the regular schooling system.⁷⁵⁶ The ministers further acknowledge that due to the war in 2022 Ukrainian children were not able to pass the final exams which qualify for access to universities and higher education. Therefore, the ministers decided that access to higher education will be provided despite the lack of a diploma, if according to the earlier records the children generally qualify for higher education.⁷⁵⁷

The German Academic Exchange Service (DAAD) together with the Federal Foreign Office initiated a scholarship programme for people who fled Ukraine. The funding will be awarded to different universities where then people who fled Ukraine and want to attend a German university may apply for language and technical support and for full scholarships to obtain a degree (bachelor, master or doctorate).⁷⁵⁸ The universities decide individually about the amount of money granted and the eligibility criteria. The DAAD lists all partaking universities on their website.⁷⁵⁹ The Viadrina University of Frankfurt (Oder) provides a Master Scholarship for Graduates from Ukraine granting 861 € per month and offers students that are still in Ukraine the possibility to come to Germany.⁷⁶⁰ On the contrary, the Justus-Liebig Universität Giessen offers scholarships for beneficiaries of temporary protection, granting 934€ per month.⁷⁶¹

In addition to the regular educational system the Federal Employment Office in cooperation with the BAMF offers different consulting services including preparatory classes for vocational trainings, integration classes, language courses, support in applications for jobs and educational programs and search platforms for universities and vocational training programs. Since June 2022 these programmes are accessible to temporary protection beneficiaries.⁷⁶²

F. Social welfare

From 1 June 2022 temporary protection beneficiaries as well as applicants for temporary protection who have received a fictional approval and have been registered in the AZR have access to social welfare under the Social Code.⁷⁶³ Beneficiaries of temporary protection now have access to the same social benefits as German nationals. Prior to the encompassing legal reforms, applicants for, as well as beneficiaries of temporary protection received the same benefits as applicants for international protection under the Asylum Seeker Benefits Act (see [General Report – Forms and levels of material reception conditions](#)).⁷⁶⁴ As the table shows, the basic financial benefits under the Regular Social Code are higher compared to those under the Asylum Seeker Benefits Act.

⁷⁵⁶ Kultusministerkonferenz, *Beschulung der schutzsuchenden Kinder und Jugendlichen aus der Ukraine im Schuljahr 2022/2023*, 23 June 2022, available in German at: <https://bit.ly/3CZx44H>.

⁷⁵⁷ Kultusministerkonferenz, *Hochschulzugang mit ukrainischen Bildungsnachweisen*, 05 April 2022, available in German at: <https://bit.ly/3DnTTPN>.

⁷⁵⁸ German Academic Exchange Service (DAAD), 'Future Ukraine - Scholarship Program for Refugees from Ukraine at German Universities', available at: <https://bit.ly/43b3kxm>.

⁷⁵⁹ DAAD, *Future Ukraine – Scholarship programme for refugees from Ukraine at German universities*, available in German at: <https://tinyurl.com/y6j9293d>.

⁷⁶⁰ Europa-Universität Viadrina Frankfurt (Oder), *Masterstipendien für Graduierte aus der Ukraine*, available in German at: <https://tinyurl.com/4y8kn53j>.

⁷⁶¹ Justus-Liebig-Universität, *MA Scholarship for Ukrainian Refugee Students at the University of Giessen for 2024*, available in German at: <https://tinyurl.com/mryv2zn8>.

⁷⁶² Section 7 (1) Social Code II.

⁷⁶³ Federal Government, *Gesetz zur Regelung eines Sofortzuschlages und einer Einmalzahlung in den sozialen Mindestsicherungssystemen sowie zur Änderung des Finanzausgleichsgesetzes und weiterer Gesetze*, 23 May 2022, available at: <http://bit.ly/3kvHKSh>.

⁷⁶⁴ Section 1 (3a) Asylum Seekers Benefits Act (old version of 31 May 2022).

Basic benefits for Temporary Protection applicants and beneficiaries							
	Single adult	Single adult in accommodation centre	Adult partners (each)	Member of household 18-24	Member of household 14-17	Member of household 6-13	Member of household 0-5
Regular Social Benefits	€563	-	€506	€451	€471	€390	€357
Benefits under Asylum Seekers Benefits Act	€460	€460	€413	€368	€408	€341	€312

Sources: Federal Ministry of Labour and Social Affairs, *Neue Leistungssätze nach dem Asylbewerberleistungsgesetz*, 21 December 2023, available in German at: <https://tinyurl.com/32ws558b>; and Federal Employment Office, *Bürgergeld steigt: Jobcenter passen Regelbedarfe zum 01. Januar 2024 an*, press release nr. 53, 01 December 2023, available at: <https://tinyurl.com/4xwzafwa>.

Besides the benefits to secure livelihood listed above, the social benefits under the regular Social Code include *inter alia*:

- ❖ Access to public health insurances
- ❖ Care benefits
- ❖ Access to support programs for facilitation of access to the labour market
- ❖ Access to educational support programs (financial aid and trainings)
- ❖ Child and parental benefits
- ❖ Language and integration classes

In addition to the change of the applicable legal regime for beneficiaries of temporary protection, there have been extensive reforms in the general legal framework on social benefits which consequently also apply for beneficiaries of temporary protection.⁷⁶⁵

As stated in the general report (see [General Report – Social Welfare](#)), the responsible authority for beneficiaries of temporary protection and beneficiaries of International Protection who are unemployed but available for the job market is the Job Centre or Employment Office. For those who are available for the job market, sanctions may be imposed in case of a breach of duties to the state. Such breaches of duties include *inter alia* the rejection of a reasonable and in practice available job offer by the Employment Office, the rejection of a job market integration measure by the Employment Office and a breach of cooperation agreements between the person and the Job Centre.⁷⁶⁶ Following Section 31a social benefits may be cut by ten percent for one month when a breach of duties occurs for the first time, by twenty percent for two months for the second time a breach of duties occurs and by thirty percent for three months a third breach of duties occurs. For 2024 the Federal government announced that social benefits may be cut in total for a maximum of two months in cases where persons persistently reject job offers by the Employment Office.⁷⁶⁷ This has been heavily criticised by legal scholars and human rights associations.⁷⁶⁸ For those who are registered as unemployable (due to the reached age of retirement or e.g., disabilities) the Social Welfare Office is responsible. Due to the obligation to reside in the municipality to which the beneficiaries have been allocated (see [Movement and mobility](#)), a

⁷⁶⁵ See [General Report – Content of International Protection](#).

⁷⁶⁶ Section 31 Social Code II.

⁷⁶⁷ Federal Government, *Mehr Chancen und mehr Respekt*, 2 February 2024, available in German at: <https://bit.ly/4ccdEJO>.

⁷⁶⁸ See e.g. Andrea Kiessling, *Totalverweigerung des Existenzminimums?*, 22 January 2024, available in German at: <https://bit.ly/43thp9T>.

beneficiary for temporary protection may only receive social benefits by the authority of the allocated municipality.⁷⁶⁹

The available statistics on the number of beneficiaries of social benefits do not differentiate on the type of residence permit but by nationality. Thus, the number of those who have accessed social welfare is only available for Ukrainian nationals irrespective of whether they are beneficiaries of temporary protection. In November 2023 707,258 Ukrainians received benefits to secure livelihood in comparison to 662,854 in November 2022. 490,779 of those were available for the job market in November 2023, compared to 442,898 in November 2022. 216,479 were not employable in November 2023, compared to 219,956 in November 2022.⁷⁷⁰

It has been reported that problems arise especially in connection to the requirement of mandatory registration in the AZR.⁷⁷¹ Since the registration in the AZR became mandatory only in June 2022, there are persons who have already received a residence permit for temporary protection and therefore are eligible for social benefits under the Social Code. However, they may not be registered in the AZR because they applied for temporary protection prior to the 1st of June. Registration in the AZR is though a requirement in order to receive social benefits under the Social Code. In order to remedy the lack of registration, a transitional period until October 2022 was introduced, where beneficiaries of temporary protection were able to register.⁷⁷² A late registration has, according to an instruction by the Federal Ministry of Labour and Social Affairs, no effect on the general entitlement to the social benefits.⁷⁷³ In the meantime until registration beneficiaries still receive benefits under the Asylum Seekers Benefits Act.⁷⁷⁴ People that arrived after 01 June 2022 are directly registered in the AZR in the respective reception centres.

Additionally, several NGOs criticise that the legal reforms of June 2022 did not include access to inclusionary measures for people with disabilities. German nationals with disabilities have access to benefits guaranteeing *inter alia* prevention of disabilities or prevention of aggravation, inclusion in the job market and participation in society. The reforms of June 2022 did not explicitly extent the scope of these measures to beneficiaries of temporary protection. As a consequence, confusion exists as to whether inclusionary measures are awarded only by discretion or whether individuals have a right to claim those measures despite the lack of an explicit wording. Usually, foreign nationals only receive those benefits upon discretion of the local authorities. The only ones exempted from this discretion are those foreigners who have a permanent residence permit or a short-term residence permit but are expected to reside permanently in Germany.⁷⁷⁵ In a circulation letter the ministry of labour and social affairs argued that the lack of an explicit regulation is remedied by the fact that temporary protection may be interpreted as a short-term residence permit where permanent residence is assumed and therefore guarantee access to these benefits without discretion.⁷⁷⁶ However, civil society organisations

⁷⁶⁹ Federal Ministry of the Interior, *Neuregelungen im Aufenthaltsgesetz zum 01.06.2022 aufgrund des „Gesetzes zur Regelung eines Sofortzuschlages und einer Einmalzahlung in den sozialen Mindestsicherungssystemen sowie zur Änderung des Finanzausgleichsgesetzes und weiterer Gesetze“, 27 May 2022, available in German at: <https://bit.ly/3wfwU0q>.*

⁷⁷⁰ Federal Employment Office, *Berichterstattung zu den Auswirkungen der Fluchtmigration aus der Ukraine auf den deutschen Arbeitsmarkt und die Grundsicherung für Arbeitsuchende*, December 2022, available in German at: <https://bit.ly/3XJzA72>.

⁷⁷¹ Dorothee Frings, *Sozialleistungen für Geflüchtete aus der Ukraine ab dem 1. Juni 2022*, Asylmagazin 6/22, 204.

⁷⁷² Ibid.

⁷⁷³ Federal Ministry of Labour and Social Affairs, *Informationsschreiben zum “Gesetz zur Regelung eines Sofortzuschlages und einer Einmalzahlung in den sozialen Mindestsicherungssystemen sowie zur Änderung des Finanzausgleichsgesetzes und weiterer Gesetze”, 25 May 2022, available in German at: <https://tinyurl.com/ywy596z7>.*

⁷⁷⁴ Section 1 (8a) Asylum Seekers Benefits Act (AsylBLG).

⁷⁷⁵ Section 100 (1) Social Code IX.

⁷⁷⁶ Federal Ministry of Labour and Social Affairs, *Informationsschreiben zur Anwendung des §100 Absatz 1 SGB IX bei geflüchteten Menschen mit Behinderungen aus der Ukraine*, 29 April 2022, available at: <https://bit.ly/3CY10jS>.

fear that local authorities may disregard the instructions in the circulation letter since the circulation letter may not be regarded as legally binding by some authorities. It was feared that legal vagueness might therefore cause lengthy administrative procedures and negative first instance decisions.⁷⁷⁷ In March 2023, however, the Social Court of Nuremberg clarified that these extra benefits do also apply to temporary protection beneficiaries, emphasizing the binding effect of the circulation letters.⁷⁷⁸

G. Health care

Since 1st June 2022 beneficiaries of temporary protection have the same access to health care as German nationals. Accordingly, temporary protection holders who do not receive social benefits may within six months after arrival voluntarily choose a provider of statutory health insurances.⁷⁷⁹ If they do not choose a health insurance provider within the first six months, they will automatically be insured by the job centre.⁷⁸⁰ Beneficiaries of temporary protection who receive social benefits e.g. unemployment benefits, receive health insurance by the job centre or social welfare office which guarantees the same treatment.⁷⁸¹

The treatment provided for under the public health insurance system include *inter alia*:⁷⁸²

- ❖ Treatment for pregnancy and motherhood
- ❖ Prevention of illnesses and their aggravation;
- ❖ In specific circumstances contraception control, sterilisation and abortion
- ❖ Treatment of illnesses
- ❖ Health education and early screening programs

Again, the access to health care is made conditional upon the registration in the 'Central Register of Foreigners' (AZR) (for criticism of this conditionality, see [Registration under temporary protection](#)).

Statistics on the access to health care show that overall Ukrainians are satisfied with their health status. Only ten percent of the 11,225 interviewed Ukrainians between August 2022 and October 2022 rate that their health status is bad and half of them state that they need further medical aid.⁷⁸³ However, those who live in public accommodations rate their health status lower than those who live in private accommodations.⁷⁸⁴ Among the 11,225 interviewed Ukrainians, 33% stated that they need support for medical aid.⁷⁸⁵ The available data is though biased since only people with Ukrainian nationality were interviewed and only 76% of the interviewed persons were beneficiaries of temporary protection at the time of the interview.⁷⁸⁶

It has been reported that in practices access to health insurances is sometimes hindered for minor children. The practical obstacle stems from the fact that in many cases the father stayed in Ukraine and is regarded as privately insured. A private insurance of one parent however may provoke an exemption from the family insurance.⁷⁸⁷ The child is exempted from the family insurance if the privately insured

⁷⁷⁷ Lebenshilfe e.V., *Neue Rechtslage für Geflüchtete aus der Ukraine vergisst Menschen mit Behinderung*, 02 June 2022, available in German at: <http://bit.ly/3J1BU5k>.

⁷⁷⁸ Social Court Nuremberg, Decision S 5 SO 25/23 ER, 9 March 2023, available in German at: <https://tinyurl.com/yemz7t7x>.

⁷⁷⁹ Section 417 (1) Social Code V.

⁷⁸⁰ Section 5 (1)(Nr.13) Social Code V.

⁷⁸¹ Section 5 (1)(Nr.2a) Social Code V or Section 264 (2) Social Code V.

⁷⁸² Chapter III SGB V, overview of the measures see: Section 11 Social Code V.

⁷⁸³ Federal Institut for Population Research, *Geflüchtete aus der Ukraine in Deutschland - Flucht, Ankunft und Leben*, December 2022, available in German at: <http://bit.ly/3IZildQ>, 5.

⁷⁸⁴ Ibid.

⁷⁸⁵ Ibid 12.

⁷⁸⁶ Ibid 7.

⁷⁸⁷ Section 10 (3) Social Code V.

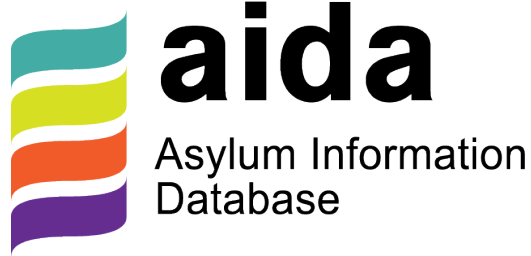
parent exceeds a certain level of income.⁷⁸⁸ The income of the privately insured parent must be proven. In the current situation in Ukraine, it is difficult for the remaining parent to prove their income situation. In the reported cases the health insurance provider assumed by the lack of documents that the privately insured parent reached the level of income and applied the exception clause. However, it is argued by civil society organisations that the level of income necessary for the application of the exception clause is usually not reached since even a well-paid job in Ukraine does not reach the level.⁷⁸⁹

Civil society organisations further fear that the same argumentation might be used for temporary protection holders who are over 55 years. Under the German law persons above 55 who become eligible for public health insurance for the first time in Germany are exempted from the public health insurance if they have been privately insured in the last five years. Since the public health insurance in Ukraine is not well equipped many employers grant private insurance for their employees. Civil society organisations warn insurers to not count these insurances as grounds for exceptions. The Federation of Public Health insurance providers has though assured that the exception will not be used for these cases.⁷⁹⁰

⁷⁸⁸ Section 6 (6) Social Code V.

⁷⁸⁹ GGUA, KV in Deutschland für Geflüchtete aus der Ukraine, 18 May 2022, available in German at: <https://bit.ly/3WoZ8oV>.

⁷⁹⁰ Spitzenverband der Krankenversicherungen (GKV), Krankenversicherungsschutz für Kriegsflüchtlinge aus der Ukraine, 20 May 2022, available in German at: <https://bit.ly/3QRfJjW>.



Spain

2023 Update



Accem

Temporary Protection Procedure

A. General

Title (EN)	Original Title (ES)	Web Link
Order PCM/169/2022 of 9 March, developing the procedure for the recognition of temporary protection to persons affected by the conflict in Ukraine	Orden PCM/169/2022, de 9 de marzo, por la que se desarrolla el procedimiento para el reconocimiento de la protección temporal a personas afectadas por el conflicto en Ucrania	https://shorturl.at/ejW27
Order PCM/170/2022 of 9 March, which publishes the Agreement of the Council of Ministers of 8 March 2022, which extends the temporary protection granted in light of the Council Implementing Decision (UE) 2022/382 of 4 March 2022 to persons affected by the conflict in Ukraine who could find refuge in Spain	Orden PCM/170/2022, de 9 de marzo, por la que se publica el Acuerdo del Consejo de Ministros de 8 de marzo de 2022, por el que se amplía la protección temporal otorgada en virtud de la Decisión de Ejecución (UE) 2022/382 del Consejo de 4 de marzo de 2022 a personas afectadas por el conflicto de Ucrania que puedan encontrar refugio en España	https://shorturl.at/ju056
Instruction of the Directorate General of the management of the international and temporary reception system, of 8 April 2022, establishing extraordinary measures for the assistance to persons displaced from Ukraine	Instrucción de la Dirección General de gestión del sistema de acogida de protección internacional y temporal, de 8 de abril de 2022, por la que se adoptan medidas de carácter extraordinario para la atención a personas desplazadas desde Ucrania	https://bit.ly/3JjyWIX

Following the outbreak of war in Ukraine in February 2022, and the EU decision to activate the Temporary Protection Directive, the Spanish Government started to design a more flexible and simple mechanism for providing protection to persons fleeing the country, without the necessity for them to lodge an asylum application.⁷⁹¹ UNHCR supported the authorities in the development of the emergency response to increase reception and support capacity, developing specific recommendations and providing guidance and expertise.⁷⁹² The Government also announced the regularisation of all undocumented Ukrainians living in Spain before the Russian invasion.⁷⁹³

In 2022, the Asylum Office granted temporary protection to 161,037 persons fleeing from Ukraine.⁷⁹⁴ The permits granted until 16 January 2023 were 163,140. 63% of beneficiaries were women and 37% men; 33% of the total number of beneficiaries were children. The 3 top Autonomous Communities where the vast majority of TP permits were issued are the **Comunitat Valenciana** (43,542), **Cataluña** (37,271) and **Comunidad de Madrid** (23,256).⁷⁹⁵

⁷⁹¹ El Diario, 'El Gobierno alojará de forma expés a los refugiados de Ucrania que lo necesiten sin exigir que antes pidan protección', 5 March 2022, available at: <https://bit.ly/3tAkl9a>.

⁷⁹² Information provided by UNHCR in March 2023.

⁷⁹³ El Diario, 'El Gobierno regularizará a todos los ucranianos que vivían en España sin papeles antes de la invasión rusa', 8 March 2022, available at: <https://bit.ly/3vbKpCy>.

⁷⁹⁴ Ministry of Interior, 'La Oficina de Asilo y Refugio registra 118.842 solicitudes de protección internacional en 2022, máximo histórico desde su creación', 12 January 2023, available at: <https://bit.ly/3Hyut4t>.

⁷⁹⁵ Ministerio del Interior, 'Resoluciones de Protección Temporal. Datos acumulados 11 de marzo a 16 de enero de 2023', available at: <https://bit.ly/3XxeGZ9>.

On February 2023, the NGO *CEAR* called the EU and its Member States to use the TP directive as a rule and not as an exception, and to use it also to protect people fleeing other conflicts, such as Syrians.⁷⁹⁶ It also called to apply the TP directive to Syrian refugees affected by the earthquake that occurred during the same month.⁷⁹⁷

B. Qualification for temporary protection

On 9 March 2022, the Government adopted two orders conferring the benefit of temporary protection (TP) to:

- ❖ Ukrainian nationals who were living in Ukraine before 24 February 2022,
- ❖ third country nationals and stateless persons legally residing in Ukraine, whether on the basis of a permanent residence permit or not;
- ❖ Ukrainians staying (regularly or irregularly) in Spain before 24 February 2022,
- ❖ the family members (i.e. spouse or unmarried partner; their underage children or those of his/her partner, without any distinction if they were born inside or outside the marriage or if they were adopted; other close relatives who were living together as part of the familiar unity at the moment of the displacement, and who were depending totally or mainly from them) of all the above categories

and detailing the procedure to grant such status.⁷⁹⁸ According to the orders, the individual decision granting temporary protection is adopted by the OAR in 24 hours from the lodging of the application. Temporary protection and the residence and work permits are granted for the duration of 1 year, which are renewed for an additional year automatically after finalising the first year of validity.

In June 2022, UNHCR and NGOs expressed concerns for the challenges that third countries nationals formerly residing in Ukraine were facing in accessing and especially in obtaining TP in Spain, as the police did not allow them to register their application.⁷⁹⁹ From the beginning of the displacement until October 2022, UNHCR and NGOs managing the Emergency and Referral Centres (CREADE, which were specifically created for the reception of persons fleeing Ukraine) informed around a hundred people from different countries (i.e. Nigeria, Morocco, Algeria, etc.) in a similar situation, including cases of mixed couples (i.e. Russian spouses).⁸⁰⁰

In October 2022, the General Commissariat on Foreigners and Borders issued a legal paper establishing the procedure and criteria for access to TP by third country nationals who fled Ukraine. It establishes that third country nationals coming from one of the following 17 countries (Afghanistan, Armenia, Azerbaijan, Belorussia, Burkina Faso, Georgia, Kazakhstan, Kirgizstan, Mali, Moldavia, Central African Republic, Russia, Syria, Tajikistan, Turkmenistan, Uzbekistan, Yemen) with permanent residence in Ukraine, are not obliged to prove the impossibility to return to their origin country in safe and durable conditions. Thus, they are entitled to access TP just providing their passport and permanent residence permit. For those third country nationals coming from one of the mentioned 17 countries who

⁷⁹⁶ Servimedia, 'CEAR pide a la UE que la protección concedida a los ucranianos sea normal y "no la excepción"', 23 February 2023, available at: <https://tinyurl.com/42vntctf>.

⁷⁹⁷ CEAR, 'CEAR pide que los refugiados sirios afectados por los terremotos accedan a la protección temporal', 10 February 2023, available at: <https://tinyurl.com/5awmfh2b>.

⁷⁹⁸ Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, 'Orden PCM/170/2022, de 9 de marzo, por la que se publica el Acuerdo del Consejo de Ministros de 8 de marzo de 2022, por el que se amplía la protección temporal otorgada en virtud de la Decisión de Ejecución (UE) 2022/382 del Consejo de 4 de marzo de 2022 a personas afectadas por el conflicto de Ucrania que puedan encontrar refugio en España', 9 March 2022, available at: <https://bit.ly/3tJHzET>; Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, 'Orden PCM/169/2022, de 9 de marzo, por la que se desarrolla el procedimiento para el reconocimiento de la protección temporal a personas afectadas por el conflicto en Ucrania', 9 March 2022, available at: <https://bit.ly/3uxff9>.

⁷⁹⁹ Information provided by Accem in March 2023.

⁸⁰⁰ El Diario, 'Interior impide a cientos de extranjeros que huyen de Ucrania pedir la protección temporal que se les prometió', 16 June 2022, available at: <https://bit.ly/3WwLgZy>.

held a temporary residence permit in Ukraine or those coming from other countries, have also to prove the impossibility to return to their country of origin in safe and durable conditions.

Those who were found not to meet the conditions to apply for temporary protection were not issued return orders. On the contrary, the police informed them of the possibility to apply for international protection. Some positive resolutions of international protection have been granted in the meantime according to Acem's experience. In case the temporary protection status is not recognised, a written denial decision is issued to the applicants (at the beginning applicants only received verbal denials, so it was impossible for denied applicants to challenge them).

C. Access to temporary protection and registration

1. Admission to territory

Persons fleeing from Ukraine did not face any significant challenge in accessing Spain. Biometric passports as well as other documents certifying their identity (i.e. birth certificate) are considered sufficient to access the territory.⁸⁰¹

2. Freedom of movement

Individuals entitled to temporary protection did not face any challenge in moving across the Spanish territory, independently of the documentation they held.

3. Registration under temporary protection

Regarding the registration of applications, the Government has foreseen the possibility of apply for temporary protection both directly at the CREADE and in designated police stations. If applicants arrive at airports, they enter the territory and apply for temporary protection on the territory. There has not been a need to design a TP procedure at the borders. The same applies in case of crossing land borders.

4. Legal assistance

For legal assistance in the context of temporary protection, the same rules valid for asylum seekers are in force (See [AIDA Country Report on Spain - 2023 Update](#)).

5. Information provision and access to NGOs

Different initiatives have been promoted since the beginning of the war, aiming at informing persons fleeing Ukraine on their rights and the access to services. The Spanish Bar Association committed to provide legal guidance to Ukrainian through the specialised Bar on migration and asylum of the different bar associations.⁸⁰² The NGO CEAR published guidelines on asylum for those fleeing the conflict in Ukraine, available both in Ukrainian and Spanish.⁸⁰³ Similarly, the Bar Association of Madrid published a guide in Spanish, English and Ukrainian providing information to persons fleeing Ukraine.⁸⁰⁴ The

⁸⁰¹ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Soy ucraniano, ¿Qué papeles necesito para entrar en España?', 7 June 2022, available at: <https://bit.ly/43KWsxI>.

⁸⁰² El Derecho, 'La Abogacía Española ofrecerá apoyo legal en España a los refugiados ucranianos', 1 March 2022, available at: <https://bit.ly/3hXJqPz>.

⁸⁰³ CEAR, 'Guía asilo personas afectadas por guerra ucrania', 1 March 2022, available at: <https://bit.ly/3HVgoe0>.

⁸⁰⁴ Ilustre Colegio de Abogados de Madrid (ICAM), 'El Colegio de Abogados de Madrid publica una guía para ciudadanos que huyen del conflicto armado de Ucrania', 15 March 2022, available at: <https://bit.ly/3wlnINC>.

Minister of Interior published a document (also in different languages, including Ukrainian) to provide information on temporary protection, especially on who is eligible, where to apply, the rights deriving from the protection granted, etc.⁸⁰⁵ The Psychological Association of Madrid published some information videos for the psychological support to persons affected by the conflict in Ukraine addressed to professionals who assist and accompany persons fleeing from the conflict in Ukraine.⁸⁰⁶ The Spanish Network of Legal Clinics drafted a guidance containing practical information on the access to temporary protection, as well as on access to health assistance, education and employment in different Autonomous Communities.⁸⁰⁷ UNHCR and the Platform for Childhood published child-friendly information materials for children fleeing Ukraine.⁸⁰⁸

In July 2022, the company 'Alliance Vending' launched the campaign #CaféPorLaPaz (*Coffee for Peace*) together with UNHCR, Save the Children and CEAR, aimed at supporting persons fleeing from Ukraine by collecting donations.⁸⁰⁹

In December 2022, UNHCR, together with its goodwill ambassador Jesús Vázquez and the TV channels of *Mediaset España*, launched a campaign to raise awareness on the situation of persons fleeing Ukraine and the arrival of winter, and to ask for support from the Spanish population.⁸¹⁰

D. Guarantees for vulnerable groups

NGOs managing reception facilities coordinated with specialised police units to identify victims and testimonies of the war crimes committed by Russia, with the aim of collecting relevant information on the issue. At the end of May 2022, a specific procedure was put in place at the CREADE of Madrid, to detect such cases and refer them to the police, who carry out the interview with the victims and testimonies to gather and formalise their declarations.⁸¹¹ The Spanish Bar Association also created a specific format that lawyers can use while collecting evidence.⁸¹²

In order to prevent and identify the cases of trafficking among the persons fleeing Ukraine, specific protocols and guidelines have been adopted within the CREADE. Besides, staff in these centres as well as in other reception facilities was trained on the matter by NGOs, upon request from the MISSIM. In addition, since the conflict outbreak, the Public Prosecutor office started to convene periodic meetings at the national level among different stakeholders (i.e. NGOs managing the CREADE, UNHCR, the MISSM, NGOs assisting trafficked persons, the National Police and the Civil Guard), with the aim of coordinating actions and activities, following-up on possible trafficking cases, fostering trainings, etc.

Similarly, the identification of children as minors, with referral to Autonomous Communities and of the adults accompanying children is also carried out in the centres.

⁸⁰⁵ Ministerio del Interior, 'UCRANIA - Protección Temporal', 2022, available at: <https://tinyurl.com/yt7h7uu7>.

⁸⁰⁶ Colegio Oficial de la Psicología de Madrid, 'El colegio elabora videos divulgativos para el apoyo psicológico a personas afectadas por el conflicto bélico en Ucrania', 30 March 2022, available at: <https://shorturl.at/puIR5>.

⁸⁰⁷ Red Española de Clínicas Jurídicas, 'Guía de trámites y recursos para la población desplazada por la guerra en ucrania', March 2022, available at: <https://tinyurl.com/25hca5ee>.

⁸⁰⁸ Acnur, Plataforma de Infancia, August 2022, available at: <https://bit.ly/3VcgBQM>.

⁸⁰⁹ Europa Press, 'Alliance Vending lanza #CaféPorLaPaz junto a ACNUR, CEAR y Save The Children para ayudar a Ucrania', 15 July 2022, available at: <https://bit.ly/3vcdiyA>.

⁸¹⁰ Mediaset, '12 Meses lanza, junto a ACNUR y Jesús Vázquez, una campaña de ayuda y sensibilización sobre los refugiados de Ucrania y su situación extrema por el frío', 1 December 2022, available at: <https://bit.ly/3J4S25W>.

⁸¹¹ Information provided by Accem on February 2023.

⁸¹² Consejo General de la Abogacía Española, 'La Abogacía activa un formulario para recoger pruebas de crímenes de guerra cometidos por Rusia', 25 May 2022, available at: <https://tinyurl.com/ykffupx2>.

In November 2022, the Parliament approved a legal amendment on an aggravating circumstance to the crime of trafficking in human beings, establishing an increase of the punishment up to 12 years for those who traffic persons fleeing armed conflicts and humanitarian disasters.⁸¹³ The aggravating circumstance was initially proposed just to protect persons fleeing the war in Ukraine, but was then extended to all persons fleeing wars and humanitarian disasters.

In relation to children fleeing the conflict, there was a rapid issuance of recommendations directed at regional authorities, to avoid differences in treatment and definitions for their reception and protection. Recommendations regarding the protection of children and adolescents displaced by the conflict in Ukraine were issued by the Ministry of Social Rights and Agenda 2030 who is competent for the coordination of regional minors' protection systems. The priorities have been to ensure child friendly spaces, avoid the separation of families and of children who have relatives or foster families, and to follow up the location of minors in order to guarantee their return to their places of origin when possible.⁸¹⁴

Recommendations were also drafted by the Minor Prosecutor's Office, aimed at unifying the criteria for action of the different prosecutors at regional level for the protection of unaccompanied and separated children. In the case of Ukrainian children, no systematic separation was carried out and great attention was paid to the way in which prosecutors were registering children as unaccompanied or separated. In the case of Ukrainian children, the national prosecutor asked to register them within the UAMS' police register and mark them as "at risk", so that minors protection services could make a follow up and provide them with the official "care" (*guarda*, which is different from guardianship although is a form of responsibility of the minor). It should be considered that, before the Ukrainian conflict, some Autonomous Communities in Spain still separated children travelling with adults who were not in possession of proof of guardianship or documentation, until DNA tests were carried out. This was the case in Melilla, and also occurred in the Canary Islands.⁸¹⁵

The Platform for Childhood (*Plataforma de Infancia*) published information in the format of questions and answers, in which it provides useful information on different aspects, i.e., on foster care, on how to speak with children about the conflict, etc.⁸¹⁶ Similarly, UNICEF published a set of guidelines on how to support children from Ukraine.⁸¹⁷

In May 2022, the organisation 'Aldeas Infantiles SOS' published guidelines on how to foster the integration of refugee children from Ukraine, providing orientation on the psychological effects of conflicts on children and on how to support children who fled the war.⁸¹⁸

Save the Children has welcomed the extraordinary measures that were taken to ensure protection of children and families fleeing from Ukraine and asked for best practices to be extended to other migrant and refugee children, and to ensure lessons learnt from the management of the inflow of persons displaced from Ukraine can be taken and strengthened for the protection of all migrant and refugee children.⁸¹⁹

⁸¹³ 20 Minutos, 'Agravante trata: El Congreso aprueba por unanimidad castigar con hasta 12 años de cárcel la trata de mujeres que huyan de una guerra', 3 November 2022, available at: <https://bit.ly/3WDyOrh>; The Objective, 'El BOE publica la nueva ley que endurece las penas por traficar con víctimas de conflictos', 21 December 2022, available at: <https://bit.ly/3R1FjmB>.

⁸¹⁴ Information provided by Save the Children in March 2023.

⁸¹⁵ *Ibidem*.

⁸¹⁶ Plataforma de Infancia, 'UCRANIA - Preguntas y Respuestas sobre la infancia y el conflicto armado', 2022, available at: <https://bit.ly/3J8v1rz>.

⁸¹⁷ UNICEF, 'Cómo ayudar a los niños y las niñas de ucrania 10 cuestiones relevantes', 2022, available at: <https://bit.ly/3ZB0tLb>.

⁸¹⁸ Aldeas Infantiles SOS, 'Guía para favorecer la integración de niños y niñas refugiados de la guerra de Ucrania', May 2022, available at: <https://bit.ly/3JwCqrT>.

⁸¹⁹ Save the Children, 'Safe for Some: Europe's selective welcome to children on the move', March 2023, available at: <https://bit.ly/3TuOv3S>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | 2 years, extended until 4 March 2025 |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 March 2024? | 198,537 ⁸²⁰ |

According to the two orders adopted by the Spanish Government in March 2022,⁸²¹ temporary protection, as well as the residence and work permit granted, will be automatically renewed for 1 year after 1 year since the granting of the temporary protection. In practice, Spain issues residence and work permits directly for the duration of 2 years.⁸²²

An order issued in February 2024 following the European Council's decision, extended the validity of residence permits granted to beneficiaries of temporary protection until 4 March 2025.⁸²³

2. Access to asylum

Since the outbreak of the conflict, the OAR temporarily halted the decisions on asylum applications already lodged by Ukrainian applicants, which are prospected to have a negative outcome.⁸²⁴ It is important to note that, from 2012 to 2021, Spain received around 16,000 asylum applications from Ukrainian nationals, and denied at least 14,600 of them; only 9% of the applicants received any form of international protection according to such figures.⁸²⁵ On 24 March, the National Court of Madrid granted subsidiary protection to a Ukrainian family, whose application had previously been rejected.⁸²⁶

Similarly, the High Court (*Audiencia Nacional*) started to grant subsidiary protection to all the Ukrainians who had applied before the outbreak of the war and whose asylum application was denied.⁸²⁷

⁸²⁰ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Ciudadanos ucranianos en España con documentación de residencia en vigor', available at: <https://tinyurl.com/2re97236>

⁸²¹ Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, 'Orden PCM/170/2022, de 9 de marzo, por la que se publica el Acuerdo del Consejo de Ministros de 8 de marzo de 2022, por el que se amplía la protección temporal otorgada en virtud de la Decisión de Ejecución (UE) 2022/382 del Consejo de 4 de marzo de 2022 a personas afectadas por el conflicto de Ucrania que puedan encontrar refugio en España', 9 March 2022, available at: <https://bit.ly/3tJHzET>; Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, 'Orden PCM/169/2022, de 9 de marzo, por la que se desarrolla el procedimiento para el reconocimiento de la protección temporal a personas afectadas por el conflicto en Ucrania', 9 March 2022, available at: <https://bit.ly/3uxftf9>.

⁸²² UNHCR, 'UNHCR- The implementation of the temporary protection directive - six months on', 17 October 2022, available at: <https://bit.ly/3J7Xsgk>.

⁸²³ Boletín Oficial del Estado, Ministerio del Interior, 'Orden INT/169/2024, de 26 de febrero, por la que se prorroga la validez de las tarjetas de identidad de extranjero expedidas a las personas afectadas por el conflicto en Ucrania beneficiarias de protección temporal', 26 February 2024, available at: <https://tinyurl.com/28um2ks8>.

⁸²⁴ Europa Press, 'Interior no denegará protección internacional para ucranianos a la espera de activarse el sistema de acogida europeo', 28 February 2022, available at: <https://bit.ly/34udPSI>.

⁸²⁵ Newtral, 'España ha denegado la protección internacional a más de 14.600 ucranianos en los últimos 10 años', 11 March 2022, available at: <https://bit.ly/3qK8yyb>.

⁸²⁶ Audiencia Nacional. Sala de lo Contencioso, Madrid, SAN 478/2022, 24 February 2022, available at: <https://bit.ly/3LkdO3n>.

⁸²⁷ ECRE, 'Information Sheet – Measures in response to the arrival of displaced people fleeing the war in Ukraine', 31 May 2022, available at: <https://bit.ly/3j1aguz>; TF Extranjería, 'La Audiencia Nacional sigue

In December 2022, the Supreme Court (*Tribunal Supremo*) granted protection to a Ukrainian family with an expulsion order, and established the criteria that, due to the situation in Ukraine, all Ukrainians living in Spain can automatically invoke protection based on the principle of non-refoulement without the necessity to lodge an application for temporary protection.⁸²⁸ The same criteria continued to be applied by the Supreme Court in different decisions taken during 2023.⁸²⁹

No significant issues were registered regarding access to asylum of temporary protection beneficiaries, who can present an asylum application while maintaining their TP status.

In April 2023 the Supreme Court (*Tribunal Supremo*) issued a decision establishing that temporary protection shall only be granted to eligible individuals who do not already benefit from a different from of international protection.⁸³⁰

B. Family reunification

Upon request, temporary protection will be granted also to family members as long as the family relation was already existing in the country of origin. Family members are considered as follows: spouse or unmarried partner; unmarried minor children or those of the partner, whether born inside or outside of a marriage or adopted; other close relatives who lived together as part of the family unit at the beginning of the armed conflict, depending totally or mainly on them.⁸³¹ As far as known by the author, no cases of family reunification have been registered so far. All Ukrainians that are fleeing the country can reach easily Spain and apply for TP.

C. Movement and mobility

Beneficiaries of TP have the right of free movement and residence in Spain, and they are entitled to receive travel documents if they are not in possession of a valid passport or a travel document and justify their need to travel outside Spain.⁸³² As far as known by the author, in practice there are no beneficiaries of TP who applied for a travel document so far, also because Ukrainian embassy/consulates are renewing passports when needed.

No problems were registered regarding temporary protection beneficiaries who temporarily returned to Ukraine to then re-enter Spain.

concediendo protección subsidiaria a los ucranianos/as que tenían las denegaciones de protección internacional recurridas', 2 April 2022, available at: <https://bit.ly/3h4865b>.

⁸²⁸ El Economista, 'El Supremo otorga protección temporal a los ucranianos afectados por la guerra', 4 January 2023, available at: <https://bit.ly/3H83knb>; The Objective, 'El Supremo fija doctrina: hay que dar asilo automático a los ucranianos que residen en España', 24 January 2023, available at: <https://bit.ly/3XtCvkt>; Cadena Ser, 'El Supremo concede la orden de protección a una familia ucraniana y anula su deportación', 24 January 2023, available at: <https://bit.ly/3wuBFrQ>; Tribunal Supremo. Sala de lo Contencioso, STS 4822/2022, 21 December 2022, available at: <https://bit.ly/3lWkZ3r>.

⁸²⁹ La Voz de Galicia, 'La Justicia concede la protección internacional a un ucraniano que anticipó la invasión tres años antes de que se produjera', 5 June 2023, available at: <https://shorturl.at/kqFO1>; El Periódico, 'El Supremo paraliza la expulsión de un ucraniano condenado mientras dure la guerra', 20 December 2023, available at: <https://shorturl.at/cnFL1>.

⁸³⁰ EUAA, Caselaw database, Supreme Court [Tribunal Supremo], Don Landelino v National High Court (Audiencia Nacional) [Decision of 11 May 2022], STS 1595/2023, 13 April 2023, available at: <https://shorturl.at/cdzH7>

⁸³¹ EUAA, 'Information on temporary protection in Spain', June 2022, available in English at: <https://bit.ly/3HujfO4>.

⁸³² EUAA, 'Information on temporary protection in Spain', June 2022, available in English at: <https://bit.ly/3HujfO4>; Ministerio del Interior, 'Información sobre Protección Temporal – Ucrania', March 2022, available at: <https://bit.ly/3YdovLa>.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?
18 months, extensible to 24.
Extended until 4 March 2025
2. For how long are temporary protection beneficiaries entitled to stay in CREADE?
52 days (at the time of writing)
3. Number of beneficiaries staying in reception centres as of 15 February 2024
13,892⁸³³
4. Number of beneficiaries staying in private accommodation as of 12/2023 Not available

Following the outbreak of the war, the Spanish Government started to elaborate a plan to provide for and speed up the reception of persons fleeing from Ukraine,⁸³⁴ and announced the creation of around 6,000 new reception places in collaboration with Autonomous Communities and Municipalities.⁸³⁵

To address reception needs, at the beginning of March 2022 the Minister of Inclusion, Social Security and Migration adopted a Reception Plan,⁸³⁶ and provided for the creation of four Emergency and Referral Centres (CREADE), managed by NGOs. One of them is located in Madrid, offers 400 places and is managed by the NGO Accem.⁸³⁷ Other two facilities located in Barcelona and Alicante are managed by the Spanish Red Cross, while the fourth is managed by the NGO CEAR in Málaga.⁸³⁸ Such centres provide for the emergency and temporary reception of those persons who do not have sufficient resources. In principle, persons are accommodated in such centres for few days, and then they are referred to the reception facilities within the asylum reception system (mainly managed by NGOs) across the Spanish territory.

Such centres give access to different rights and services, such as: accommodation and maintenance; financial support; schooling and language of Spanish; psychosocial support; job assistance which includes vocational trainings, job guidance, homologation of educational degrees; health assistance; legal support; validation of the driving licence for 1 year; free telephone coverage (roaming).⁸³⁹

UNHCR maintained its presence in the four centres for processing temporary protection (CREADE) until mid-2023, where it provided support to the authorities and information and guidance on international and temporary protection to beneficiaries, identification and referral of persons with specific needs, and protection training for Government and NGO staff working in the centres, in coordination with the EUAA.⁸⁴⁰

⁸³³ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Balance Ucrania. El Gobierno de España ha dado protección temporal a 200.620 personas huidas de Ucrania en los dos años de guerra', 26 March 2024, available at: <https://tinyurl.com/4m6ja3h3>.

⁸³⁴ El Diario, 'Interior ultima un mecanismo "rápido y sencillo" para dar papeles a los refugiados por la invasión rusa', 5 March 2022, available at: <https://bit.ly/3pOBIfb>.

⁸³⁵ Diario de Sevilla, 'España espera disponer de más de 6.000 plazas de acogida para refugiados ucranianos', 7 March 2022, available at: <https://bit.ly/35INf8X>.

⁸³⁶ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Plan de acogida para personas desplazadas procedentes de Ucrania', 15 March 2022, available at: <https://bit.ly/3DbePJt>.

⁸³⁷ El Diario, 'Así es el primer centro de España creado para recibir a los refugiados de Ucrania', 10 March 2022, available at: <https://bit.ly/3NuvcnS>.

⁸³⁸ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Inclusión coordinará un programa de acogimiento familiar y contará con cuatro centros de recepción para ucranianos', 15 March 2022, available at: <https://bit.ly/3wMPe7h>.

⁸³⁹ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Centros de Recepción, Atención y Derivación para desplazados ucranianos', 23 June 2022, available at: <https://bit.ly/3wqlllp>.

⁸⁴⁰ Information provided by UNHCR in April 2024.

In order to support translation and interpretation at the four CREADE, UNHCR implemented a project for the provision of four interpreters speaking Ukrainian, Russian and English provided by the organisation Accem with whom UNHCR implemented an agreement to provide interpretation services.⁸⁴¹

Due to certain conflictual situations that have occurred between Ukrainian nationals and Russian nationals with residence in Ukraine while accommodated together, preventive measures are adopted according the circumstances, and the coexistence among the two groups is avoided.

Third country nationals are accommodated in such facilities as long as their TP application is under examination and in case of positive decision. If their TP applications is denied, they have to leave the CREADE.

Since September 2022, it has been established that CREADE can accommodate also asylum seekers, also in line with the call made by different stakeholders.⁸⁴²

Only from June 2023, however, the Minister of Inclusion, Social Security and Migration announced that CREADE started to accommodate also asylum seekers coming from other countries.⁸⁴³

Following the outbreak of the war, the asylum reception system's capacity was increased by the MISSM, and beneficiaries of TP can be also accommodated in those facilities across all the Spanish territory. Beneficiaries of TP can be referred from the CREADE to the facilities within the asylum reception system i.e. in case of shortage of places in the CREADE, to respond to concrete vulnerabilities thanks to specialised facilities and services, if the beneficiaries have friend or familiar networks in other provinces, etc.

It is worth to note that beneficiaries of TP are entitled to the same rights and the same reception conditions as asylum seekers. On April 2022, the Minister of Inclusion, Social Security and Migration adopted an instruction on the management of the reception system of international protection and temporary protection, establishing exceptional measures for the assistance to persons displaced from Ukraine.⁸⁴⁴

In February 2023, media reported that the Minister of Inclusion, Social Security and Migration had hidden a suicide committed while in reception by a Moroccan man who was legally residing in Ukraine and was waiting for the decision on their TP application.⁸⁴⁵

A foster care program has also been developed by the Minister of Inclusion, Social Security and Migration, together with the Foundation 'La Caixa', in collaboration with NGOs within the asylum system, the network of foster care families, and the Municipal Social Services.⁸⁴⁶ The foster care has a minimum duration of 6 months, and can be extended up to 12 months prior consent.

⁸⁴¹ Information provided by the UNHCR in April 2024.

⁸⁴² La Vanguardia, 'CEAR pide que centros de acogida a ucranianos atiendan a todos los migrantes', 16 September 2022, available at: <https://bit.ly/3llowkN>.

⁸⁴³ Cope, 'Escrivá anuncia que los centros de refugiados ucranianos ya acogen a otras nacionalidades', 12 June 2023, available at: <https://shorturl.at/cfoT7>.

⁸⁴⁴ Ministerio de Inclusion, Seguridad Social y Migraciones, 'Instrucción de la Dirección General de gestión del sistema de acogida de protección internacional y temporal, de 8 de abril de 2022, por la que se adoptan medidas de carácter extraordinario para la atención a personas desplazadas desde Ucrania', 8 April 2022, available at: <https://bit.ly/3JJyWIX>

⁸⁴⁵ Público, 'El Ministerio de Migraciones oculta el suicidio de un joven refugiado en un centro de acogida para ucranianos en Madrid', 28 February 2023, available at: <https://bit.ly/3mjRZKk>.

⁸⁴⁶ Ministerio de Inclusion, Seguridad Social y Migraciones, 'Plan de acogida para personas desplazadas procedentes de Ucrania', 15 March 2022, available at: <https://bit.ly/3DbePJt>; Ministerio de Inclusion, Seguridad Social y Migraciones, 'Soy ciudadano español y quiero acoger a una persona desplazada de Ucrania', 7 June 2022, available at: <https://bit.ly/3SAdCBT>.

In addition, in July 2022 the Council of Ministers adopted a Royal Decree establishing the direct granting of funding to 20 NGOs for the reception of and assistance to asylum seekers and applicants of temporary protection, with a budget of almost 392 million Euros.⁸⁴⁷

In two years since the outbreak of the war, Spain has allocated more than 1,400 million Euros to assist and support persons fleeing from Ukraine.⁸⁴⁸

In May 2023 the Government of the **Balearic Islands** approved a call of EUR 237,000 Euros to fund organisations for the reception of beneficiaries of international protection coming from Ukraine.⁸⁴⁹

The challenges that beneficiaries of temporary protection face in Spain - similar to those faced by all asylum seekers and beneficiaries of international protection - have been highlighted by civil society, especially in relation to the access to reception conditions due to the lack of available places, and consequent situations of asylum seekers and temporary protection holders living on the streets.⁸⁵⁰

On February 2023, the organisation CEAR denounced the serious problems that Ukrainian refugees are facing in finding a house to rent in Spain.⁸⁵¹

At the beginning of 2024 the Minister of Interior and the MISSM agreed on using the CREADE in Madrid to accommodate vulnerable asylum applicants who arrived to the Canary Islands, with the aim of speeding up the assessment of their asylum claim.⁸⁵²

E. Employment and education

1. Access to the labour market

Beneficiaries of TP are entitled to work in Spain under the same conditions and rights as Spanish workers. They are also entitled to access vocational trainings.⁸⁵³

According to available data, more than 20,593 (53% women) Ukrainians with TP were employed by 31 December 2023.⁸⁵⁴

The organisation Accem started a collaboration with the Adecco Foundation through a project named 'Sponsorship of Ukrainian Families' (*Apadrinamiento Familias Ucrainianas*), aimed at developing complementary actions to Accem's employment plan through labour intermediation, to foster an effective attention to Ukrainian refugees.⁸⁵⁵

⁸⁴⁷ La Vanguardia, 'Aprobados más de 390 millones de euros para entidades que apoyen a los refugiados de Ucrania', 19 July 2022, available at: <https://bit.ly/3XzbcFq>.

⁸⁴⁸ Ministerio de Inclusión, Seguridad Social y Migraciones, 'El Gobierno de España ha dado protección temporal a 200.620 personas huidas de Ucrania en los dos años de guerra', 26 March 2024, available at: <https://tinyurl.com/4m6ja3h3>.

⁸⁴⁹ Europa Press, 'El Govern convoca ayudas por 237.000 euros para entidades que atiendan a refugiados ucranianos', 22 May 23, available at: <https://shorturl.at/ajksy>.

⁸⁵⁰ María José Castaño Reyero, Investigadora Doctora del Instituto Universitario de Estudios sobre Migraciones – Universidad Pontificia Comillas, Madrid, 'Ucrania: un año entre acogida y protección temporal', 24 February 2023, available at: <https://bit.ly/3FjpKlu>.

⁸⁵¹ La Vanguardia, 'CEAR alerta del "grave problema" de los refugiados ucranianos "para conseguir vivienda"', 24 February 2023, available at: <https://bit.ly/3xZCnhF>

⁸⁵² El Diario, 'El Gobierno usa el centro de ucranianos de Pozuelo para agilizar peticiones de asilo de migrantes llegados a Canarias', 20 March 2024, available at: <https://tinyurl.com/57xvzwbj>

⁸⁵³ Ministerio de Incusión, Seguridad Social y Migraciones, 'Formación profesional y solicitud de empleo para desplazados de Ucrania', available at: <https://bit.ly/3WCdCle>.

⁸⁵⁴ Ministerio de Incusión, Seguridad Social y Migraciones, 'Balance Ucrania. El Gobierno de España ha dado protección temporal a 200.620 personas huidas de Ucrania en los dos años de guerra', 26 March 2024, available at: <https://tinyurl.com/4m6ja3h3>.

⁸⁵⁵ Information provided by Accem in March 2023.

2. Access to education

The Minister of Education created a dedicated webpage containing information on the access to education for displaced Ukrainians, available also in Ukrainian.⁸⁵⁶

In addition, in May 2022 the Ministry of Education started to hire 200 Ukrainian Language Assistants, with the aim of supporting regional authorities in fostering the inclusion of Ukrainian children in schools.⁸⁵⁷

An unprecedented Contingency Plan to guarantee access to schooling of displaced Ukrainian students was adopted in 2022 by Ministry of Education, with the aim of coordinating the measures at the regional level to foster children education inclusion and uniform criteria across all the Spanish territory, and to facilitate access to available European funding.⁸⁵⁸ This unique plan foresees a set of measures, such as, e.g., the immediate enrolment of students in compulsory stages in educational centres by levels, cycles or educational stages; the increase in the number of language-immersion classes per small group (10 students) provided for those who do not know the language; the provision of extraordinary quotas for the necessary teaching staff, including support and reception staff (guidance, therapeutic pedagogy, socio-community intervention, etc.); the provision of subsidies for humanitarian reasons to NGOs and other non-profit entities with the capacity to hire Ukrainian or Ukrainian-speaking personnel, for the attention, especially linguistic and socio-affective, of school minors; the extraordinary provision of calls for financial support to guarantee canteen services, transport, books and complementary activities, to school students from the conflict in Ukraine; the design of options to facilitate the continuity of the studies they are pursuing in Ukraine or the start of new ones, at a post-compulsory level.

In addition, the Asylum Language Learning Service signed an agreement with the Cervantes Institute and the Spanish Red Cross to support the process of socio-cultural integration of people arriving from Ukraine through free Spanish language courses for foreigners.

In April 2023 it was announced that the Plan 'Andalucía with Ukraine', adopted by the Autonomous Community of **Andalucía** following the outbreak of the war to support persons fleeing the country, had allowed access to schooling to more than 3,100 Ukrainian children.⁸⁵⁹

A report published by the MISSM indicates that a total of 37,011 students displaced from Ukraine accessed school so far. 29,470 of them were minors. In addition, 2,830 students applied for admission at the university, with 1,801 registering in practice.⁸⁶⁰

F. Social welfare

In August 2022, the Government adopted a Royal Decree providing for the transfer of EUR 80 million to the Autonomous Communities, with the aim of providing a monthly financial support of EUR 400 during a period of 6 months to beneficiaries of temporary protection.⁸⁶¹ The measure aimed at

⁸⁵⁶ Ministerio de Educación y Formación profesional, 'Atención educativa a desplazados ucranianos', <https://bit.ly/3wtsBmY>.

⁸⁵⁷ Ministerio de Educación, 'Se convocan 200 plazas para auxiliares de lengua ucraniana', 8 April 2022, available at: <https://bit.ly/3WxnYD8>.

⁸⁵⁸ Information provided by Save the Children in March 2023.

⁸⁵⁹ Junta de Andalucía, 'El 'Plan Andalucía con Ucrania' permite la escolarización de más de 3.100 niños ucranianos', 18 April 2023, available at: <https://shorturl.at/horzl>.

⁸⁶⁰ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Balance Ucrania. El Gobierno de España ha dado protección temporal a 200.620 personas huidas de Ucrania en los dos años de guerra', 26 March 2024, available at: <https://tinyurl.com/4m6ja3h3>.

⁸⁶¹ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Real decreto 673/2022, de 1 de agosto, por el que se regula la concesión directa de subvenciones a las comunidades autónomas para financiar la prestación de una ayuda económica directa a las personas beneficiarias del régimen de protección temporal afectadas

supporting those beneficiaries who do not have sufficient resources, and are not receiving assistance nor being accommodated within the international protection reception system.

In March 2023, the Office for Equal Opportunities and Inclusion Policies of the Autonomous Community of **Valencia** allocated EUR 12.73 million for granting direct support to refugees from Ukraine who are residing in the Comunitat Valenciana and do not have sufficient resources.⁸⁶²

Beside the specific Royal Decree mentioned, beneficiaries of temporary protection can access social welfare based on the same criteria and conditions of applicants and beneficiaries of international protection.

G. Health care

Persons fleeing from Ukraine have access to the health national system under the same conditions as the rest of the population. In March 2022 the Minister of Health published guidelines on how to act with refugees from Ukraine, i.e. in relation to COVID-19, as well as to other diseases to which Ukrainians may be vulnerable (i.e. poliomyelitis, measles).⁸⁶³

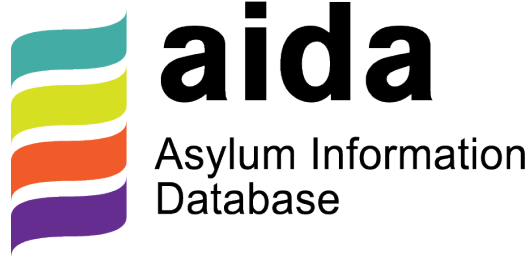
In May 2023 it was announced that the Plan ‘Andalucía with Ukraine’, adopted by the Autonomous Community of **Andalucía** following the outbreak of the war to support persons fleeing the country, had provided health assistance to almost 108,000 Ukrainians.⁸⁶⁴ The Plan foresees specific measures for children and youth, women, as well as measures related to access to health, access to social services, free access to public transports, etc.

por el conflicto en Ucrania que carezcan de recursos económicos suficientes’, 2 August 2022, available at: <https://bit.ly/3R1OUtn>; Newtral, ‘El Gobierno aprueba una ayuda mensual de 400 euros a refugiados de Ucrania durante un máximo de 6 meses’, 2 August 2022, available at: <https://bit.ly/3iWVips>.

⁸⁶² Valencia Plaza, ‘Igualdad destina 12,73 millones en ayudas directas a refugiados de Ucrania sin recursos suficientes’, 15 March 2023, available at: <https://bit.ly/3LqT5hL>.

⁸⁶³ Ministerio de Sanidad, ‘Guía de actuación ante la llegada de personas refugiadas desde ucrania’, 21 March 2022, available at: <https://bit.ly/400dhMg>.

⁸⁶⁴ Europa Press, ‘El Plan Andalucía con Ucrania ha permitido dar atención sanitaria a casi 108.000 ucranianos’, 23 May 2023, available at: <https://shorturl.at/yACJ8>



France

2023 Update



Temporary Protection Procedure

A. General

Council Directive 2001/55/EC of 20 July 2001⁸⁶⁵ was transposed into French law in articles L581-1 and seq. and R581-1 and seq. of the CESEDA. These articles were created by Government Ordinance in 2004 and have largely been left untouched since.

Council Implementing Decision (EU) 2022/382 of 4 March 2022 on the existence of a mass influx of displaced persons from Ukraine (hereafter Council Implementing Decision)⁸⁶⁶ established a situation of mass influx, making it possible to activate temporary protection and allowed States to broaden the categories of persons eligible to temporary protection in their country. The French Asylum and Immigration Code refers to potential Council of the EU decisions to define the scope of application of TPD.⁸⁶⁷ Regarding the 2022 activation of TPD, the scope of temporary protection and the related rights were established by an inter-ministerial instruction of 10 March 2022.⁸⁶⁸ Further instruments specified rights with regard to work, housing, etc.

Main legislative acts relevant to temporary protection

Title (EN)	Original Title (FR)	Web Link
Code of Entry and Residence of Foreigners and of the Right to Asylum	Code de l'entrée et du séjour des étrangers et du droit d'asile (CESEDA)	https://bit.ly/3LCTSw4 (FR)
As amended by: Ordinance n°2004-1248 of 24 November 2024 regarding the legislative section of the CESEDA	Ordonnance n°2004-1248 du 24 novembre 2004 relative à la partie législative du CESEDA	https://bit.ly/3JV0MLV (FR)

Main implementing administrative guidelines and regulations relevant to temporary protection

Title (EN)	Original Title (FR)	Web Link
Instruction regarding the implementation of the Council of the EU decision of 4 March 2022, taken under article 5 of Directive 2001/55/CE of the Council of 20 July 2001	Instruction relative à la mise en œuvre de la décision du Conseil de l'Union européenne du 4 mars 2022, prise en application de l'article 5 de la directive 2001/55/CE du Conseil du 20 juillet 2001	https://bit.ly/3n3OCHB (FR)
Circular of 22 March 2022 on how to welcome university student beneficiaries of temporary protection displaced from Ukraine	Circulaire du 22 mars 2022 portant sur l'accueil des étudiants déplacés d'Ukraine bénéficiaires de la protection temporaire	https://bit.ly/3TsRwlv (FR)

⁸⁶⁵ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof [2001] OJ L 212/12, available at: <http://bit.ly/409uJhu>.

⁸⁶⁶ Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection [2022] OJ L 71/1, available at: <https://bit.ly/3EztVsR>.

⁸⁶⁷ Article L581-2 Ceseda.

⁸⁶⁸ Minister of Interior and others, Instruction regarding the implementation of the Council of the EU decision of 4 March 2022, taken under article 5 of Directive 2001/55/CE of the Council of 20 July 2001, Instruction NOR INTV2208085J, 10 March 2022, available at: <https://bit.ly/3n3OCHB> (hereafter Instruction on TPD).

Circular of 5 July 2022 on how to welcome third country national university students displaced from Ukraine after 24 February 2022 and present in France	Circulaire du 5 juillet 2022, accueil des étudiants ressortissants de pays tiers présents en France et déplacés d'Ukraine après le 24 février 2022	https://bit.ly/3UtxmlE (FR)
Decree No 2022-468 of 1 April 2022 regarding the right to work of beneficiaries of subsidiary protection	Décret n° 2022-468 du 1er avril 2022 relatif au droit au travail des bénéficiaires d'une protection temporaire	https://bit.ly/3Jz5OfA (FR)
Bylaw of 27 April 2022 regarding the required supporting documents for beneficiaries of subsidiary protection to pursue self-employed activities	Arrêté du 27 avril 2022 relatif aux pièces justificatives exigées pour l'exercice d'une activité non salariée par les bénéficiaires de la protection temporaire	https://bit.ly/3YXGVA4 (FR)
Decree No 2022-726 of 28 April 2022 regarding language instruction for beneficiaries of temporary protection	Décret n°2022-726 du 28 avril 2022 relatif à la formation linguistique des bénéficiaires d'une protection temporaire	https://bit.ly/403Er4B (FR)
Bylaw of 3 May 2022 regarding language instruction for beneficiaries of temporary protection	Arrêté du 3 mai 2022 relatif à la formation linguistique des bénéficiaires d'une protection temporaire	https://bit.ly/3yT5Ee2 (FR)
Instruction on access to housing and accommodation for persons displaced from Ukraine benefitting from temporary protection	Instruction sur l'accès à l'hébergement et au logement des personnes déplacées d'Ukraine bénéficiaires de la protection temporaire	https://bit.ly/3mZBL9f (FR)
Circular on the situation of minors coming from Ukraine	Circulaire sur la situation des mineurs en provenance d'Ukraine	https://bit.ly/3n7zKYS (FR)
Instruction on division of responsibility for the situation of minors coming from Ukraine	Instruction sur la prise en charge de la situation des mineurs en provenance d'Ukraine	https://bit.ly/3lwrrFm (FR)
Decree No 2022-1441 of 17 November 2022 establishing an exceptional support measure for natural persons who have sheltered in accommodation or housing, one or more natural persons benefiting from temporary protection under Articles L. 581-1 et seq. of the Code of Entry and Residence of Foreigners and the right of asylum	Décret n° 2022-1441 du 17 novembre 2022 instituant une mesure exceptionnelle de soutien aux personnes physiques ayant mis à l'abri dans un hébergement ou dans un logement, une ou plusieurs personnes physiques bénéficiaires de la protection temporaire au titre des articles L. 581-1 et suivants du code de l'entrée et du séjour des étrangers et du droit d'asile	https://bit.ly/3z1YnbY (FR)
Circular No 6406/SG of June 23, 2023, relating to multi-annual guidelines for the reception and integration of displaced people from Ukraine (2023-2024)	Circulaire n° 6406/SG du 23 juin 2023, relative aux orientations pluriannuelles pour l'accueil et l'insertion des personnes déplacées en provenance d'Ukraine (2023-2024)	https://bit.ly/44H4jGq (FR)

Currently, are eligible to temporary protection in France:

- ❖ Ukrainian nationals residing in Ukraine who left Ukraine on or after 24th February 2022;
- ❖ Ukrainian nationals temporarily present in a Member State on 24th February 2022 and who are able to establish that their permanent residence was in Ukraine on that date;
- ❖ Beneficiaries of international protection or equivalent national protection and recognised stateless persons residing in Ukraine and having left the country on or after that date;
- ❖ Third country nationals and stateless persons who are long-term residents of Ukraine if they are unable to return to their country of origin in safe and sustainable conditions.
- ❖ Family members of the four categories above, without it being required that they demonstrate an impossibility to return to their country in safe and sustainable conditions.

According to the media⁸⁶⁹ and to the organisations hosting such people, hundreds of students mainly from African countries arrived from Ukraine without being eligible to protection.

Data on arrivals of Russian nationals is not available, only data on refusal of entry at external borders which show a drop in 2023 (8,210 in 2021, 9,180 in 2022 and only 5,320 in 2023).⁸⁷⁰

Numbers on asylum applications by Russians rose after the beginning of the war:⁸⁷¹

- ❖ In January and February 2022, respectively 85 and 80 asylum applications were filed by Russian nationals;
- ❖ Between March and September 2022, between 155 and 200 applications were filed each month by Russian nationals;
- ❖ Between October 2022 and January 2023, applications per month further rose from 370 in October to 440 in January 2023, which is a 418% increase compared to January 2022.
- ❖ In 2023, the total number of first asylum applications by Russian nationals was 4,125 compared to 2,600 in 2022 and 970 in 2021).⁸⁷²

According to a parliamentary report published in October 2022, requests between April and August contained grounds for requesting protection related to military issues (conscientious objection, desertion, etc.).⁸⁷³ In July 2023, the CNDA held that Russian nationals who flee conscription for the war in Ukraine or those who deserted, may obtain refugee status, as a Russian national called up as part of this mobilization is likely to commit, directly or indirectly, war crimes.⁸⁷⁴

According to the French border police, nearly 65,358 displaced persons were registered at the borders between 24th February and 1st December 2022, 98% of whom were Ukrainian nationals. Arrivals mainly occurred in Alpes Maritimes, Grand Est, Île de France and Auvergne Rhône Alpes.⁸⁷⁵ Apart from this (partial, given the numbers of residence permits mentioned infra) number, not available for 2023, there are no available statistics on the number of individuals potentially entitled to temporary protection present in France.

⁸⁶⁹ Infomigrants, *En France, une année de lutte pour les étudiants étrangers qui ont fui l'Ukraine*, 24 February 2023, available in French at: <https://bit.ly/3LtkqzV>.

⁸⁷⁰ Eurostat, 'Third country nationals refused entry at the external borders - annual data (rounded)', online database, available at: <https://shorturl.at/Ueeog>.

⁸⁷¹ Eurostat, 'Asylum applicants by type of applicant, citizenship, age and sex - monthly data', database consulted 30 April 2024, available at: <https://bit.ly/3izbsX7>.

⁸⁷² Eurostat, 'Asylum applicants by type, citizenship, age and sex - annual aggregated data' database consulted 23 May 2024, available at: <https://shorturl.at/xv17v>.

⁸⁷³ Assemblée Nationale, Rapport fait au nom de la commission des finances, de l'économie générale et du contrôle budgétaire sur le projet de loi de finances pour 2023 (n°273) – annexe 28, 6 October 2022, available in French at: <http://bit.ly/3FJWC7h>.

⁸⁷⁴ CNDA, Decision Nr 21068674 R, 20 July 2023, available at: <https://bit.ly/4bBbrXa>.

⁸⁷⁵ Ministry of Interior, *Foire aux questions: accueil des réfugiés ukrainiens*, available in French at: <https://bit.ly/3LESuZl>.

Numbers on persons having accessed temporary protection in France vary depending on the actor putting them forward, making them difficult to understand. It should be noted that temporary residence permits are not delivered to children, only adults.

- ❖ According to Eurostat,⁸⁷⁶ in December 2023, 64,930 beneficiaries of temporary protection (including 45,370 women, i.e., 69.9%) were registered by French authorities (compared to 68,430 at the end of 2022), but this figure exclude children. 17,175 decisions granting temporary protection have been issued in 2023.
- ❖ According to UNHCR, 68,780 beneficiaries of temporary protection were recorded in France at the end of February 2024.⁸⁷⁷
- ❖ According to the French office on integration and immigration (OFII), which is responsible for the distribution of the financial allowance, 64,622 beneficiaries of temporary protection (including children) benefitted from the dedicated financial assistance at the end of December 2023 (compared to 81,885 at the end of 2022).⁸⁷⁸ However, this figure only concerns refugees eligible for financial allowance (and therefore does not include all those who now have sufficient resources). Furthermore, significant drops in the number of beneficiaries were noted during the renewal periods for residence permits for temporary protection (valid only for 6 months) - the OFII only pays the allowance to holders of these permits.⁸⁷⁹
- ❖ The ministry of Interior stated that 103,167 first residence permit based on temporary protection were issued between the 10th of March 2022 and the 31st of December 2023⁸⁸⁰ (compared to 87,928 between the 10th March 2022 and 30th January 2023⁸⁸¹). *A priori*, this figure does not include minors since residence permits are only issued to adults.
- ❖ In a budget document published in October 2023 by the government, it was mentioned that France welcomed "*more than 100,000 displaced people from Ukraine*",⁸⁸² a formula identical to that of the previous year which imprecision was highlighted by parliamentarians in the context of the examination of the 2024 finance bill.⁸⁸³
- ❖ A parliamentary report published in November 2023 (related to budget law) repeats the figure frequently cited in previous year, according to which "*France has thus welcomed, in total, 115,000 people under this status since the start of the conflict*".⁸⁸⁴
- ❖ A parliamentary report published in October 2023 (related to budget law) says that at this time France welcomes an estimated number of 95,000 people benefiting from temporary protection.⁸⁸⁵
- ❖ Lastly, in its 2023 preliminary statistics, the Government mentions 62,438 active temporary protection residence permits held by Ukrainians at the end of 2023.⁸⁸⁶

No breakdown by basis of entitlement (Ukrainian national, family member, etc.) is available.

⁸⁷⁶ Eurostat, *Beneficiaries of temporary protection at the end of the month by citizenship, age and sex – monthly data*, database consulted 20 March 2023, available at: <https://bit.ly/402poYE>.

⁸⁷⁷ UNHCR, *Operational data portal, Ukraine refugee situation*, available at: <https://bit.ly/3kxJP02>.

⁸⁷⁸ OFII, Publication on Twitter, 22 January 2024, available in French at: <https://bit.ly/44KMxC9>.

⁸⁷⁹ Gouvernement, *Annexe au projet de loi de finances 2024, Programme 303*, 3 October 2023, available in French at: <https://bit.ly/4akjF4T>.

⁸⁸⁰ Gouvernement, *Annexe au projet de loi de règlement du budget et d'approbation des comptes pour 2023, Programme 303*, 17 April 2024, available in French at: <https://bit.ly/3V3hviX>.

⁸⁸¹ Ministère de l'intérieur, *Conflit en Ukraine : bilan d'un an d'engagement du ministère – chiffres clés*, available in french at: <https://bit.ly/3yYBtCo>

⁸⁸² Gouvernement, *Annexe au projet de loi de règlement du budget et d'approbation des comptes pour 2023, Programme 303*, 17 April 2024, available in French at: <https://bit.ly/3V3hviX>.

⁸⁸³ Sénat, *Projet de loi de finances pour 2024 : Immigration, asile et intégration, Rapport général n° 128 (2023-2024)*, 23 November 2023, available in French at: <https://www.senat.fr/rap/l23-128-316/l23-128-3161.pdf>

⁸⁸⁴ Sénat, *Projet de loi de finances pour 2024 : Immigration, asile et intégration, Avis n° 131*, 23 November 2023, available in French at: <https://bit.ly/3UJGlenW>.

⁸⁸⁵ Assemblée nationale, *Projet de loi de finances pour 2024 : Immigration, asile et intégration, Avis n° 1680*, 11 October 2023, available in French at: <https://bit.ly/4bDIYRx>.

⁸⁸⁶ Ministry of Interior, *Communiqué de presse : les chiffres 2023 (publication annuelle parue le 25 janvier 2024)*, available in French at: <https://bit.ly/3xaPpvu>.

B. Qualification for temporary protection

French law on temporary protection refers to potential Council of the EU decisions to define the scope of application.⁸⁸⁷ However, the law⁸⁸⁸ also says that the state defines the categories of people eligible to temporary protection, and potentially adds other categories, in a decree to be taken by the Ministry of interior. This procedure was not followed and an instruction (administrative act in principle of a lower legal value, however it can under certain conditions be challenged in court) was taken instead. For this situation, and according to the instruction of 10 March 2022,⁸⁸⁹ the French government did not extend the benefit of the protection to other categories. Therefore, the scope of persons eligible for temporary protection in the context of the war in Ukraine was defined both by the Council of the EU decision of 4 March 2022 and by this instruction addressed to regional and departmental prefects, which specifies the modalities for implementing temporary protection at the national level. The EU framework lays down a minimum set of rules that Member States are obliged to apply, while allowing them to notably broaden the scope of application.

The Council Implementing Decision confers the benefit of temporary protection on:⁸⁹⁰

- ❖ Ukrainian nationals residing in Ukraine who left Ukraine on or after 24th February 2022;
- ❖ Beneficiaries of international protection or equivalent national protection and recognised stateless persons residing in Ukraine and having left the country on or after that date;
- ❖ Family members of the persons referred to in the two previous points.

The Council Implementing Decision also requested that States confer either temporary protection or adequate national protection on third country nationals and stateless persons who are long-term residents of Ukraine (permanent residence permit), if they are unable to return to their country of origin in safe and sustainable conditions. France granted these persons temporary protection.⁸⁹¹

In addition to these persons, the French national framework further extended temporary protection to two categories of persons:⁸⁹²

- ❖ Ukrainian nationals temporarily present in a Member State on 24th February 2022 and who able to establish that their permanent residence was in Ukraine on that date;
- ❖ Family members also of the two categories above, without it being required that they demonstrate an impossibility to return to their country in safe and sustainable conditions.

Like in the Council Implementing Decision, the notion of family members only applies to family relationships already existing in Ukraine before 24 February 2022 and only applies to:

- ❖ The spouse;
- ❖ The unmarried partner in a stable relationship;
- ❖ The unmarried minor children of the eligible person or of their spouse, whether or not they were born out of wedlock or adopted;
- ❖ Other close relatives who lived within the family before 24 February 2022 and who were entirely or mainly dependent on the eligible person.

The instruction of 10 March explicitly lists several categories of persons not eligible to temporary protection:

- ❖ Ukrainian nationals with a soon-to-expire residence permit in France, who should report to prefectures in order to have their individual situation assessed.

⁸⁸⁷ Article L581-2 Ceseda.

⁸⁸⁸ Articles R581-18 and L581-7 Ceseda.

⁸⁸⁹ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available at: <https://bit.ly/3n3OCHB>.

⁸⁹⁰ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available at: <https://bit.ly/3n3OCHB>, 1-2.

⁸⁹¹ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available at: <https://bit.ly/3n3OCHB>, 2.

⁸⁹² Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available at: <https://bit.ly/3n3OCHB>, 2.

- ❖ Third country nationals who are able to return to their country of origin in safe and sustainable conditions: however, prefects are invited to examine their right to residence in France on other bases.
- ❖ Persons who were asylum seekers in Ukraine as of 24 February 2022 should be channelled into an asylum procedure in France.

The instruction also highlights the exclusion clause contained in French law.⁸⁹³ Persons regarding whom there is serious or concordant proof making it credible that they have committed a crime against peace, a war crime, a crime against humanity, actions contrary to the purposes and principles of the United Nations; or a serious common law crime outside of French territory before being recognised as a beneficiary of temporary protection can be excluded from temporary protection. The same goes for persons whose presence in France constitutes a threat to public order, public safety or state security.

People who arrived in France before 24 February 2022 are not eligible for temporary protection, with the exception of those who were temporarily present in a member state or an associated state before 24 February and can prove that they had their residence in Ukraine on that date. For Ukrainians residing in France before 24 February 2022, they can apply for asylum (see [Access to asylum](#))⁸⁹⁴ or apply for a residence permit on other grounds, such as for work, family – Ukrainian nationals married to French nationals are entitled to a residence permit and ultimately receive a 10-year residence permit – or studies, as student residence permits have been granted to certain Ukrainian nationals.

Regarding international protection, according to Ministry of Interior preliminary statistics, at the end of 2022, there were 702 Ukrainian beneficiaries of international protection in France, but it is not specified when they received such protection and it should be noted that the examination of appeals by Ukrainians before the CNDA were partly suspended in the first part 2022 to let the Court adopt and adjust its position.⁸⁹⁵ However, in 4 decisions from 30 December 2022, the CNDA granted asylum to Ukrainians nationals, due to the situation of indiscriminate violence of exceptional intensity in certain identified regions.⁸⁹⁶ According to Eurostat, 3,430 asylum applications were registered by Ukrainians nationals in 2023, compared to 1,770 in 2022.⁸⁹⁷

Regarding third-country nationals, temporary protection is granted to beneficiaries of international or equivalent national protection in Ukraine or recognised stateless persons in Ukraine who left the country as a result of the conflict, as well as persons with permanent residence permits in Ukraine, who cannot return to their countries of origin in safe and durable conditions. However, this inability to return is not further defined and is assessed on a case-by-case basis by the prefectures, normally through an interview with applicant,⁸⁹⁸ which raises fears of unequal treatment of situations from one department to another. In practice, permanent residence in Ukraine seems to be sufficient to obtain protection (without real examination of a possibility of return), while this (im)possibility of return is not seriously examined when there is no permanent residence.⁸⁹⁹

In the opinion of the French Coordination for the Right of Asylum, this concept should not be restricted solely to risks to life and liberty, but should also take into account whether or not it is possible to lead a

⁸⁹³ Article L581-5 Ceseda.

⁸⁹⁴ CNDA, *La situation de violence résultant du conflit armé actuel justifie l'octroi de la protection subsidiaire*, 16 février 2023, available in French at : <https://bit.ly/3TEbNo0>.

⁸⁹⁵ Observation by Forum Réfugiés, January 2023

⁸⁹⁶ Communiqué de la CNDA, *UKRAINE, la CNDA accorde l'asile à des ressortissants ukrainiens*, 30 décembre 2022, available in French at : <https://bit.ly/3KG1rBi>

⁸⁹⁷ Eurostat, *Asylum applicants by type of applicant, citizenship, age and sex – annual aggregated data*, database consulted 30 April 2024, available at: <https://bit.ly/4blpsIM>.

⁸⁹⁸ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available in French at: <https://bit.ly/3n3OCHB>, 2.

⁸⁹⁹ See e.g., Administrative court of Nantes, Decision Nr 2210863, 21 June 2023, available in French at : <https://bit.ly/3yhr15b>.

"normal existence", including the possibility of working or studying.⁹⁰⁰ According to the Instruction on TPD, prefectures should contact the General Directorate of Foreigners in France (DGEF), who may in turn rely on expertise from OFPRA, the asylum authority, regarding country of origin information. In such a case, persons should be given a 1-month temporary permit while these investigations are conducted.⁹⁰¹

Judicial attempts to extend the scope of temporary protection notably to third country nationals without a permanent residence permit in Ukraine have failed including before the Council of State.⁹⁰² Other third-country nationals are invited to have their situation examined by prefects for other residence permits or to apply for asylum,⁹⁰³ procedure under which they can benefit from refugee status or subsidiary protection. Regarding the application of the Dublin procedure, a few cases were observed, and no exceptions to the European procedure were made.

Third-country nationals, especially students, that were in Ukraine before 24 February 2022 and then fled to France, faced particular difficulties. They were initially invited to return to their native country and received orders to leave French territory (OQTF). However in July, the French authorities invited French universities to allow the remaining students still present in France to enrol and continue their studies in France, under the condition that they provide proof of registration in a university in Ukraine and of them leaving Ukraine after 24 February. The circular states that the majority of third country national university students who fled Ukraine to France were repatriated to their countries of origin, where solutions for them to continue their studies there were provided.⁹⁰⁴

French law provides that the temporary residence permit is renewed as long as temporary protection remains in place.⁹⁰⁵ However, despite the fact that EU law foresees temporary protection as a 1-year renewable protection for maximum 3 years (which is reflected in French law),⁹⁰⁶ French legislation restricted the temporal scope of temporary protection in that the residence permit only lasts for and thus must be renewed every six months⁹⁰⁷ (in contrast with the 1 year renewals at the EU level), for a maximum period of three years.

C. Access to temporary protection and registration

1. Admission to territory

There are no reports of refusals of entry at the French border. There were however reports of a pushback in March 2022 by the British authorities at the border in Calais of at least 136 Ukrainian nationals wishing to travel to the United Kingdom.⁹⁰⁸

⁹⁰⁰ Forum réfugiés, *Protection temporaire pour l'Ukraine : encore des efforts pour être à la hauteur des enjeux*, 18 March 2022, available in French at: <http://bit.ly/3FKoXKE>.

⁹⁰¹ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available in French at: <https://bit.ly/3n3OCHB>, 2.

⁹⁰² Council of State, No. 465363 and 465365, 27 December 2022, available in French at: <https://bit.ly/42B2QQo> and <https://bit.ly/3Z3C9B2>; for first instance level decisions, see *inter alia* <http://bit.ly/3TB9AJY>.

⁹⁰³ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available in French at: <https://bit.ly/3n3OCHB>, 2.

⁹⁰⁴ Ministry of Higher Education and Research, *Circulaire du 5 juillet 2022, accueil des étudiants ressortissants de pays tiers présents en France et déplacés d'Ukraine après le 24 février 2022*, available in French at: <bit.ly/40vhS8K>.

⁹⁰⁵ Article L581-3 Ceseda.

⁹⁰⁶ Article L581-3 Ceseda.

⁹⁰⁷ Article R581-4 Ceseda.

⁹⁰⁸ Francebleu, *517 Ukrainiens sont arrivés à Calais pour rejoindre le Royaume-Uni, la moitié a été refoulée à la frontière*, 6 March 2022, available in French at: <http://bit.ly/3z1Ttf4>.

2. Freedom of movement

There have been no reports of persons not holding a biometric travel document experiences issues in moving either within France or attempting to continue their journey onwards. There have only been issues of persons denied entry into the United Kingdom when they have not requested a visa first.⁹⁰⁹

3. Registration under temporary protection

Upon arrival anywhere in France, persons displaced from Ukraine had to go to the "Ukraine" one-stop shop, set up within each prefecture, to be issued a temporary residence permit marked "temporary protection". In some large cities such as Lyon,⁹¹⁰ Strasbourg,⁹¹¹ the presentation before the prefecture was preceded by a visit to an association in charge of making appointments before the Prefecture. This first Reception desk was a place for them to put together their application file and take the necessary identity photos. These procedures were carried out in services for asylum seekers (SPADA) or in dedicated services opened for Ukrainians (gradually replaced by a SPADA presentation, the number of arrivals no longer justifying the opening of special counter). Procedures are now carried out directly with the prefectures with varying methods depending on the departments (online and/or by appointment).

The person must go to the Prefecture of their place of residence. They must have the documents justifying the situation and be accompanied by their family members, including the children. After all the documents have been verified and the application approved, the Prefectures delivers a temporary residence permit to the adults (Autorisation provisoire de séjour – APS). Then, the person or family unit is directed to the French Office for Immigration and Integration (OFII) that oversees accommodation and distributing the financial allowance.

Persons fleeing Ukraine were allowed one free train ticket to the destination of their choice in France and to neighbouring countries, as well as a free return ticket to Ukraine: this aid for national or international train travel, departing from France, no longer seems available, but certain regions have maintained free arrangements for regional trains.⁹¹²

Thus, people expressing their intention to apply for temporary protection at the border were informed of this possibility. In many train stations, "Ukraine" information points were set up by the Red Cross to ensure immediate assistance and inform persons about the procedure for temporary protection⁹¹³ These services are now closed.

There is no time limit laid down in law for individuals to make a temporary protection application.

In addition to a form that must be completed,⁹¹⁴ the person applying for temporary protection must put forward the following evidence:⁹¹⁵

- ❖ For Ukrainians nationals residing in Ukraine before 24 February 2022:
 - Proof of nationality: passport, ID card (both may be expired by less than 2 years to be considered as evidence), consular statement, birth certificate.
 - For people who left Ukraine on or after 24 February, they must be able to prove that this left at or after this date, ideally through the stamp attesting of their entry into the

⁹⁰⁹ Ibid.

⁹¹⁰ Rhône Prefecture, *UKRAINE : Protection temporaire des ressortissants ukrainiens (FR)*, last updated 6 March 2023, available in French at: <http://bit.ly/40bqz8h>.

⁹¹¹ Bas-Rhin Prefecture, *Crise ukrainienne – Dispositif de protection temporaire*, last updated 22 December 2022, available in French at: <http://bit.ly/3K3CCPz>.

⁹¹² See e.g.,: SNCF Centre Val de Loire, *Solidarité Ukraine*, available in French at: <https://bit.ly/4dFo7hy>.

⁹¹³ French Red Cross, *Urgence Ukraine : Les gares de Paris sur le parcours de l'exode*, 17 March 2022, available in French at: <http://bit.ly/3ng38MF>; France Bleu, *La Croix-Rouge de Toulouse installe un stand à la gare Matabiau pour accueillir les réfugiés ukrainiens*, 14 March 2022, available in French at: <http://bit.ly/3LESYiK>.

⁹¹⁴ Available in French at: <https://bit.ly/3ziViol>.

⁹¹⁵ Available in French at: <https://bit.ly/3FJPjwe>.

Schengen space, or any other document proving their presence in Ukraine until that date and subsequent movement.

- For people who were temporarily outside of Ukraine on 24 February 2022, proof of the trip and prior residence.
- ❖ For beneficiaries of international or equivalent national protection and recognised stateless persons:
 - Proof of identity: ID card, passport, or any other proof of identity (name, date of birth, etc).
 - Proof of their status in Ukraine: decision recognising protection, or residence permit as a refugee, beneficiary of subsidiary protection, stateless person.
 - Proof of leaving Ukraine on or after 24 February: same as above.
- ❖ For family members:
 - Proof of identity.
 - Proof of the family link: for unmarried partners, the relationship must be established by sufficient circumstantial evidence such as common children, proof of living together in Ukraine, etc.
 - Proof of leaving Ukraine on or after 24 February 2022.

A check is carried out by the authorities to find out if the person has committed a crime.

Persons who did not have a passport stamp from their entry into Schengen had to present further evidence of their lives in Ukraine before and after 24/02/2022 to obtain an APS. In practice, Ukrainians with a visa or residence permit in any other country are also denied temporary protection in France.⁹¹⁶ Lastly, persons without a passport and who only have the internal Ukrainian passport (movement document in Ukraine) were asked by prefectures to go to the Ukrainian embassy to receive a consular attestation that proves that they are indeed Ukrainian. Costs of travel, procedure to fulfil these requirements are borne by the applicants, or by the NGOs hosting them such as Forum Réfugiés.

Usually, the application is accepted on the day it is registered so no temporary documentation is needed. When complementary elements are requested, it may take several days between application and registration: in this situation, no documentation is provided to the applicant.

Once their application is accepted, beneficiaries of temporary protection receive an APS, which is a half-page paper document, rather than a plastic card as it is for 1-year residence permits, with their identity information, picture and the prefecture stamp and signature. This document mentions that they have a right to stay in France for the six months covered by the residence permit and that they are allowed to work in France.

Temporary protection registration is done by all 96 prefectures in mainland France, and so it is not possible to have an accurate picture of the practice in all of them. Nevertheless, Forum Réfugiés is not aware of any systematic problems and the procedure seems to work well in some prefectures.

Applicants may challenge a denial of registration in the same conditions as for any registration for a residence permit. Thus, applicants can file a free of charge *ex gratia* administrative appeal with the local prefect directly and after that they can challenge the refusal of registration at administrative court but the proof is sometimes difficult to provide. Plaintiffs can also contact the Défenseur des droits (national Ombudsman). However, before approaching the Ombudsman, they must have filed all the necessary procedures to the prefecture (e.g. the *ex gratia* appeal) and/or to the Minister of the Interior.⁹¹⁷

⁹¹⁶ Practice-based observation by Forum Réfugiés, January 2023.

⁹¹⁷ Service Public, 'Que faire en cas de difficulté lors d'une demande de séjour ?', available in French at : <http://bit.ly/417Apln>.

4. Legal assistance

There is no legal assistance at first instance foreseen in legislation for persons entitled to temporary protection. The support available is that of NGOs such as [Forum Réfugiés](#), [France Terre d'Asile](#) or [Coallia](#), mostly in major cities, provided by NGOs usually involved in the field of asylum. If they are in a judicial procedure (appeal against denied registration for instance), only a lawyer is competent for legal assistance. In such case they may benefit from State-subsidised legal aid, based on income.⁹¹⁸

5. Information provision and access to NGOs

The law⁹¹⁹ provides that as soon as the request for temporary protection is introduced, the beneficiary is to receive a document with all the information about how temporary protection works. This is complied with in practice. Moreover, the prefects are invited to ‘facilitate the information and orientation of the persons concerned towards the relevant reception and administrative care arrangements’.⁹²⁰

Information provided is not specifically tailored to the needs of vulnerable applicants.

The Ministry of Interior has put together short flyers about temporary protection available in French, English, Ukrainian and Russian.⁹²¹ Digital tools have also been deployed to enable displaced persons to find general information in Ukrainian on settling in France. For instance, a regularly updated welcome booklet⁹²² for displaced persons from Ukraine has also been produced by the Ministry of Interior and has been widely communicated both in State services such as prefectures and within local authorities.⁹²³

On 4 March 2022, the Inter-Ministerial Delegation for the Reception and Integration of Refugees launched a ‘For Ukraine’ platform, aimed at Ukrainians but also French citizens, organisations, local authorities and companies.⁹²⁴ This platform presents administrative information in French and Ukrainian, registers all volunteer offers (translation, interpretation, citizen accommodation), lists mobilisation initiatives from certain local authorities and collects job offers. The first assessment of this platform is very positive since as of September 1, 2022 more than 3.5 million pages of this site had been viewed; about 40,000 proposals for citizen accommodation had been collected; 17,000 job offers had been submitted by more than 600 companies; 5,800 citizens volunteered.⁹²⁵

The authorities do not provide any particular information at border-crossing points on how to apply for temporary protection.

D. Guarantees for vulnerable groups

There is no specific identification mechanism in place to systematically identify persons in need of specific procedural guarantees, before or after registration as temporary protection beneficiaries.

⁹¹⁸ Service Public, *Aide juridictionnelle*, available at: <https://bit.ly/3ynml4A>.

⁹¹⁹ Article R581-3 Ceseda.

⁹²⁰ Idem.

⁹²¹ Ministry of Interior, *Information Ukraine*, 15 March 2022, available at: <https://bit.ly/3ZbEzh9>.

⁹²² Ministry of Interior, *Livret d'accueil en France pour les déplacés d'Ukraine*, available in French and Ukrainian at: <https://bit.ly/40ovy56>.

⁹²³ Assemblée Nationale, Rapport fait au nom de la commission des finances, de l'économie générale et du contrôle budgétaire sur le projet de loi de finances pour 2023 (n°273), 6 October 2022, available in French at: <https://bit.ly/3K1gaGD>, 20.

⁹²⁴ Government, *For Ukraine*, available in French and Ukrainian at: <https://bit.ly/3UL3LdY>.

⁹²⁵ Assemblée Nationale, Rapport fait au nom de la commission des finances, de l'économie générale et du contrôle budgétaire sur le projet de loi de finances pour 2023 (n°273) – annexe 28, 6 October 2022, available in French at: <http://bit.ly/3FJWC7h>.

However, one may signal to the prefecture that a person has specific needs in terms of accommodation or support due to disability or loss of autonomy because of age.⁹²⁶

In practice, there is no specific identification but for independent housing orientations, vulnerable people are prioritised.⁹²⁷

No special procedure was introduced or adapted specifically to the needs of non-accompanied minors entitled to temporary protection. They are protected under the general child protection system as any other unaccompanied children.⁹²⁸ Specific documents⁹²⁹ were shared within the administration notably to alert on risks of trafficking and establish procedures of each scenario, such as an unaccompanied child on their way to reuniting with their family in another EU Member State.⁹³⁰

French authorities deployed numerous emergency units providing psychological help⁹³¹ as soon as the first Ukrainian nationals fleeing the war arrived. These units are available all over mainland France and are attached to the emergency services of each department. Ukrainian nationals can also rely on programmes available to all populations.

A circular of 22 March 2022 on the reception of displaced students from Ukraine benefiting from temporary protection provides that students may consult psychologists from University Health Services and that, in case of capacity need, especially in terms of psychologists speaking English, a further 160 English-speaking psychologists are available for online consultation and specialised university services should help students in accessing these resources.⁹³²

⁹²⁶ Ministry of Interior, *Livret d'accueil en France pour les déplacés d'Ukraine*, available in French and Ukrainian at: <https://bit.ly/40ovy56>.

⁹²⁷ Practice based observation by Forum Réfugiés, Janvier 2023.

⁹²⁸ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available at: <https://bit.ly/3n3OCHB>, 5.

⁹²⁹ Government, 'La Dihal et ses partenaires se mobilisent pour prévenir les risques de traite à l'égard des personnes déplacées d'Ukraine', last modified 18 October 2022, available in French at : <http://bit.ly/41layNa>. For more information, see AIDA, *Country Report: France, 2023 Update*, May 2024, available at: <https://shorturl.at/1Q7KU>.

⁹³⁰ Ministry of Justice, *Circulaire situation des mineurs en provenance d'Ukraine*, 1 April 2022, available in French at: <https://bit.ly/3n7zKYS>; Ministry of Justice and others, *Instruction prise en charge de la situation des mineurs en provenance d'Ukraine*, 7 April 2022, available in French at: <https://bit.ly/3lwrrFm>.

⁹³¹ Ministry of health and solidarity, *Note d'information – cellule d'urgence médico-psychologique (CUMP)*, 14 mars 2022, available in French at : <https://bit.ly/42Fu34x>.

⁹³² Ministry for Higher Education, Research and Innovation, *Circulaire du 22 mars 2022 portant sur l'accueil des étudiants déplacés d'Ukraine bénéficiaires de la protection temporaire*, 22 March 2022, available in French at: <https://bit.ly/3TsRwlv>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | 6 months |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2023? | 103,167 ⁹³³ |

France decided to deliver temporary residence certificates, valid each time for six months,⁹³⁴ contrary to other countries which deliver one-year certificates, in line with the timeframe for renewal of TPD at the EU level. This provisional residence permit is renewed automatically every 6 months for as long as temporary protection is maintained at the EU level.⁹³⁵ The duration of the temporary residence permit may be limited to the period remaining until the end of temporary protection at the EU level.⁹³⁶

The issuance of temporary protection and the ensuing temporary residence certificate is the prerogative of each department (96 prefectures in mainland France), so the procedure for granting the residence permit varies based on their internal organisation.

Some major cities (Paris, Lyon, Nice, Strasbourg) implemented multi-operator sites in which displaced persons can, in the same place, carry out administrative procedures (first administrative checks to ensure eligibility to temporary protection and deliver appointments to the prefecture, or in some cities the persons could obtain the temporary residence permit and the opening of their rights to the asylum seeker's allowance directly in the centre), social procedures (access to social security), medical procedures (the Red Cross was regularly present for immediate health checks including trauma, and the OFII organised vaccination sessions against covid in these places), receive assistance for initial emergency shelter and the satisfaction of other needs (e.g. provision of clothing). Despite some ad hoc difficulties, these centres have proved their effectiveness.⁹³⁷ They gradually close due to the decrease of arrivals.

In the Rhône department, from April to July 2022 everything was done in the same place: this meant the APS could be delivered in one day. From July 2022 to December 2023, it was first necessary to go to the SPADA (initial reception service for asylum seekers) to prepare the application, after which the appointment before the Prefecture was given, for the application to be approved and the residence permit, among other, to be delivered. The appointments at the prefecture took place the same week, so the entire procedure took about 1 week maximum. Since January 2024, procedures are carried out directly with the prefecture and this mode of operation seems generalized to all departments.

A negative decision can be appealed in the same manner as a refusal to register the application, see [Registration under temporary protection](#).

The permit is valid for 6 months and is renewed upon request. To renew their APS, temporary protection beneficiaries must have an appointment in their local prefecture between 3 weeks and 3 days before

⁹³³ Gouvernement, *Annexe au projet de loi de règlement du budget et d'approbation des comptes pour 2023, Programme 303*, 17 April 2024, available in French at: <https://bit.ly/3V3hviX>.

⁹³⁴ Article R581-4 Ceseda.

⁹³⁵ Articles L581-3 and R581-4 Ceseda.

⁹³⁶ Article R581-4 Ceseda.

⁹³⁷ Assemblée Nationale, *Rapport fait au nom de la commission des finances, de l'économie générale et du contrôle budgétaire sur le projet de loi de finances pour 2023 (n°273) – annexe 28*, 6 October 2022, available in French at: <http://bit.ly/3FJWC7h>.

the expiration date of their previous APS. During this appointment, beneficiaries must present a civil status certificate and proof of nationality, a proof of address from less than 3 months, any document that will prove an evolution of their situation (such as a work contract for instance) and their previous APS. Then, they can retrieve the new one. If they fail to renew in time, they risk having their social rights at least temporarily interrupted.⁹³⁸ Significant drops in the number of beneficiaries of financial allowance (ADA) were noted during the renewal periods for residence permits for temporary protection (valid only for 6 months).⁹³⁹

According to information provided in Parliament, of the 39,952 temporary residence permits delivered between 1st March and 12th April 2022, 34,164 were renewed 6 months later, i.e., over 85%.⁹⁴⁰ There is no data for other renewal periods.

Several rights are connected to the temporary residence permit:

- ❖ Beneficiaries of temporary protection (BTPs) benefit from the allowance for asylum seekers (ADA),⁹⁴¹ awarded on a means-tested basis by OFII following the issuance of the APS, provided that they are of legal age and receive resources below the amount of the RSA. For Ukrainian BTPs, the ADA's amount was initially exceptionally raised by an additional € 7,40/day: for asylum seekers this additional amount is only provided when the applicant has no accommodation solution but here it was extended to all BTPs even when they are accommodated. For instance, the basic amount for a household with two adults would be € 897,82 per month, without the raise; a household with one adult and two children receives € 1,281 per month.⁹⁴² It is distributed through a payment card (money cannot be withdrawn with it) (for detailed information see [General report – Forms and level of material reception conditions](#)). However, since November 2022, the raise is granted only if BTPs pay for their accommodation, and no longer to those benefitting from a free of charge form of accommodation, such as free private hosting.
- ❖ BTPs are granted immediate access to public healthcare, through universal health protection, without being subjected to a 3 month waiting period (as asylum seekers are).
- ❖ BTPs are also entitled to receive certain measures of social welfare, such as housing allowances (APL).
- ❖ All BTPs must be able to benefit from language training to learn French,⁹⁴³ which could be done through existing common law programmes for the integration of refugees. The modalities of practical implementation were clarified by a decree published 3rd May 2022. It states that the training will be provided by a dedicated organisation, designated by the OFII in the context of a procurement procedure, with courses of 100 or 200 hours. An assessment of this measure was made during the examination of the budget law for 2024. From May 2022 to May 2023, 7,827 diagnostics were carried out and 5,224 training entries were scheduled (82% on level A1) at a cost of 4.5 million euros.⁹⁴⁴ Another parliamentary report worries about “the weak

⁹³⁸ Ministry of Interior, Information Ukraine : vous souhaitez solliciter le renouvellement de votre document de séjour, délivré au titre de la protection temporaire, available in French at: <https://bit.ly/40wsK5Y>.

⁹³⁹ Gouvernement, *Annexe au projet de loi de finances 2024, Programme 303*, 3 October 2023, available in French at : <https://bit.ly/4akjF4T>.

⁹⁴⁰ Assemblée Nationale, *Rapport fait au nom de la commission des finances, de l'économie générale et du contrôle budgétaire sur le projet de loi de finances pour 2023 (n°273)*, 6 October 2022, available in French at : <https://bit.ly/3K1gaGD>.

⁹⁴¹ Articles L581-9 and D581-7 Ceseda.

⁹⁴² Service public, *En quoi consiste l'Allocation pour demandeur d'asile (Ada) ?*, last updated on 1 April 2024, available in French at : <http://bit.ly/3JKReBP>.

⁹⁴³ Article R581-4-1 Ceseda.

⁹⁴⁴ Assemblée Nationale, *Rapport fait au nom de la commission des finances, de l'économie générale et du contrôle budgétaire sur le projet de loi de finances pour 2024 (n°1745)*, 14 October 2023, available in French at: <https://bit.ly/3QGU3YP>.

mastery of the French language” by refugees from Ukraine and wishes to encourage them to follow more of the language training offered.⁹⁴⁵

- ❖ BTPs are allowed to work as soon as they obtain their temporary residence permit. Their right to work is specifically stated on the permit.
- ❖ Beneficiaries of temporary protection may travel on regional trains (TER and intercity) free of charge in the period between receiving their temporary residence permit and filing an application for State financial assistance (RSA, see [Social Welfare](#)). Once they receive RSA, they benefit from solidarity pricing, which may amount to free or very reduced travel depending on the region.⁹⁴⁶
- ❖ A BTP’s driving licence is valid in France if the person benefits from temporary protection. However, the foreign license must be always be accompanied by an official translation into French.⁹⁴⁷
- ❖ Like all persons in France, BTPs are allowed to open a bank account and transfer funds to it. A specific guide was developed to help them in this regard.⁹⁴⁸
- ❖ BTPs also benefit from the right to family reunification with their family members who are not yet present in the territory of the European Union or who benefit from temporary protection in another Member State.

Access to accommodation:

As beneficiaries of temporary protection are not covered by the asylum system, the instruction of 10 March 2022 specifies that they will not be accommodated within the national reception system for asylum seekers.

Accommodation for BTPs that do not have an independent solution can take several forms. First, they can be housed by operators specialising in the reception of asylum seekers or social emergencies (accommodation centres, opening of specific accommodation places) financed by State’s authorities. This system is complemented by citizen hosting, many offers having been identified on a dedicated Internet platform.

If the applicant transfers to another EU member state, they must inform French authorities. The modalities depend of the prefecture. In practice, Forum Réfugiés is not aware of the use of such procedure.

To the best of knowledge of the author, there have not been any reports of persons being refused access to temporary protection in France after having already applied for it in another EU member country.

The APS obtained in France will then expire and consequently the benefit of the rights too. It should be noted that, for the moment, there is no real harmonisation of the procedure. For instance, the Orne department’s prefecture state that if the BTP wants to leave France permanently, they must return their APS and Ada’s card at the prefecture.⁹⁴⁹ Consequently, the absence of APS might have an impact on the BTP’s freedom of circulation in the Schengen area.

⁹⁴⁵ Assemblée Nationale, *Avis présenté au nom de la commission des affaires étrangères sur le projet de loi de finances pour 2024 (n°1715)*, 11 October 2023, available in French at : <https://bit.ly/4bDIYRx>.

⁹⁴⁶ SNCF, *Free rail travel for displaced persons from Ukraine*, available at: <https://bit.ly/42CQyXN>.

⁹⁴⁷ Article 3 of Bylaw of 12 January 2012, available in French at: <https://bit.ly/3Z9h1JC>.

⁹⁴⁸ Interministerial delegation for the reception and integration of refugees, *Livret d’information à destination des personnes bénéficiaires de la protection temporaire: L’ouverture d’un compte bancaire*, last updated 14 April 2022, available in French at: <https://bit.ly/3ndeZuK>.

⁹⁴⁹ Prefecture de l’Orne, ‘Instructions relatives aux retours en Ukraine des bénéficiaires de la protection temporaire’, available in French at : <http://bit.ly/416sJpO>.

2. Access to asylum

The existing legal framework provides the possibility for BTPs to exercise their fundamental right to seek asylum at the same time.⁹⁵⁰ In that case, BTPs still benefit from the temporary protection regime while their application is being examined and, if international protection is not granted, they retain the benefit of temporary protection for as long as it remains in force. If they are protected at the end of an asylum (refugee status or subsidiary protection), this status takes over that of temporary protection.⁹⁵¹

According to Ministry of Interior preliminary statistics, at the end of 2022, there were 702 Ukrainian beneficiaries of international protection in France, but it is not specified when they received such protection and it should be noted that the examination of appeals by Ukrainians before the CNDA were partly suspended in the first part 2022 to let the Court adopt and adjust its position.⁹⁵² However, in 4 decisions from 30 December 2022, the CNDA granted asylum to Ukrainians nationals, due to the situation of indiscriminate violence of exceptional intensity in certain identified regions.⁹⁵³ According to Eurostat, 3,430 asylum applications were registered by Ukrainians nationals in 2023, compared to 1,770 in 2022.⁹⁵⁴

According to the CNDA's 2023 activity report, the Court took 311 decisions on appeal regarding Ukrainian nationals asking for international protection (118 in 2022). After examination, 177 decisions granted international protection (46 recognised refugee status, and 131 subsidiary protection).⁹⁵⁵

Like with the CNDA, it seems that the processing of applications by Ukrainian nationals was, at first, suspended at OFPRA level, mainly for the same reason.⁹⁵⁶ Then, a few judgments were issued by the CNDA between the end of 2022 and early 2023, all concerning applicants who were not eligible for temporary protection.

Regarding the CNDA's position on protection, the decisions taken since the beginning of the conflict in Ukraine state that:

- ❖ The Court examines both refugee status and, if it finds the case does not meet the requirements, subsidiary protection. Regarding the latter, the situation is not uniform across Ukraine and thus the court's caselaw may vary oblast by oblast.
- ❖ In decisions from 30 December 2022, the Court determined that the situation in the oblasts of Donetsk, Louhansk, Zaporijia, Kharkiv was to be characterised as indiscriminate violence of exceptional gravity, assessment according to which subsidiary protection was to be granted to all persons originating from the oblasts.⁹⁵⁷ The same position was decided in June 2023 for the oblasts of Mykolaïv and Dnipropetrovsk,⁹⁵⁸ and in November 2023, for the oblasts of Kherson.⁹⁵⁹

⁹⁵⁰ Article L581-4 Ceseda; Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available at: <https://bit.ly/3n3OCHB>.

⁹⁵¹ Article L581-4 Ceseda.

⁹⁵² Observation by Forum Réfugiés, January 2023.

⁹⁵³ Communiqué de la CNDA, *UKRAINE, la CNDA accorde l'asile à des ressortissants ukrainiens*, 30 décembre 2022, available in French at : <https://bit.ly/3KG1rBi>

⁹⁵⁴ Eurostat, *Asylum applicants by type of applicant, citizenship, age and sex – annual aggregated data*, database consulted 30 April 2024, available at: <https://bit.ly/4blpsIM>.

⁹⁵⁵ CNDA, *Rapport d'activité 2023*, available in French at : <https://bit.ly/3K1Nc8J>, 76.

⁹⁵⁶ Practice-based observation by Forum-Réfugiés.

⁹⁵⁷ CNDA, 30 December 2022, Nos. 21060196, 21063903 et 22002736, 21048216, 22001393, press release and cases available in French at: <http://bit.ly/3JvGbwk>.

⁹⁵⁸ CNDA, 21 June 2023, Nos. 22003919, and 22005942, press release and cases available in French at: <https://bit.ly/3UFUFPW>.

⁹⁵⁹ CNDA, 22 November 2023, No 21065383, available in French at : <https://bit.ly/3UL6Evk>.

- ❖ Regarding the oblasts of Odessa,⁹⁶⁰ Khmelnytskyi, Vinnytsia, Volhynie,⁹⁶¹ Jytomyr, Poltava, Soumy and Tchernihiv,⁹⁶² Rivne, Lviv, Ternopil, Transcarpatie, Tcherkassy, Kirovohrad⁹⁶³ and the oblast of Kiev,⁹⁶⁴ the Court determined that there was indiscriminate violence but not to a level that would lead to concluding that all persons returning there are at high risk of threats to their life or person. Thus, persons have to demonstrate that individual factors put them at particular risk of threats to their life or person. Individual factors considered sufficient by the Court include isolation with no possibility of receiving familial assistance, age, health conditions.

All these cases concerned Ukrainian nationals not eligible to temporary protection, having arrived in France prior to 24 February 2023.

At first instance, OFPRA follows the positions of the CNDA and continues to produce documentation on these situations to feed this case law.⁹⁶⁵

B. Family reunification

1. Family reunification as provided under the Temporary Protection Directive

BTPs can ask the authorities to be joined by their family members currently living in another EUMS under temporary protection, or by a family member outside of the EU territory.⁹⁶⁶ When the family member is the partner (married or not) or children, the authorities accept to protect them in France if the family agrees but the law specifies that the State accept “depending on respective reception capacities of the Member State concerned”.⁹⁶⁷ When other members of family are involved, authorities accept depending on reception capacities and emergency.

2. Family reunification beyond the Temporary Protection Directive

The residence permit delivered to BTP (APS, *Autorisation provisoire de séjour*) does not, given its short duration (6 months), grant a right to family reunification.

C. Movement and mobility

BTPs are in principle not limited as to their freedom of movement within the State.

In accordance with the EU directive on temporary protection, BTPs also enjoy freedom of movement towards other EU Member States, under the same conditions as a European citizen. To the best of knowledge of the author, there have been no issues in this regard.

To the best of knowledge of the author, BTPs who wished to temporarily return to Ukraine did not experience any issues. In order to be able to return to the Schengen area, it is preferable that the provisional residence permit still be valid when a person returns from a visit to Ukraine. Temporary trips to Ukraine have no impact on the status of beneficiaries of temporary protection. However, there is no

⁹⁶⁰ CNDA, 6 January 2023, No 21041482, press release and case available at: <http://bit.ly/3JvGbwk>.

⁹⁶¹ CNDA, 31 January 2023, Nos 21050761, 21056916, 21064954, 22009685, 22009721, press release and decisions available at: <https://bit.ly/3KuhGQt>.

⁹⁶² CNDA, 8 March 2023, Nos 21016856, 21057060, 22007730, 22006590, press release and decisions available at: <http://bit.ly/3GBQZbv>.

⁹⁶³ CNDA, 21 June 2023, Nos. 20043780, 23006392, 22016071, 22005380, 22004539, and 21065084, press release and cases available in French at: <https://bit.ly/3UFUFPW>.

⁹⁶⁴ CNDA, 5 July 2023, No 21048376 C+, available in French at: <https://bit.ly/3Qlyelw>.

⁹⁶⁵ See e.g.: OFPRA, *Ukraine: le parti Naïch Kraï*, 3 February 2023, available in French at: <https://bit.ly/3V2kavS>.

⁹⁶⁶ Article R.581-8 to R.581-12 Ceseda.

⁹⁶⁷ Article R.581-8 Ceseda.

harmonisation in terms of the duration of such trips. Prefectures usually mention that beneficiaries should return to France before the expiration of their provisional residence permit.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?	No time limit until access to private housing
2. Number of beneficiaries staying in reception centres as of 12/23	10,187 ⁹⁶⁸
3. Number of beneficiaries staying in private accommodation as of 12/23	28,000 ⁹⁶⁹

Upon arrival, Ukrainian nationals are welcomed in an emergency reception site usually for a period of one to two nights. Depending on personal situations, including the composition of the household, capacity in the territory and following various assessments by social workers about the wishes of the family and material conditions provided, a referral to accommodation is made for a period of several weeks / months, before benefiting from more permanent housing. Depending on availability, it is possible to be accommodated in another city, another department, or another region than that of the place of arrival in France if BTPs wants to.⁹⁷⁰

Three steps are planned by the authorities:

- ❖ Step 1: Emergency reception on arrival.
 - Accommodation of one to two nights upon arrival in France, including for people in transit, near the main points of arrival (train stations, airports...).
 - Type of accommodation: hotel, gymnasium, conference centre etc.
 - Emergency humanitarian care.
- ❖ Step 2: Ad hoc accommodation of beneficiaries of temporary protection
 - Transitional accommodation, up to several months, time period during which orientation towards adapted housing is assessed and prepared.
 - Type of accommodation: collective accommodation (holiday centre for example).
 - Social support by an association, within the framework of an agreement with the State.
- ❖ Step 3: Access to more permanent housing
 - Housing for a minimum period of three months, in order to allow BTPs to integrate into their new environment.
 - Priority is given to independent housing. Accommodation with private citizens, in a supervised form, can be mobilised as a supplement.
 - Rental intermediation by associations under agreement is also a possibility, in social housing as well as in general private housing. The owner signs a lease with an association, which then subleases the accommodation to the BTP household.⁹⁷¹
 - Social support by an association.

In practice, this scheme is applied with the exception of emergency reception systems on arrival which are no longer in place due to the sharp reduction in arrivals.

⁹⁶⁸ Gouvernement, *Annexe au projet de loi de règlement du budget et d'approbation des comptes pour 2023, Programme 303*, 17 April 2024, available in French at : <https://bit.ly/3V3hviX>.

⁹⁶⁹ Gouvernement, *Annexe au projet de loi de règlement du budget et d'approbation des comptes pour 2023, Programme 177*, 17 April 2024, available in French at : <https://bit.ly/3yeelgA>.

⁹⁷⁰ Ministry of Interior, *Livret d'accueil en France pour les déplacés d'Ukraine*, available in French and Ukrainian at: <https://bit.ly/40ovy56>.

⁹⁷¹ Ministry of Interior, *Foire aux questions : accueil des réfugiés ukrainiens*, available in French at: <https://bit.ly/3LESuZl>.

BTPs do not benefit from the accommodation solutions contained in the DNA (national reception system for asylum seekers).⁹⁷² Solutions have been found outside of the DNA.

The Ukraine welcome centres themselves and prefectures in departments where there are no (or no longer) reception centres are responsible for the provision of reception to BTPs. Coordination between the various actors involved in housing and accommodation (associations, local authorities, companies managing subsidised State housing, etc) is carried out by the prefect of the department. Moreover, through an external operator, the prefect of the department assesses and makes use of proposed housing solutions and private hosting, and channels BTP households towards the available options, in cooperation with the relevant associations.⁹⁷³

To avoid using the DNA, an instruction of 22 March 2022 identified ad hoc accommodation and housing schemes.⁹⁷⁴ The State thus set up a reception and support system specifically dedicated to the persons displaced from Ukraine. This collective accommodation park (holiday centres, hotels, etc.), financed in 2022 and 2023, is made up of 13,187 places at the end of 2023⁹⁷⁵ (amongst a total 87,000 places in reception centres created since March 2022).⁹⁷⁶ In addition, there are about 10,000 people accommodated in so-called "citizen" accommodation.⁹⁷⁷ These reception capacities are entrusted for management purposes to associations approved by the State, based on specifications defining the obligations that must be respected. In practice, there are multiple forms of implementation of this "citizen accommodation", with different stakeholders and practices regarding the mobilization of housing, the choice of supporting associations and the accommodation offers.⁹⁷⁸ Regarding collective accommodation, State services have endeavoured to carry out "loosening" actions in order to partially correct the unequal distribution of displaced Ukrainians within the territory.

The distribution of displaced persons by type of accommodation or housing is monitored by the Interministerial Delegation for Accommodation and Access to Housing (DIHAL). At the end of February 2023, the French Prime Minister Elisabeth Borne highlighted that 40% of BTPs currently in France are accommodated by their own means, independently from state housing facilities. The other 60% are divided in three housing solutions. At the end of 2023, approximately 28,000 BTP had access to independent housing (in 9,000 housing units), 13,187 are in a collective accommodation solution,⁹⁷⁹ and approximately 10,000 benefits from citizen housing.⁹⁸⁰

The Court of Auditors also specified that at the end of December 2022, 4 250 social housing units were used (mainly vacant housing or empty housing due to rehabilitation operations) allowing more than 13 400 people to find somewhere to live. Further, 4 280 private housing units have been made available, slightly more than half of them by private owners.⁹⁸¹

⁹⁷² Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available at: <https://bit.ly/3n3OCHB>.

⁹⁷³ Ministry of Interior, *Foire aux questions : accueil des réfugiés ukrainiens*, available in French at: <https://bit.ly/3LESuZl>.

⁹⁷⁴ Ministry of Interior, *Circulaire Accès à l'hébergement et au logement des personnes déplacées d'Ukraine bénéficiaires de la protection temporaire*, 22 March 2022, available in French at: <https://bit.ly/3mZBL9f>.

⁹⁷⁵ Gouvernement, *Annexe au projet de loi de règlement du budget et d'approbation des comptes pour 2023, Programme 303*, 17 April 2024, available in French at: <https://bit.ly/3V3hvlX>.

⁹⁷⁶ Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022, February 2023*, available in French at: <https://bit.ly/3LwwKiD>, 7.

⁹⁷⁷ Gouvernement, *Annexe au projet de loi de règlement du budget et d'approbation des comptes pour 2023, Programme 177*, 17 April 2024, available in French at: <https://bit.ly/3yeelgA>.

⁹⁷⁸ UNHCR, *Hébergement citoyen des réfugiés ukrainiens, tirer les enseignements d'une exceptionnelle solidarité*, 15 February 2024, available in French at: <https://bit.ly/3K2BcUE>.

⁹⁷⁹ Gouvernement, *Annexe au projet de loi de règlement du budget et d'approbation des comptes pour 2023, Programme 303*, 17 April 2024, available in French at: <https://bit.ly/3V3hvlX>.

⁹⁸⁰ Gouvernement, *Annexe au projet de loi de règlement du budget et d'approbation des comptes pour 2023, Programme 177*, 17 April 2024, available in French at: <https://bit.ly/3yeelgA>.

⁹⁸¹ Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022, February 2023*, available in French at: <https://bit.ly/3LwwKiD>.

There have been no issues of BTP not being able to access reception conditions, either by law or in practice.

When Ukrainian nationals arrive, NGOs assist refugees regarding their administrative procedures but also provide first needs items (hygiene kits, catering or food aid, clothing, childcare equipment).⁹⁸²

When they obtain their status as BTP, multiple rights and conditions are provided. First, they have access to a financial allowance the amount of which is based on their household, meaning that they are considered as independent regarding their daily needs (food, clothes etc.). They also benefit from complete health insurance coverage. Regarding accommodation, BTPs will first be sent to collective accommodation for a period of 1 or 2 months. Then, they should have access to private accommodation or, if necessary, citizen accommodation. Private accommodation can be social housing or private rental accommodation. In the second case, BTPs can have access to financial assistance for housing (APL).⁹⁸³ Also, numerous BTPs have found private housing solutions outside of state measures.⁹⁸⁴

Private hosting

Private hosting is quantitatively very important in accommodation for displaced persons from Ukraine. Thus, more than half of BTPs are not accommodated in a system supervised by the State. The State has partially supervised this development by approving, through associations, 4,000 citizen accommodation solutions to ensure the adequateness and quality of reception conditions and to provide useful support to host families. Some of those housing solutions are supervised by a contract that involves three parties: the host, the BTPs and the referring association. The accommodation's modalities are detailed in the terms, and the association will stay in contact with the household to assist them, or in case of any trouble. At the beginning of September 2022, 14,000 displaced persons from Ukraine were hosted in approved citizen housing; an undetermined number are accommodated elsewhere.⁹⁸⁵ No more recent data was available at the time of writing this report.

In November 2022, the State decided to provide financial support to individuals having accommodated, free of charge and for a minimum period of 90 days, beneficiaries of temporary protection, provided that these individuals justify this reception through an association financed for this purpose by the State or, where appropriate, through a local authority or a local public institution, competent in matters of social action, via its representative. The State offers individuals EUR 450 for the first 90 days of cumulative accommodation and then EUR 5 per day for the following days of accommodation, i.e., EUR 150 per month. Applications are open until 30 April 2023.⁹⁸⁶ Nearly 3,000 households had benefited from this aid by the end of 2023.⁹⁸⁷

To participate in citizen housing, hosts must complete an application in order to provide clear information about their identity and their accommodation. If their application is chosen, an association will confirm that the conditions are available for welcoming a BTP. The association plays an important

⁹⁸² Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022, February 2023*, available in French at : <https://bit.ly/3LwwKiD>, 20.

⁹⁸³ Government, *Pour l'Ukraine*, available in French at : <http://bit.ly/3JUNvli>.

⁹⁸⁴ Practice-based observation by Forum Réfugiés, Janvier 2023.

⁹⁸⁵ Assemblée Nationale, *Rapport fait au nom de la commission des finances, de l'économie générale et du contrôle budgétaire sur le projet de loi de finances pour 2023 (n°273) – annexe 28*, 6 October 2022, available in French at: <http://bit.ly/3FJWC7h>.

⁹⁸⁶ Decree No 2022-1441 of 17 November 2022 establishing an exceptional support measure for natural persons who have sheltered in accommodation or housing, one or more natural persons benefiting from temporary protection under Articles L. 581-1 et seq. of the Code of Entry and Residence of Foreigners and the right of asylum, available in French at: <https://bit.ly/3z1YnbY>.

⁹⁸⁷ Gouvernement, *Annexe au projet de loi de règlement du budget et d'approbation des comptes pour 2023, Programme 177*, 17 April 2024, available in French at : <https://bit.ly/3yeelgA>.

role in citizen housing. They provide a safety legal framework, and they are the main reference point in case of disagreements between parties.

In January 2023, an evaluation of the implementation and execution of the national action plan against human trafficking⁹⁸⁸ was made public. One of the measures was to raise awareness among migrant populations of the risks of exploitation. The committee considers that it was “partially executed”. On this point, the evaluation mentions that the warning documentation made for migrants was only accessible in French, until displaced persons from Ukraine arrived in France. All the necessary documentation was then translated into Ukrainian, English or Russian, making the prevention easier.

To the best of knowledge of the author, BTPs who benefited from a private accommodation model did not experience any issues.

The law does not provide for the possibility to reduce or withdraw material reception conditions for temporary protection beneficiaries, the provisions on material reception conditions only concern asylum seekers.

E. Employment and education

1. Access to the labour market

Initially, BTPs were only authorised to ask for a work permit, but not immediately work due to the legal framework on the residence permit for BTPs in France, which was quickly modified by a decree of 1 April 2022:⁹⁸⁹ this section of the law on temporary protection was modified and requesting a specific authorisation to work is no longer necessary. The temporary residence permit mentions the person’s immediate right to access to labour market.⁹⁹⁰

Legislation regarding independent professions was also amended⁹⁹¹ in order to allow beneficiaries of temporary protection to apply for registration in the trade register (*registre des métiers*) as well as apply for registration in the Trade and Companies Register (*registre du commerce et des sociétés*) in order to exercise an independent profession.

To facilitate access to the labour market, Pôle emploi (the Employment Office) has developed an online questionnaire (in [French](#) and [Ukrainian](#)), in order to identify the wishes, diplomas, skills and professional experiences of persons with temporary protection. Depending on the assessment, Pôle emploi can provide support for the job search. For those under 25, la mission locale⁹⁹² can offer socio-professional support.

French law⁹⁹³ provides that working as a civil servant is mainly reserved to French nationals, subject to exceptions. Nowadays, work in the public service is more open to individuals who don’t have French nationality. The remaining restriction concerns positions that are inextricably interlinked with “state sovereignty” i.e. defense, taxes, police, diplomacy etc. With the exception of these specific topics, beneficiaries are equal to nationals for all employment matters.

⁹⁸⁸ National consultative commission on human rights, *Evaluation de la mise en œuvre du plan d'action national contre la traite des êtres humains (2019-2021)*, available in French at : <https://bit.ly/3ZuhEhh>.

⁹⁸⁹ Decree of 1 April 2022 on the right to work of beneficiaries of a temporary protection, available in french at : <https://bit.ly/3ZuhEhh>.

⁹⁹⁰ Article R581-4 Ceseda; article L5221-2 Labour Code.

⁹⁹¹ Bylaw of 27 April 2022 regarding the required supporting documents for beneficiaries of subsidiary protection to pursue self-employed activities, available in French at: <https://bit.ly/3YXGVA4>.

⁹⁹² For further information, see: Mission Locale, *Portail d'insertion professionnelle des jeunes*, available in French at: <http://bit.ly/3JGOrJS>.

⁹⁹³ Article L321-1 of public service code.

As of September 1, 2023, 17,438 people born in Ukraine had worked at least one hour in the previous month. Of these, 26% had done so in the hotel and restaurant sector. From a geographic point of view, 26% had worked in Île-de-France, 13% in the Provence-Alpes-Côte d'Azur region and 13% in the Auvergne-Rhône-Alpes region. On the same date, there were 16,364 beneficiaries of temporary protection registered with the Unemployment Office (former Pôle Emploi, now France Travail). Among Ukrainians with access to the labour market, 44% were beneficiaries of a permanent contract, 47% of a fixed-term contract and 7% of a temporary contract.⁹⁹⁴

No specific professions have been exempted from qualification recognition for BTPs.

No specific measures are in place directed at combating labour exploitation of BTPs.

2. Access to education

According to the Education Code, all children between the ages of 3 and 16, regardless of legal status, must have guaranteed access to education.⁹⁹⁵ Schooling between 3 and 16 is an obligation and not simply a right. Children between the ages of 16 and 18 must be able to access training.⁹⁹⁶ They then have access to higher education.

Children of persons benefiting from temporary protection have access to the education system on the same basis as all minors present on the national territory. A specific leaflet was prepared by the Government in French and Ukrainian to explain the French education system to displaced persons from Ukraine.⁹⁹⁷

As of 31 March 2022, 6,873 students arriving from Ukraine had been enrolled in the French education system since 24 February 2022, including 43% in primary schools and 30% in secondary schools.⁹⁹⁸ As of 27th May 2022, 17,677 students displaced from Ukraine were registered in a French school, including 18% in preschool, 39% in primary school, 33% in secondary schools and 10% in high schools. The 3 major academies where Ukrainians students are registered are Nice (1,515), Versailles (1,291) and Grenoble (1,182).⁹⁹⁹ Nearly 19,236 Ukrainian students were enrolled in French schools as of December 1, 2022. 55% of these students were attending kindergarten and elementary schools.¹⁰⁰⁰ In January 2024, 17,739 Ukrainian students were educated in France: 15% in preschool, 38% in primary school, 32% in secondary school and 15% in high school. They are most numerous in the academies of Île-de-France and Nice.¹⁰⁰¹

In a report published in October 2023, a member of the Parliament expressed concern about the drop in the number of children in school and warned of the risks of dropping out of school which should be the subject of an in-depth investigation.¹⁰⁰²

⁹⁹⁴ Assemblée Nationale, *Avis présenté au nom de la commission des affaires étrangères sur le projet de loi de finances pour 2024 (n°1715)*, 11 October 2023, available in French at : <https://bit.ly/4bDIYRx>.

⁹⁹⁵ Article L131-1 of the Education code.

⁹⁹⁶ Law n°2019-791 of the 26th July 2019, Article 15.

⁹⁹⁷ Ministry of Education and Youth, *Accueil et scolarisation des enfants ukrainiens*, available in French at: <http://bit.ly/3K3FEmY>.

⁹⁹⁸ Ministry of Education and Youth, *[Archive] Accueil des enfants ukrainiens à l'école: point de situation au 1er avril 2022*, available in French at: <http://bit.ly/3lCTiw>.

⁹⁹⁹ Ministry of Education and Youth, *accueil des enfants ukrainiens à l'école : point de situation au 27 mai 2022*, available in French at: <http://bit.ly/3zmHnh2>.

¹⁰⁰⁰ Ministry of Interior, *Foire aux questions : accueil des réfugiés ukrainiens*, available in French at: <https://bit.ly/3LESuZl>.

¹⁰⁰¹ Le Dauphiné Libéré, *Élèves ukrainiens : « Il y a eu un élan de solidarité », affirme Nicole Belloubet*, 23 February 2024, available in French at : <https://bit.ly/3WDHmC9>.

¹⁰⁰² Assemblée Nationale, *Avis présenté au nom de la commission des affaires étrangères sur le projet de loi de finances pour 2024 (n°1715)*, 11 October 2023, available in French at : <https://bit.ly/4bDIYRx>.

UP2A¹⁰⁰³ (*Unité pédagogique pour élèves allophones arrivants* / pedagogical unit for incoming allophone students) are specific classes to support allophone children. Where this exists (these do not exist uniformly across the country), children can benefit from this specialised programme for children who do not speak French. In these programmes, children spend half of their time in UPE2A French classes, and the other half in their respective class level. This system covers elementary, middle and high school. Children in kindergarten only attend regular classes.

If a child has special needs, a request can be made to the MDPH (Departmental House for Disabled Persons) in case of disability. The average delay for examination of a request is 4 months.¹⁰⁰⁴ After recognition of a disability by the MDPH, accommodation can be decided and implemented.

In any case, schools have been very accommodating regarding the reception of Ukrainian children. For example, students may follow both online school from Ukraine and in person school in France. A child with a disability can be accommodated in the regular education system with specific provisions; there also exist specialised educational facilities if proposed accommodation is the regular education system is not sufficient.

For children beyond the age of 16 however, there have been issues in practice when they do not want to go to high school, especially if they had already stopped their schooling in Ukraine. Prefectures refuse to issue them temporary residence permits (APS) as they are minors;¹⁰⁰⁵ however they need these to access vocational training in practice, as such programmes require the right to work.

There are no specific measures for Ukrainian child who might need alternative solution to the regular education system, however they may access all programmes regarding children's special needs in schools.¹⁰⁰⁶

Higher education

Regarding access to higher education, the circular of 22 March 2022¹⁰⁰⁷ clarified the modalities of reception of displaced students from Ukraine benefiting from temporary protection. A special system was put in place to support applications from students arriving during the academic year, as well as provisions for their integration into more traditional curricula for the 2022-2023 academic year.

After initially inviting third country national university students to return to their native country and taking orders to leave French territory (OQTF) against them, in July the French authorities invited French universities to allow the remaining students still present in France to enrol and continue their studies in France, under certain conditions (see [Qualification for temporary protection](#)).¹⁰⁰⁸

Thus, as a first step and pending the start of the new academic year in September 2022, the main priority was to include students immediately after arrival, in particular through FLE (French as Foreign

¹⁰⁰³ Ministry of Education and Youth, *La scolarisation des élèves allophones nouvellement arrivés et des enfants issus de familles itinérantes et de voyageurs*”, available in French at: <http://bit.ly/3LL2lrH>.

¹⁰⁰⁴ Government, *MDPH : diminution de la durée de traitement des dossiers*, 21 October 2022, available in French at: <http://bit.ly/3nSXmRo>.

¹⁰⁰⁵ Indeed, French law only foresees residence permits for adults, whether for beneficiaries of international protection, beneficiaries of temporary protection, or other third country nationals. For temporary protection, see article R581-1 CESEDA, which only invites persons over the age of 18 years old to go to the Prefecture to request a residence permit.

¹⁰⁰⁶ Mon parcours handicap.gouv, *Ecole et handicap : les aménagements possibles*, available in French at : <http://bit.ly/3nNSFrP>

¹⁰⁰⁷ Ministry for Higher Education, Research and Innovation, *Circulaire du 22 mars 2022 portant sur l'accueil des étudiants déplacés d'Ukraine bénéficiaires de la protection temporaire*, 22 March 2022, available in French at: <https://bit.ly/3TSRwlv>.

¹⁰⁰⁸ Ministry of Higher Education and Research, *Circulaire du 5 juillet 2022, accueil des étudiants ressortissants de pays tiers présents en France et déplacés d'Ukraine après le 24 février 2022*, available in French at : <bit.ly/40vhS8K>.

Language) training, cultural activities, an adapted specialised teaching by degree speciality intended to prepare them for a university course in France.

All requests to enter higher education for displaced persons from Ukraine are centralised by Campus France through an email address in order to allow for follow-up and support of these students, and to facilitate their orientation and support by academic institutions.

The person is asked to describe their situation in a form and is informed that *'requests will be brought to the attention of institutions that have expressed their willingness to welcome via a networking platform. Institutions will then contact students.'*

People who would benefit from enrolment into a higher education institution may be accommodated in public student accommodation available through the Crous (within the limits of existing capacities) and in Île-de-France by the CIUP (International Student Housing Centre of Paris) depending on available places. They are also able to benefit from housing allocations ('APL').

A specific emergency aid of up to EUR 500 may also be requested from the CROUS. The latter is paid after a simplified social assessment by the social services. It is also understood that students benefiting from temporary protection are entitled to access State scholarships based on social criteria, subject to compliance with the conditions applicable to all students, and also (whether or not they benefit from State scholarships, contrary to other students) benefit from € 1 meals in university cafeterias. The circular also specifies that institutions will be able to mobilize the CVEC (financial contribution from students claimed at registration, used for campus life) to contribute to a financial or material aid. If necessary, the students concerned can contact University Health Services to access psychologists.

Lastly, the circular clarifies the modalities of the PAUSE programme for Ukrainian researchers specifically. The PAUSE programme aims at allowing researchers from countries where they are unable to work freely and are forced into exile to be hosted in French higher education, research and cultural institutions.¹⁰⁰⁹ This programme also benefits a researcher's family.

In a February 2023 report, the French Audit office indicate that 1,266 Ukrainian students were registered in French university at this moment, and the ministry of higher education added that 240 researchers are under the program PAUSE¹⁰¹⁰. Campus France, the public administration responsible for promoting French higher education abroad, counted 1,592 Ukrainians in higher education in France in 2022,¹⁰¹¹ and indicated that their number had increased by 111% in 2023.¹⁰¹²

In practice, BTPs face great difficulties in pursuing higher education due to language level, need for transcripts to enter university, etc. (see [General Report – Access to Education](#)).

F. Social welfare

According to the TPD and to the instruction on TPD of 10 March 2022, BTP's enjoy access to some branches of social welfare. They mainly have access to a free healthcare financial housing help (APL), and allowances based on their family situation.

¹⁰⁰⁹ For further information see: <https://bit.ly/3JDZR11>.

¹⁰¹⁰ Minister for higher education, *Etudiants, enseignants-chercheurs ukrainiens : point sur les aides*, available in French at : <http://bit.ly/416rmd>.

¹⁰¹¹ Campus France, *La mobilité étudiante dans le monde, chiffres clés*, June 2023, available in French at : <https://bit.ly/4bWtk31>.

¹⁰¹² Campus France, *Chiffres clés 2024 de la mobilité étudiante : plus de 412 000 étudiants internationaux en France*, 10 April 2024, available in French at : <https://bit.ly/3QNjoAC>.

If third-country nationals are legally residing in France (including BTPs), conditions of access to social welfare are the same as nationals. This is the application of the fundamental principle of equality of treatment.

Housing and health benefits are granted by respectively the French benefit office (CAF) and the health care insurance fund (CPAM).

Social security institutions are reachable in every French department,¹⁰¹³ and there is no limit to mobility within the country thus there is no need for beneficiaries to live in a specific place to access social welfare.

Presently, there have been no issues reported of BTPs not being able to access social assistance, either by law or in practice.

The Court of Auditors estimated that the total financial cost of the state's expenses and social welfare expenses for the displacement from Ukraine in 2022 will amount around € 634 M. This includes € 25 M for health care and € 15 M for the family branches of social welfare.¹⁰¹⁴

To the best of knowledge of the author, the exact number of BTPs who benefit from social welfare is not available.

G. Health care

Once they have received their temporary residence permit, beneficiaries of temporary protection enjoy the same rights as nationals with regard to healthcare and are not subject to the three-month waiting period imposed upon asylum seekers. They have access to all the healthcare system thanks to access to public universal health protection (PUMA) and a one-year right to the public health mutual (CSS, Complémentaire Santé Solidaire)¹⁰¹⁵ renewable as long as the residence permits for BTPs are renewed. These two systems combined allow for full coverage of their health costs.

Public health insurance ensures the coverage of all care necessary to one's health, so appointments with general practitioners, dental surgeons, midwives as well as prescription medication and laboratory analyses. Public health Insurance covers health expenses related to glasses, dental prostheses, hearing aids, other medical devices and allows persons to benefit from medical and psychological support.¹⁰¹⁶

Before obtaining their temporary residence permit, for urgent or non-urgent hospital care, displaced persons from Ukraine are advised to go to the nearest hospital with an identity document.¹⁰¹⁷

Several documents were produced by the health authorities both in Ukrainian and French, to facilitate information dissemination,¹⁰¹⁸ including a comprehensive 100-page guide.¹⁰¹⁹

¹⁰¹³ For further information see: <http://bit.ly/415oYB2>

¹⁰¹⁴ Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022, February 2023*, available in French at : <https://bit.ly/3LwwKiD>, 9 and 29.

¹⁰¹⁵ Ministry of Interior and others, *Instruction on TPD*, 10 March 2022, available in French at: <https://bit.ly/3n3OCHB>, 5.

¹⁰¹⁶ Ministry of Interior, *Foire aux questions : accueil des réfugiés ukrainiens*, available in French at: <https://bit.ly/3LESuZl>.

¹⁰¹⁷ Ministry of Interior, *Livret d'accueil en France pour les déplacés d'Ukraine*, available in French and Ukrainian at: <https://bit.ly/40ovy56>.

¹⁰¹⁸ See e.g. Regional Health Agency Bourgogne France Comté, *Solidarité avec l'Ukraine – Documents de santé*, 15 April 2022, available in French and Ukrainian at: <https://shorturl.at/0aTZ0>.

¹⁰¹⁹ Santé publique France, *Livret de santé bilingue Français/Ukrainien*, last updated 22 March 2023, available at: <https://shorturl.at/y42EG>.

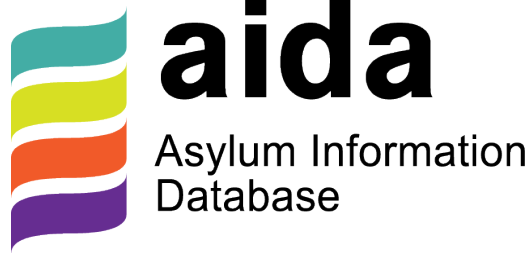
In most of the cases, BTPs do have an effective access to health care. However, it has been reported that some beneficiaries have trouble obtaining a social security card (carte vitale). The main reported cause is paperwork's issues or missing administrative papers (e.g., birth certificate) that appear necessary in this procedure.¹⁰²⁰

Associations offers appointment were BTPs can be redirected to the proper services if they have issues. For instance, between the 4th May and 5th October 2022, France Terre d'Asile received 1,367 households, resulting in 62 orientations to the mental health plan "Santé/Psy" and 140 individual supports regarding health care.¹⁰²¹

To the best of knowledge of the author, BTPs who benefited from health care did not experience any major issues.

¹⁰²⁰ Based on perusal of the national healthcare authority's help forum, available here: <http://bit.ly/40YrjOB>.

¹⁰²¹ Court of Auditors, *L'accueil et la prise en charge par l'Etat des réfugiés d'Ukraine en France en 2022, February 2023*, available in French at: <https://bit.ly/3LwwKiD>, 20.



Greece

2023 Update



Official data and information on beneficiaries of temporary protection and on the implementation of the law on temporary protection in Greece are very limited. Thus, comments made on practice and implementation of the law on temporary protection are based on GCR's experience and exchanges with other relevant NGOs in the field.

Temporary Protection Procedure

A. General

Legislative acts on temporary protection

Title (EN)	Original Title (XX)	Web Link
Presidential Decree (P.D.) 80/2006 on the "Provision of temporary protection in the event of a mass influx of displaced foreigners"	Προεδρικό Διάταγμα Υπ' Αριθμ. 80/2006 (ΦΕΚ 82/Α/14.4.2006), αναφορικά με την «Παροχή προσωρινής προστασίας σε περίπτωση μαζικής εισροής εκτοπισθέντων αλλοδαπών»	https://bit.ly/3TA7Suj (GR) https://bit.ly/3VgU88J (GR)
Abolished by: Article 108 (b) L. 4939/2022 (i.e., Asylum Code)	Κατάργηση με: Άρθρο 108 (β) Ν. 4939/2022	
Asylum Code, Part 6 (articles 119-146) on the "Provision Of Temporary Protection in the Event of Mass Influx of Displaced Foreigners"	Ν. 4939/2022, Μέρος έκτο (άρθρα 119-146) αναφορικά με την «Παροχή Προσωρινής Προστασίας επί Μαζικής Εισροής Εκτοπισθέντων Αλλοδαπών»	https://bit.ly/3VgU88J (GR)
In force	Σε ισχύ	

Implementing decrees on temporary protection

Ministerial Decision (M.D.) 131035/4.3.2022 on the "Implementation of temporary protection of P.D. 80/2006 due to mass influx of displaced persons from Ukraine"	Υπουργική Απόφαση (Υ.Α.) 131035/4.3.2022 αναφορικά με την «Εφαρμογή προσωρινής προστασίας του Π.Δ. 80/2006 λόγω μαζικής εισροής εκτοπισθέντων από Ουκρανία»	https://bit.ly/4abCWpG (GR)
M.D. 172172/2022 (Gov. Gazette 1462/B/28-3-2022) on the "Procedure for granting a Temporary Protection Residence Permit to beneficiaries of temporary protection"	Υ.Α. 172172/2022 (ΦΕΚ. 1462/B/28-3-2022) αναφορικά με την «Διαδικασία χορήγησης Άδειας Διαμονής Προσωρινής Προστασίας στους δικαιούχους προσωρινής προστασίας»	https://bit.ly/3Tz14Nk (GR)
M.D. 81645/8.2.2023 on the "Extension of the ministerial"	Υ.Α. 81645/8.2.2023 αναφορικά με την «Παράταση ισχύος της υπ' αρ.	https://bit.ly/4a631Gq (GR)

<p>decision no. 131035/4.3.2022 "Implementation of the temporary protection of Decree 80/2006 due to the mass influx of displaced persons from Ukraine"</p> <p>Extends duration of temporary protection for a six-month period (4 March 2023 – 4 September 2023)</p>	<p>131035/4.3.2022 υπουργικής απόφασης «Εφαρμογή προσωρινής προστασίας του Π.Δ. 80/2006 λόγω μαζικής εισροής εκτοπισθέντων από Ουκρανία»</p> <p>Παράταση ισχύος Προσωρινής Προστασίας για διάστημα 6 μηνών (4 Μαρτίου 2023 – 4 Σεπτεμβρίου 2024)</p>	
<p>M.D. 392634/20.08.2023 on the "Extension of the Ministerial Decision No. 131035/04.03.2022 "Implementation of the temporary protection of Decree 80/2006 due to mass influx of displaced persons from Ukraine"</p> <p>Extends duration of temporary protection for a six-month period (4 September 2023 – 4 March 2024)</p>	<p>Υ.Α. 392634/20.08.2023 αναφορικά με την «Παράταση ισχύος της υπ' αρ. 131035/04.03.2022 υπουργικής απόφασης «Εφαρμογή προσωρινής προστασίας του π.δ. 80/2006 λόγω μαζικής εισροής εκτοπισθέντων από Ουκρανία»</p> <p>Παράταση ισχύος Προσωρινής Προστασίας για διάστημα 6 μηνών (4 Σεπτεμβρίου 2023 – 4 Μαρτίου 2024)</p>	<p>https://bit.ly/3wJWiUb (GR)</p>
<p>M.D. 64419/21.2.2024 on the "Extension of the validity of Decision no. 131035/04.03.2022 of the Minister of Migration and Asylum regarding the 'Implementation of temporary protection of P.D. 80/2006 due to mass influx of displaced persons from Ukraine'."</p> <p>Extends duration of temporary protection for a period of one year, up to 4 March 2025</p>	<p>Υ.Α. 64419/21.2.2024 αναφορικά με την «Παράταση ισχύος της υπ' αρ. 131035/04.03.2022 Απόφασης του Υπουργού Μετανάστευσης και Ασύλου «Εφαρμογή προσωρινής προστασίας του π.δ. 80/2006 λόγω μαζικής εισροής εκτοπισθέντων από Ουκρανία»</p> <p>Παράταση ισχύος Προσωρινής Προστασίας για διάστημα ενός έτους, έως τις 4 Μαρτίου 2025</p>	<p>https://bit.ly/3TzUjtF (GR)</p>

The Temporary Protection Directive (TPD) was introduced in the national legal framework by Presidential Decree 80/2006 (Gov. Gazette 82/A/14-4-2006). The Decree was abolished by the Asylum Code (article 148), which codifies TPD provisions under articles 119-146 (Part 6).

Temporary Protection in Greece was activated in accordance with [Council Implementing Decision \(EU\) 2022/382](#) (04/03/2022) via [M.D. 131035/4.3.2022](#). It covers persons that were legally residing in Ukraine before 24 February 2022, and namely Ukrainian nationals, third country nationals or stateless persons granted international protection or equivalent national protection status in Ukraine before 24 February 2022, as well as the family members of the aforementioned groups of beneficiaries.

There were no significant numbers of people who were displaced - directly or indirectly - by the war present in the country but beyond the scope of TPD. During 2022, 118 non-Ukrainian third country nationals were granted TP, among which 101 Russians. Relevant data is not available in 2023.

As in 2022,¹⁰²² official data on beneficiaries of temporary protection continued to be very limited in 2023 and no data on the total number of individuals present in Greece, who were potentially entitled to temporary protection throughout the year, has been published. Yet, in a February 2023 article,¹⁰²³ the former Secretary General for Reception of the MoMA noted that up to August 2022, more than 75,000 Ukrainian nationals had arrived in Greece, with the very low number of pre-registrations for temporary protection (19,000 at the time), confirming, as per the former S.G., Ukrainians' "high expectation that they would soon return to their homeland".

From the implementation of the TPD and up to 31 December 2023, a total of 27,573 applications for temporary protection were pre-registered by the Asylum Service, most of which in the broader region of Attica (15,760),¹⁰²⁴ followed by Thessaloniki (8,032) and Crete (2,072). During the same time interval, a total of 26,848 people were granted temporary protection/received temporary protection cards, the vast majority of whom were women (68.9%). The majority of beneficiaries were between the age of 35-64 (10,439), followed by those aged 18-34 (6,924) and those aged between 0-13 (5,760). Slightly more than 1 in 4 beneficiaries (26.6%) was a minor.¹⁰²⁵

B. Qualification for temporary protection

In Greece, temporary protection applies to Ukrainian nationals, as well as stateless persons and beneficiaries of international protection or beneficiaries of equivalent national protection in Ukraine, and the family members of the categories of persons mentioned above.

People from the above categories who have been displaced from 24 February 2022 onwards are eligible for temporary protection in Greece, yet in a welcome practice of the Greek Asylum Service, pursuant to article 3(5) [Directive 2001/55/EC](#) on more favourable conditions, temporary protection has also been applied in cases of persons who had left the Ukraine from 26 November 2021 onwards.¹⁰²⁶ The Ministerial Decision (MD) in Greece copied the Council Decision without adding or removing any categories of displaced persons.

According to the MD family members are:

- ❖ the spouse of a person eligible for temporary protection or the person with whom they live in a free union within the framework of a stable relationship duly proven,
- ❖ the minor unmarried children of a person eligible for temporary protection or of their spouse, without distinction as to whether they were born within or outside marriage or adopted,
- ❖ other close relatives who were living together as part of the family unit at the time of the circumstances surrounding the mass influx and who are wholly or mainly dependent on a person eligible for temporary protection.

The initial MD, issued in March 2022, granted temporary protection for 12 months. Consecutive MDs have since extended the duration of temporary protection by an additional period of 2 years, up to 4 March 2025.

¹⁰²² AIDA, *Country Report: Greece, Temporary Protection Annex, 2022*, available at: <https://bit.ly/4c7xB4x>.

¹⁰²³ ΕΘΝΟΣ, *Περισσότερους από 75.000 Ουκρανούς φιλοξένησε η Ελλάδα - Πώς αντιμετωπίσαμε την κρίση*, 24 February 2023, available in Greek at: <https://bit.ly/45NoB16>.

¹⁰²⁴ Includes the regional asylum offices of Attica and Alimos.

¹⁰²⁵ MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://bit.ly/3TxX9jL>, tables 19 and 20.

¹⁰²⁶ GCR, Oxfam & Save the Children, *Greece: A two-tier refugee system*, May 2022 available at: <https://bit.ly/3ThvZfB>, p.3. See also MoMA, *Temporary Protection: Frequent Questions*, 18 April 2022, available in Greek at: <https://tinyurl.com/2ycfx3rn>, p. 2.

C. Access to temporary protection and registration

1. Admission to territory

There were no reports of people fleeing from Ukraine refused entry at the border, including for people who returned to Ukraine and sought to re-enter Greece.

2. Freedom of movement

There were no known issues for individuals entitled to temporary protection not holding a biometric passport or biometric travel document in moving within the country's territory or while attempting to continue their journey towards other European countries.

3. Registration under temporary protection

The Asylum Service is responsible for registering applications for temporary protection. Five Regional Offices are available for the temporary protection procedure (Attica (2), Thessaloniki, Crete, Patras). Applicants have to include the following in their application: e-mail address, personal details, the type and number of identification document, level of education, the field of professional activity, any need for housing, the collection point of the allocated Temporary Protection Beneficiary card.

Filling out the application can be done online (migration.gov.gr) and then an appointment is booked for one of the Asylum Regional Offices.

The application has to be submitted within 90 days of arrival (Schengen Visa rules) but there are no consequences in case of non-compliance, according to the Ministry of Migration guidelines.

Passports (biometrical and non-biometrical), residence permits and asylum cards can all be used to prove that a person falls under the scope of temporary protection.

The Ministry of Migration provides beneficiaries of temporary protection with a Temporary Protection Beneficiary card (within 90 days).

In practice delays are observed due to the lack of staff but these are not significant.

4. Legal assistance

There is no specific legal assistance foreseen for beneficiaries of temporary protection, nor is it actually needed in practice for the completion of the procedure.

5. Information provision and access to NGOs

According to the law (article 125 Asylum Code), beneficiaries of temporary protection are provided with written information with regards to their rights and obligations in a language they understand (whether that be online, flyers, etc). The information is to be provided by the Greek Asylum Service under the Ministry of Migration, while a [dedicated webpage](#), also available in Ukrainian, is available on the MoMA's website. NGOs, migrant and refugee communities also provide information (info sessions, online, flyers, etc). Information is provided at border-crossing points on how to apply for temporary protection, but interpretation is a challenge.

D. Guarantees for vulnerable groups

With the exception of checks, at the stage of registration, of indicators of trafficking in human beings, there was no specific procedure introduced for the identification of vulnerable applicants or beneficiaries. In what concerns unaccompanied minors, the General Secretariat of Vulnerable Persons and Institutional Protection, along with the Public Prosecutor, are informed in detail and immediately after registration of separated, and in very rare cases, unaccompanied children, from Ukraine.

There was no specific programme to address the needs of individuals fleeing from Ukraine suffering from mental health problems, including torture survivors. In practice, some NGOs provided assistance.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of temporary protection?
Initial duration of up to 12 months, renewed for an additional 6 + 6 months by the end of 2023 and for an additional 12-month period up to 4 March 2025
2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2023?
26,848¹⁰²⁷

After registration, the regional Asylum Offices deliver a Temporary Protection Beneficiary card within 90 days. The initial Ministerial Decision (131035/2022) included protection for a 12-month period, which has since been twice renewed for periods of 6 months via relevant MDs in February and July 2023, and for an additional 12-month period, up to 4 March 2025, via a February 2024 MD.

Beneficiaries of temporary protection have access to the labour market and healthcare in accordance with Directive 2001/55.

There can be only one application request. If someone requests temporary protection in another EU Member State, their request in Greece is automatically cancelled.

Beneficiaries of temporary protection can also apply, until 4/3/2025, through an electronic platform, for any residence permit of the new Migration Code (L. 5038/2023) without the requirement of a valid visa.

2. Access to asylum

Beneficiaries of temporary protection can also apply for international protection whenever they wish, without having their temporary protection residence permit withdrawn.

B. Family reunification

There are no specific provisions on family reunification for beneficiaries of temporary protection in Greece.

According to article 131 (Preserving family unity) of the Asylum Code, 'in cases of families which existed in the country of origin and were separated due to the circumstances of the mass influx, the following shall be considered as part of the family of the resident:

(a) the spouse of the resident, the minor unmarried children of the resident or his/her spouse, without distinction as to whether they were born in or out of wedlock or by adoption.

(b) Other first and second-degree relatives by blood or marriage who were living together as part of the family at the time of the events leading to the mass influx and who were fully or mainly supported by the resident at that time.

In cases where the separated family members of the first subparagraph of the previous paragraph enjoy temporary protection in another EU Member State, the Asylum Service of the Ministry of Immigration

¹⁰²⁷ MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://bit.ly/3TxX9jL>, table 20.

and Asylum shall take the necessary steps towards the competent authority of the state concerned to achieve family unity of these persons with the persons residing in Greece, after taking into account the wishes of the aforementioned family members.

The Asylum Service shall take the same actions as above for the achievement of family unity of persons residing in Greece with the separated members of the family referred to in paragraph a' of Para. 1, who are not residing in another EU Member State and who are in need of protection.

The family unity may also be achieved for the family members of other first and second degree relatives by blood or marriage who were living together as part of the family at the time of the events leading to the mass influx and who were fully or mainly supported by the resident at that time, taking into account the adverse consequences that may arise for the family members if reunification does not take place.

The choice of the Member State of the European Union in which family reunification is to take place shall also take into account the provisions of Articles 141 and 142 Asylum Code.

Family members who enter the country in the context of maintaining family unity shall be granted a residence permit in accordance with the provisions of para. 1 of Article 124. The transfer of family members of the resident to the territory of another EU Member State for the purpose of maintaining family unity entails the withdrawal of residence permits issued by the Greek authorities, as well as the termination of Greece's obligations with regard to the temporary protection of these persons.

For the implementation of the provisions on family unity, Greece cooperates with the competent international organisations, where necessary.

C. Movement and mobility

Beneficiaries of temporary protection are free to move within the Greek territory and have freedom of movement towards other EU Member States once registered.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?	There is no time limit
2. Number of beneficiaries staying in reception centres as of 12/23	121 ¹⁰²⁸
3. Number of beneficiaries staying in private accommodation as of 12/23	No data provided

The main forms of accommodation provided to beneficiaries of temporary protection is in reception centres and specifically the camps of Sintiki, designated for the temporary accommodation of beneficiaries, and the camps of Serres and Elefsina, designated for long-term accommodation. Beneficiaries of temporary protection are also eligible to access the HELIOS integration programme (implemented by IOM Greece in collaboration with the Ministry of Migration and Asylum), aimed to support the successful integration of beneficiaries of international protection and temporary protection in Greece, by offering accommodation support, Greek language courses and employability support.

¹⁰²⁸ MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection* | Appendix A, available at: <https://bit.ly/3TxX9jL>, table 18.

According to Article 129 Asylum Code:

1. Persons enjoying temporary protection reside in special accommodation centres operated under the care and responsibility of the Ministry of Migration and Asylum.
2. The persons accommodated under the preceding paragraph shall be provided with the necessary medical care, including the necessary treatment of illnesses, first aid and at least one medical examination.
3. In case the aforementioned guests in the accommodation centres do not have sufficient resources for their maintenance, the Ministry of Immigration and Asylum shall provide them with food, clothing and any other possible social assistance.
4. Cases of persons with special needs, such as infants, elderly persons, unaccompanied minors, sick persons, injured persons, as well as persons who have been subjected to torture, rape or other serious forms of mental, physical or sexual violence, shall be treated as a matter of priority.
5. Where persons enjoying temporary protection are engaged in gainful or independent activity, their capacity to contribute to their needs shall be taken into account when determining the level of assistance provided.

Beneficiaries of temporary protection are entitled to stay in reception centres for as long as they benefit from temporary protection. The State offers accommodation in camps, even though in practice, temporary protection beneficiaries do not seem to be willing to remain there, or alternatively supports independent living efforts, via rent subsidies provided to those eligible under the HELIOS integration programme, implemented through IOM.

Regarding camps, though there is no data on the total number of places in reception centres dedicated to temporary protection beneficiaries, as of 31 December 2023, a total of 121 Ukrainian nationals, most of whom women (59) and children (34), were reported by the MoMA as residing in Serres and Elefsina camps.¹⁰²⁹

Regarding independent living, beneficiaries of temporary protection living in private accommodation frequently stay with relatives, friends, compatriots, etc., and thus relevant data are not available.

The number of temporary protection beneficiaries receiving rent subsidies/accommodation support under the Helios programme is also not known, as relevant [factsheets](#) do not include a relevant disaggregation. Nevertheless, as per the last available data on Helios for 2023 (November),¹⁰³⁰ from a total of 45,221 persons that have enrolled into Helios since the programme first started operating in 2019, 14.1% have been Ukrainian nationals. In November 2023, a total of 3,721 individuals were also receiving rent subsidies/accommodation support under the programme, yet as already mentioned, their nationalities are not specified.

E. Employment and education

1. Access to the labour market

According to Article 128 Asylum Code the following applies on employment and vocational training:

‘1. A residence permit issued to a person enjoying temporary protection shall also have the status of a work permit valid for the county in which his/her residence has been established throughout the period of temporary protection. This work permit shall confer the right to engage in an economic activity as an

¹⁰²⁹ *Ibid.*

¹⁰³⁰ MoMA & IOM, *Helios factsheets: November 2023*, available at: <https://tinyurl.com/4y4x92z5>.

employed or self-employed person, in accordance with the provisions in force, as well as the right to participate in adult education, vocational training or work experience programmes. The above rights shall be exercised provided that the posts are not filled by EU citizens or citizens of States bound by the Agreement on the European Economic Area, as well as by legally resident citizens of third countries who are in receipt of unemployment benefits.

2. The legislation in force concerning remuneration, access to social security schemes, and the conditions or special conditions relating to employment or self-employment shall also apply to persons enjoying temporary protection.’

There are, however, no specific measures in place to facilitate access to the labour market for temporary protection beneficiaries and to date there is no data on the numbers of beneficiaries who had accessed the labour market by the end of 2023.

2. Access to education

Going to school is mandatory for children aged six to fifteen years old. According to Article 130 Asylum Code, ‘[b]eneficiaries of temporary protection who are under 18 years of age shall be granted the right of access to public schools in which reception classes or tutorial classes are in operation or are planned to be in operation.’

Temporary protection beneficiaries are entitled to education under the same conditions as nationals.

There is no data on the number of child beneficiaries of temporary protection who had accessed the education system by the end of 2023. This is largely on account of the fact that data connected to the residence status of children attending school are not kept, given that irrespective of their legal status, which can also change dynamically during the school year, all children benefit from the right to access public education and can frequently enrol to it with incomplete supporting documents.¹⁰³¹

The language barrier is an important challenge. Accommodation in camps also poses an issue as camps are remote without appropriate options for commuting and so access to school is problematic. The HELIOS project requires beneficiaries to rent apartments on their own.

It has been pointed out that in some cases small school units are unable to accommodate all children because of lack of capacity. The phenomenon of schools being reluctant to accommodate refugee children does not apply to children from Ukraine.

There are only limited places in specific areas for children with special needs.

According to Article 128 Asylum Code on employment and vocational training:

1. ‘A residence permit issued to a person enjoying temporary protection shall also have the status of a work permit valid for the county in which his/her residence has been established throughout the period of temporary protection. This work permit shall confer the right to engage in an economic activity as an employed or self-employed person, in accordance with the provisions in force, as well as the right to participate in adult education, vocational training or work experience programmes. The above rights shall be exercised provided that the posts are not filled by EU citizens or citizens of States bound by the Agreement on the European Economic Area, as well as by legally resident citizens of third countries who are in receipt of unemployment benefits.

¹⁰³¹ As per information provided by the Autonomous Department for the Coordination of Refugee Education of the Ministry of Education on 27 February 2024.

2. The legislation in force concerning remuneration, access to social security schemes, and the conditions or special conditions relating to employment or self-employment shall also apply to persons enjoying temporary protection.'

It is not possible to access the higher educational system except after passing the national exam, which takes place once a year.

Language barriers and the distance of the accommodation facilities may also be a challenge to accessing vocational training but there is no data in order to have a definitive conclusion.

F. Social welfare

Social welfare is provided for beneficiaries of temporary protection (article 129 Asylum Code). For example, in case beneficiaries in the accommodation centres do not have sufficient resources for their maintenance, the Ministry of Migration and Asylum shall provide them with food, clothing and any other possible social assistance.

The Ministry of Migration and Asylum coordinates social assistance and it is not tied to a requirement to reside in any specific place or region. However, if beneficiaries do not stay in the designated special facilities, they do not benefit from the Ministry's practical assistance.

There is no data on the number of beneficiaries of temporary protection who had accessed different forms of social welfare by 31 December 2023.

G. Health care

According to Article 129 (paragraph 2) Asylum Code, '[t]emporary protection beneficiaries shall be provided with necessary medical care, including any necessary treatment of illnesses, first aid and at least one medical examination.'

Thus, they are not entitled to the same health care as nationals, or as legally residing third-country nationals.

Language is a practical obstacle, as are staff availability and the limited capacity of the health system.

Croatia

2023 Update



Temporary Protection Procedure

A. General

Title (EN)	Original Title (XX)	Web Link
Act on International and Temporary Protection Official Gazette 70/2015 Amended: Official Gazette 127/2017 Amended: Official Gazette 33/2023	Zakon o međunarodnoj i privremenoj zaštiti NN 70/2015, 127/2017, 33/2023	http://bit.ly/1hlaq3Q (HR) http://bit.ly/2ln4y6c (EN) https://bit.ly/2pPntru (HR) https://bit.ly/43iu0Mc (HR)
Act on General Administrative Procedure Official Gazette 47/2009 Amended: Official Gazette 110/2021(in force since 1 January 2022)	Zakon o općem upravnom postupku NN 47/2009, 110/2021	http://bit.ly/1J7BRAh (HR) https://bit.ly/36ZLaFZ (HR)
Act on Administrative Disputes Official Gazette 20/2010 Amended: Official Gazette 143/2012 Amended: Official Gazette 152/2014 Decision of the Constitutional Court of the Republic of Croatia U-I-2753/2012 and others, 27 September 2016, Official Gazette 94/2016 Amended: Official Gazette 29/2017 Amended: Official Gazette 110/2021	Zakon o upravnim sporovima NN 20/2010, 143/2012, 152/2014, 94/2016, 29/2017, 110/2021	http://bit.ly/1Gm4uTj (HR) http://bit.ly/1Bs4ZiO (HR) https://bit.ly/2uyfHXR (HR) https://bit.ly/2pWu82v (HR) https://bit.ly/3LXKHn4 (HR)
Act on Foreigners, Official Gazette 133/2020 Amended: Official Gazette 114/2022 Amended: Official Gazette 151/2022	Zakon o strancima NN 133/2020, 114/2022, 151/2022	https://bit.ly/2OLg8ZC (HR) https://bit.ly/3lLqMxi (EN) http://bit.ly/3IGAZoz (HR) http://bit.ly/3LOEeOf (HR)
Act on Free Legal Aid Official Gazette 143/2013 Amended: Official Gazette 98/2019	Zakon o besplatnoj pravnoj pomoći NN 143/2013, 98/2019	http://bit.ly/1lojGRf (HR) https://bit.ly/3bDiHD5 (HR)
Act on the Recognition and Evaluation of Foreign Educational Qualifications, Official Gazette 69/2022	Zakon o priznavanju i vrednovanju inozemnih obrazovnih kvalifikacija NN 69/2022	https://bit.ly/3XX1vDA (HR)
Social Welfare Act Official Gazette 18/22 Amended: Official Gazette 46/22, Official Gazette 119/22, Official Gazette 71/23, Official Gazette 156/23	Zakon o socijalnoj skrbi NN 18/22, 46/22, 119/22, 71/23, 156/23	https://bit.ly/45PLvFC (HR)
Act on Regulated Professions and Recognition of Foreign Qualifications Official Gazette 82/2015 Amended: Official Gazette 70/2019 Amended: Official Gazette 47/2020 Amended: Official Gazette 123/2023	Zakon o reguliranim profesijama i priznavanju inozemnih stručnih kvalifikacija NN 82/15, 70/19, 47/20, 123/23	https://bit.ly/4cNTOPK (HR) https://bit.ly/4ctfHIX (HR) https://bit.ly/3xxBGj2 (HR) https://bit.ly/4btUWmc (HR)
Act on Education in Primary and Secondary Schools Official Gazette 87/08 Amended: Official Gazette 86/09, Official Gazette 92/10, Official Gazette 105/10, Official Gazette 90/11, Official	Zakon o odgoju i obrazovanju u osnovnoj i srednjoj školi NN 87/08, 86/09, 92/10, 105/10, 90/11, 5/12, 16/12, 86/12, 126/12, 94/13, 152/14, 07/17, 68/18, 98/19, 64/20, 151/22, 155/23, 156/23	https://bit.ly/468oxd7 (HR)

Gazette 5/12, Official Gazette 16/12, Official Gazette 86/12, Official Gazette 126/12, Official Gazette 94/13, Official Gazette 152/14, Official Gazette 07/17, Official Gazette 68/18, Official Gazette 98/19, Official Gazette 64/20, Official Gazette 151/22, Official Gazette 155/23, Official Gazette 156/23		
Ordinance on the procedure for determining the psychophysical condition of a child, a student and the composition of professional commissions Official Gazette 67/14 Amended: Official Gazette 63/20	Pravilnik o postupku utvrđivanja psihofizičkog stanja djeteta, učenika te sastavu stručnih povjerenstava 67/14, 63/20	https://bit.ly/4cscIAK (HR) https://bit.ly/3RSTEmO (HR)
Decision on co-financing the program for providing additional support to primary and secondary school students displaced from Ukraine in the 2023/2024 school year Official Gazette 145/22	Odluka o sufinanciranju programa za pružanje dodatne potpore učenicima osnovnih i srednjih škola raseljenima iz Ukrajine u školskoj godini 2023./2024.	https://bit.ly/3LvUqmp (HR)
Decision on the financing of textbooks for secondary schools and other educational materials for primary and secondary schools for students displaced from Ukraine for the school year 2023/2024	Odluka o financiranju udžbenika za srednje škole i drugih obrazovnih materijala za osnovne i srednje škole učenicima raseljenima iz Ukrajine za šk. god. 2023./2024.	https://bit.ly/3Wc2cld (HR)

Following the Council's Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection, on 7 March 2022, the Croatian Government adopted the Decision on the Introduction of Temporary Protection in the Republic of Croatia for Displaced Persons from Ukraine (hereinafter: Government's Decision).¹⁰³²

Pursuant to the Decision, Croatia shall grant temporary protection to the citizens of Ukraine and members of their families:

- a) residing in Ukraine on 24 February 2022 and who left Ukraine since 24 February 2022;
- b) stateless persons and third country nationals who were under international or equivalent national protection in Ukraine on 24 February 2022 and members of their families who were granted residence in Ukraine on 24 February 2022 and who left Ukraine since 24 February 2022;
- c) third country nationals who had a valid permanent stay in Ukraine on 24 February 2022 in accordance with Ukrainian regulations and who cannot return to their country or region of origin in safe and permanent conditions and who left Ukraine since 24 February 2022.

Regarding those who had fled Ukraine before 24 February 2022, temporary protection shall also be granted to the displaced citizens of Ukraine and members of their families who left Ukraine immediately before 24 February 2022 due to the security situation and cannot return to the country because of the armed conflict. According to the official statement of the Ministry of Interior,¹⁰³³ 'immediately before' is to be understood as starting from 1 January 2022. There is no data available on cases of people directly

¹⁰³² Croatian Government, Decision on the Introduction of Temporary Protection in the Republic of Croatia for Displaced Persons from Ukraine, available in Croatian at: <https://bit.ly/37yIQ2c>.

¹⁰³³ Information provided by the Ministry of Interior on 8 March 2023.

or indirectly displaced due to the conflict not falling under temporary protection. According to the official statistics of the Ministry of Interior on the number of applicants for international protection in 2023 by nationality, nationals from the Russian Federation constituted the third largest group of applicants for international protection in the Republic of Croatia, with 8,507 registered applicants, out of which only 650 applications were actually submitted. It might be assumed that this number is high due to the outbreak of the conflict on the territory of Ukraine and its prolongation to the present day, as the number of applications submitted by Russian citizens in 2021 before the conflict was only eight. However, there is no data available on the reasons why Russian nationals seek international protection. According to the same data received by the Ministry of Interior, in 2023 there were a total of 11 applicants for international protection who were Ukrainian nationals, out of which only 2 submitted their applications. Data on reasons for seeking international protection are not available.

There is no publicly available official data on persons entitled to temporary protection in the country. However, the Ministry of Interior provided data to the Croatian Law Centre for the purposes of writing this report. According to the aforementioned data, 4,956 applications for temporary protection were submitted until 31 December 2023, while a total of 4,715 applications were approved. On the other hand, 7 applications were rejected in 2023 and 96 applications were still being processed on 31 December 2023.¹⁰³⁴ The Ministry of Interior reported that it does not keep a record of cancelled temporary protection status, nor the cases of transfer of persons to other EU members where they have been already registered as persons under temporary protection. The Ministry stated that the return of persons to Ukraine does not constitute a basis for cancellation of temporary protection status in Croatia. Furthermore, in 2023 there were no cases of exclusion from temporary protection.

The regular daily update of data on the number of persons displaced from Ukraine who enter the Republic of Croatia, which was established by the Ministry of Interior and available on the website Croatia for Ukraine¹⁰³⁵, is no longer available.

According to Eurostat data¹⁰³⁶ 19,275 persons displaced from Ukraine have been registered for temporary protection in the Republic of Croatia until 31 December 2022, while the number at the end of January 2023 was 19,390.

B. Qualification for temporary protection

Pursuant to the Government's Decision, Croatia shall grant temporary protection to the citizens of Ukraine and members of their families:

- a) residing in Ukraine on 24 February 2022 and who left Ukraine since 24 February 2022;
- b) stateless persons and third country nationals who were under international or equivalent national protection in Ukraine on 24 February 2022 and members of their families who were granted residence in Ukraine on 24 February 2022 and who left Ukraine since 24 February 2022;
- c) third country nationals who had a valid permanent stay in Ukraine on 24 February 2022 in accordance with Ukrainian regulations and who cannot return to their country or region of origin in safe and permanent conditions and who left Ukraine since 24 February 2022.

Furthermore, temporary protection shall also be granted to the displaced citizens of Ukraine and members of their families who left Ukraine immediately before 24 February 2022 due to the security situation and who are not able to return to Ukraine due to the armed conflict.

¹⁰³⁴ Information provided by the Ministry of Interior on 8 March 2023.

¹⁰³⁵ Ministry of Interior: <https://bit.ly/3MOFgZm>.

¹⁰³⁶ Eurostat, Temporary protection for persons fleeing Ukraine - monthly statistics, available at: <http://bit.ly/3z1ScEU>.

'Immediately before' is to be understood as starting from 1 January 2022, according to the official statement of the Ministry of Interior.¹⁰³⁷ Persons who left Ukraine before that date are referred to regularise their status in accordance with the possibilities provided in the Aliens Act¹⁰³⁸ or Act on International and Temporary Protection.¹⁰³⁹ Among these possibilities, as suggested also by the Ministry of Interior,¹⁰⁴⁰ one can benefit from a short-term residence permit regulated in Article 55 of the Aliens Act (up to 90 days within the period of 180 days), during which a person can find work and then apply for a stay and work permit (temporary residence for the purposes of work) regulated in Article 88 of the Aliens Act once they find an employment. If a person cannot find a job or does not meet the conditions for a temporary residence permit for any of the purposes prescribed by the Aliens Act (e.g., digital nomad, studying, other purposes, etc.), they can apply for a temporary residence for humanitarian reasons.

Furthermore, persons displaced from Ukraine can regularise their stay based on the Act on International and Temporary Protection, by expressing their intention to submit an application for international protection. As can be inferred from the above, for some categories of persons displaced from Ukraine the temporal scope of temporary protection was broadened, as was the case for Ukrainian citizens and their family members. Further categories of persons entitled to temporary protection are stateless persons and third country nationals who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022 and members of their family, a category which falls under the scope prescribed by the Temporary Protection Directive ("TPD").

The Croatian government decided to broaden the scope of the temporary protection by accepting the option provided for in Article 2 Paragraph 2 of the TPD, *i.e.*, by including third country nationals who had valid legal permanent residence in Ukraine on 24 February 2022 and cannot return to their country or region of origin in safe and permanent conditions to the category of persons entitled to temporary protection in Croatia. However, family members of these persons are not falling under the scope of temporary protection.

The Government's Decision accepted the definition of a family member from the Council's decision. However, the only category the government omitted from the definition are minor children of a spouse of a person who is entitled to temporary protection according to the above conditions.

According to the Government's Decision, the following persons shall be considered to be part of a family of Ukrainian citizen, stateless person or third country national (with international or equivalent national protection status in Ukraine) who shall be granted temporary protection according to the Government's Decision:

- ❖ the spouse or the common-law partner;
- ❖ their minor children, regardless of whether they were born in a married or common law partnership or adopted;
- ❖ other close relatives who lived in a joint household at the time when the circumstances related to the displacement of persons from Ukraine arose, and who at that time were completely or mostly dependent on these persons.

Persons considered to be family members will be granted temporary protection and be provided with access to all rights arising from the temporary protection status in accordance with the provisions of the Act on International and Temporary Protection.

¹⁰³⁷ Information provided by the Ministry of Interior on 10 November 2022.

¹⁰³⁸ Government of the Republic of Croatia: Aliens Act (Official Gazette no. 133/20., 114/22., 151/22).

¹⁰³⁹ Government of the Republic of Croatia: Act on International and Temporary Protection (Official Gazette no. 70/15, 127/17).

¹⁰⁴⁰ Official statement received from the Ministry of Interior on 16 March 2023.

The only condition set out for mentioned family members to be entitled to temporary protection is that they resided in Ukraine on 24 February or ‘immediately before’ and left Ukraine since 1 January 2022 due to the aggression. No other conditions, such as Ukrainian nationality or permanent residence, are required.

Stateless persons and third country nationals who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022 and members of their family who left Ukraine since 24 February 2022 are under the scope of the temporary protection, alongside family members of Ukrainian citizens, while family members of persons granted with permanent residence in Ukraine are not falling under the scope of the temporary protection in Croatia.

If a person who is theoretically entitled to temporary protection, left Ukraine after 1 January or 24 February 2022 because of the war of aggression, but had already obtained regularised status on another basis in Croatia, they will not be eligible for temporary protection. For example, a Ukrainian citizen who held a work and residency permit in Croatia in 2021, went for holidays in Ukraine in the beginning of February 2022 and needed to leave the country due to the outbreak of the aggression, would not be allowed to submit application for temporary protection.¹⁰⁴¹

C. Access to temporary protection and registration

1. Admission to territory

Persons who declare to the border police at the border crossing points into the Republic of Croatia that they are displaced persons from Ukraine may enter Croatia regardless of whether they have a travel document for crossing the State border.¹⁰⁴²

During 2023, there were no reports of people fleeing Ukraine being refused entry at the Croatian border, including third country nationals.

Similarly, no evidence of refusal of entry or other difficulties for people who have returned to Ukraine and are seeking to re-enter the country has emerged. However, during the activity of legal counselling in the collective accommodation centres throughout the country, Croatian Law Centre lawyers collected testimonies of persons under temporary protection who experienced warnings of border police or police administration not to leave Croatia for more than a certain period of time. Said protocols differed depending on the specific border crossing point or the jurisdiction of the police administration. On one occasion, persons who went back to Ukraine for a short term were advised not to leave Croatia for more than 30 days due to the risk of losing the status of a person under temporary protection, while on another occasion a person was advised not to leave the country for more than 25 days. In another case, a temporary protection beneficiary experienced inconvenience when re-entering Croatia, in the form of an exhaustive questioning by the border police about the reasons for absence from the country and how long did the absence last. The said person was away for a week to visit relatives in Poland and eventually was allowed to re-enter the country. Uneven practices and interpretations of the provisions of the law and other regulations by the Ministry of Interior and police officers have been observed as a problem in the exercise of the right to temporary protection. In its letter from 2024¹⁰⁴³, the Ministry of Interior stated that it does not keep records of revoked temporary protection and that the status of a person under temporary protection is not revoked for persons returning to Ukraine.

¹⁰⁴¹ The case was received within the activity of legal counselling in Croatian Law Centre, while the same was confirmed by the official statement of the Ministry of Interior received on 16 March 2023.

¹⁰⁴² The Government of the Republic of Croatia, web page *Croatia for Ukraine*: <https://bit.ly/43tnJ09>.

¹⁰⁴³ Information provided by the Ministry of Interior on 8 March 2023.

Croatia followed the guidelines of the European Commission Communication "Providing operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders" regarding the entry of persons displaced from Ukraine, as well as regarding the entry of their personal belongings, valuables and pets.

Displaced persons from Ukraine are allowed to bring in personal belongings and are exempt from customs duties (and Value Added Tax) and with simplified customs formalities. In the case of the import of cash or gold, customs officials will act respecting the special circumstances, and when importing cash or gold with a value of EUR 10,000 or more, persons are obliged to report the above by submitting a partial declaration of resources or by means of a personal statement (with information about the holder of the cash, contact and the amount of cash). However, the possibility of applying the standard procedure and filling in all the necessary forms is provided if the need is determined based on the risk analysis carried out by the competent authorities.¹⁰⁴⁴

The Ministry of Agriculture adopted a decision¹⁰⁴⁵ which enables the non-commercial movement of pets accompanied by their owners to the territory of the Republic of Croatia. Dog owners are instructed to fill out the pet import application form and submit the information to the competent authority, followed by a visit of a veterinary inspector who will determine the necessary measures that should be carried out in relation to the identification of the dog with a microchip, vaccination against rabies and mandatory records.¹⁰⁴⁶

2. Freedom of movement

In 2023 there were no reports of restriction of movement within the country for persons displaced from Ukraine, no matter whether they held the biometric travel document or any other travel document. However, there is a legal obligation for persons who plan to stay within the territory of Croatia – as opposed to those just transiting through the country – to regularise their stay by submitting an application for short term residence. The same applies to those who do not want to apply for temporary protection immediately as they enter Croatia.

3. Registration under temporary protection

The Ministry of Interior is the authority responsible for registering applications for temporary protection application. Persons displaced from Ukraine may submit their application for temporary protection at the competent police station or police administration according to their place of residence or submit an online application for temporary protection through the *Croatia4Ukraine* e-platform.¹⁰⁴⁷ People accommodated in collective accommodation centres do not need to go to the police station or in front of the police administration; instead they can submit their temporary protection application in these facilities to Ministry of Interior's officers, or officers of police administration/stations¹⁰⁴⁸ who are visiting collective accommodation centres in case of an increased number of persons arriving to the centres (which was especially the case in spring 2022).

If a person expresses their intention to apply for temporary protection in Croatia at the border and they do not have organised accommodation in Croatia, they are instructed to go to the reception centres for displaced persons located in two locations: Sports hall South 2 in **Osijek** and City Sports Hall in **Gospić**. At the beginning, three reception centres were opened for displaced persons but the centre in **Varaždin** shut down since then. The stay in reception centres is short-term, usually up to 48 hours. After that time, people are offered permanent accommodation in collective centres. In the reception centres, there

¹⁰⁴⁴ The Government of the Republic of Croatia, web page *Croatia for Ukraine*: <https://bit.ly/43tnJ09>.

¹⁰⁴⁵ Ministry of Agriculture, Order on measures for acceptance of non-commercial relocation of pets accompanied by their owners displaced from Ukraine, available in Croatian at: <https://bit.ly/43wSKjK>.

¹⁰⁴⁶ The Government of the Republic of Croatia, web page *Croatia for Ukraine*: <https://bit.ly/43tnJ09>.

¹⁰⁴⁷ Available in English, Croatian and Ukrainian at: <https://bit.ly/3Z83Eti>.

¹⁰⁴⁸ The Government of the Republic of Croatia, web page *Croatia for Ukraine*: <https://bit.ly/43tnJ09>.

are employees of the Civil Protection, the Ministry of Interior and the Croatian Red Cross. The Croatian Red Cross uses a form to register the persons who have arrived in order to secure psychosocial support, humanitarian aid and due to the needs of the Tracing and Restoring Family Links Service. If a displaced person has secured accommodation in Croatia with friends, relatives or similar, they are referred to the police station responsible for the place of their residence in order to apply for temporary protection.

According to an official statement from the Ministry of Interior,¹⁰⁴⁹ each case is approached individually and checked to ensure the person meets the criteria determined by the Government's Decision and the Implementing Decision of the Council (EU) 2022/382 of 4 March 2022. This includes checking the data contained in the application, statements of the applicant, attached documents, and the information collected from the Ministry of Interior's records and other available data.

Those who have submitted their application through the e-platform are informed by e-mail of the date when they should come to the competent police administration or station according to their place of residence and which documents they need to bring in order to be able to proceed with the issuance of the identity card.

Furthermore, the Ministry stated in the aforementioned official statement that the identity card of an alien under temporary protection is issued no later than the day after the application is submitted, unless it is necessary to submit additional documentation or to carry out certain additional checks (e.g. through the records of the Ministry of Interior, the records of the Schengen Information System (SIS) for the purpose of banning entry, etc.).

Altogether 22,279 identity cards were issued by the Ministry of Interior to 18,764 persons, while on 31 December 2022, 18,548 identity cards were valid.¹⁰⁵⁰

The Ministry of Interior did not disclose data on the number of issued identity cards in 2023. However, altogether 4,918 applications for temporary protection were approved in 2023, i.e. 4,918 identity cards were issued for those persons. Persons who were registered as TP holders in 2022 and decided to enjoy their status in Croatia in 2023 should have certify the extension of their identity cards during the first half of 2023, but no data on the mentioned number was disclosed for 2023. According to the Ministry of Interior, when a person who does not qualify for temporary protection insists on submitting an application for temporary protection, the reasons why they do not meet the conditions for approval of the application for temporary protection are explained to them, and they are informed of the possibility to regularise their status in accordance with the Aliens Act. There is no formal decision made by the Ministry of Interior on denial or dismissal of temporary protection status.¹⁰⁵¹ If the status cannot be regularised on the basis of the Aliens Act, a person may be referred to the possibility of expressing the intention to submit an application for international protection in accordance with the provisions of the Act on International and Temporary Protection. If, despite this, the person still insists on submitting the application, the application for temporary protection is accepted. Since there are no conditions for starting the procedure, the request is rejected in accordance with Article 41 (2) of the Act on General Administrative Procedure.¹⁰⁵² If an application for temporary protection is submitted by a person who is not included in the categories of displaced persons for temporary protection, foreseen by the Government's Decision, the Ministry of Interior will issue a decision rejecting the application through the police department or police station. No appeal is allowed against the rejection decision, but an administrative dispute can be initiated within eight days from the date of delivery of the decision.¹⁰⁵³

¹⁰⁴⁹ Information provided by the Ministry of Interior on 13 December 2022.

¹⁰⁵⁰ Croatian Law Centre, The Croatian Asylum System in 2022 - National Report. The report was prepared as part of the project "Legal Assistance and Capacity Building for Access to Territory and Asylum in Croatia", with financial support of the UNHCR Croatia, p. 5.; available in English at: <https://bit.ly/434T7RL>.

¹⁰⁵¹ Information provided by the Ministry of Interior on 13 December 2022.

¹⁰⁵² Act on General Administrative Procedure (OG 47/09, 110/21).

¹⁰⁵³ Article 78, paragraphs 5 and 6 of the LITP.

The identity card of an alien under temporary protection is a bilingual document (in Croatian and English), it is considered as a residence permit in the Republic of Croatia and confirms the status of an alien under temporary protection. The card is issued by the police department, that is, the police station responsible for the place of residence of the person under temporary protection, or the officials of the Ministry of Interior, that is, police departments or stations in collective accommodation facilities. In the event of a change of residential address, a person must register/deregister their residential address within 2 days of the change of residence and obtain a new identity card of an alien under temporary protection.



Photo of the identity card of an alien under temporary protection.¹⁰⁵⁴

Displaced persons from Ukraine who have temporary protection in the Republic of Croatia will automatically have their temporary protection extended until 4 March 2024. Displaced persons from Ukraine under temporary protection in the Republic of Croatia should personally come to the police department/police station according to their place of residence in order to certify the extension of the validity of the identity card of a foreigner under temporary protection, from 15 February 2023 to 30 April 2023. The extension will be recorded in the existing identity card of the alien under temporary protection, so it is not necessary to submit a request for the extension of temporary protection. Based on the recorded number of persons displaced from Ukraine with the status of aliens under temporary protection, each police department/station will organise the extension of ID cards in its territory. People who applied for a card extension after 30 April 2023 did not lose their temporary protection status and continue to have the rights and obligations arising from the status.¹⁰⁵⁵

By decision of the Government of the Republic of Croatia, temporary protection for displaced persons from Ukraine is extended until 4 March 2025.¹⁰⁵⁶ To certify the extension of already issued ID cards, it is necessary that TP holders come to the police department/police administration competent according to their place of residence by 30 May 2024. People who apply for a card extension after 30 May 2024 will not lose their temporary protection status and will continue to have the rights and obligations arising from the status. The ID card certification for children under 16 can be done by a parent or guardian. For persons with special needs who cannot move independently, a family member or a competent person from the institution where the alien under temporary protection is placed can make the certification (it is

¹⁰⁵⁴ The Government of the Republic of Croatia, web page *Croatia for Ukraine*: <https://bit.ly/43tnJ09>.

¹⁰⁵⁵ Ibid.

¹⁰⁵⁶ The Government of the Republic of Croatia,

sufficient to bring a signed statement from the TP holder and proof of the impossibility of personal attendance, e.g. medical documentation, proof of disability etc).¹⁰⁵⁷

There are no specific time limits laid down in law for individuals to make their application, but every foreigner entering Croatia and planning to stay for more than mere transit should apply for a short-term residence which allows them to stay within the EEA for 90 days in the period of 180 days. On the other hand, on one occasion, an individual who reached out to the Croatian Law Centre for free legal counselling reported that they initially applied for a short-term residence permit. However, when attempting to apply for temporary protection three weeks later, they were denied and advised to leave the EU and return directly to the police station to apply for temporary protection. It was only after following these instructions that they were able to successfully submit and obtain temporary protection.

To prove their identity, a person displaced from Ukraine who falls under the scope of temporary protection can attach a copy of any documents, preferably with a photograph, on which their personal data is visible, such as an identity card issued by Ukrainian authorities, passport, residence permit, birth certificate, residence card, etc. If a person does not have such documents, they are still allowed to submit an application. In the application form, a person is required to enter personal data that will serve the Ministry of the Interior for further checks and identification, while with their signature, the person guarantees that the information filled in in the application is complete and true. More precisely, item 28 of the application form contains two final statements which must be signed by the applicant in order for the application to proceed. They state as follows:

“Final statement:

- a. I would like to be granted temporary protection in the Republic of Croatia, and I hereby confirm that all the information provided in items 1-27 is complete and true. I am aware that my application may be refused if the information provided is misrepresented, incomplete or incorrect.
- b. By signing this statement, I consent to the use of my personal and other data provided in this form by the Ministry of the Interior as the personal data controller for the purpose of data processing in the procedure for granting temporary protection. I consent to having my data disclosed to other state administration authorities for the purpose of exercising the rights arising from temporary protection. I understand that I have the right to withdraw my consent and request the suspension of further processing of my personal data. I am also aware of my right to request the correction of my data and of the consequences of denying my consent.“

Furthermore, regarding the documentation to be submitted by a family member of a citizen of Ukraine, see [Qualification for Temporary protection](#).

Residence is proved by attaching a certificate of residence permit issued by Ukrainian authorities (polycarbonate card for temporary or permanent residence, sticker - visa). In the absence of the above-mentioned documents, all other documents from which it can be concluded that the person resided in Ukraine can be considered, including the declaration of the applicants.

For the purposes of proving family ties and common-law union - birth certificate or certificate of registered civil partnership or common-law union shall be submitted. In the absence of the aforementioned documents, all other documents from which it can be concluded that there is a family relationship, common-law union, formal/informal life partnership or that the respective persons lived at the same address, including the declaration of the parties, are taken into account. A common-law union should have the characteristics of a stable relationship, which Croatian national legislation treats in a

¹⁰⁵⁷ Ibid.

manner comparable to married partners.¹⁰⁵⁸ In order to be able to determine the stated circumstances, it is necessary to submit appropriate documents issued by Ukrainian authorities, including certificates that can be issued by the diplomatic mission of Ukraine in the Republic of Croatia (in the absence of other evidence than the statements of the parties, some other evidence can be accepted that shows that they lived at the same address). For other close relatives – family ties and dependency are proven by residence documents, extracts from registers or any other document issued by Ukrainian authorities, proof of payment of care, etc.

Even though the Ministry of Interior stated¹⁰⁵⁹ that persons displaced from Ukraine are issued with a certificate of the submitted application after submitting an application for temporary protection, which states the date and time when they need to come to receive the identity card, information obtained from the beneficiaries suggests they are not.

No practical obstacles to register their application or delays in registering or issuing documents have been recorded for persons who applied for the temporary protection in Croatia. However, certain obstacles were experienced by those who already had registered their temporary protection status in another EU member state prior to the move and submitted an application for temporary protection in Croatia. Those persons were instructed by the police officials to bring the confirmation of deregistration of temporary protection from an EU country where they have enjoyed their rights as a person under temporary protection in order to be able to apply for temporary protection in Croatia.¹⁰⁶⁰ These instructions from the police officers are in contradiction with the official position of the Ministry of Interior, which reads as follows: “Article 79, paragraph 5 of the Act on International and Temporary Protection (“Official Gazette” No. 70/15 and 127/17) prescribes the methods of termination of the temporary protection: expiry of the longest term or Decision of the Council of the EU. Therefore, it is the practice in the Republic of Croatia that a displaced person is not required to deregister his residence in another Member State where they have already obtained temporary protection, before they are granted temporary protection in the Republic of Croatia. Namely, each Member State, including the Republic of Croatia, decides at its discretion how to resolve the application for temporary protection of a displaced person, considering that person already enjoys the status of an alien under temporary protection in another EU member state. Only after the issuance of the identity card of an alien under temporary protection, the person is advised to inform the competent authority of the Member State that granted them temporary protection that they have subsequently been granted temporary protection in the Republic of Croatia (for example, they can provide them with a copy of the Croatian identity card of an alien under temporary protection).”¹⁰⁶¹ Some of the mentioned persons who turned to the Croatian Law Centre with a request for help in the mentioned situation managed to obtain temporary protection through persistent efforts to exercise their rights, while others were forced to return to the country where they were initially granted temporary protection due to a persistent refusal by Croatian police officers to accept their application. This is therefore one of the indicators of unequal practices of treatment and interpretation of the institute of temporary protection by police administrations/stations in Croatia.

4. Legal assistance

People under temporary protection are granted access to free legal aid based on the Act on Free Legal Aid¹⁰⁶² if they meet the conditions set by law. The conditions for exercising the right to free legal aid depend on the type of aid requested, *i.e.*, primary or secondary legal aid. Primary legal assistance can be provided in any legal matter at the request of a person under temporary protection:

¹⁰⁵⁸ Pursuant to Article 11 of the Family Law (OG 103/15, 98/19), the effects of common-law union are applied to the life union of an unmarried woman and an unmarried man that lasts at least three years, and shorter if a child is born together, or if it was continued by marriage.

¹⁰⁵⁹ Information provided by the Ministry of Interior on 20 April 2023.

¹⁰⁶⁰ The cases were recorded within the activity of legal counselling in the Croatian Law Centre.

¹⁰⁶¹ Information provided by the Ministry of Interior on 18 April 2023.

¹⁰⁶² Act on Free Legal Aid (OG 143/13., 98/19.).

- a) if they do not have sufficient knowledge and ability to exercise their right
- b) if legal aid is not provided to them on the basis of special regulations
- c) if the submitted request is not obviously unfounded and
- d) if their financial circumstances are such that the payment of professional legal assistance could jeopardise their maintenance and the maintenance of household members.¹⁰⁶³

The procedure for obtaining primary legal aid is initiated by directly addressing the provider of primary legal aid.¹⁰⁶⁴

Secondary legal aid can be granted:

- a) if it is a more complex procedure
- b) if the applicant does not have the ability to represent himself
- c) if the material circumstances of the applicant are such that the payment of the necessary professional legal assistance could jeopardise the maintenance of the applicant and household members
- d) if it is not a pending litigation
- e) if in the last six months from the date of submission of the application, the applicant's application was not rejected due to the intentional provision of incorrect data and
- f) if the applicant is not provided with legal aid on the basis of special regulations.¹⁰⁶⁵

The procedure for approving secondary legal aid is initiated by submitting a request to the competent administrative body.¹⁰⁶⁶ Although the MoI has taken numerous measures to inform displaced persons about their rights and obligations, primarily by launching the website *Croatia for Ukraine*,¹⁰⁶⁷ which contains very detailed instructions and information about the rights and obligations of displaced persons, how to exercise them, which competent authorities to contact in a given situation and where to find help in case of need, many temporary protection beneficiaries are not sufficiently familiar with their right to free legal aid and the ways to obtain it. An additional problem in exercising the right to free legal aid is the difficulty to secure an interpreter who would participate in meetings with an authorised legal aid provider.

The main providers of legal assistance for temporary protection beneficiaries in Croatia are the Croatian Bar Association and non-governmental organisations such as Croatian Law Centre, Jesuit Refugee Service, Centre for Peace Studies, Centre for Peace, Nonviolence and Human Rights Osijek and Centre for Missing and Abused Children. Legal assistance is provided by the mentioned organisations mostly via email or telephone, thus covering the entire territory of Croatia. The provision of legal assistance in the organisation's office is available to beneficiaries who are able to travel to meet them there. While the Croatian Law Center is the only organisation which conducts visits to collective accommodation facilities throughout Croatia, while group info sessions on rights and obligations for people housed in private accommodation and online info sessions are delivered by some of the organisations. The Croatian Law Centre established a special telephone line for persons displaced from Ukraine so the legal assistance can also be provided via social networks (WhatsApp, Viber, Telegram).

5. Information provision and access to NGOs

According to the Act on International and Temporary Protection, the Ministry of Interior is obliged to inform the temporary protection beneficiaries, in writing and as soon as possible, about their rights and

¹⁰⁶³ Ibid. Article 10.

¹⁰⁶⁴ Ibid. Article 11.

¹⁰⁶⁵ Ibid. Article 13 paragraph 1.

¹⁰⁶⁶ Ibid. Article 16 paragraph 1.

¹⁰⁶⁷ Government of Croatia, *Croatia for Ukraine* web page, available at: <https://bit.ly/3MOFgZm>.

obligations in a language that they can reasonably be expected to understand and in which they can communicate.¹⁰⁶⁸

Although recent amendments¹⁰⁶⁹ to the Act on International and Temporary Protection provide that in the event when it is not possible to provide the information to the applicants for international protection in writing due to legitimate reasons or in the case an applicant is illiterate, information can be provided orally in a language that the applicant is assumed to understand and in which they can communicate, the same is not prescribed for persons under temporary protection.

In practice, persons displaced from Ukraine who found themselves at the Croatian border are handed a leaflet containing some general information on Croatia and its reception of displaced persons. The leaflet is written in Croatian and Ukrainian language and contains the following information: general information about Croatia, that passports and visas are not required to enter Croatia, that if they do not have secured accommodation, they should go to one of the three reception centres where they will receive all the necessary information and be referred in more permanent accommodation, that in case they have secured accommodation to contact the Croatian Red Cross to get all the necessary information and to contact the Ministry of Interior to register their stay and submit an application. The leaflet also lists the contacts details and addresses of all reception centres, Croatian Red Cross offices in Croatia, Embassy of Ukraine and consulates of Ukraine in Croatia, Ukrainian Community in Croatia and Ministry of Interior. Interpreters for Ukrainian language were present in reception centres (especially in the spring of 2022) or were available on demand so that the information is provided to displaced persons on time.

In addition, officials of the Civil Protection, Ministry of Interior, the Croatian Employment Service, the Croatian Social Work Service, the Croatian Red Cross and representatives of UNHCR Croatia, UNICEF Croatia and non-governmental organisations representatives visited persons displaced from Ukraine which were accommodated in collective accommodation centres and other housing facilities where the mentioned persons were placed (e.g., Community Service Centres) and provided them with information on their rights and obligations or to assist them in submitting the applications for exercising their rights. The above services were provided with the assistance of interpreters for Ukrainian language.

For the purpose of informing persons displaced from Ukraine and all other persons who wish to provide assistance to displaced persons, in March 2022, the MoI launched the website *Croatia for Ukraine* which provides information on arrival in the Republic of Croatia, reception, accommodation options, submission of applications for temporary protection, rights and obligations and how to exercise them, competent authorities and their contacts, practical advice in specific life situations and to whom contact in case of specific needs. The website also contains information on the current number of people displaced from Ukraine present in Croatia, how many are accommodated in individual and collective accommodation, the proportion of men, women and children, as well as statistical indicators for 2022. In addition, all important regulations and decisions regulating the system of reception and care for persons under temporary protection, a form of the application for temporary protection, a table of mobilised accommodation capacities and instructions for people who want to help the displaced persons are also included. The website is available in Croatian and Ukrainian language. Unfortunately, the website was not updated for 2023 with statistical information, while the only update concerned information on how to certify the extension of IDs.

Many non-governmental organisations conducted activities focused on providing information to the persons displaced from Ukraine, as well as State institutions.

¹⁰⁶⁸ Article 91 of the LITP.

¹⁰⁶⁹ Act on International and Temporary Protection (OG 70/15, 127/17, 33/23), entered into force on 1 April 2023.

Croatian Law Centre provided information on the rights and obligations in collective accommodation facilities, by organising online, via email or phone, and in person info sessions for persons accommodated in private housing. Three videos¹⁰⁷⁰ on the specific rights and obligations of temporary protection beneficiaries were made and shared on social media. A leaflet on the right to work for international protection applicants and persons under international and temporary protection was prepared in cooperation with UNHCR Croatia, association SVOJA and Croatian Employment Service. Dkolektiv organised Ukrainian Social Club where thematic seminars on different rights were held.¹⁰⁷¹

The Centre for Missing and Exploited Children¹⁰⁷² set up the Info-corner which aimed to inform displaced persons under temporary protection about their status rights and where they can take some educational materials, organised mobile info teams which conducted visits in order to inform persons about their rights and obligations and launched the website *Heart for Ukraine*¹⁰⁷³, which is available in Croatian and Ukrainian, and where all the information related to legal protection, social, healthcare and employment systems can be found. Also, the page is regularly filled with relevant information related to free content available in the area of Osijek-Baranja County, free shows and workshops organised for displaced persons. The webpage is regularly updated.¹⁰⁷⁴

Médecins du Monde - Belgique¹⁰⁷⁵ started a MED Info Centre in 2022 where information is provided about the right to health care and about the functioning of the public healthcare system in Croatia to temporary protection beneficiaries. Work of the MED Info Centre continued until April 2023, but MdM still provides respective information to persons under temporary protection when needed.¹⁰⁷⁶

SVOJA,¹⁰⁷⁷ an association founded by Ukrainian refugee women, held some info sessions on employment possibilities in Croatia in cooperation with other NGOs, while Plavi ured provided some information on starting a business and taxes in Croatia. SVOJA was active during 2023.

The Croatian Employment Service and Social Welfare Centre provided information (also available in a leaflet)¹⁰⁷⁸ on the right to work and rights from social welfare system, employment opportunities, as well as the services of the Croatian Employment Service and Social Welfare Centre, while mobile teams consisting of representatives of both Services visited reception and collective centres to provide the aforementioned information to the beneficiaries. Special emails were established, and all the forms were translated into Ukrainian to facilitate the procedures of finding employment and applying for social welfare services.

The Centre for Peace Studies held workshops with refugees from Ukraine on access to the labour market and labour rights, and on communication and discrimination, in cooperation with the Centre for Peace, Nonviolence and Human Rights Osijek, as well as a lecture on rights and the prohibition of discrimination in the field of healthcare for Ukrainian refugees living in Rijeka.¹⁰⁷⁹

Jesuit Refugee Service Croatia established a consultative-informative group on Telegram platform for TP holders and assisted in various integrational activities by providing relevant information, facilitating communication and negotiating with employers, State institutions and other stakeholders.¹⁰⁸⁰

¹⁰⁷⁰ Videos were made by CLC for the World Refugee Day 2022, see: <https://bit.ly/3B1xDtI>; <https://bit.ly/3pgQfTA>; <https://bit.ly/3LI1SKP>.

¹⁰⁷¹ Information provided by the Dkolektiv, 21 December 2022.

¹⁰⁷² Information provided by the Centre for Missing and Exploited Children, 24 February 2023.

¹⁰⁷³ Centre for Missing and Exploited Children, web page *Heart for Ukraine*, available at: <https://bit.ly/43LflmW>.

¹⁰⁷⁴ Information provided by the Centre for Missing and Exploited Children, 1 February 2024.

¹⁰⁷⁵ Information provided by the Médecins du Monde - Belgique, 14 February 2023.

¹⁰⁷⁶ Information provided by the Médecins du Monde - Belgique, 23 February 2024.

¹⁰⁷⁷ Information provided by the SVOJA, 14 February 2023.

¹⁰⁷⁸ Croatian Employment Services and Social Welfare Centre, leaflet *Employment and social welfare for Ukrainian citizens*, available in Croatian at: <https://bit.ly/3NvTdgX>.

¹⁰⁷⁹ Information provided by the Centre for Peace Studies, 30 January 2024.

¹⁰⁸⁰ Information provided by the JRS Croatia, 5 February 2024.

At the initiative of the Croatian Red Cross, in November 2023, the first coordination meeting was held on the topic of mapping (psychosocial) support for people displaced from Ukraine. The meeting was attended by numerous non-governmental organisations, UNHCR Croatia and representatives of Caritas, which provide support to people displaced from Ukraine.

D. Guarantees for vulnerable groups

The Act on International and Temporary Protection has introduced special procedural and reception guarantees for international protection applicants but did not extend the application of the relevant provisions to persons under temporary protection. At present, there is no further detailed guidance prescribed by the law or by-laws on how to identify vulnerable groups.

According to the Ministry of Interior,¹⁰⁸¹ the gender, age, position of vulnerable groups as well as special reception needs, and family integrity are taken into account for accommodation purposes.

In case of special accommodation needs for people over 65 years old or people with disabilities, there is the possibility of accommodation in a suitable social welfare institution. According to the statement of the Director of the Rehabilitation Centre Zagreb, made in March 2022, 42 people were placed in social welfare institutions - 20 wheelchairs users were placed in the Stančić Rehabilitation Centre, 15 persons with disabilities were placed in the Community Service Centre in Ozalj, and 7 people in the Rehabilitation Centre Zagreb.¹⁰⁸² Data for 2023 is not available. The application for accommodation is submitted to the social worker on duty at the collective accommodation centre or the Social Welfare Centre (now Social Work Service).¹⁰⁸³ People who are placed in a social welfare institution are provided with transportation and can exercise the right to a personal assistant in cooperation with associations. In practice, it has been shown that transportation services in some centres have been reduced and that there are difficulties in finding personal assistants due to the general lack of labour in Croatia.

Early identification of vulnerabilities is conducted in reception centres for those persons who have no place to stay by medical personnel during medical checks upon arrival to the reception centres, including by Croatian Red Cross employees, as well as Civil Protection officials and social workers as part of mobile teams who visit beneficiaries upon them being accommodated in collective centres. Some vulnerabilities are, by nature, less likely to be identified within the aforementioned procedures and, therefore, would require an additional psychosocial assessment to be detected.

Vulnerable groups initially had the right to appropriate medical and other assistance at the expense of the Republic of Croatia, but with law amendments¹⁰⁸⁴ they gained the right to health care to the same extent as a person covered by compulsory insurance, which covers the right to orthopaedic aids, medicines from the basic and supplementary list of medicines and specialist-advisory health care.

Psychosocial support-related activities are being organised by non-governmental organisations Modus, Rehabilitation Centre for Stress and Trauma, Medecins du Monde – Belgique, Jesuit Refugee Service, association Something more (for unaccompanied children accommodated in Sv. Nedelja)¹⁰⁸⁵ and by the City of Zagreb (mobile team and hotline).¹⁰⁸⁶

¹⁰⁸¹ Ministry of Interior, webpage *Croatia for Ukraine*, available at: <https://bit.ly/3p0S5rx>.

¹⁰⁸² Available in Croatian at: <https://bit.ly/44lfluX>.

¹⁰⁸³ The Act on Amendments to the Law on Social Welfare (OG 46/22).

¹⁰⁸⁴ The Act on Amendments to the Law on Compulsory Health Insurance and Health Care of Foreigners in the Republic of Croatia (OG 80/13, 15/18, 26/21, 46/22).

¹⁰⁸⁵ On the suggestion of the Ombudsman for Children, Report on the work of the Ombudsman for Children for 2022, available at: <https://bit.ly/3p3LZXu>.

¹⁰⁸⁶ Available in Croatian at: <https://bit.ly/3LgTa5W>.

Médecins du Monde carried out psychosocial support and mental health support activities in the MED-info centre, where they were able to detect persons who had experienced gender-based violence or other acts of violence, in which case they were referred to the appropriate services. Individual and group mental health and psychosocial support was provided to children and primary carers to help them deal with issues such as stress and anxiety related to the situation in Ukraine and family members who are still there.¹⁰⁸⁷

In cooperation with UNICEF Croatia, the Modus Centre implemented the project “Ensuring Mental Health and Psychosocial Support to children and caregivers from Ukraine in Croatia“, in the framework of which were carried out psychological counselling activities for children and parents, group psychosocial support programs for refugee children in primary and secondary schools, group programs of psychosocial support for refugee children in collective accommodations and group programs of psychosocial support for refugee parents in collective accommodations. Likewise, online trainings were conducted for teachers and professional associates in schools where group programs of psychosocial support for refugee children are implemented, with the aim of raising awareness in the context of the specifics of working with pupils who have been refugees, the integrating new pupils into the already existing school environment and children's collective and preparing existing classes for the arrival and acceptance of new pupils.¹⁰⁸⁸

Rehabilitation Centre for Stress and Trauma, an organisation specialised in psychological and psychosocial support for people experiencing traumatic stress as a consequence of war and forced migration, offered counselling through Short-term Solution Focused support groups and other forms of group psychological support but also creative and recreational activities, as well as individual counselling for persons displaced from Ukraine accommodated in Zagreb and the Zagreb County area.¹⁰⁸⁹

With regards to unaccompanied minors, the Protocol on the treatment of unaccompanied children was adopted in 2018 and the procedure which is being followed for unaccompanied children displaced from Ukraine differs from the procedure prescribed in the respective Protocol. Adults accompanying an unaccompanied minor (in case they are not their parents or legal guardians) are required to sign a statement in which, under criminal liability, they undertake the obligation to take care of the minor. In the statement itself, it is indicated whether the person concerned is related to the child or if not which kind of connection exists between them. The statement is submitted to the Centre for Social Welfare or given to the Centre's official present in the reception or Collective Centre, and the adult is subsequently checked by an employee of the Centre and in case of a positive decision, they are appointed as special guardian of the respective child.

The Ombudswoman for Children was not able to receive the exact number of unaccompanied minors displaced from Ukraine, despite repeated requests to the competent Ministry.¹⁰⁹⁰

However, unaccompanied children are located in the Hotel Zagreb in Split, in the High School Student Dormitory in Zadar and in Sv. Nedelja in the facilities organised by the association Little more.

The Croatian Association of the Deaf and Hard of Hearing together with the European Union of the Deaf and other European national associations of the deaf have made accessible videos on temporary protection for deaf and hard of hearing people, users of sign language.¹⁰⁹¹ The link to the videos is available on the *Croatia for Ukraine* web-page.

¹⁰⁸⁷ Information provided by Médecins du Monde - Belgique, 14 February 2023.

¹⁰⁸⁸ Information provided by the Modus, 9 January 2023.

¹⁰⁸⁹ Information provided by the Rehabilitation Centre for Stress and Trauma, 18 January 2023, available in Croatian at: <https://bit.ly/3LlatCZ>.

¹⁰⁹⁰ Ombudsman for Children, the Report on the Work of Ombudsman for Children for 2022, available in Croatian at: <https://bit.ly/3LwBVhg>.

¹⁰⁹¹ See: <https://bit.ly/3Vmd2cy>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of temporary protection?

Pursuant to the Councils' Directive 2001/55/EC¹⁰⁹² and the Act on International and Temporary Protection,¹⁰⁹³ persons under temporary protection have the right of residence for the entire duration of temporary protection, and for this purpose, a document or other equivalent evidence is issued.

An identity card of an alien under temporary protection is issued for a period of one year, and may be extended in accordance with the aforementioned provisions concerning the duration of the temporary protection.¹⁰⁹⁴

2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2023?

Not available

The body competent to decide on the issuance of an identity card of an alien under temporary protection is the Ministry of Interior. The application for temporary protection can be submitted at a police station personally or via an online form, translated into English and Ukrainian.¹⁰⁹⁵ Once temporary protection has been granted, the corresponding identity card is issued. The issuance of a residence permit is conducted through an exceptional procedure, with the residence granted under this circumstance distinct from the temporary residency outlined in the Aliens Act.¹⁰⁹⁶

The identity card is issued the day after the application is submitted, unless it is necessary to present additional documentation or to carry out certain additional checks (e.g., through the records of the Ministry of Interior or the records of the Schengen Information System (SIS), for the purpose of banning entry).¹⁰⁹⁷ Furthermore, the identity card can only be issued personally to the person who submitted the application.

The identity card was initially issued for a period of one year (until 4 March 2023), and a person under temporary protection had a residence permit for the duration of that period. After the Council decision on the extension of TPD, the Ministry of Interior prolonged the duration of the temporary protection until 4 March 2024.¹⁰⁹⁸ In October 2023, a decision was reached at the EU level to extend the TPD for an additional third year. Consequently, the Croatian Government implemented this decision, extending the duration of temporary protection until 4 March 2025.¹⁰⁹⁹ According to the instructions of the Ministry, persons displaced from Ukraine who have been granted temporary protection in the Republic of Croatia should personally reach a police department or police station according to their place of residence in order to certify the extension of the validity of their identity card until 30 May 2024. The extension will be recorded in the existing identity card, and it is not necessary to submit a request for the extension of temporary protection.

Persons who do not extend their identity cards until 30 May, will not lose their status of temporary protection. Furthermore, some individuals are not required to approach a police department/station in

¹⁰⁹² Article 8 (1) Council Directive 2001/55/EC.

¹⁰⁹³ Article 84 Act on International and Temporary Protection.

¹⁰⁹⁴ Article 4 (1) Council Directive 2001/55/EC; Article 79 (1).

¹⁰⁹⁵ Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/4100oRw>.

¹⁰⁹⁶ Information provided by the Ministry of Interior on 26 March 2024.

¹⁰⁹⁷ Information provided by the Ministry of Interior on 13 December 2022.

¹⁰⁹⁸ Information provided by the Ministry of Interior on 2 February 2023.

¹⁰⁹⁹ Report of the Ombudsman for 2023, available at: <https://bit.ly/3z1mwTf>.

person; namely, that applies to children under 16 years of age (the parent/guardian provides the child's identity card for certification) and to persons with special needs with limited or no mobility (a family member or a competent person from the institution where these persons are accommodated, can extend their identity card by providing the statement of the relationship with the person and evidence of the inability of the person to come, e.g. documentation on placement in a special institution). Additionally, for persons placed in collective accommodations, police stations/administrations on whose territory the accommodations are located, in agreement with the Directorate of Civil Protection, will organise the verification of identity cards.¹¹⁰⁰

Persons under temporary protection have the right of residence on the territory of Republic of Croatia, and the identity card they are entitled to is considered as a residence permit; the right to work without a residence or work permit or certificate of registration of work; the right to health care (they have the same rights as persons who are insured by a compulsory health insurance scheme); basic means for life and housing; primary and secondary education; family reunification; information on rights and obligations. All rights are exercised by presenting the identity card of an alien under temporary protection to competent authority/institution.¹¹⁰¹

In case a TP holder wishes to transfer to another EU Member State (hereinafter: MS), the provision of the Communication of the European Commission on operational guidelines for the implementation of Councils' Implementing Decision 2022/382 on establishing the existence of a mass influx of displaced persons from Ukraine in the sense of Directive 2001/55/EC¹¹⁰² is applied. The Communication foresees that, if a person granted temporary protection subsequently moves to another MS where they obtain a second residence permit under temporary protection, the first-issued residence permit expires and must be withdrawn, together with the rights arising from it.¹¹⁰³

Therefore, the practice in the Republic of Croatia, in accordance with the instructions of the Ministry of the Interior, is that displaced persons are not required to de-register their stay in another EU MS in which they have already been granted temporary protection status, before it is granted to them in the Republic of Croatia. Namely, each MS, including the Republic of Croatia, decides at its discretion how to resolve the application for temporary protection of a displaced person, considering that person already has granted status in another EU MS. Only after the issuance of the identity card of an alien under temporary protection are beneficiaries advised to inform the competent authority of the former MS that they have subsequently been granted temporary protection in the Republic of Croatia (e.g., they can provide them with a copy of the Croatian identity card of an alien under temporary protection).¹¹⁰⁴

A displaced person from Ukraine can have and exercise rights that come with the temporary protection status only in one MS. If a person under temporary protection moves to another MS where they apply again for temporary protection and receives the identity card of an alien under temporary protection, the first identity card expires and must be withdrawn, as well as the rights arising from it. Upon arrival in another MS, a TP holder should inform the competent authorities that they have been granted temporary protection status in another MS, and the relevant MS should, upon issuing the permit, inform the MS that the person has left, in order to withdraw the first issued residence permit and the rights arising from it.¹¹⁰⁵

¹¹⁰⁰ Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/41WVuGe>.

¹¹⁰¹ Ministry of Interior web page, *Croatia for Ukraine*: <https://bit.ly/3HtlYa4>.

¹¹⁰² Article 5 Council Directive 2001/55/EC.

¹¹⁰³ Article 15 (6) and Article 26 (4) Council Directive 2001/55/EC.

¹¹⁰⁴ Information provided by the Ministry of Interior on 13 December 2022.

¹¹⁰⁵ Information provided by the Ministry of Interior on 17 May 2022.

2. Access to asylum

According to the provisions of the Act on International and Temporary Protection, a TP holder has the right to lodge an application for international protection. Furthermore, the examination of an application of international protection may be completed by the Ministry of Interior after the end of temporary protection.¹¹⁰⁶ This does not exclude the possibility that an asylum application presented by a person entitled to temporary protection might be examined while the TPD regime still applies.

However, a temporary protection beneficiary who submits an application for international protection during the duration of temporary protection cannot access the rights of an asylum seeker while temporary protection lasts.¹¹⁰⁷

The examination of an application for international protection is a longer and more complex procedure that includes more procedural steps. Being granted temporary protection does not necessarily mean that international protection will also be granted, as it depends on the individual and their personal.¹¹⁰⁸

B. Family reunification

According to the provisions of the Act on International and Temporary Protection, a request for family reunification can be lodged by a person under temporary protection or members of their family who wish to come to the Republic of Croatia. A TP holder who resides in the Republic of Croatia has to give a statement of consent for family reunification with a particular person.¹¹⁰⁹ Furthermore, in cases where family members enjoy temporary protection in different EUMS, when reuniting the family, the interest of the family shall be taken into consideration.¹¹¹⁰

In accordance with the declaration of the Ministry of Interior, in the procedures of family reunification, family members who wish to be reunited with a temporary protection beneficiaries must meet all the conditions prescribed by the decision of the Government of the Republic of Croatia¹¹¹¹ on the introduction of temporary protection. This means that, if a family member did not reside in Ukraine on 24 February 2022 or "immediately before" as interpreted by the Ministry of Interior including period from 1 January 2022, the person would not have a legal right to family reunification in accordance with the Act on International and Temporary Protection¹¹¹² or in accordance with the provisions of the Aliens Act.¹¹¹³

Such a provision in the Aliens Act is in accordance with the Council's Directive 2003/86/EC, which foresees that the provisions do not apply when the sponsor is authorised to reside in a MS under temporary protection or requested a residence permit on that basis and is awaiting a decision about their status.¹¹¹⁴

Pursuant to the Decision of the Government of the Republic of Croatia of 7 March 2022,¹¹¹⁵ a family member is considered to be: spouse/common-law partner, minor children, regardless of whether they were born in a marriage or common-law union or were adopted, and other former relatives who lived in

¹¹⁰⁶ Article 92 Act on International and Temporary Protection.

¹¹⁰⁷ Article 83 (3) Act on International and Temporary Protection.

¹¹⁰⁸ Ministry of Interior web page, *Croatia for Ukraine*: <https://bit.ly/41WVuGe>.

¹¹⁰⁹ Information provided by the Ministry of Interior on 20 April 2023.

¹¹¹⁰ Article 89 (1) and (3) Act on International and Temporary Protection.

¹¹¹¹ Croatian Government: Decision on the Introduction of Temporary Protection in the Republic of Croatia for Displaced Persons from Ukraine, available in Croatian at: <https://bit.ly/37yIQ2c>

¹¹¹² Article 89 Act on International and Temporary Protection.

¹¹¹³ Article 63 (1) Aliens Act.

¹¹¹⁴ Article 3 (2) Council Directive 2003/86/EC.

¹¹¹⁵ Ministry of Interior web page, *Croatia for Ukraine*, available at: <https://bit.ly/4c0Rf1D>.

the same household at the time of occurrence of circumstances related to the displacement of persons from Ukraine, which at that time were completely or mainly dependent on these persons.¹¹¹⁶

The provisions contained in the Act on International and Temporary Protection do not request family members who wish to be reunited with beneficiaries of temporary protection to fulfil specific requirements in terms of material conditions.

Family members of Ukrainian citizens who wish to be reunited must submit proof of identity and citizenship, proof of residence, proof of family ties and common-law union, and in case of close relatives, documentation proving the existence of that relationship.¹¹¹⁷

After submitting the application and documents required for family reunification, and after the documents are verified, an identity card of an alien under temporary protection is issued for the person reunited with the TP holder.

Temporary protection shall be granted to a family member who is reunited with a TP holder.¹¹¹⁸ Furthermore, persons who have been granted temporary protection on this basis will have access to all the rights provided to persons under temporary protection status,¹¹¹⁹ according to the Decision of the Government of the Republic of Croatia from 7 March 2022.¹¹²⁰

C. Movement and mobility

TP holders have freedom to move within Croatian territory, but in the event of a change of residence, just like applicants for international protection, they are obliged to inform the Ministry of Interior within two days.¹¹²¹

Ukrainian citizens granted temporary protection and holding biometric passports, have the right to move freely within the Schengen area for a period of 90 days within a period of 180 days, subsequent to their admission into the Schengen area.

If Ukrainian TP holders do not possess a biometric travel document, they can contact the diplomatic mission of the MS to which they wish to travel in order to inquire about the possibilities of traveling there, and issuance of a travel document. Additionally, they can travel to third countries in accordance with the conditions for entering and staying in those countries.¹¹²²

General information received from the Ministry of Interior is that Ukrainian citizens who have been granted temporary protection in the Republic of Croatia and have returned to Ukraine will be allowed to return upon presentation of the identity card and a valid Ukrainian travel document, as long as the absence was temporary and for justified reasons. Additionally, TP holders are obliged to notify the competent police station/administration that they are returning to Ukraine, how long they will be staying in Ukraine and state the reason for their departure (this can be done in person or by email).¹¹²³

Persons granted temporary protection are free to return to Ukraine at any time if they feel they have the conditions for a safe return. Temporary protection in Croatia is not an obstacle for returning to Ukraine,

¹¹¹⁶ Information provided by the Ministry of Interior on 20 December 2022.

¹¹¹⁷ Information provided by the Ministry of Interior on 20 December 2022.

¹¹¹⁸ Article 89 (2) Act on International and Temporary Protection.

¹¹¹⁹ Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/4c0Rf1D>.

¹¹²⁰ Croatian Government: Decision on the Introduction of Temporary Protection in the Republic of Croatia for Displaced Persons from Ukraine, available in Croatian at: <https://bit.ly/37yIO2c>.

¹¹²¹ Article 52 (3) Act on International and Temporary Protection.

¹¹²² Information provided by the Ministry of Interior on 11 May 2022.

¹¹²³ Information provided by the Ministry of Interior on 18 January 2023.

however, if a person has been granted temporary protection, the competent police department/station must be notified.¹¹²⁴

Based on the most recent update from the Ministry of Interior, TP beneficiaries are not subject to status revocation if they return to Ukraine.¹¹²⁵

However, the experiences of persons under temporary protection who returned to Ukraine for a short-time period are different. Depending on the police stations, some persons were instructed that they do not have to report their departure, others that they could leave for 25 or 14 days.¹¹²⁶

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?
The stay in this type of accommodation is short-term, usually up to 48 hours. In practice, persons remain for approximately twelve hours.¹¹²⁷
2. Number of beneficiaries staying in reception centres as of 28/02/2023.
The total capacity of reception centres accommodations is 200 persons, and in collective accommodations there is capacity for 2,969 persons. Current occupancy is 52%. On 31 January 2022, a total of 1,552 people were accommodated in collective accommodations.¹¹²⁸
Similar data was not available for 2023.
3. Number of beneficiaries staying in private accommodation as of 17/02/2023
According to the statistical data on the web page of the Ministry of Interior, Croatia for Ukraine, on 17 April 2023, a total of 20,855 persons were hosted in private accommodation.¹¹²⁹ According to data from the Ministry of Interior,¹¹³⁰ 2,824 persons were accommodated in individual housing units in accordance with the public call for submission of offers by owners of housing units for the housing care of displaced persons from Ukraine in individual housing.¹¹³¹
Similar data was not available for 2023.

Three types of accommodations are foreseen for TP beneficiaries: reception centres, collective accommodation and individual and/or private accommodation. Reception centres for TP holders are not the same as centres for applicants for international protection. These are special centres intended exclusively for people displaced from Ukraine. At the beginning of the displacement crisis, there were three centres in three different cities (**Varaždin**, **Osijek** and **Gospić**), and for these purposes cities sports halls were mobilised.

Due to the significant number of arrivals, persons were initially first placed in reception centres, and, before being transferred to other forms of accommodation (collective or individual) after the initial registration.

¹¹²⁴ Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/3HtlYa4>.

¹¹²⁵ Information provided by the Ministry of Interior on 26 March 2024.

¹¹²⁶ The cases were recorded within the activity of legal counselling of the Croatian Law Centre.

¹¹²⁷ Information provided by Civil protection on 14 March 2023.

¹¹²⁸ Information provided by Civil protection on 14 March 2023.

¹¹²⁹ The Government of the Republic of Croatia web-page, Croatia for Ukraine: <https://bit.ly/3oYp3J9>.

¹¹³⁰ Croatian Law Centre, *The Croatian Asylum System in 2022- National Report*. The report was prepared as part of the project "Legal Assistance and Capacity Building for Access to Territory and Asylum in Croatia", with financial support of the UNHCR Croatia, available in English at: <https://bit.ly/434T7RL>

¹¹³¹ Public call for the submission of offers by owners of housing units for housing care for displaced persons from Ukraine in individual accommodation from 22 April 202 (OG 37/22), available in Croatian at: <https://bit.ly/3PrMfuc>.

As a result of the gradual decrease in the number of arrivals, the reception centre in **Gospić** was closed, however, it did not affect the exercise of the rights of persons to short-term accommodation in the facilities provided for this purpose, nor the access to connected rights. Accommodation is still provided in the other two reception centres, which remain open at the time of writing. Additionally, in 2023, reception centres primarily served for initial registration and preliminary procedures, rather than for immediate accommodation. This was because logistics were already established, and available spaces could be promptly secured in collective accommodations.

The Directorate of Civil Protection, which is part of the Ministry of Interior, police officers and the Croatian Red Cross are responsible for the reception of beneficiaries of temporary protection.¹¹³²

Many touristic facilities (hostels, hotels, apartments, etc.) have, in agreement with the Directorate of Civil Protection, participated in public tenders for the purpose of accommodating persons under temporary protection, and received monetary compensation for such service provided by national authorities. This type of accommodation falls under the category of collective accommodation, as it is under the supervision of the Civil Protection, which coordinates it.

At a parliamentary hearing held on 23 March 2022, the Government of the Republic of Croatia adopted a decision on financing costs of housing for persons displaced from Ukraine in individual accommodation.¹¹³³

Throughout field work and visits to reception centres intended for the short-term accommodation of persons displaced from Ukraine, no problems were found in relation to access to and exercise of rights. On the other hand, on several occasions, complaints were received from TP holders in relation to the potential closing two collective accommodations (one in **Durđevac** and one in **Zagreb**) and their transfer to other accommodation. Only the collective centre in Zagreb was closed and this accommodation at the beginning of the crisis was mobilised as a reception centre and was later turned into a collective accommodation. After the closure of the centre, TP holders were moved to other collective accommodations. TP holders did not lose their right to being hosted in collective accommodation. As some had already started their integration process in the local context in which they were initially placed (e.g., found employment, children started kindergarten or school etc.) such a decision was not welcomed and caused dissatisfaction among some TP holders.¹¹³⁴

Regarding reception conditions, they may differ depending on the type of accommodation. In reception centres, persons displaced from Ukraine are provided with sleeping spaces, food, internet, psychosocial and health support. In collective housing, people are provided with accommodation, food and internet. Persons who are accommodated in individual/private accommodation can also exercise the rights under the scope of temporary protection, but they must refer to the competent institutions, as do persons who are in other types of accommodation (reception centres and collective accommodations), if the exercise of said rights is not immediately possible.

In accommodation facilities (reception centres and collective accommodations), the Red Cross recorded the arrivals of persons who fled Ukraine (those who wanted to be registered), distributed humanitarian aid and provided psychosocial support.¹¹³⁵

In a plenary session held on 23 March 2022, the Government adopted the decision to finance the costs of providing housing for persons displaced from Ukraine in individual accommodation, as discussed below. Furthermore, a certain number of Ukrainians found accommodation independently, which they financed at their own expense, or stayed with family members, acquaintances, or relatives. According

¹¹³² Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/44ibpR9>.

¹¹³³ Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/3p1tcMp>.

¹¹³⁴ Information gathered through the activity of legal counselling of the Croatian Law Centre.

¹¹³⁵ Information provided by the Croatian Employment Service on 18 January 2023.

to the Ombudsman report, in 2023 a significantly smaller number of persons were accommodated in collective accommodation (around 7 percent) compared to the number of persons accommodated in individual and/or private accommodation.¹¹³⁶

One year later, on 23 March 2023, following the adoption of the Decision on financing the costs of providing housing for persons displaced from Ukraine, amendments were made to the decision. Considering the extension of temporary protection status, the Government of the Republic of Croatia decided to enable the extension of lease contracts for residential units until March 4, 2024, at the latest. According to the data available in the explanation from the decision, on 13 March 2023, 2,972 people were accommodated based on these kinds of contracts, while 1,658 people were accommodated in collective accommodations. In April 2024, the Government once more extended the deadline for the contracts, citing the extension of temporary protection status until 4 March 2025. According to the information outlined in the decision's explanatory section, as of 6 March 2024, there were 2,934 individuals residing in state-financed rental units, while 1,592 were housed in collective living arrangements.¹¹³⁷

In accordance with the decision on financing the cost of providing housing for temporary protection beneficiaries, the State covers the costs of using the residential units for the owners who have ceded them to persons from Ukraine.¹¹³⁸ The costs are paid to the owner of the residential unit on the basis of the rental agreement concluded with the Ministry of the Interior, Directorate of Civil Protection. Moreover, the amount includes the costs of renting the residential unit and utilities. The highest amount of the cost of using the residential unit is HRK 3,600.00 per month (converted into euros: EUR 477.80). An owner wishing to put their unit up for such use fills out an application form,¹¹³⁹ after which an inspection of the housing unit is arranged with the Civil protection headquarters in the municipality/city where the person is located. If it meets the prescribed conditions, the headquarters issues a certificate to that effect and after the confirmation has been obtained, the owner of the housing unit submits complete documentation to the Directorate of Civil Protection (application form, confirmation from headquarters and proof of ownership). The last step is signing the contract and housing the family.

In order to prevent the exploitation of people in private accommodation, validation is conducted with regard to unit conditions by the Directorate of Civil Protection for those landlords who used financial support from the Government.¹¹⁴⁰ In relation to persons who found accommodation on their own, the aforementioned types of validation is not carried out and certain issues were registered, among which some were linked to inadequacy of living spaces, rent prices increasing without prior agreement, leading to persons having to leave their accommodation due to the inability to pay the new price.

E. Employment and education

1. Access to the labour market

The Croatian Employment Service carried out activities related to the employment of persons under temporary protection through two phases - field work and institutional support. The first phase referred to the period of immediate entry of persons displaced from Ukraine to the Republic of Croatia, before the activation of temporary protection. In that period, a mobile team of employment advisers and social workers visited reception centres where persons displaced from Ukraine were accommodated. The second phase began when the status of approval of temporary protection was resolved and persons

¹¹³⁶ Report of the Ombudsman for 2023, available at: <https://bit.ly/3z1mwTf>.

¹¹³⁷ Government of the Republic of Croatia: The decision on amending and supplementing the decision on financing costs for housing care for displaced persons from Ukraine in individual accommodation (OG no. 40/2024).

¹¹³⁸ Ministry of Interior web page, Croatia for Ukraine: <https://bit.ly/3p1tcMp>.

¹¹³⁹ The Ministry of Interior, Directorate of Civil Protection web page, available at: <https://bit.ly/4c0Rf1D>.

¹¹⁴⁰ Ministry of Interior, Official web page of Directorate of Civil Protection, available at: <https://bit.ly/3Hv1KNt>.

were enabled to register in the records of the Croatian Employment Service and institutional support in seeking employment began.¹¹⁴¹

In 2023, the Croatian Employment Service continued its regular activities related to individuals displaced from Ukraine, including registering them in unemployment records and facilitating employment counselling. Additionally, TP beneficiaries were included in education and training programs through the voucher system. They applied under the same conditions as Croatian citizens, provided they had sufficient knowledge of Croatian or English to follow the educational program and had successfully completed the process of recognising a foreign educational qualification.¹¹⁴²

The Croatian Employment Service created leaflets in Ukrainian listing all the services it provides as well as a website with information related to the possibility of work, employment and support and application forms were translated into Ukrainian. Additionally, a protocol was drafted, and counsellors were trained to provide assistance to persons displaced from Ukraine, measures of active employment policy were agreed and adjusted, employers were invited to cooperate, etc. Furthermore, the Service joined the pilot project "EU Talent Pool",¹¹⁴³ which was initiated by the European Commission to map and identify the skills and abilities of persons displaced from Ukraine to facilitate their employment in the EU. In 2023, the Croatian Employment Service continued to participate in the project and recorded five applications from Ukrainian citizens.¹¹⁴⁴

Employment counsellors provide assistance during the job search process and information about the rights of unemployed persons, such as: registration in the unemployment register of the Service, support in defining the work potential and job search plan, as well as occupations for which the counsellor will mediate on the labour market, workshops for active search jobs, information about jobs, funding of education to acquire the competencies needed on the labour market, inclusion in active employment policy measures, learning the Croatian language, etc.¹¹⁴⁵

In accordance with the Labour Market Act, TP holders have the right to be registered in the unemployment register and are equal to Croatian citizens in terms of their rights and obligations.¹¹⁴⁶

From 1 January to 31 December 2023, 556 persons under the scope of temporary protection were employed through the Croatian Employment Service, of which 437 were women. In the same period, individual consultations were conducted with a total of 848 persons who have been granted temporary protection. The measures of the active employment policy aimed at an overall more successful and faster integration into the labour market, in 2023, included 89 persons under temporary protection. As of 31 December, 476 persons were registered in the unemployment register by the Service, of which 396 were women. Most Ukrainian citizens are employed in catering and tourist activities, sales, production activities and administration. Furthermore, as of 31 December 2023, the Croatian Employment Service recorded inquiries from 517 employers who expressed interest in employing Ukrainian citizens.¹¹⁴⁷

In the Republic of Croatia, the recognition and evaluation of foreign educational and professional qualifications are governed by two legislative acts. The Act on the Recognition and Evaluation of Foreign Educational Qualifications¹¹⁴⁸ oversees the assessment processes for foreign educational qualifications to enter professions not listed as regulated, as well as the recognition of foreign educational qualifications and study periods for the purpose of further education within Croatia.

¹¹⁴¹ Information provided by the Croatian Employment Service on 12 January 2023.

¹¹⁴² Information provided by the Croatian Employment Service on 15 January 2024.

¹¹⁴³ European Commission web page: <https://bit.ly/3HrbSqw>.

¹¹⁴⁴ Information provided by the Croatian Employment Service on 15 January 2024.

¹¹⁴⁵ Croatian Employment Service web page: <https://bit.ly/40WzIB2>.

¹¹⁴⁶ Article 14 (1) Labour Market Act.

¹¹⁴⁷ Information provided by Croatian Employment Service on 15 January 2024.

¹¹⁴⁸ Act on the Recognition and Evaluation of Foreign Educational Qualifications (OG no. 69/2022).

Depending on the nature of the foreign qualification, evaluation procedures for labour market access are conducted by the Agency for Education, the Agency for Vocational Education and Training and Adult Education, and the National ENIC/NARIC office of the Agency for Science and Higher Education. Conversely, recognition of foreign professional qualifications for entry into the labour market is governed by the Act on Regulated Professions and Recognition of Foreign Qualifications¹¹⁴⁹. Professional associations (chambers) or relevant ministries oversee this process and serve as the competent bodies responsible for conducting the procedure.

2. Access to education

According to the Act on International and Temporary Protection a TP holder has the right to access elementary and secondary education and to additional “requalification” under the same conditions as Croatian citizens.¹¹⁵⁰ The same right is also established under the provisions of the Act on Education in Primary and Secondary Schools.¹¹⁵¹

In the Croatian system, “requalification” includes two possibilities: pre-qualification which corresponds to a pedagogical and professional activity by which people, already qualified in a profession, are trained for other professions through accelerated educational pathways (courses, lectures, exercises) and “additional qualification”, which aims at the acquisition of new knowledge and skills within the same profession.

According to data published on a news portal on 11 August 2023, provided by the Ministry of Science and Education, 1,394 children displaced from Ukraine were enrolled in the education system, and textbooks and educational materials were financed from the state budget. Of the total number of children, 1,171 were enrolled in the primary school system, while only 223 were enrolled in the secondary school system.¹¹⁵²

The Ministry of Science and Education reported that in 2022 a total of 154 children in 39 small towns were enrolled in pre-school institutions, 1,295 pupils in primary school system and 260 in secondary school system, while 49 persons under temporary protection were enrolled in Croatian universities.¹¹⁵³ The Ministry further reported that persons under temporary protection are not entitled to scholarships.

Every child who has been granted temporary protection status in the Republic of Croatia, and who is included in the education system in primary or secondary education, must be ensured: participation in preparatory classes of Croatian language without testing, simultaneous involvement in educational work of class (according to possibilities and abilities) and issuance of final grades and certificates.

Students attend preparatory classes for the Croatian language in the school where they are enrolled. The school that conducts preparatory classes is obliged to request the consent of the Ministry of Science and Education for holding these classes, for a duration of 70 hours.¹¹⁵⁴ If the student has not met the minimum requirements, the school committee can grant them 70 additional hours.

If the student is not in possession of documentation testifying to their previous education or if their documentation does not enable to prove their previous education, they are enrolled in the suitable class based on the parent's statement. Furthermore, if the student has not completed primary school by the

¹¹⁴⁹ Act on Regulated Professions and Recognition of Foreign Qualifications (OG no. 82/2015, 70/2019, 47/2020, 123/2023).

¹¹⁵⁰ Article 88 Act on International and Temporary Protection.

¹¹⁵¹ Article 45 and 46 of the Act on Education in Primary and Secondary Schools.

¹¹⁵² News portal Srednja.hr, article published on 11 August 2023, available in Ukrainian at: <https://bit.ly/3VSx6UI>.

¹¹⁵³ Croatian Law Centre, *The Croatian Asylum System in 2022- National Report*. The report was prepared as part of the project “Legal Assistance and Capacity Building for Access to Territory and Asylum in Croatia”, with financial support of the UNHCR Croatia: available in English at: <https://bit.ly/434T7RL>

¹¹⁵⁴ Article 43 Act on Education in Elementary and Secondary Schools.

age of fifteen, the administrative department for education of the county/City of Zagreb can organise primary school education for them according to the adult education program.¹¹⁵⁵

On the basis of the Act on Education in Primary and Secondary Schools, before regular enrolment in the first year of primary school, an expert committee should determine the child's psycho-physical condition. The psycho-physical condition is confirmed for the purpose of early enrolment, postponement or temporary exemption from enrolment in the first grade of primary school or in case the schooling has already begun.¹¹⁵⁶ The procedure is regulated on the basis of the Ordinance on the procedure for determining the psycho-physical condition of a child, a student and the composition of professional commissions, which governs and establishes an appropriate program for the education of students with developmental disabilities in primary and secondary schools.¹¹⁵⁷

The objective is to assess the psychological state of the child or student due to enrolment in the first grade of elementary school, early enrolment, postponement or temporary exemption from enrolment in the first grade of elementary school, temporary postponement of already started schooling and to determine an appropriate schooling program. The aforementioned procedure is carried out by the school's expert committee, which, on the proposal of the headmaster, appoints the administrative body of the county responsible for education affairs, or the City Office of the City of Zagreb. The expert committee consists of a school doctor, professional associates employed at the school, a classroom teacher and a Croatian language teacher. A school committee is not appointed for secondary schools, but the school's professional associates and teachers are obliged to monitor the development and needs of the students and, if necessary, they can propose to the teachers' council, in cooperation with the competent school medicine doctor, the implementation of additional measures such as inclusion in preparatory or supplementary Croatian language classes as deemed necessary for the students' well-being and academic progress.¹¹⁵⁸

Students from Ukraine who are planning their arrival in the Republic of Croatia and are interested in continuing their studies must first contact their *alma mater* university in Ukraine to check whether they have previous cooperation with universities in Croatia. If contact with the university in Ukraine is impossible, it is necessary to directly contact a university in Croatia that corresponds to their area of interest and the studies they have previously attended. Alternatives include the *Study in Croatia* initiative, coordinated by the Ministry of Science and Education of the Republic of Croatia and the Agency for Mobility and European Union Programs¹¹⁵⁹ as well as using one of the student exchange programs (Erasmus+, CEEPUS, Bilateral Academic Mobility Program), which include studying without paying tuition fees with monthly financial support, the amount of which depends on the mobility program. Students who come through Erasmus+, CEEPUS and the Bilateral Academic Mobility Program are provided with subsidised student meals in student canteens and accommodation in a student dormitory in accordance with available places.¹¹⁶⁰

On 24 August 24, 2023, the Ministry of Science and Education adopted a decision on co-financing the program for providing additional support to primary and secondary school students displaced from Ukraine in the 2023/2024 school year. The decision is aimed at co-financing and providing additional support and ensuring social integration of students displaced from Ukraine. The aforementioned decision includes co-financing of extracurricular classes (in the amount of up to a maximum of EUR 65.00 per day per student), parental share in the price of extended stay for primary school students, parental share in the economic cost of accommodation and food in the student dormitory for secondary

¹¹⁵⁵ Ministry of Science and Education web page: <https://bit.ly/41W4fAy>.

¹¹⁵⁶ Article 20 of the Act on Education in Elementary and Secondary Schools.

¹¹⁵⁷ Article 2 of the Ordinance on the procedure for determining the psychophysical condition of a child, a student and the composition of professional commissions.

¹¹⁵⁸ Article 1 and 2 of the Ordinance on the procedure for determining the psychophysical condition of a child, a student and the composition of professional commissions.

¹¹⁵⁹ Study in Croatia web page, available at: <https://bit.ly/3npjpfPF>.

¹¹⁶⁰ The Ministry of Interior web page, Croatia for Ukraine, available at: <https://bit.ly/3LsJ6qm>.

school students, teaching and didactic materials and equipment, teaching materials for teachers who work in preparatory classes of the Croatian language and for students enrolled in these classes and other programs for the implementation of activities for the integration of students.¹¹⁶¹

Furthermore, on 29 June 2023, the Ministry of Science and Education adopted a decision on the financing of textbooks for secondary schools and other educational materials for primary and secondary schools for students displaced from Ukraine for the school year. 2023/2024.¹¹⁶²

F. Social welfare

According to the provision of the Social Welfare Act, benefits and services within the social welfare system can be granted to persons under temporary protection.¹¹⁶³

Persons under temporary protection are considered equal to citizens of the Republic of Croatia in terms of exercising the rights; which may be exercised if all conditions prescribed by the Act are met.

Social welfare activities are performed by social welfare institutions, local and regional self-government units, i.e., the City of Zagreb, associations, religious communities, other legal entities, craftsmen and other physical persons who perform social welfare activities, under the conditions and in the manner prescribed by the Act. All the activities within the social welfare system are carried under the Ministry of Labour, Pension System, Family and Social Policy.¹¹⁶⁴

The enjoyment of rights within the social welfare system is not determined by the beneficiary's place of residence. The Social Welfare Act prescribes provisions on territorial and *ratio materiae* jurisdiction that depend on the types of services that a person requests. Considering the territorial structure and centralisation of the state itself, it is easier to obtain some services in the area of the city of Zagreb than in smaller municipalities and settlements, but in general, all rights from the social welfare system are not territorially limited.

A certain number of complaints from TP holders¹¹⁶⁵ were recorded in relation to the problem of exercising the right to one-time financial allowance prescribed by the Social Welfare Act.¹¹⁶⁶ One of the main issues mentioned was the long waiting time for the decision on the approval of allowance and the differences in practice between social welfare centres in different parts of the Republic of Croatia (e.g., some centres paid the whole allowance once, while some centres paid it in monthly annuities). Another problem was the fact that, despite the Social Welfare Act providing for the possibility to request this allowance once per year, TP beneficiaries who submitted a request for the second time had it rejected. This is related to the fact that the allowance is granted to cover extraordinary expenses incurred due to current life circumstances, and given that these persons had accommodation and food provided, the Social Welfare centres did not consider such requests justified in some cases.¹¹⁶⁷

Statistical information on the number of beneficiaries of temporary protection who accessed different forms of social welfare since the start of the temporary protection regime is not publicly available.

¹¹⁶¹ The Ministry of Science and Education, Decision on co-financing the program for providing additional support to primary and secondary school students displaced from Ukraine in the 2023/2024 school year, published on 24 August 2024, available at: <https://bit.ly/3LvUqmp>.

¹¹⁶² The Ministry of Science and Education, Decision on the financing of textbooks for secondary schools and other educational materials for primary and secondary schools for students displaced from Ukraine for the school year 2023/2024, available at: <https://bit.ly/3Wc2cld>.

¹¹⁶³ Article 19 (2) of the Social Welfare Act.

¹¹⁶⁴ Article 17 of the Social Welfare Act.

¹¹⁶⁵ The cases were recorded within the activity of legal counselling in the Croatian Law Centre.

¹¹⁶⁶ Article of the Social Welfare Act

¹¹⁶⁷ Article 45 and 46 of the Social Welfare Act.

As regards the rights deriving from having access to the social welfare system, the Ministry of Labour, Pension System, Family and Social Policy reported¹¹⁶⁸ that the Regional Offices of the Croatian Social Work Service recognised 6,001 one-time financial allowances, 154 guaranteed minimum allowances, 14 personal disability allowances, 9 assistance and care allowances. Furthermore, they reported that 31 persons with disabilities and 7 accompanying persons are accommodated in social welfare institutions.

G. Health care

Pursuant to the Act on the Health Care of Foreigners, TP holders exercises the right to access health care services in health institutions and with private practice health workers in the public health service network to the same extent as an insured Croatian citizen with compulsory health insurance, and that is the case also for their family members.¹¹⁶⁹ When exercising the aforementioned rights, TP holders have to present their identity card.

TP holders have the right to be treated for acute conditions and chronic diseases by family medicine doctor, paediatrician, gynaecologist, and emergency dental services. Furthermore, they have the right to vaccination, testing and treatment against COVID-19, as well as the right to vaccination against other infectious diseases. TP holders will be referred to a specialist examination or hospital treatment if deemed necessary by a doctor.¹¹⁷⁰

The right to health care includes: primary health care, specialist-council health care, hospital health care, the right to medicines that are determined by the basic and supplementary list of medicines of the Croatian Health Insurance Fund (hereinafter: CHIF), dental aids that are determined by the basic and additional list of dental aids of the CHIF, orthopaedic and other aids that are determined by the basic and additional list of orthopaedic and other aids of the CHIF.¹¹⁷¹

As previously mentioned, TP holders have the same rights as the persons who are insured under the compulsory health insurance, even though they are not officially insured. Only if TP holders are employed in the Republic of Croatia by a Croatian employer or if they enter the system of compulsory health insurance on some other basis, apart from the right to health care, they are entitled to monetary benefits and the possibility of concluding a supplementary health insurance policy, and if persons do not have supplementary health insurance, they are personally responsible for participating in the costs of health care.

At the very start of the temporary protection regime, there were problems with the translation of medical documentation, and volunteers of the Community of Ukrainians in Croatia helped TP holders by translating the documentation.

According to the Ombudswoman's report, certain TP holders who sought health care services outside their place of residence faced challenges in accessing transportation allowances. Despite being guaranteed healthcare coverage equivalent to insured individuals under compulsory health insurance since 2022, displaced persons were not recognised as insured individuals.¹¹⁷²

¹¹⁶⁸ Croatian Law Centre, *The Croatian Asylum System in 2022- National Report*. The report was prepared as part of the project "Legal Assistance and Capacity Building for Access to Territory and Asylum in Croatia", with financial support of the UNHCR Croatia: available in English at: <https://bit.ly/434T7RL>

¹¹⁶⁹ Article 21 (1) Act on the Health Care of Foreigners.

¹¹⁷⁰ Ministry of Health web page: <https://bit.ly/40W20vB>.

¹¹⁷¹ Ministry of Health web page: <https://bit.ly/40W20vB>.

¹¹⁷² Report of the Ombudsman for 2023, available at: <https://bit.ly/3z1mwTf>.

Later, the insufficient number of family medical doctors and the fact that doctors refuse to accept them as patients due to overcrowding emerged as a growing issue. The situation in the health care system and the shortage of doctors affects not only persons displaced from Ukraine, but also Croatian citizens. In general, the situation within the health care system is not sustainable, and on 18 March, a protest was held by five medical associations, pointing to the bad conditions and general state of health care services in the country.¹¹⁷³

¹¹⁷³ News portal Index, 18 March 2023, available at: <https://bit.ly/3LLfupB>.

Hungary

2023 Update



**HUNGARIAN
HELSINKI
COMMITTEE**

Temporary Protection Procedure

A. General

The Hungarian Asylum Act regulates two forms of temporary protection which vary as to their geographical scope of application:¹¹⁷⁴

- ❖ The form under point a) Section 19(1) transposes the provisions of EU Directive 2001/55/EC¹¹⁷⁵ (Temporary Protection Directive, TPD) into Hungarian law. For its application, the Council of the EU should declare that, on grounds of a massive influx of third-country nationals, temporary protection must be granted to a predefined scope of eligible persons in EU Member States.
- ❖ Temporary protection under point b) of Section 19(1) of the Asylum Act is independent from the TPD and exists only under Hungarian law and as such, it is to be applied only in Hungary. This 'national' type of temporary protection is also invoked in case of mass influx of displaced persons, if they fled their country due to an armed conflict, civil war or other internal armed conflicts, or due to general, systematic and frequent violation of human rights – such as torture, cruel, inhuman and degrading treatment. The cases when this latter form of protection has to be applied and the scope of eligible persons are laid down by a government decree. The provisions of the TPD may not be invoked in this case, only the provisions of the national Asylum Act may be relied upon.

On 24 February 2022 at 10:00 PM in the evening, Government Decree 56/2022 (II.24.) came into effect, invoking point b) of Section 19(1) of the Asylum Act. The Hungarian Government, being the first in Europe, decided to grant temporary protection to everyone who had a legal basis to stay in Ukraine and fled the country to Hungary, regardless of their nationality. The national protection provided thereby was applicable until 7 March 2022. Since 8 March 2022, Government Decree No. 86/2022. (III. 7.) (TP Decree) is applicable. The TP Decree, transposing the provisions of the Council Implementing Decision,¹¹⁷⁶ activated temporary protection under point a) of Section 19(1) of the Asylum Act, under which the TPD becomes applicable in Hungary. The former government decree based on national TP accorded a more extensive protection than the rules promulgated in the TP Decree, because it allowed non-Ukrainian third-country nationals fleeing from and legally residing in Ukraine to apply for temporary protection. However, that is no longer possible under the TP Decree currently in force (see [Qualification for Temporary Protection](#)). What is more, the latter TP Decree states that in those procedures which started under the former decree but had not yet concluded when the TP decree came into effect, the provisions of the current TP Decree are applicable. In practice this retroactive effect only concerned the determination of the applications lodged by third-country nationals.¹¹⁷⁷

The rights and obligations of the applicant, beneficiary and asylum authority, relative to temporary protection, are set out in the Asylum Act and Asylum Decree in line with the TPD. After enacting the TP Decree, the Hungarian government issued a series of further decrees and set a more detailed framework for accommodation, employment, education, information and supply for people eligible for temporary protection in Hungary. The provisions of these laws either set out a more detailed 'executive' regulation to those promulgated in the Asylum Act and Decree or diverge from their provisions.

¹¹⁷⁴ Section 19 a.)-b.) of Act LXXX of 2007 on Asylum.

¹¹⁷⁵ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof [2001] OJ L 212/12, available at: <http://bit.ly/409uJhu>.

¹¹⁷⁶ Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection [2022] OJ L 71/1, available at: <http://bit.ly/3UhQQja>.

¹¹⁷⁷ Section 12 of TP Decree.

On the most essential applicable laws in force concerning temporary protection in Hungary, see the following table:

Title (EN)	Original Title (HU)	Web Link
Act LXXX of 2007 on Asylum (Asylum Act)	2007. évi LXXX. törvény a menedéjogról	https://bit.ly/3RgsYea (HU)
Government Decree No.301/2007 (XI. 9.) on the implementation of Act LXXX of 2007 on asylum (Asylum Decree)	301/2007. (XI. 9.) Korm. rendelet a menedéjogról szóló 2007. évi LXXX. törvény végrehajtásáról	https://bit.ly/3fUA0DK (HU)
Government Decree No. 86/2022. (III. 7.) on rules applicable in state of danger and related to persons recognized as eligible for temporary protection, and on derogations from the rules of: Act CVI of 2011 on public employment, on the amendment of acts related to public employment and of other acts (TP Decree)	86/2022. (III. 7.) Korm. rendelet az ideiglenes védelemre jogosultként elismert személyekkel kapcsolatos veszélyhelyzeti szabályokról, továbbá a közfoglalkoztatásról és a közfoglalkoztatáshoz kapcsolódó, valamint egyéb törvények módosításáról szóló 2011. évi CVI. törvény szabályainak eltérő alkalmazásáról	http://bit.ly/3JyzV8u (HU) Unofficial EN translation by the HHC: https://bit.ly/3XL0HSs
Government Decree No. 95/2022 (10.III.) on the performance of the humanitarian tasks of the Budapest and county defence committees	95/2022. (III, 10.) Korm. rendelet a megyei, fővárosi védelmi bizottságok humanitárius feladatai ellátásáról	http://bit.ly/3ReZD3Z (HU)
Government Decree No. 104/2022 (12.III.) on the support of providing accommodation to persons arriving with respect to a humanitarian disaster in a neighbouring country during the state of danger, and on other related (financial support for entities offering accommodation to Ukrainians)	104/2022. (III. 12.) Korm. rendelet a veszélyhelyzet ideje alatt a szomszédos országban fennálló humanitárius katasztrófára tekintettel érkező személyek elhelyezésének támogatásáról és az azzal kapcsolatos egyéb intézkedésekről	http://bit.ly/3Y9mpMY (HU)
Government Decree No. 106/2022 (12.III.) on certain rules related to the employment of and benefits to persons recognized as beneficiary of temporary protection and on the amendment of Government Decree 301/2007. (XI. 9.) on the implementation of act LXXX of 2007 on Asylum, with respect to a humanitarian disaster in a neighbouring country during the state of danger	106/2022 (III. 12.) Korm. rendelet a veszélyhelyzet ideje alatt szomszédos országban fennálló humanitárius katasztrófára tekintettel, az ideiglenes védelemre jogosultként elismert személyek foglalkoztatásával és juttatásaival kapcsolatos egyes szabályokról, valamint a menedéjogról szóló 2007. évi LXXX. törvény végrehajtásáról szóló 301/2007. (XI. 9.) Korm. rendelet módosításáról.	http://bit.ly/3HH9Anz (HU)
Government Decree No. 147/2022 (14.IV.) on the provision of childcare services to accompanied children who have arrived from the territory of Ukraine, with respect to the state of danger	147/2022 (IV. 14.) Korm. rendelet a veszélyhelyzetre tekintettel az Ukrajna területéről kíséreléssel érkezett gyermekek gyermekfelügyelettel történő ellátásáról	http://bit.ly/3RfCb0 (HU)

Government Decree No. 171/2022 (29.IV.) on certain issues of data processing relevant to health care services, related to the Ukrainian crisis	171/2022. (IV. 29.) Korm. rendelet az ukrajnai válsággal összefüggő egyes, az egészségügyi ellátást érintő adatkezelési kérdésekről	http://bit.ly/3Juqqr0 (HU)
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There are no official statistics available regarding the number of those who were displaced directly or indirectly by the conflict present in Ukraine but that do not come under the scope of TPD in Hungary, however two groups are worth mentioning in this context.

A possibly significant number of Hungarian-Ukrainian dual citizens residing in Ukraine fled to Hungary as a result of the war. For reasons of historical specificity, around 150,000 ethnic Hungarians live in the **Zakarpattia** Oblast region in Ukraine, close to the Hungarian border.¹¹⁷⁸ Although there is no official data as to the number of those who hold both Hungarian and Ukrainian citizenship within the group of ethnic Hungarians, according to the 2015 data of the Hungarian Central Statistical Office, 88,339 persons were living in Ukraine with Hungarian citizenship,¹¹⁷⁹ and it might be assumed that most of them belong to the Hungarian minority. Naturally, after 24 February 2022, dual citizens and Hungarian-speaking Ukrainians also started to flee to Hungary, primarily from the **Zakarpattia** region. These people, however, did not fall under the Asylum Act and temporary protection scheme due to their Hungarian citizenship. At the same time, most of them could not enjoy all the rights to which Hungarian citizens are entitled, since most of those rights are tied to Hungarian social security status and registered address. Therefore, the TP Decree activating the application of the TPD and Council Decision introduced a special provision concerning dual citizens by stating that all benefits and advantages that are granted to a temporary protection beneficiary are to be granted to Hungarian citizens who had a permanent residence in Ukraine and arrived from Ukraine on or after 24 February 2022, unless they are granted more favourable treatment by virtue of their Hungarian citizenship.¹¹⁸⁰ This means in practice that dual citizens may access reception conditions and financial support (see Status and residence and Housing) in the same manner as temporary protection beneficiaries (see [Residence Permit](#)). Although there is no official data as to the numbers of Hungarian-Ukrainian dual citizens residing in Ukraine fled to Hungary as a result of the war, but based on the information the Hungarian Helsinki Committee (HHC) received from the Ministry of National Economic, 26.127 request for financial support were submitted by dual citizens to competent government authority between February 2022 and 31 December 2023, of which 25.903 requests were granted.¹¹⁸¹ This figure is, of course, only indicative regarding the number of dual citizens who wished to claim financial assistance under the TP scheme, but there is no official information on the exact number of dual citizens who fled from Ukraine to Hungary for the war.

Although the number may be lower than that of dual citizens, a group of indirectly displaced people that fall outside of the scope of TPD but that must be highlighted is that of Russian nationals staying in Hungary without (more permanent) legal basis who, having strong anti-war sentiments or fearing military conscription and/or the negative consequences of the newly adopted anti-LGBTQ law, do not want to return to Russia, but have no permanent basis to stay in Hungary either. The HHC provided legal assistance to 4 such Russian nationals in 2022 and 9 such Russian nationals in 2023. These clients generally wish to claim asylum, but currently it is not possible to submit an asylum application directly in Hungary, only if it is preceded by the so-called embassy procedure initiated at the Hungarian embassy in Ukraine or Serbia (see [General Report – Embassy Procedure](#)). No such asylum procedures have been initiated with the help of HHC, however, 6 Russian asylum-seekers were transferred to

¹¹⁷⁸ Krisztina Lajosi, 'Disinformation, Digital Nationalism and the Hungarian Minority in Ukraine', 25 April 2022, available at: <http://bit.ly/3YfJxcC>.

¹¹⁷⁹ Hungarian Central Statistical Office, *New Hungarian Citizens. Changes following the introduction of simplified naturalisation procedure (Új magyar állampolgárok. Változások az egyszerűsített honosítási eljárás bevezetése után)*, 2017, available at: <https://bit.ly/3Yn6hHB>.

¹¹⁸⁰ Section 8 of TP Decree.

¹¹⁸¹ Information received from the Ministry of National Economic on 19 February 2024 by the HHC.

Hungary under the Dublin Regulations - generally for having been issued with a Hungarian tourist visa earlier - and have been represented by the HHC. In these cases it was possible to submit the asylum applications. Two of these procedures are pending at the time of writing. In 3 cases,, following a judicial review procedure, the asylum application was refused, notwithstanding the applicants strong anti-war sentiments¹¹⁸² In the other case, also following a judicial review procedure, the judge instructed the asylum authority to conduct a repeated procedure and grant refugee status for the applicant due to his well-established fear of persecution for being a member of LGBTQ community and facing real risk of conscription despite opposing the war.¹¹⁸³The HHC expects the number of these cases to increase in 2024.

There is no data available as to how many individuals potentially entitled to temporary protection are present in Hungary. The only somewhat relevant data in that regard is the number of individuals entering from Ukraine to Hungary and the number of Ukrainian citizens entering from Romania to Hungary in 2022 and 2023.¹¹⁸⁴ See these figures below: ¹¹⁸⁵

Border crossings		
	2022	2023
Individuals entering Hungary from Ukraine	2,302,366	2,116,877
Ukrainian nationals entering Hungary from Romania	592,373	379,003

Source: Data from the Hungarian Central Statistical Office, available at: <http://bit.ly/3K1PTbd>

As regards applicants and beneficiaries, there were:

- ❖ 33,882 temporary protection beneficiaries on 31 December 2023.
- ❖ 460 pending temporary protection applications on 31 December 2023.
- ❖ 33,273 individuals registered for temporary protection between 25 February and 31 December 2022;¹¹⁸⁶ in 2023, 7,776 applications were registered.¹¹⁸⁷
- ❖ Between 24 February 2022 and 31 December 2023,1,597 individuals who registered for temporary protection but because of the procedure and for the applicability of non-refoulement received tolerated status instead of temporary protection status.¹¹⁸⁸

¹¹⁸² Case numbers 106-M-886/2023, before the asylum authority, Judgments of Budapest Court nr. 14.K.704.358/2023. and 14.K.704.364/2023.

¹¹⁸³ Judgment nr 106.K.700.709/2023 of Court of Metropolitan Area of Budapest of 12 September 2023.

¹¹⁸⁴ Data from the Hungarian Central Statistical Office: <http://bit.ly/3K1PTbd>.

¹¹⁸⁵ *Ibid.*

¹¹⁸⁶ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

¹¹⁸⁷ Data received from the National General Directorate of Aliens Policing by the HHC on 19 February 2024.

¹¹⁸⁸ *Ibid.*

Applicants and beneficiaries		
	As of 31 December 2022	As of 31 December 2023
Individuals registered for TP	33,273	41,049
Pending TP applications	1,083	460
TP beneficiaries	28,908	33,882
Tolerated status beneficiaries	923	1,597

Source: regarding 2022, data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023; regarding 2023, data received from the National General Directorate of Aliens Policing by the HHC on 19 February 2024.

B. Qualification for temporary protection

Currently, in line with the Council Implementing Decision, the TP Decree provides that the following persons may apply for temporary protection:

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

The following persons shall be considered as family members: spouses, minor children, and other close relatives who lived together as part of the family before 24 February, and who were wholly or mainly dependent on a person referred to in point a) or b) at the time.

In practice, the Hungarian asylum authority also grants temporary protection to the unmarried partner living in a stable relationship with a person referred to in point a) or b), and to third-country nationals who are the parents of minors referred to in point a) or b).¹¹⁸⁹

When it comes to the interpretation of “dependency”, in the practice of both the National Directorate-General of Aliens Policing¹¹⁹⁰ and the courts, a permissive and a restrictive approach may be highlighted. The notion was interpreted in a restrictive manner in a case where the court upheld the decision of the NDGAP refusing the temporary protection applications of a Russian mother and her daughter, who had lived together in the same household with the mother’s Ukrainian mother for 27 years before fleeing to Hungary, in a property owned by the Ukrainian mother. The court held that “dependency can only be understood as a relationship of responsibility and burden which is complete or close to it, or close to financial dependence, or personal care or nursing which is equivalent in its closeness to full or near-full financial dependence. If merely the emotional attachment, living together and running a household together would suffice as a status for a family member, the EU and national legislator would have provided for this, rather than much stricter dependency-dependency relationship. Neither the Guidelines nor the Charter, it is not possible to conclude to the contrary.”¹¹⁹¹ Conversely, the NDGAP applied a permissive approach concerning a Belarusian citizen temporary protection applicant, also represented by the HHC.¹¹⁹² The applicant's mother is a Belarusian citizen, her half-sibling sister, however, is Ukrainian as she was born from a Ukrainian father. The mother and the

¹¹⁸⁹ Practice-based observation by the Hungarian Helsinki Committee, April 2023.

¹¹⁹⁰ Hereinafter: NDGAP.

¹¹⁹¹ Judgment nr. 11.K.703.874/2022/8 of Budapest Court, 9 January 2023.

¹¹⁹² Case number 106-M-26231/2022 before the NDGAP.

applicant lived in Ukraine for more than 20 years, they also got a Ukrainian permanent residence permit in 2017. The sister, since she was born, also lived with her mother and half-brother all her life, in a house that is owned by the applicant. The mother and the sister were granted temporary protection status without any problems, but in the applicant's case the NDGAP wanted further evidence. The authority accepted that dependency was established between the applicant and the sister, as the sister, who is a minor, had lived in the applicant's apartment and they had a strong emotional connection too. The Belarusian applicant was consequently granted temporary protection status.

The '*direction*' of dependency is also interpreted by the NDGAP in a permissive manner. The HHC knows of two cases of Nigerian citizen parents, whose children were born in Ukraine and therefore had Ukrainian citizenship, but the NDGAP eventually granted temporary protection not only to the children but to their parents too.¹¹⁹³

Worth furthermore noting that following the litigation efforts of the HHC, the Budapest Court stated that a third-country national family member of a dual (Hungarian-Ukrainian) citizen shall also be granted temporary protection status, notwithstanding the fact that the family member is not entitled to and does not need temporary protection for being a Hungarian citizen. The court argued that the legislator obviously did not want to place the third-country family members of Hungarian citizens who had lived in Ukraine in a less favourable position than the third-country family members of Ukrainian citizens who may be granted asylum status under the TP decree.¹¹⁹⁴

The Asylum Act, in line with the TPD, also sets out the grounds of exclusion from temporary protection. No temporary protection shall be granted when there are reasonable grounds to believe that the person had committed:

- a. a crime against peace, a war crime or a crime against humanity as defined in international instruments;
- b. a serious, non-political criminal act outside the territory of Hungary prior to the submission of the application for recognition as a beneficiary of temporary protection;
- c. a crime contrary to the purposes and principles of the United Nations.

Moreover, no temporary protection shall be granted to persons whose stay in the territory of Hungary violates the interest of national security and/or:

- a. in whose case a court established by a final and binding judgement that they had committed an intentional criminal offence punishable by imprisonment for five or more years;
- b. who are sentenced by a final and binding judgement of a court to imprisonment for having committed a criminal offence as recidivists, multiple recidivists or violent multiple recidivists;
- c. who are sentenced by a final and binding judgement of a court to imprisonment of a term of three years or more for having committed a criminal offence against life, physical integrity, and health, a criminal offence endangering health, a criminal offence against human freedom, a criminal offence against the freedom of sexual life and sexual morality, a criminal offence against public peace, a criminal offence against public safety, or a criminal offence against the order of public administration.¹¹⁹⁵

The Constitution Protection Office and the National Counterterrorism Centre are the competent expert authorities to determine whether the stay of the applicant in the territory of Hungary presents a threat to national security.¹¹⁹⁶

¹¹⁹³ Case number 106-M-6958/2022 before the NDGAP.

¹¹⁹⁴ Judgment nr 13.K.700.433/2023/7 of Budapest Court, 30 March 2023.

¹¹⁹⁵ Section 21(1) of the Asylum Act.

¹¹⁹⁶ Point a) of Section 2/A. of Government Decree 301/2007. (XI. 9.) on the implementation of Act LXXX of 2007 on Asylum (Asylum Impl. Decree).

Issues related to the temporal scope and date of arrival in Hungary

Although the Commission strongly encouraged member states to extend TP to those who fled before 24 February 2022, the Hungarian Government decided not to do so regarding those, who would otherwise belong under the personal scope of the TP Decree but reached the country before the said date. Depending on whether or not these individuals arrived in the country either shortly or a long time before 24 February 2022 and have no legal basis to stay (e.g. application for or extension of residence permit for a defined purpose) they may be subjected to the following procedures.

Firstly, if the person arrived in Hungary shortly before 24 February (1-3 weeks), temporary protection applications can be submitted, despite the fact that based on the TP Decree, the applicant is not eligible for the protection status. According to the experience of HHC lawyers, the authority registers these applications and conducts the TP procedure, but as a result, the application is rejected in an official decision. Nonetheless, the asylum authority, acting under the Asylum Act and Asylum Decree, also holds in these cases that *non-refoulement* is applicable and that the applicant cannot be sent back to their country of origin (Ukraine). Consequently, the asylum authority grants tolerated stay/exile status to these applicants.¹¹⁹⁷ For the duration of the procedure, the applicant is issued with a humanitarian residence permit granting the right to stay and reside in the territory of the country. The same permit, valid for a year, is granted to those who are granted tolerated status.¹¹⁹⁸ After a year, the status is reviewed by the asylum authority.¹¹⁹⁹ There have been no reports suggesting that those receiving tolerated status would have experienced any difficulties with regard to the status-review procedure.

Tolerated status ensures much less rights than the temporary protection status or any international protection status. Persons with tolerated status shall be entitled to:

- ❖ pre-school and are obliged to participate in public education,¹²⁰⁰
- ❖ be a private entrepreneur,¹²⁰¹
- ❖ be employed, but only after obtaining a work permit,¹²⁰²
- ❖ in case they are not insured under the social security scheme, to treatments by a general practitioner, to emergency care, to mandatory vaccinations and to certain epidemics related health care services.¹²⁰³

However, if the person arrived in Hungary long before 24 February 2022 and stays without any legal basis, an expulsion procedure might be initiated either *ex officio* by the NDGAP or by the person's own initiative, if the person presents themselves before the authority.¹²⁰⁴ In this case, the aliens policing authority would conduct a procedure in which they have an obligation to assess whether *non-refoulement* applies. In case of persons fleeing Ukraine, the aliens policing authority would likely perceive that the principle of *non-refoulement* may be applicable and the person in question may be granted tolerated stay / exile status¹²⁰⁵ (see above). This procedure is likely to be conducted not only regarding those who would otherwise be eligible for temporary protection, but arrived in Hungary long before 24 February 2022, but also for all third country nationals not covered by the personal scope of the TP Decree, but are unable to return to their countries of origin in a safe and durable manner, regardless of the time of their arrival in the country. The situation is as such because the Transitional Act precludes applying for asylum without going through the embassy procedure.

¹¹⁹⁷ Sections 25/A-25/B of Asylum Act.

¹¹⁹⁸ Section 29 (1) b.) of Act II of 2007 on the Entry and Stay of Third-Country Nationals.

¹¹⁹⁹ Section 25/B (2) Asylum Act.

¹²⁰⁰ Section 92(1) a.) of the Public Education Act.

¹²⁰¹ Section 3(1) d.) of the Private Entrepreneurs Act.

¹²⁰² Sections 3-6 of Gov. Decree 445/2013. (XI. 28.).

¹²⁰³ Section 44 (3)-(4) of the Asylum Decree.

¹²⁰⁴ Section 42 of Act II 2007 on the Entry and Stay of Third-Country Nationals (effective till 29 February 2024), Sections 97 (1) and 98 (1)b.) of Act XC of 2023 on the General Rules of the Entry and Stay of Third-Country Nationals (effective from 1 March 2024).

¹²⁰⁵ Sections 52-52/A of Act II of 2007 on the Entry and Stay of Third-Country Nationals.

The HHC in its information requests sent to the NDGAP asked whether, beside a rejection of a temporary protection application and/or asserting the non-applicability of *refoulement*, anyone who applied for temporary protection was issued with an expulsion order. The NDGAP stated in its answer that no temporary protection applicant was expelled throughout 2022 or 2023 as a result of a temporary protection procedure.¹²⁰⁶

Scope of protection and procedures applied to third country nationals and stateless persons

Persons recognised as stateless in Ukraine – without having benefited from international or equivalent protection in Ukraine prior to 24 February 2022, as the unfortunate wording of the Council Decision and TP Decree perhaps suggest – are covered by the TP Decree and are eligible for temporary protection according to the communication of the asylum authority.¹²⁰⁷ The personal scope of the TP Decree was not broadened to cover additional categories of displaced persons however.

Nonetheless, the Hungarian implementation of the Council Implementing Decision poses some compliance issues with regard to third country nationals and stateless persons. Although the Council Implementing Decision requires Member States to provide temporary protection or adequate protection to those stateless persons and third-country nationals, who were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit and are unable to return to their country of origin in a safe and durable manner, the TP Decree states that “it does not apply the Council Decision” with regard to that group of people. According to the TP Decree, the aliens policing authority shall proceed in line with the general rules in the cases of these individuals.¹²⁰⁸ This ‘general’ procedure can either mean a residence permit procedure or an aliens policing procedure aiming at the person’s expulsion but may result in granting tolerated status, as explained in the previous paragraph.¹²⁰⁹ Neither the residence permit procedure, for which the applicant has to fulfil a long list of conditions (e.g. proven income, health-insurance etc.) nor tolerated stay may qualify as ‘adequate protection’ within the meaning of Council Implementing Decision.¹²¹⁰ Those third-country nationals who were residing in Ukraine but would be able to return to their countries of origin in a safe and durable manner are likely expelled as a result of an alien policing procedure, should they not be able to obtain a residence permit for a specific purpose.

For the duration of the aliens policing procedure persons are provided with a temporary residence document by the aliens policing authority valid for 1 to 3 months. The rules related to the temporary residence document are laid down in the TCN Act.¹²¹¹ The temporary residence document, with which does not come with any right apart from being able to stay in the country for the time of the procedure, may be extended by a maximum of three additional months at a time, if the person in question is able to prove that travel arrangements to their country of origin are underway or that they made efforts to regularise their stay in Hungary on the long term (such as proceeding with a visa application to another country or a correspondence with a Hungarian University proving that the person wished to obtain a residence permit for a studying purpose). Temporary residence documents are also provided to third-country nationals fleeing Ukraine by the police upon border crossing. The aliens policing authority can

¹²⁰⁶ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023 and on 19 February 2024..

¹²⁰⁷ NDGAP, ‘Tájékoztató az Ukrajnából menekülő ukrán állampolgárok részére’, available in Hungarian at: <https://bit.ly/40iWO5W>.

¹²⁰⁸ Section 2 (2)-(3) of Government Decree No. 86/2022. (III. 7.) (TP Decree).

¹²⁰⁹ These procedures are regulated by Act II of 2007 on the Entry and Stay of Third-Country Nationals.

¹²¹⁰ Adequate protection as defined in the Commission’s document: European Commission, *Communication from the Commission on Operational guidelines for the implementation of Council implementing Decision 2022/382 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection* [2022] OJ C 126I/1, available at: <https://bit.ly/3la6JCs>.

¹²¹¹ Section 30 of TCN Act.

later extend these as explained earlier. The NDGAP states that 16,458 temporary residence documents were issued between 24 February 2022 and 31 December 2023.¹²¹²

In the long term, the regularisation of the residence of non-Ukrainian nationals arriving from Ukraine could be possible only by applying for one of the residence permits set out by the TCN Act (for example, permit for the purpose of studies, employment, family reunification, etc.) if the appropriate legal basis is available to the applicant (for example, he or she is admitted to a university, has a job-offer, etc.) and if they fulfil a long list of conditions (e.g. verifying place of accommodation, means of subsistence, health insurance). Applications for such residence permits must be submitted, as a general rule, at the embassies of Hungary. Accordingly, applicants must explicitly request, via submitting a leniency request, that the authorities allow the submission of the application within the territory of Hungary, providing specific reasons. Unfortunately, the HHC's experience shows that the mere fact that someone is in the territory of Hungary due to the war situation in Ukraine is not considered by the alien policing authority as an acceptable basis for the leniency request – as opposed to the information material on the authority's website addressed to non-Ukrainian nationals.¹²¹³

Recap of available protection and residence statuses for people fleeing Ukraine

As explained in the previous paragraphs, the Hungarian implementation of the EU TP scheme is rather restrictive in terms of eligibility for protection. Apart from Ukrainian nationals, beneficiaries of international protection or stateless persons recognised in Ukraine and their family members, no other groups can access temporary protection. Although it follows from the TPD, the Council Implementing Decision and the Commission's operational guidelines that third-country nationals who are unable to return to their country of origin but are not eligible for temporary protection must be able to access the general asylum procedure, Hungarian law precludes the submission of asylum applications in Hungary, unless the procedure is initiated in **Serbia** or **Ukraine**, by submitting a so-called statement of intent declaration at the Hungarian embassies.¹²¹⁴ This regulation, in addition to being in breach of international law and European Union law related to persons entitled to international protection in several aspects, as confirmed by the Court of Justice of the European Union in June 2023,¹²¹⁵ has posed serious difficulties within the context of the Ukrainian crisis as well (see [Access to Asylum](#)). Third-country nationals arriving from Ukraine either do not know that they should lodge statement of intent procedure at the Hungarian Embassy in **Kyiv** and wait to be granted leave to enter and come to Hungary, or do not hold the necessary visa to travel to **Serbia**, and therefore, are not in a position to submit a statement of intent at the Belgrade embassy. Even if these individuals have well-founded asylum claims, the 'best' they can get is a tolerated status as a result of an alien policing procedure (see above, same section).

The HHC in its information request sent to the NDGAP asked how many third-country nationals fleeing Ukraine to Hungary and issued with a temporary residence document applied for asylum in Hungary, The NDGAP stated that they do not have data in that regard.¹²¹⁶

The available forms of protection, residence statuses and their compliance with the EU TP scheme are summarised here:

¹²¹² Information received from the NDGAP by the HHC on 19 February 2024. The statement of the NDGAP does not explicitly say that the documents were issued exclusively for third-country nationals, it only says for 'people arriving from Ukraine'.

¹²¹³ NDGAP, 'Tájékoztató az Ukrajnából menekülő nem ukrán állampolgárok részére és a fegyveres konfliktus kitörését megelőzően Magyarországra érkezett ukrán állampolgárok részére', available in Hungarian at: <https://bit.ly/3Hq6ymh>.

¹²¹⁴ Chapter 84 of Act LVIII of 2020 on the transitional rules related to the termination of the state of danger and on the epidemic preparedness (Transitional Act).

¹²¹⁵ CJEU, 22 June 2023, *European Commission v. Hungary*, C-823/21, available at: <https://bit.ly/3TcbFhA>.

¹²¹⁶ Information received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023 and on 19 February 2024.

Groups fleeing Ukraine	Protections / Residence status	Is it compliant with the EU TP scheme?
<ul style="list-style-type: none"> - Ukrainian nationals, - Recognised stateless persons and beneficiaries of international protection, - their family members within the council Decision + their partners in a stable relationship, parents of Ukrainian minor <p style="text-align: center;">if arrived on or after 24/02/2022</p>	<p style="text-align: center;">Temporary protection granted in asylum procedure</p>	<p style="text-align: center;">Yes</p>
<ul style="list-style-type: none"> - Ukrainian nationals, - Recognised stateless persons and beneficiaries of international protection, - their family members within the council Decision + their partners in a stable relationship, parents of Ukrainian minor <p style="text-align: center;">if arrived before 24/02/2022</p>	<p style="text-align: center;">Tolerated status or residence permit granted as a result of an alien policing procedure</p>	<p style="text-align: center;">Yes</p>
<p>TCNs legally residing in Ukraine on a permanent basis if they cannot return to their country of origin in a safe and durable manner</p>	<p style="text-align: center;">Tolerated status or residence permit granted as a result of an alien policing procedure</p>	<p style="text-align: center;">No, as neither TP nor adequate protection provided.</p>
<p>TCNs legally residing in Ukraine on a short-term basis if they cannot return to their country of origin in a safe and durable manner</p>	<p style="text-align: center;">Tolerated status or residence permit granted as a result of an alien policing procedure</p>	<p style="text-align: center;">Yes</p>
<p>All TCNs who are able to return to their country of origin in a safe and durable manner</p>	<p style="text-align: center;">No protection, are channelled to the alien policing procedure (result: expulsion or if applied and conditions fulfilled – residence permit)</p>	<p style="text-align: center;">Yes</p>

All residence permits issued in 2022 and 2023 were valid until 4 March 2024. As the EU temporary protection was extended, 30/2024 Government Decree (II.22) also declared the prolongation of the Hungarian TP cards' validity until 4 March 2025.

C. Access to temporary protection and registration

1. Admission to territory

Access to the territory of Hungary was generally facilitated at border crossing points in 2022, with the occasional exceptions listed below. In line with the Commission Communication providing operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders,¹²¹⁷ the application of entry bans/SIS alerts on prohibition of entry and stay in the EU has been suspended on the Ukrainian-Hungarian border and people could enter without adequate travel documents in 2022. Although the said EC guideline encourages Member States to issue an arrival declaration and/or (provisional) travel documents to those not having valid travel documents, Hungary did not follow this practice. According to the Hungarian Act on Asylum, however, beneficiaries of temporary protection are entitled to request a single exit and entry document, if they do not hold a valid travel document issued by their country of origin.¹²¹⁸ Furthermore, there are no reports or testimonies in 2022 suggesting that anyone fleeing Ukraine was refused entry at the Ukrainian-Hungarian border crossing points in 2022. Ukrainians without biometric passports or other travel or identification documents, as well as third-country nationals without travel documents, and even those against whom an entry ban concerning Hungary or the EU was issued were all granted entry to Hungary after 24 February 2022.

However, the HHC received some alarming information from volunteers working in the border area in April and March 2022, that Roma people were not allowed to disembark trains coming from Ukraine and arriving at **Záhony** railway station (Záhony is a town close to the Ukrainian border in Hungary). The HHC conducted regular monitoring visits in the border area throughout 2022 providing first-hand assistance to people fleeing Ukraine, but did not meet any Roma person who could substantiate this claim.

However, the HHC recorded a case in May 2022 in **Záhony**, when a group of Roma people from Ukraine were allowed to disembark the train but were told then at the registration point by the Hungarian authorities that they either had to stay at the designated place imposed to them or had to return to Ukraine. They were not allowed to move further to Budapest unless they could prove that they had an address to stay in Hungary. On another occasion, also in May 2022, the HHC recorded the testimony of a security guard at the Záhony railway station indicating that Roma people were prohibited by Ukrainian officials from boarding the train going to **Záhony** at the train station in **Chop, Ukraine**. IOM staff, who were present at the railway station that time, confirmed this allegation to the HHC monitors.

The situation of persons fleeing Ukraine but trying to enter the Schengen area via Hungary at Romanian-Hungarian border-crossing points, however, was not as clear-cut. The HHC received information on multiple occasions between 24 February 2022 and August 2022, that Ukrainians without biometric passports or third-country nationals, even holding a Ukrainian residence permit, were not allowed to enter Hungary. This practice was, nonetheless, rare and not consistent. In the second half of 2022, no organisations contributing to this report received such information.¹²¹⁹ In 2023, only those fleeing Ukraine could enter Hungary from Romania, who had valid Ukrainian biometric passports or a document issued by other Schengen state confirming that the person may enter that state.¹²²⁰ The Police states that in case of 2,139 Ukrainian nationals, entry was denied for unspecified reasons.¹²²¹

¹²¹⁷ Commission Communication Providing operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders 2022/C 104 I/01 [2022] OJ C 104I/1, available at: <http://bit.ly/3UhOm4g>.

¹²¹⁸ Section 22(1) b.) of Asylum Act.

¹²¹⁹ The following organisations contributed to this report: IOM Hungary, Caritas Hungarica, Cordelia Foundation, Evangelical Lutheran Diakonia, Jesuit Refugee Service, Hungarian Interchurch Aid, Hungarian Maltese Charity, Hungarian Reformed Church Aid, Menedék Hungarian Association for Migrants, and Next Step Hungary Association.

¹²²⁰ Information received by the HHC during its February 2023 monitoring mission.

¹²²¹ Information received from the Police Headquarter on 19 February 2024 by the HHC.

However, since January 2023, border-control measures have been strengthened. Terre Des Hommes Hungary received information via informal, non-state channels, that in some instances only those who have biometric passports are allowed to leave Ukraine by the Ukrainian border police.¹²²²

- ❖ On 23 January 2023 staff members of the HHC monitoring the border area received disturbing information with regard to a Turkish citizen who tried to enter Hungary with his Ukrainian wife and child but was refused entry by the border guards. An official decision of refusal of entry was also made by the border police, referring to the fact that the said individual did not hold the necessary visa to enter. The next day the HHC staff members attended a coordination meeting organised by locally present actors in **Záhony**, where the representative of the Hungarian Defence Forces informed attendees that, by instruction of the Hungarian National Police Headquarters, border guards would more thoroughly check whether the person intending to cross the border stayed in Ukraine in a lawful manner prior to 24 February 2022.
- ❖ On 24 January 2024, the HHC attorney was present at the local border police station of Záhony where he witnessed that two third-country nationals, an Iranian and a Nigerian student, were refused entry in a formal decision. One of the students had a valid residence permit in Ukraine, the other student's residence permit had expired. In both of their cases the decisions stated that they did not hold the necessary visa. The acting border police officer informed the HHC attorney that the police contacted the asylum authority to obtain *non-refoulement* opinions concerning the said third-country nationals. The decision otherwise made no reference to their Ukrainian residence status. The border police later withdrew the decision and the HHC attorney was informed that the said nationals were allowed to enter Hungary.
- ❖ The same day (24 January 2023), seven Indian nationals were allowed to enter Hungary without their IDs having been thoroughly checked.
- ❖ On 25 January 2023, a Ukrainian lawyer reached out to the HHC, stating that the entry of 4 Pakistani nationals into Hungary was denied. According to the lawyer's information, formal entry-refusal decisions were again issued with reference to the fact that the individuals did not hold a valid visa to enter Hungary. The Pakistani nationals' stay in Ukraine was, however, illegal.

Throughout February 2023, the HHC registered further cases where the entry of third-country nationals, legally or illegally staying in Ukraine, were denied by the Hungarian border police at **Záhony**. This practice affected family members of Ukrainian nationals too, who would otherwise be entitled to temporary protection. IOM has also suggested that 'certain patterns that have emerged strictly based on observation and second-hand information indicate the denial of entry for TCNs based on whether they had previously exited Ukraine or not, with TCNs exiting for a second or third time the country, not being allowed to do so again and sent back. In addition, cases with Temporary Protection status in EU countries, other than Hungary, have also been denied entry into the country.'¹²²³

These cases might indicate that a worrisome and inconsistent practice concerning the entry of third-country nationals to Hungary is evolving. The HHC reached out to the Hungarian National Police Headquarters by sending them a freedom of information request in which the HHC inquired about the existence of an internal policy or law according to which entry at the border is decided. The National Police Headquarter in its answer received by the HHC on 27 March 2023 asserts that will be granted entry:

¹²²² Information received from Terre Des Hommes Hungary on 28 January 2023.

¹²²³ Information received from the IOM by the HHC on 14 February 2022.

- ❖ those who comply with Article 6 of the Schengen Border Code (SBC), in other words, who have the necessary and valid travel documents (e.g. visa, passport);
- ❖ in the absence of fulfilling the requirements of Article 6 of SBC, those are not under the effect of an entry ban issued:
 - for national security reasons,
 - issued by any other Schengen member state,
 - with public order or public security reference.
 Those with an entry ban issued as defined here are denied entry and are returned.
- ❖ In the absence of fulfilling the requirements of Article 6 of SBC, those third-country nationals who did not enter Ukraine after 24 February 2022.

The Police Headquarter also stated in its answer that if need for asylum or temporary protection is indicated when crossing the border, 'when assessing *refoulement*, this need has to be indicated to the NDGAP'. The Police furthermore stated that 'if *non-refoulement* applies, the person is to be transferred to the **Nyírbátor** collection point and further procedure is then to be conducted by the NDGAP'. 'Outcome is uncertain as the NDGAP' – and not the border police – 'decides if the status is granted or the person is returned to Ukraine'. The letter furthermore asserted that 'if *non-refoulement* does not apply, then the person claiming must be directed to the Kiev Embassy of Hungary'.

The Police states that 1,538 persons were denied entry at the Ukrainian-Hungarian border in 2023. 14 persons were denied entry for the lack of valid travel documents, 2 persons for using fake travel documents, 1253 persons for missing a valid visa, 3 persons for using fake visas, 18 persons for lacking 'supporting documents'¹²²⁴ 20 persons for overstaying¹²²⁵ and 273 persons for being subjected to an entry ban.¹²²⁶

The HHC registered the following refusal of entry cases at the Ukrainian border, at the Záhony border crossing point:

- ❖ 3 February 2023: Five Indian nationals claimed they had been in Ukraine (Odessa) with a study visa for three months. They arrived in Ukraine through Moldova. They claimed they wanted to travel back to India as Ukraine is not safe. The Moldavian visa they previously had expired, that is why they tried to travel back to India through Hungary. HHC was told by the Police that the Indian nationals had visited Moldova multiple times over the 3 months they spent in Ukraine. Their entry was refused.
- ❖ 18 April 2023: a Bangladeshi citizen was stopped and removed from the train arriving from Ukraine at the train station. He claimed that he wanted to join his Ukrainian wife and son, who were granted temporary protection and lived in Germany. The person's entry was refused due to the lack of EU visa.
- ❖ 29 April 2023: an Iraqi citizen wanted to go to Germany via Hungary to his wife and minor child who had Ukrainian citizenship. His entry was refused.
- ❖ 7 June 2023: Nigerian and Moroccan citizens were turned back by the authorities because they had already left Ukraine since the outbreak of the war and now wanted to leave again.
- ❖ 19 July 2023: An Azeri family of 4 persons (with two minor children) was denied entry by the border guards because they did not have valid visas.
- ❖ 03 August 2023: a Nigerian citizen woman, wanted to come to Hungary with her minor Ukrainian daughter was refused entry.
- ❖ 14-15 August 2023: One Ukrainian person was escorted for a hearing by the Police after arriving by train to Záhony, but as it turned out he had a Schengen ban on entry and stay issued by Hungary, so he was not allowed to enter Hungary.

¹²²⁴ It was not further specified what the Police meant by supporting documents.

¹²²⁵ The context of 'overstaying' was not specified in the Police statement.

¹²²⁶ Information received from the Police Headquarter on 19 February 2024.

- ❖ 13 September 2023: an Iranian citizen wanted to go to Austria via Hungary to join his Ukrainian citizen wife and their two minor children. His entry was refused. The HHC is challenging this border control practice by requesting the judicial review of refusal on entry decisions. The HHC represents the above-mentioned Bangladeshi, Nigerian, Iraqi and Iranian citizens in these procedures. There have been 3 judgments issued so far in these cases. All three judgments quashed the refusal of entry decisions due to inadequate *non-refoulement* assessment. The court, however, did not rule on whether or not the individuals in question would have been eligible for temporary protection, as it considered that there was no proof that temporary protection was requested.¹²²⁷ According to the experience of the HHC, this is especially concerning as even if people arrive with a filled temporary protection application, this is not accepted and not recorded anywhere by the border guards.

In 2022 no information was received as to any difficulties relating to re-entering Hungary for those who returned to Ukraine and decided to come back. In 2023, however, those who have not been granted any status enabling residence/stay in Hungary (e.g. temporary protection status) but returned to Ukraine, were likely to face difficulties in re-entering Hungary. This follows from the above-described restrictive practice of the police concerning border control, indicating that those who entered Ukraine after 24 February 2022 may be denied entry. The HHC registered some cases when those who had temporary protection (TP) status and TP card issued in Hungary encountered some difficulties when returning to Hungary from Ukraine. Namely, the border guards in these particular cases were convinced that the temporary protection cards were not valid anymore (this might have been the case as although the government declared to prolong the status for an additional year and that TP cards had to be regarded as valid - the actual expiry date printed of the cards were/are: 5 March 2023).¹²²⁸

2. Freedom of movement

Ukrainian nationals with biometric passports are not issued with any kind of additional residence documents by the authorities upon their entry to Hungary. Ukrainians without biometric passports and third-country nationals are, however, provided with a temporary residence document valid for 1-3 months, until their residence status is otherwise settled or until they leave the country. According to the NDGAP, between 24 February 2022 and 31 December 2023, 16,458 temporary residence documents were issued.¹²²⁹ The NDGAP, upon the person's arrival issues this document on humanitarian grounds,¹²³⁰ but in the early phase of the crisis this document was also issued by the police at border crossing points and registration points (set up close to the border with the specific purpose of registering people from Ukraine who did not hold a biometric passport).

Third-country nationals were sometimes also issued with a decision of a designated place to stay (normally with a geographical scope of a county) by the aliens policing authority in 2022, together with their temporary residence document, and especially in relation to Roma families. The authority was inconsistent in this practice and also the legal basis of these decisions was ambiguous. In several cases the aliens policing authority issued these types of decisions if the third-country national in question was already subjected to an alien policing procedure, which is a circumstance justifying the issuance of such a decision.¹²³¹ As no such case came across in the practice of the HHC, it is not known whether it still had been the practice in 2023.

¹²²⁷ Judgments of Debrecen Court nr 4.K.701.177/2023/6 of 6 July 2023, nr 15.K.702.514/2023/5 of 9 January 2024 and nr. 18.K.702.659/2023/4 15 February 2024.

¹²²⁸ Cases registered on 11-12 May 2024 by the HHC during its monitoring mission in Demjén Albertmajor and in Ráckeve (accommodation sites).

¹²²⁹ Information received from the NDGAP on 19 February 2024 by the HHC.

¹²³⁰ Section 30 (1) f.) and j.) of TCN Act.

¹²³¹ Section 62 (1) h.) of TCN Act.

Furthermore, in the experience of the HHC, Hungary did not follow the EC's recommendations¹²³² indicating that if there is no biometric passport but the person is entitled to temporary protection and wants to move to another Member State other than the first Member State, then a Member State might issue 15-day Schengen visa, persons wishing to travel further normally turned to the consulates of the targeted Member States and requested visas there. Third-country nationals not entitled for temporary protection generally did the same, especially in cases when they wanted to reach EU countries where the personal scope of temporary protection was broader and covered third-country nationals too.

3. Registration under temporary protection

The application for temporary protection has to be submitted to the asylum authority (NDGAP)¹²³³ in an official application form¹²³⁴. There is no deadline to apply for temporary protection after arriving in Hungary, however, if applicants want to access state-funded accommodation, it is advisable to apply within 30 days (see more on this under [Housing](#)). The application may be submitted at any asylum client services of regional offices¹²³⁵ of the authority. In Budapest, it is to be lodged at 60 Budafoki Street, 11th District. Case-officers at the client services provide applicants with the application form. In addition, it is possible for applicants to give their personal identification data necessary for the submission of the application in advance by using the website¹²³⁶ or mobile application¹²³⁷ of the NDGAP for that purpose.¹²³⁸ That possibility only exists to accelerate the procedure and does not exempt the applicant from the obligation to appear in person before the authority, which, in this case, may be fulfilled not only by showing up at the mentioned offices of NDGAP, but also at any government client service point ("Kormányablak").¹²³⁹

It must be demonstrated upon submitting the application that the applicant falls within the personal scope of the Council Implementing Decision/TP Decree. In line with the EC communication, this might be done usually by presenting a passport, a personal identity card, any other document appropriate for the certification of personal identity, or, especially for family members, by an extract from the birth or marriage certificate substantiating family relationship.

As per the practice of asylum authority, unmarried partners of persons eligible for temporary protection may also be granted temporary protection. Partners have to evidence the relationship by submitting photos, email, SMS, other correspondence with the temporary protection-eligible partner. If the applicant holds valid travel or ID documents, the submission of the application is quite fast, without the case-officer asking additional questions.

The law also provides that the applicant is only to be heard if it is absolutely necessary for further clarification.¹²⁴⁰ This is the case, for instance, when the applicant lacks any document sufficient for personal identification, as then the applicant might have to answer some additional questions or submit other evidence substantiating their identity. There are no documents that are not accepted in the course of making the application.

¹²³² Communication from the Commission on Operational guidelines for the implementation of Council implementing Decision 2022/382 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection (2022/C 126 I/01).

¹²³³ Section 32/D (1)-(2) of Asylum Act.

¹²³⁴ Application form may be downloaded from here: <https://bit.ly/447bS9b>.

¹²³⁵ The regional offices of the NDGAP are listed at NDGAP, 'Területi szervek illetékességi területe és címjegyzéke', available in Hungarian at: <https://bit.ly/3jBn7Uj>.

¹²³⁶ The NDGAP website to submit applications is available here: <http://bit.ly/3KwxwM2>.

¹²³⁷ The NDGAP mobile application is available here: <https://bit.ly/3jBn7Uj>.

¹²³⁸ Sections 2-3 of Government Decree 170/2022 (IV.28).

¹²³⁹ (1)-(2b) of Section 5/A (1)-(2b) of Government Decree 86/2022. (III. 7.).

¹²⁴⁰ Section 4 (2) of TP Decree.

If, at the time of submitting the application, the applicant has no accommodation, that fact may be noted on the application form. In such cases, the asylum authority contacts the competent authorities (Disaster Relief) so that they may provide accommodation to the applicant. If the applicant has accommodation, the address must be given on the data sheet, and in case their accommodation changes during the procedure, the authority must be duly notified thereof.

The asylum authority does not adopt a separate decision about the recognition of temporary protection. The authority only records the recognition itself and notifies the applicant by handing over or posting the temporary protection document.¹²⁴¹ According to the experience of HHC lawyers providing legal assistance to applicants, it was sometimes problematic in 2022 that the authority fails to notify the persons whose application for temporary protection is rejected. Rejected applicants are informed that their attempt was unsuccessful only if they contact the authority in person to request information about the assessment of their application.

The asylum authority has 45 days to conduct the procedure.¹²⁴² The time-limit set for the procedure of the expert authority¹²⁴³ (see [Qualification for temporary protection](#)) shall be 10 days, therefore, the maximum duration of the procedure is 55 days. If the expert authority does not notify the asylum authority of its decision within 10 days, its consent is considered as given.¹²⁴⁴

Following the submission of the temporary protection application, applicants receive a so-called humanitarian residence permit for the duration of the procedure.¹²⁴⁵ The permit certifies their entitlement to the services available for them during the temporary protection procedure (see [Residence Permit](#)). If the humanitarian residence permit expires before receiving the temporary protection document following the recognition, the extension of validity may be requested at the closest regional office of the NDGAP asylum-client service.

Following recognition as a beneficiary of temporary protection, a document is issued to the beneficiary for the purposes of personal identification and certification of the right to residence (temporary protection card). The authority sends/delivers a letter along with the temporary protection card notifying the beneficiary that the card does not entitle its holder to travel and that the subsistence allowance – the only financial support provided to beneficiaries by the state – can be requested after receiving the card. If, following the issuance of that document, the place of residence of the beneficiary of temporary protection changes, the authority must be duly notified thereof.¹²⁴⁶

If the temporary protection application is submitted, and as a result of the procedure the asylum authority denies the protection claim and potentially expels the applicant, the refusal decision might be challenged before the regional court within 8 days from its delivery.¹²⁴⁷ In the judicial review request, *non-refoulement* opinion and a potential expulsion decision might also be challenged. The court then has 60 days to decide in the case,¹²⁴⁸ whether to refuse the appeal or order the asylum authority to conduct a new procedure.¹²⁴⁹ The judicial review request does not have an automatic suspensive effect on the decision¹²⁵⁰, but in practice the expulsion procedure never starts beforehand.

According to the asylum authority, 29 judicial review requests challenging the decision made as a result of a temporary protection procedure until 31 December 2022 were submitted.¹²⁵¹ In 2023, the number

¹²⁴¹ Section 5/A (3) of Government Decree 86/2022. (III. 7.).

¹²⁴² Section 77 (3) of the Asylum Act.

¹²⁴³ The Constitution Protection Office and/or the National Counterterrorism Centre.

¹²⁴⁴ Paragraphs (2)-(3) of Section 4/A. of Government Decree 86/2022. (III. 7.).

¹²⁴⁵ Section 29(1) c.) of the TCN Act and Section 6 (1) b.) of the Asylum Decree.

¹²⁴⁶ Section 22(1) a.) of the Asylum Act.

¹²⁴⁷ Sections 68 (1) and 79 (2) of Asylum Act.

¹²⁴⁸ Section 68 (2) of the Asylum Act.

¹²⁴⁹ Sections 88-89 of the Code on Administrative Litigation.

¹²⁵⁰ Section 39 (6) of the Code on Administrative Litigation.

¹²⁵¹ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

of judicial requests submitted was 21.¹²⁵² Neither the asylum authority, nor the National Office for the Judiciary could provide data as to the outcome of the judicial review procedures.

Interestingly, when refusing the temporary protection application, the Asylum Act does not preclude the submission of a subsequent application as it does regarding general asylum claims. As a consequence, even if the factual basis of the application and circumstances of the applicant did not change, another application can be submitted and the authority has to make a new – presumably – refusing decision. However, as a result of a 2024 legislative change, if a person's temporary protection application is rejected and remedies are exhausted, the applicant will no longer be entitled to emergency accommodation and care for the duration of the new (repeated) procedure¹²⁵³, as it was the case throughout 2022 and 2023.

Lack of referral mechanism and information at entry points

There are no formally introduced measures to refer people arriving to the border to the responsible authority. After 24 February 2022, five registration points were set up in the border area in **Váradosnamény, Tarpa, Mándok, Fehérgyarmat** and **Aranyosapáti**, where the police¹²⁵⁴ and the officials of the asylum authority were present, issuing temporary residence documents. Eligible persons could also apply for temporary protection there and the asylum authority provided them with a humanitarian residence permit.¹²⁵⁵

By 16 March 2022, only 3 registration points were in operation, in **Cigánd, Fehérgyarmat** and **Záhony**. Except for those meeting the regular entry requirements (biometric passports in case of Ukrainian citizens, valid visa in case of non-Ukrainian third-country citizens), registration was compulsory. At the same time, the registration procedure remained extremely slow. At registration points people needed to wait 4 to 8 hours, in some cases 10+ hours. The HHC received reports that while waiting for registration, people did not have access to food, water, or even toilets. Reports also suggested that there was a shortage of interpreters at registration points and the authorities could not communicate with those being registered.¹²⁵⁶

In the HHC's experience, lodging temporary protection applications at registration points was only a short-lived possibility, as a few weeks after 24 February, only temporary residence documents were issued there, but temporary protection procedures could no longer be started there. From around April 2022, applying for temporary protection was only possible at the asylum client services of regional NDGAP offices. If, upon border crossing, anyone indicated their intention to apply for temporary protection, they were likely told by the border police that they could do so by going to one of these asylum client services. However, the lack of information provision at border crossing points (e.g. no information leaflets) posed one of the greatest issues regarding access to temporary protection in the first half of the crisis: it occurred frequently that people fleeing Ukraine were not provided with any information by the police upon border crossing, regardless of having expressed their intention to apply for temporary protection. By around May 2022, only two registration points, in **Záhony** and **Fehérgyarmat** remained in operation and solely for the purposes of issuing the temporary residence documents. Since around June 2022, only one registration point is working in **Záhony**.

At the same time with establishing the registration points, 5 helping points were also set up by the Government close to the Ukrainian-Hungarian border crossing points, where people who needed first-hand assistance for any reasons (e.g. accommodation, food provision, healthcare service, information, transfer), could get it. These helping points were operated by the CharityCouncil, which is a body

¹²⁵² Information received from the NDGAP by the HHC on 19 February 2024.

¹²⁵³ Section 4 of Government Decree 30/2024 (II.22) amending Government Decree 104/2022 (III.12)

¹²⁵⁴ Border guards were integrated into the Police as of 1 January 2008.

¹²⁵⁵ Communication of the website of the NDGAP: <https://bit.ly/3Yc339H>.

¹²⁵⁶ HHC, *War in Ukraine Protection Situation in Hungary*, 16 March 2022, available at: <https://bit.ly/3HMC2Es>.

working under the coordination of the State Secretary for Church and Minority Relation. Its members are the biggest and most influential public benefit charity organisations working in Hungary, namely the Caritas Hungarica, the Hungarian Reformed Church Aid, the Hungarian Maltese Charity Service, the Hungarian Interchurch Aid, the Hungarian Baptist Aid and the Hungarian Red Cross.¹²⁵⁷

Each Charity Council member operates one helping point: Caritas Hungarica in **Barabás**, Hungarian Reformed Church Aid in **Záhony**, Hungarian Interchurch Aid in **Barabás**, Hungarian Baptist Aid in **Tiszabecs**, Hungarian Red cross in **Lónya**. The staff of the council members are present 24/7 at the helping points and provide assistance to people who cross the border and need any type of assistance for any reason. Regarding access to the temporary protection procedure, information materials mainly produced by other non-state entities are placed and used at the helping points. Staff members of the Office of Ombudsperson were present at **Záhony** railway station in the first half of 2022 and also provided information regarding access to the temporary protection procedure.

As written above, information about accessing protection at the border was predominantly conveyed by informal and random referral mechanisms. Information provision has not been coordinated by the state and the NDGAP, responsible for immigration and asylum and temporary protection procedures. The NDGAP has been absent at the helping points, shelters and accommodation sites.

Lack of interpretation

In the experience of HHC lawyers, the greatest problem hindering registration of temporary protection applications has undoubtedly been the lack or shortage of interpreters present at the asylum client services countrywide, with the exception of **Budapest** client services, where at least one Russian-speaking administrator is always present. In many cases, the applicants gave up on the registration of their application because they were not able to understand what the Hungarian case-officer told them. This was especially true when the applicants had more 'complex' profiles (e.g. Ukrainians without biometric passports or third country national family members of Ukrainians) and were hence required to substantiate their eligibility by presenting more evidence. The fact that some Ukrainians only know the Cyrillic alphabet and were not able to use the Latin letters in a written form also posed a problem, as even if there was a translator present in the asylum client service, no capacities were left to assist applicants in filling out the application forms. Menedék Hungarian Association for Migrants (Menedék Association) who has provided assistance to applicants in initiating the procedure since March 2022, also pointed out that the illiteracy of applicants was one of the main issues preventing individuals from submitting a temporary protection application. Menedék Association furthermore highlighted those other special circumstances, such as old age, diseases or disabilities sometimes also hindered the initiation of the procedure, as naturally, individuals with these types of special needs simply could not physically access the venues of the asylum client services. In these cases, staff members of Menedék Association either requested the NDGAP to send their officers directly to the accommodation sites or, if that was unsuccessful, in cooperation with the operator of the accommodation site, they organised direct rides for the individuals to the closest asylum client service.¹²⁵⁸ The IOM also confirmed that in their experience language barriers were the most typical obstacles a person applying to temporary protection had to face when trying to register a temporary protection application in 2023.¹²⁵⁹ The Hungarian Maltese Charity Service similarly confirmed that while the case-officers of NDGAP did their best to register applications, this process was hindered by the lack of interpreters.¹²⁶⁰

In the experience of the HHC, for the - sometimes complete - lack of translators case management was generally poor at the Tatabánya NDGAP asylum client service in 2023. The HHC received one complaint

¹²⁵⁷ Rules relating to the establishment, operation and membership of the Charity Council are set out in Government Decree 65/2000. (V. 9.).

¹²⁵⁸ Information provided by the Menedék Association to the HHC on 28 February 2023.

¹²⁵⁹ Information received from the IOM by the HHC on 21 February 2024.

¹²⁶⁰ Information received from the Hungarian Maltese Charity Service by the HHC on 26 February 2024.

about the NDGAP office in Tatabánya, which wanted TP applicants to present proof of registered accommodation the same way as it is required for people applying for residence permit.¹²⁶¹

Denial of access to registration of TP application and extensive length

Furthermore, HHC lawyers also reported multiple times, both in 2022 and 2023, that the asylum authority refused to register and take over the applications of those who did not seem to be ‘instantly eligible’ within the meaning of the TP Decree, such as third-country nationals, Ukrainians without personal ID documents, Ukrainians who arrived prior to 24 February 2022. The TP application of a TCN - eligible for his Ukrainian family members - was not registered when entry was refused to Hungary at the border crossing point in Záhony.¹²⁶² In these cases, HHC lawyers, with the authorisation of the applicants, represented them in the procedure.

The lawyers’ experience showed that once the applicants were accompanied by their legal representative, the case-officers of the asylum authority registered the applications. Although in some of the cases the lawyers did not contest the fact that the applicant was not eligible under the TP Decree (e.g. prior 24 February 2022 arrivals), they suggested that the registration of the application was still of utmost importance for the asylum authority having then the opportunity and the obligation to assess *refoulement*. As a result, the applicants, while not being recognised as beneficiaries of temporary protection, could still be granted tolerated status, because the principle of *non-refoulement* was applied and refusal of entry decision was not rendered.

As, contrary to what is foreseen in the EU TP scheme, in Hungary protection is not immediate and triggered by the sole submission of the application, the consequences of a failed registration and those of a refusal of an application must be distinguished. There is no institutionalised appeal procedure against a refusal to register a temporary protection application. Nevertheless, in the experience of the HHC, applicants may attempt to submit their application again, even if the authority refused to take their application in beforehand, as there is no provision in law precluding that. The acting case-officer takes no formal decision if the registration of the application is denied.

In 2022, the temporary protection procedures frequently run beyond the procedural deadline (55 days). This may be partially attributed to the fact that the NGDAP asylum authority did not have the sufficient capacity to deal with the initially overwhelming influx of temporary protection applicants. The number of NGDAP case-officers assessing temporary protection applications was only 16 on 31 December 2022.¹²⁶³ This was a significant shortcoming during the initial year of the crisis, as during the temporary protection procedure, applicants are not entitled to financial support. Access to the subsistence allowance, the only type of financial support provided by the state within the context of temporary protection, is only possible once status is granted.¹²⁶⁴ The HHC also reported that there has been a delay in the issuance of temporary protection cards. In these cases, the asylum authority sometimes provided beneficiaries with a certificate of the protection instead of the temporary protection card. Some government offices, where applicants have to request the subsistence allowance, however, do not accept the official certificate, thus causing further delays in accessing the financial aid.

In 2023, substantive delay in conducting the temporary protection procedures has not been frequently reported. This may be attributed to the fact that the number of TP applications submitted in 2023 were around 25,000 fewer than the year before. The number of NDGAP case-officers assessing applications decreased, however, from 16 to 10.¹²⁶⁵ In the experience of the HHC, the people were generally able to access the temporary protection procedure throughout 2023, with some exceptions concerning

¹²⁶¹ Registered on 20-21 February 2023 during the monitoring mission of the HHC in Tata.

¹²⁶² Registered on 18 May 2023 during the monitoring mission of the HHC.

¹²⁶³ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

¹²⁶⁴ Section 37/A (1) e.) and Section 37/A (4) b.) of Asylum Decree; Section 4 (2)-(3) of Gov. Decree 106/2022 (III. 12.).

¹²⁶⁵ Information received from the NDGAP by the HHC on 19 February 2024.

primarily third country nationals as mentioned above. Shortcomings such as lack of information provision on the possibility to apply for temporary protection and on the process by the border police, long delays in the finalisation of the process, barriers to access the physical space of NDGAP for people that were older, bed-bound or at the countryside with no access to transportation have also been highlighted by the IOM in 2022.¹²⁶⁶ Concerning 2023, IOM reported no such issues, but stated that the most typical obstacles a person applying to temporary protection had to face were the language barriers.¹²⁶⁷

Staff members of Menedék Association furthermore reported that the sometimes incorrect registration of the applicant's data (e.g. typo mistakes) contributed to further procedural shortcomings both in 2022 and 2023 (e.g. when the beneficiary tried to notify the NDGAP on the change of their address, the NDGAP could not identify the individual).¹²⁶⁸ Menedék Association furthermore pointed out that the main obstacles to apply for temporary protection in 2023 were the lack of information and the illiteracy of the applicants. The Association finally noted that in some cases people with disabilities were not able to apply in person in the asylum client services or in the government offices. In these cases, social workers of the organization arranged either special transportation or contacted the NDGAP or government offices in the matter and then the authority personnel went to the accommodation sites to register the applications.¹²⁶⁹

4. Legal assistance

The TP Decree precludes the application of the provisions of the Asylum Act according to which applicants are to be provided with the possibility of legal assistance or access to free legal aid in case of need, according to the rules set out in the Act on Legal Aid or by an NGO registered in legal protection.¹²⁷⁰ This does not mean that temporary protection applicants cannot have legal assistance in the procedure, but that the state is not required to provide legal aid upon the applicant's request, as is the case in general asylum procedures.

In the absence of state-coordinated legal aid, non-state actors were quick to react and established various channels via which legal assistance could be instantly accessed by people fleeing Ukraine. According to the experience of the HHC, legal assistance services concerning temporary protection were provided predominantly by the civil society organisations (e.g. HHC and Menedék Association), a network of legal assistance providers called 'Hungarian Attorneys for Ukraine' set up by the Hungarian Bar Association and by international organisations such as the UNHCR and IOM.

Most of these actors set up a dedicated phone number for hot-line and email addresses, operated by Ukrainian or Russian-speaking staff members or with their help. The assistance providers made their information materials available on their websites. The UNHCR and the IOM have been constantly present in the border area since 24 February 2022, and the HHC monitors it on bi-weekly to monthly basis. The information materials on the free legal aid of the UNHCR and HHC are physically available at the helping points close to the border and accommodation sites visited by these organisations during their monitoring missions. Over these monitoring trips, the HHC and UNHCR have provided on-the-spot legal assistance and information regarding the available protection schemes for anyone requesting.

In-person legal assistance in **Budapest** is available in the offices of the HHC and Menedék Association, at the community centre called Budapest Helps!, which was set up together by the UNHCR and IOM in

¹²⁶⁶ Information received from the IOM by the HHC on 14 February 2023.

¹²⁶⁷ Information received from the IOM by the HHC on 21 February 2024.

¹²⁶⁸ Information received from the Menedék Association by the HHC on 28 February 2023.

¹²⁶⁹ Information received from the Menedék Association by the HHC on 21 February 2024.

¹²⁷⁰ Section 4(1) c.) of the TP Decree precludes the application of Section 37 (3) of Asylum Act.

partnership with Budapest Municipality and is dedicated to people fleeing Ukraine,¹²⁷¹ and at IOM's Info Point at Nyugati Railway Station. If there is a need for legal representation in the temporary protection or following judicial review procedures, it has been provided either by attorneys and lawyers of the HHC or network members of 'Hungarian Attorneys for Ukraine', after a direct inquiry or by a referral to these entities. Legal information sessions, specifically for third-country nationals fleeing Ukraine, were organised by a volunteer organisation called [Beyond Borders Budapest](#) and the [Nigerian Diaspora Association](#).

In 2022, in the Budapest BOK Centre, a sport facility which was converted into a humanitarian transit spot specifically for people fleeing Ukraine, staff members of the NDGAP were present, and provided information on the temporary protection procedure. Appointments to start the procedure could be booked with them.

The BOK Centre was, however, shut down in August 2023. The immigration/asylum authority or other competent state-actors, usually responsible for providing information, have since then been completely absent from the 'field'. They are neither present at the border or at the shelters. Because of the lack of state-coordinated information provision, whether individuals could access any type of legal assistance has been almost entirely depended on the non-state actors. In the absence of the BOK Centre, people from Ukraine arriving after 1 August 2023 and travelling directly to Budapest can seek assistance at the Government Office at the Western Railway Station (NYugati Pályaudvar, 1062, Budapest Teréz körút 55.) during opening hours. Assistance may be asked for long-term accommodation and information about benefits people fleeing Ukraine are entitled to in Hungary.¹²⁷²

Between 24 February and 31 December 2023, the HHC assisted 6,201 people in person, responded to 2,954 emails, 1,638 phone calls and 816 messages coming from people who fled Ukraine, predominantly seeking legal help. Despite being the only civil society organisation providing legal assistance in asylum procedures, the HHC was not granted access to the BOK Centre, although requesting it from the Budapest Government Office. The UNHCR reports that in 2023, its protection partners had provided assistance in accessing protection and documentation to around 45,600 individuals.¹²⁷³

5. Information provision and access to NGOs

According to the Asylum Act, the asylum authority is to inform the applicant on their procedural rights and obligations and the consequences of breaching these obligations. This is to be done when the applicant submits the application, in a written form, in the native language of the applicant or in one which is otherwise understood by the applicant.¹²⁷⁴ Although the Asylum Act would normally require the authority to record the fulfilment of this obligation in the minutes,¹²⁷⁵ the TP Decree precluded the application of this provision in temporary protection procedures.¹²⁷⁶ In the experience of the HHC, no such written information is provided to the applicants when they lodge the application. If there is no language barrier or interpreters are present, the case-officers of the asylum client services normally provide information to applicants in person, informing them about the expected duration of the procedure and on the communication of the decision. Terre Des Hommes Hungary reported in 2022 that in some occurrences the case-officers of NDGAP could not inform the applicants on the available

¹²⁷¹ Budapest, 'Budapest helps', available at: <https://bit.ly/3RCYxiN>; on the activities see UNHCR, *Refugee Situation Operational Update, September-December 2022*, December 2022, available at: <https://bit.ly/3jfAjOR>.

¹²⁷² This information has never been shared via official channels, it is known by the experience of assistance partners.

¹²⁷³ UNHCR, *Hungary: Inter Agency Operational Update, July-December 2023*, available [here](#).

¹²⁷⁴ Section 37 (1) of Asylum Act.

¹²⁷⁵ Section 37 (2) of Asylum Act.

¹²⁷⁶ Section 4 (1) c.) of TP Decree.

protection and resident statuses and they could not explain the difference between temporary protection, tolerated and residence permit status.¹²⁷⁷

Furthermore, the Asylum Act provides that upon communicating the decision on recognition, the authority has to inform the beneficiary of their rights and obligations.¹²⁷⁸ The Asylum Decree also requires the authority to inform the beneficiary in a written form of the available services and financial support to which they are entitled when delivering the decision. The information must be provided in the native tongue of the beneficiary or in a language they understand.¹²⁷⁹ In line with the TP Decree, however, the authority does not adopt a separate decision about recognition and only records the recognition itself and notifies the applicant by handing over the temporary protection document.¹²⁸⁰ The asylum authority partially complies with the referred provision of the Asylum Act. Along with the TP card, a letter is sent informing the beneficiary that the card does not entitle its holder to travel and that receipt of the card renders its holder eligible to request the regular subsistence allowance at the competent district office. In this regard, the beneficiary is also informed that they have an obligation to register at the district office by the last day of each month during the period of temporary protection. There is no information in the letter about how to access other services which a beneficiary is entitled to (healthcare, education, travel discount etc.). This is contrary to Article 9 of the Temporary Protection Directive providing that 'Member States shall provide persons enjoying temporary protection with a document, in a language likely to be understood by them, in which the provisions relating to temporary protection and which are relevant to them are clearly set out.'

The HHC turned to the NDGAP requesting information on how the authority complies with its obligation concerning information provision. The NDGAP answered that the TP Decree was a *lex specialis* to the general rules set out in the Asylum Act and Decree, thereby, it did not apply Section 38(1) of the Asylum Decree that was relevant regarding this obligation.¹²⁸¹ The TP Decree, however, does not preclude the application of the said section, thus, the authority should comply with it. The NDGAP furthermore stated that beneficiaries receive information when they receive their temporary application form in the client services and also that information is available on their website. The personal information provision was, however, insufficient and on the website some relevant information was only available in Hungarian and English.

There have been no special measures or practice introduced concerning the needs of vulnerable groups in any aspects of the temporary protection procedure. Accordingly, there is no information provided by state actors specifically tailored to the needs of vulnerable individuals.

Staff members of the NDGAP were neither present in the border area, nor were they visiting the accommodation sites for the purpose of information provision. The authority provided information on temporary protection on its website¹²⁸² and in the BOK Centre in person till 1 August 2023. In the experience of the HHC and Terre Des Hommes Hungary,¹²⁸³ the fact that the NDGAP could barely be contacted via phone or email throughout 2022 posed unreasonable difficulties to persons of concern and to the authority too, as usually there was no other way to obtain information but to go to the authority in person, thereby burdening further the already overburdened capacities of the authority. In 2023, no such difficulty has been reported.

On a positive note, a state hotline was quickly set up by the government in March 2022, providing information in Ukrainian, Hungarian and English on basic issues relating to temporary protection

¹²⁷⁷ Information received from Terre Des Hommes Hungary on 28 January 2023.

¹²⁷⁸ Section 79 (3) of Asylum Act.

¹²⁷⁹ Section 38(1) of Asylum Decree.

¹²⁸⁰ Section 5/A (3) of TP Decree.

¹²⁸¹ Letter received from the NDGAP's asylum department by the HHC on 16 June 2022.

¹²⁸² The NDGAP website is available at: <http://bit.ly/3xBVE8m>.

¹²⁸³ Information received from Terre Des Hommes Hungary on 28 January 2023.

procedure, entry, individual situations¹²⁸⁴. A dedicated email address was also set up for the same purpose. The officers, however, were not really up-to-date as the hotline did not belong to NGDAP, they had to make inquiries to the NGDAP themselves. In the HHC's experience, they could answer straightforward questions but were professionally not prepared to answer more complex ones and had no information on resolving more complicated legal situations. As to the emails, information was sometimes quickly and efficiently provided, but other times no response arrived. In December 2023, the Government launched the Safe in Hungary portal.¹²⁸⁵ The website offers information on TP, assistance and services, on the legal status of dual nationals (Ukrainian – Hungarian) and emergency contacts.

Information provision was mainly organised both in 2022 and 2023 by NGOs, the UNHCR and members of the Charity Council. According to the UNHCR data portal,¹²⁸⁶ assistance partners in the Hungarian Refugee Response Plan (RRP) in 2023 were American International School of Budapest, Budapest Methodological Social Center, Cordelia Foundation for the Rehabilitation of Torture Victims, Dévai Fogadó, Foundation of the Ukrainian Greek Catholic Church, Hungarian Baptist Aid, Hungarian Charity Service of the Order of Malta, Hungarian Evangelical Fellowship, Oltalom Charity Society, Hungarian Helsinki Committee, Hungarian Interchurch Aid, Hungarian Red Cross, Hungarian Reformed Church Aid, International Rescue Committee, Jesuit Refugee Service, LITERA Association, Menedék Hungarian Association for Migrants, Migration Aid, Next Step Hungary Association, Pszi Pont, Romaversitas Foundation, Menekültek Online Segítő Társasága (Refugee Help Digital Network), SOS Children's Villages, Terre des Hommes - Switzerland, Trauma Center, Ukrainian Association UNITY, United Nations Children's Fund, United Nations High Commissioner for Refugees, United Nations Migration Agency, United Way Hungary Foundation, Vamos Foundation, World Health Organization. In addition, the following organizations reported activities for refugees in 2023 (even if initially not part of the RRP appeal): Adventist Development and Relief Agency, Budapest Municipality, Food Bank Aid Foundation Budapest, EMMA Association, IFRC, NestingPlay, Partners Hungary, From Street to Homes Association.¹²⁸⁷ Many of these organisations have generally provided information on their website, where they published those contact details (e.g. phone, email) which were specifically dedicated to the people seeking assistance or information regarding temporary protection. Some organisations' information leaflets, put together on the available protection alternatives, are available in Ukrainian and Russian beside English and Hungarian.

D. Guarantees for vulnerable groups

There are no specific identification mechanisms in place in Hungary to identify vulnerable individuals under the temporary protection scheme. Notably, there has been no comprehensive screening for people with special protection needs.¹²⁸⁸

In its information request sent to the NGDAP, the HHC asked how many individuals fleeing Ukraine to Hungary were identified as vulnerable by the relevant authorities and concerning the years 2022 and 2023. Worryingly, the NGDAP stated they had no data in that regard.¹²⁸⁹

¹²⁸⁴ Official press release in English: <http://bit.ly/3Y69nzZ>. Phone numbers from HUN (free of charge): 06 80 310 310, from Ukraine: 0 800 504 546, from abroad: +36 1 550 1828, E-mail: menekultinfo@me.gov.hu.

¹²⁸⁵ Available at: <https://safeinhungary.gov.hu/en>.

¹²⁸⁶ UNHCR, *Hungary Refugee Response Plan, Achievements March-October 2022*, available at: <https://bit.ly/3Z6mem4>; UNHCR, *Regional Refugee Response Plan 2022 / Overview*, available at: <https://bit.ly/3RpQm92>.

¹²⁸⁷ UNHCR, *Hungary: Inter-Agency Operational Update (July-December 2023)*, 19 February 2024, available [here](#).

¹²⁸⁸ UNHCR, *Inter-Agency Operational Update Hungary*, 10 May 2022, available at: <https://bit.ly/3l1dkYb>.

¹²⁸⁹ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023 and 19 February 2024.

People with disabilities

In the experience of the HHC, people with disabilities have been frequently placed in shelters without reasonable accommodation that are not appropriate to their needs, lacking the necessary medical/psychological assistance. This has been a constant issue since the beginning of the crisis. In 2023, the HHC recorded a concerning number of accommodation sites in which the situation of those requiring medical assistance due to their disability or mental/physical health was not addressed. In the border area, people with disabilities were accommodated in the out-of-use buildings and storage facilities of nursing homes and elderly homes, with only the most basic care, where their physical and medical needs were not fully met. The staff of these institutions had to take care of them on top of their regular workload and thus have limited capacity to care for them.¹²⁹⁰ It was also reported that some accommodation sites were unwilling to take people with disabilities in.¹²⁹¹ Individuals with disabilities receive no additional support (logistical or monetary) from state actors, which is very burdensome not only for the persons of concern, but also for the facilities hosting them.¹²⁹² The UNHCR also reported: “despite seemingly equitable access to TP status, households with a member with disability report more frequently unmet needs, around healthcare, implying heightened vulnerability compared to other households. As expected, households with persons with disability exhibit a significantly higher reliance on social protection benefits. It is important to mention is that refugees with disabilities in Hungary do not have access to government disability grants as Hungarian citizens.”¹²⁹³

Survivors of trafficking in human beings and persons at risk of human trafficking

Although the arriving population mainly consisted of women and children being at risk of human trafficking, no adequate preventive measures specifically targeting persons fleeing Ukraine have been implemented. This means, among others, that no information on the risks of trafficking in a language these people understand is accessible at accommodation sites. Also, there is no information available for unaccompanied minors (UAMs) designed in a child-friendly and age-appropriate manner. Moreover, there is no information available at the accommodation sites or at the helping points close to the border on the fact that victims of human trafficking or those who are at risk of trafficking may turn to the National Crisis Management and Information Service, where no Ukrainian or Russian speaker dispatcher is available in any case.

Throughout 2022, the HHC observed some reports of unfair labour conditions by applicants or beneficiaries of temporary protection who started to work in Hungary. Most reports complained about an unfair salary (e.g. receiving a substantially lower salary than agreed beforehand) or the fact that persons are employed without a contract.¹²⁹⁴ This trend has not been prevalent since 2022, at least no such reports have reached the HHC.

Unaccompanied and separated children

There have been no special procedures adapted specifically to the needs of UAMs who are entitled to temporary protection. The TP Decree even excluded the application of some procedural guarantees concerning UAMs provided by the Asylum Decree.¹²⁹⁵ Accordingly, if an UAM is to be heard in a temporary protection procedure, which is unlikely in practice but possible by law, they may be heard without their legal representative or guardian being present and without other guarantees prevailing (e.g. interview in a child-friendly environment).

¹²⁹⁰ The HHC recorded these cases on 18-19 June and 12-14 November 2023 during its monitoring mission.

¹²⁹¹ The HHC recorded this case on 9 October 2023 in Dunaújváros during its monitoring mission.

¹²⁹² The HHC recorded this on 31 July - 1 August 2023 during its monitoring mission.

¹²⁹³ UNHCR, Hungary: Multi-Sector Needs Assessment, December 2023, available [here](#).

¹²⁹⁴ HHC, Labour exploitation encountered in the framework of the Ukraine refugee crisis response of the Hungarian Helsinki Committee, 20 January 2023, available [here](#).

¹²⁹⁵ Section 5(1) g.) of Asylum Decree excludes the application of Sections 74-76 of Asylum Decree.

The most worrisome deficiency of the authority's practice regarding UAMs has been the fact that the appointment of guardians has been frequently absent. Based on the Asylum Act, if the applicant is an UAM, the authority is to arrange their temporary accommodation and the appointment of a child protection guardian.¹²⁹⁶ In this case, the asylum authority must decide the UAM's case in a prioritised procedure.¹²⁹⁷ The Asylum Decree furthermore provides that UAMs under the age of 14 must be accommodated within the child protection system.¹²⁹⁸ In case of UAMs who are 14 years old or older, the authority is obliged to notify the district office in order to provide the UAM with a legal representative and case guardian.¹²⁹⁹

However, in the HHC's experience, the asylum authority enforced none of these guarantees. This worrying practice led to UAMs alone or under the care of persons not related to them at accommodation sites, without being transferred to the official children's care facility. In the experience of the HHC, this phenomenon was present throughout 2022, but was not prevalent in 2023.

In March 2022, the HHC reported from various accommodation sites that unaccompanied minors were placed there without the care of relatives or guardian. The high number of unaccompanied children placed with various sports club was of particular concern. Although the children were placed in facilities with good material conditions, they lacked access to education, to professional staff who was able to communicate with them and who could take care of them. This was the case in Szabolcsveresmart, where, at the otherwise well-equipped accommodation 7 unaccompanied minors between 12-15 years-of-age were staying. The children were evacuated from Kiev and were only accompanied by their sports trainer. Furthermore, 14 football player minor boys were placed at Hajdúböszörmény Workers' Hostel, all between the age of 14 and 17, unaccompanied. In the Hajdúböszörmény Fürdőkert Youth Hostel 40 children from Dnipro, aged between 8 and 17, accompanied by three women (the mothers of 3 boys) were placed from 11 March 2022. Most of them were also football players. There were no professional staff present to guard and assist the children. At the Szabolcsveresmart Tennis Academy 52 children aged between 16 and 17 were accommodated. Similarly to the previously mentioned cases, children stayed in good material conditions but without a professional adult who would have been able to take care of them and communicate with them. The HHC was informed by the organizer of the travel of these minors that so far they had transferred 768 minors to Hungary through the Prime Minister's Office. These children travelled without their parents and were placed with various sports clubs, such as: Szolnok, Debrecen, FTC, Felcsút, Vásárosnamény, Kisvárd, Győr, Esztergom. 245 children were still in Ukraine and waiting to be placed with Hungarian clubs in March 2022.¹³⁰⁰ It was unclear whether the children applied for temporary protection. On 28 April 2022, in an accommodation in **Vásárosnamény** (a town in the border area) monitors of HHC met 42 UAMs in the care of 9 adult women. They had all applied for temporary protection, but it was unclear to all of them whether the asylum authority had taken any steps to initiate the necessary guardianship procedure. On 13 October, in a Kaposvár accommodation facility, members of two sports teams (judo and swim team) were placed, they were teenage children (13-14 years old) and young individuals, together with their coaches, but without their parents or a legal guardian. Although parents signed power of attorneys in Ukraine, authorizing the coaches to bring the children to Hungary, no one ever contacted the Hungarian guardianship office to formally appoint the coaches as legal guardians.¹³⁰¹ The fate of the unaccompanied children the HHC met in 2022 is not known as during later visits they could not be found in the accommodation sites and the HHC could not obtain information about their whereabouts.

In 2023, no cases of this magnitude concerning unaccompanied minors were registered by the HHC. One case was recorded on 25 October 2023, at Vitnyéd-Csermajor accommodation site, where 4 children (7,6, 4 and a 2 year-old) were left alone by their parents. The HHC asked the local staff if they

¹²⁹⁶ Section 36(6) of Asylum Act.

¹²⁹⁷ Section 36(7) of Asylum Act.

¹²⁹⁸ Section 33 (4) of Asylum Decree.

¹²⁹⁹ Section 99/F (1) of Asylum Decree.

¹³⁰⁰ Cases recorded on 21 and 28 March 2022 by the HHC during its monitoring missions.

¹³⁰¹ Case recorded on 13 October 2022 by the HHC during its monitoring mission.

informed the local guardianship office about these unaccompanied children. However, according to the local staff, these families were used to the fact that some parents leave their children alone, and the other parents then look after those children who had been left by their own parents. The local staff did not consider taking the children out from this environment as the best interest of the children. When the HHC staff returned to the accommodation site later in December, parents were already back.

In its information request sent to the NGDAP the HHC asked the number of registered temporary protection beneficiary UAMs. Worryingly, the NGDAP stated they had no data in that regard, neither for the year 2022 nor for 2023.¹³⁰² According to the Directorate General for Social Affairs and Child Protection, the Károlyi István Children's Centre - where unaccompanied minors are officially accommodated - had a total of 3 minors with shelter status registered as beneficiaries on 31 December 2023.¹³⁰³

There have been non-state coordinated programmes introduced to address the needs of individuals suffering from mental health problems. This type of assistance was also arranged mainly by the actors of NGOs. Special bio-psycho-social assistance to people fleeing Ukraine is provided by the Cordelia Foundation country-wide. Their 15 psychologists and psychiatrists provided assistance to 168 persons suffering from mental health problems in 2023.¹³⁰⁴ Apart from Cordelia Foundation, psycho-social assistance was also given by the IOM.¹³⁰⁵ In 2023, the Jesuit Refugee Service ran 99 community building and mental wellbeing programmes.¹³⁰⁶

The Hungarian Interchurch Aid reported to have provided psychological assistance in nearly 300 cases, with the help of government funds.¹³⁰⁷ The Hungarian Red Cross also provided people fleeing Ukraine with psychosocial assistance,¹³⁰⁸

Roma people

Lastly, the situation of Roma people fleeing Ukraine has to be mentioned, as these people, attributed for their ethnic origin, had to face additional difficulties and hardship during their reception in Hungary, which are not anyhow counterbalanced by appropriate guarantees built in the national protection scheme. The HHC reported that throughout 2022 the Roma had to face some issues relating to accessing protection, accommodation, and other protection-related services. In some cases, there were complaints relating to discrimination, incidents of hate crime, and segregation.¹³⁰⁹

In 2023, some of the challenges still remained with the Roma. In Pomáz and Érd, healthcare providers were behaving in a discriminatory manner towards the Roma people accommodated in these towns. While the same healthcare provider assisted ethnic Ukrainians, they refused to provide the same services for the Roma accommodated at the same sites as the Ukrainians.¹³¹⁰ At the Gyöngyös accommodation site most of the people are of Roma origin and they claimed that there was a discriminatory attitude towards them from potential employers, especially if it turned out that they were

¹³⁰² Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023 and 19 February 2024.

¹³⁰³ Information received from the Directorate General for Social Affairs and Child Protection by the HHC on 20 February 2024.

¹³⁰⁴ Information received from the Cordelia Foundation by the HHC on 14 February 2024.

¹³⁰⁵ Information received from the IOM by the HHC on 21 February 2024.

¹³⁰⁶ Information received from the Jesuit Refugee Service by the HHC on 12 April 2024.

¹³⁰⁷ Information received from the Hungarian Interchurch Aid by the HHC on 2 April 2024.

¹³⁰⁸ Information received from the Hungarian Red Cross on 22 February 2024.

¹³⁰⁹ The experience of the HHC is summarised in that regard in a thematic paper called 'The Situation of Romani Refugees Fleeing Ukraine: Experiences gathered in the framework of the Ukraine refugee crisis response of the Hungarian Helsinki Committee', April 2023, available [here](#).

¹³¹⁰ Cases registered by the HHC on 18 September and 14 December 2023 in Érd and Pomáz during HHC's monitoring mission.

illiterate, even if no reading/writing skills were needed for the work.¹³¹¹ UNHCR's multi-sectoral needs assessment also found that amongst beneficiaries of temporary protection, those of Roma origin faced discriminatory attitudes from potential employers.¹³¹²

¹³¹¹ Case registered by the HHC on 13 July 2023 in Gyöngyös during HHC's monitoring mission.

¹³¹² UNHCR, Hungary: Multi-Sectoral Needs Assessment, Final Report, December 2023, available [here](#), 12.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | Until 4 March 2025 |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2023? | 36,570 ¹³¹³ |

Following recognition as a beneficiary of temporary protection, the NDGAP sends the temporary protection card (hereinafter: residence card or TP card) normally by post, or, if the beneficiary cannot be found under the address they gave to the authority upon application, the card is to be collected at the asylum client service where the applicant made their application or at the Budapest client service. As explained under [Registration under temporary protection](#), the authority does not make a separate act on the recognition but materialises the positive decision by sending the temporary protection card. Therefore, the deadline by which the procedure is to be conducted (55 days) is the legally required duration within which the TP card is to be received. In the HHC's experience, in the first 3 quarters of 2022, there were severe delays regarding the issuance of the temporary protection card (sometimes lasting over 70-90 days). This has posed a severe problem as subsistence allowance – the only type of financial support to which beneficiaries are entitled - may be requested only by temporary protection card holders. To remedy this, the asylum authority sometimes issued an official certificate about temporary protection, but not all Government/District offices (in Hungarian: 'járási hivatal') accepted it in the absence of the actual card. In 2023, no substantive delays in issuing the TP card was observed. The Hungarian Maltese Charity Service reported that delay in receiving the permit occurred frequently for beneficiaries not registering their change of accommodation with the NDGAP, therefore, permits were sent to the wrong addresses. The charity service furthermore pointed out that the data indicated on the residence permit cards was sometimes incorrect for the wrong translation of Cyrillic alphabet to the Latin alphabet.¹³¹⁴

All residence permits issued in 2022 were valid until 4 March 2023. As the EU temporary protection was extended, 58/2023 Government Decree (II.28) also declared the prolongation of the Hungarian TP cards' validity until 4 March 2024. One of the most worrying issues in 2023 was precisely that, although the government extended the validity period of TP cards and they had to be considered valid by law, as the cards were not replaced with new ones showing the new validity period, many external actors and (e.g. health-care service providers) believed that the temporary protection status was no longer valid and thus denied the enjoyment of rights connected to the temporary protection status.¹³¹⁵ This caused general confusion among TP beneficiaries too and many believed that their status was no longer valid and they had to submit a new application. In the experience of the HHC and the Menedék Association, this has confused authorities and health care providers too, which thus questioned beneficiaries eligibility to services.¹³¹⁶

There is only one right which is connected solely to the possession of the TP card in practice. According to Government Decree 106/2022. (III. 12.), the beneficiary of temporary protection is entitled to a subsistence allowance.¹³¹⁷ This also means that during the procedure, the applicant cannot receive the

¹³¹³ Data received from the National-Directorate General of Aliens Policing by the HHC on 19 February 2024

¹³¹⁴ Data received from the Hungarian Maltese Charity Service by the HHC on 26 February 2024.

¹³¹⁵ The HHC recorded numerous such cases, e.g. on 11-12 May 2023 in Ráckeve and Demjén Albertmajor, 27 March 2023 in Szentes, 13-14 March in Beregsurány.

¹³¹⁶ Information received from the Menedék Association by the HHC on 21 February 2024.

¹³¹⁷ Section 4 of Gov. Decree Government Decree 106/2022. (III. 12.).

subsistence allowance. However, in the absence of a formal decision on recognition, TP beneficiary status can be substantiated by holding a TP card. As explained earlier, a letter is sent along the TP card informing the beneficiary that they can request the subsistence allowance at the Government/District office.

The table below summarises which are the rights that can be accessed by applicants and beneficiaries of temporary protection respectively, referring to their basis in law.

Benefits	Applicant	Beneficiary
Accommodation, meals, hygienic services	Section 22(1)c.) of the Asylum Act; of Section 21(1)a.) and Section 101 of the Asylum Decree (The assessment by the authority under Sections 16(4) -19 of the Asylum Decree shall be excluded under points (c)-(d) of Section 5(1) of Gov. Decree 86/2022 (III. 7.)	Until 1 August 2023, based Section 41 (2) of the Asylum Decree, beneficiaries were entitled to accommodation and care. Since then, however, the provision is non-applicable as a result of a legislative change. ¹³¹⁸ Thus, it is unclear if there is a national legal ground based on which accommodation and care (meals) are to be provided, although Section 32(2) of the Asylum Act, not having been overridden by the legislative change, provides for the material reception conditions for beneficiaries “in need” . This situation is presumably the result of inconsistent legislation. In practice, those beneficiaries, after whom the accommodation provider is entitled to receive state allowance, are provided with meals 3 times a day at the accommodation site.
Health care	Sections 26-28 of the Asylum Decree Section 6(2)a.)-b.) of Gov. Decree 86/2022 (III. 7.): specialised oncological care, examinations and medical treatment within the framework of health services related to other chronic illness Gov. Decree 171/2022. (IV. 29.) – on the practical arrangements of receiving health care	Section 37/A(1)b.) and Section 44(2) of the Asylum Decree; Section 6(2)a.)-b.) of Gov. Decree 86/2022. (III.7.), Gov. Decree 171/2022. (IV. 29.)
Education	Section 29 of the Asylum Decree Section 92 (1) a.) and (3) of Act CXC of 2011 on Public Education	Section 37/A(1)c.) and Section 45 of the Asylum Decree; Section 3 of Gov. Decree 106/2022. (III. 12.) (preschool and childcare services) Section 92 (1) a.) and (3) of Act CXC of 2011 on Public Education
Free meals for children	Section 3/A of Gov. Decree 106/2022. (III. 12.) on request, for six months, if care-taker’s income is below 173.000 HUF	Section 3/A of Gov. Decree 106/2022. (III. 12.) On request, for six months, if care-taker’s income is below 173.000 HUF

¹³¹⁸ Gov. Decree 337/2023 (VII.24.) amending the TP Decree by adding Section 5(4) providing that “Section 41(2) of the Asylum Decree shall apply with the exception that the beneficiary of temporary protection shall not be entitled to accommodation and care at the reception centre.”

Regular subsistence allowance (22,800 HUF - (around EUR 55) per adult/month and 13,700 HUF per child/month (around EUR 30))	-	Section 37/A (1)e.) and Section 37/A (4)b.) of the Asylum Decree; Section 4 (2)-(3) of Gov. Decree 106/2022 (III. 12.) BUT Section 2(2): persons shall be obliged to accept the job offered to them within 45 days following the first payment of subsistence allowance. The allowance is subject to a monthly appearance in person before the district office. The entitlement to allowance shall cease in case of employment or pension.
Travel allowances	Section 24 of the Asylum Impl. Decree	Point (c) of Section 37/A(2) and Section 48 of the Asylum Decree. It must be requested from the asylum authority [Section 48 (2)]
Bearing the costs of public funeral	Section 25 of the Asylum Decree	Section 6 (2a) of the Asylum Decree ¹³¹⁹
Reimbursement of document translation costs	Section 6(2)c.) of Gov. Decree 86/2022. (III. 7.) Section 49 of the Asylum Decree; documents issued before the recognition as beneficiary of temporary protection, especially extracts from birth or marriage register, certificates of education or vocational training	Section 37/A (3)b.) and Section 49 of the Asylum Decree
Employment	Section 6 (4) of Gov. Decree 86/2022. (III. 7.) – No special permit is necessary for the employment Public employment: Section 7 of Gov. Decree 86/2022. (III. 7.)	Section 6 (4) of Gov. Decree 86/2022. (III. 7.) – No special permit is necessary for the employment Public employment: Section 7 of Gov. Decree 86/2022. (III. 7.) Act CVI of 2011
Facilitating final departure from the country	-	Section 37/A(3) c.) of the Asylum Decree
Family Reunification	-	Section 105 of the Asylum Decree: If the family member was awarded temporary protection in another Member State, family reunification may be requested
Reimbursement of Hungarian language course and exam	-	Section 51 of the Asylum Decree
Reimbursement of all or part of the travel-related expenses in case of permanent departure from the Hungary	-	Sections 31 and 50 of Asylum Decree

It is important to mention that all benefits which can be accessed by the beneficiary of temporary protection can also be accessed by dual Hungarian-Ukrainian citizens who fled Ukraine after 24

¹³¹⁹ In effect from 1 March 2024.

February 2022 and had a permanent residence there, unless more favourable treatment is granted by virtue of the Hungarian citizenship.¹³²⁰ This is because those who hold Hungarian citizenship may not apply for temporary protection, but the law maker intended to grant them the same support as nationals of third countries entitled to the protection. Although there is no official data as to the numbers of Hungarian-Ukrainian dual citizens residing in Ukraine fled to Hungary as a result of the war, based on the information the Hungarian Helsinki Committee (HHC) received from the Ministry of National Economic, 26.127 request for financial support were submitted by dual citizens to competent government authority between February 2022 and 31 December 2023, of which 25.903 requests were granted.¹³²¹ This figure is, of course, only indicative regarding the number of dual citizens who wished to claim financial assistance under the TP scheme, but there is no official information on the exact number of dual citizens who fled from Ukraine to Hungary for the war.

Transferring residence to another EU Member State or from a Member State to Hungary

In the experience of the HHC lawyers, procedures to transfer residence to another EU Member State depend on the laws and practices of the targeted Member State. The Hungarian asylum authority does not require individuals moving to other member states to notify them beforehand. In practice, however, notifying the authority on the change of address is advisable to be able to receive official correspondence. If the person receives temporary protection in another member state, the asylum authority is obliged to withdraw the temporary protection status granted in Hungary with the consent of the beneficiary.¹³²² It is worth mentioning that in its answer sent to the HHC, the asylum authority stated that according to their current practice, the fact that an individual was granted temporary protection status in another member state does not preclude them from applying for or being granted temporary protection in Hungary again.¹³²³

There is no formally introduced procedure to follow if the applicant has transferred to another member state. The law only provides that the asylum authority is to withdraw the status if the beneficiary renounces it in writing.¹³²⁴

According to the data of the NDGAP, the authority withdrew the temporary protection status of 1,896 beneficiaries who renounced their status.¹³²⁵

2. Access to asylum

Contrary to Article 17 (1) of the TPD, it is not possible for either applicants for temporary protection or beneficiaries of temporary protection to apply for asylum in Hungary. On 26 May 2020, the government issued a government decree that introduced a new asylum system, the so-called “embassy procedure”.¹³²⁶ This new system was later included in the Transitional Act that entered into force on 18 June 2020 and which is still in effect.¹³²⁷ According to the new system, those wishing to seek asylum in Hungary, must first submit a ‘statement of intent for the purpose of lodging an asylum application’ at the Hungarian Embassies of **Kyiv**, Ukraine or **Belgrade**, Serbia.¹³²⁸

Only people belonging to the following categories are not required to go through this process:

¹³²⁰ Section 8 of TP Decree.

¹³²¹ Information received from the Ministry of National Economic on 19 February 2024 by the HHC.

¹³²² Section 25 (2) a.) of Asylum Act.

¹³²³ Letter received from the NGDAP asylum authority by the HHC on 16 June 2022.

¹³²⁴ Section 25 (2) c.) of Asylum Act.

¹³²⁵ Data received from the National General Directorate of Aliens Policing by the HHC on 19 February 2024.

¹³²⁶ Government Decree 233/2020. (V. 26.) on the rules of the asylum procedure during the state of danger declared for the prevention of the human epidemic endangering life and property and causing massive disease outbreaks, and for the protection of the health and lives of Hungarian citizens.

¹³²⁷ Act LVIII of 2020 on the Transitional Provisions related to the Termination of the State of Danger and on Epidemiological Preparedness.

¹³²⁸ Section 1 of Government Decree 292/2020 (VI. 17.).

1. beneficiaries of subsidiary protection who are staying in Hungary;
2. family members of refugees and beneficiaries of subsidiary protection who are staying in Hungary;
3. those subject to forced measures, measures or punishment affecting personal liberty, except if they have crossed Hungary in an 'illegal' manner.

Accordingly, anyone who enters Hungary unlawfully and anyone who is legally staying in Hungary and does not belong to the three categories mentioned above, cannot apply for asylum in Hungary and beneficiaries of temporary protection are no exceptions. For more information on the new asylum system, please see [General Report – Embassy Procedure](#).

Consequently, if people eligible for temporary protection or beneficiaries of temporary protection want to seek asylum in Hungary, they must first go either to Ukraine or Serbia. In practice it is very unlikely that any person who fled the war in Ukraine would want to go back there for this purpose. They can go to Serbia if they hold the necessary travel document to enter the country. If the beneficiary is a Ukrainian national and has a valid passport, no visa is required and entry into Serbia is allowed.¹³²⁹ However, if the beneficiary is a third-country national (e.g. family member of a Ukrainian citizen, who is eligible for temporary protection) who needs a visa to enter Serbia, the procedure is more complicated, as it has to be preceded by a visa procedure at the Embassy of Serbia, and the option to seek asylum in Hungary becomes quite hypothetical.

In its information request sent to the NDGAP the HHC asked for the number of asylum applications submitted by those individuals whose temporary protection application had been rejected or who applied for asylum after being recognized as a temporary protection beneficiary. The NDGAP stated that it has no data with regard to asylum applications submitted by those whose temporary protection application was rejected. However, the HHC represents a Russian client whose temporary protection application was rejected, effectively both by the NDGAP and then, following a judicial review procedure, by the court. According to the court, in the temporary protection procedure the assessment of the non-refoulement under TP is of a restricted nature (practically no need for the same rigorous assessment as in the general asylum procedure, given the specific attributes of the TP procedure -e.g. it having to be fast etc.) and that the applicant, having regard to the judgment of the Court of Justice of the European Union in Case C-823/21, is not precluded from applying for asylum and stating in detail and giving reasons for all his fears concerning his return to Russia in the 'ordinary' asylum application.¹³³⁰ While, on the one hand, the court's reference to the CJEU judgment recognizing that the 'embassy system' is in breach with international and EU law, may be regarded as a positive development in jurisprudence, so far it has no practical relevance. On 27 February 2024, the client, accompanied by the lawyers of HHC, attempted to submit an asylum application in the Budapest client service of the NDGAP with reference to the judgment of Budapest Court, but the NDGAP took minutes and issued a ruling on the rejection of the application without an in-merit application, citing Section 32/F. c) of the Act on Asylum, providing that the application was submitted by a person clearly not eligible for the specific request. The NDGAP also held that there is no individual legal remedy. This practically means that the NDGAP still applies the provisions of Act LVIII of 2020 on the Transitional Provisions related to the Termination of the State of Danger and on Epidemiological Preparedness, establishing the 'embassy system', where the personal scope of those who may submit an asylum application in the territory of Hungary is specified (as explained above).

As to asylum applications submitted by beneficiaries of temporary protection, the NDGAP revealed that no beneficiary had submitted any neither in 2022 nor in 2023.¹³³¹

¹³²⁹ Republic of Serbia, Ministry of Foreign Affairs, 'Visa regime', available at: <https://bit.ly/3JvjU3c>.

¹³³⁰ Judgment of Budapest Court 11.K.702.224/2023/8-II. of 7 September 2023.

¹³³¹ Data received from the National General Directorate of Aliens Policing by the HHC on 13 February 2023.

B. Family reunification

1. Family reunification as provided under the Temporary Protection Directive

Within TPD, the Asylum Decree provides that if a family member of a temporary protection beneficiary is granted temporary protection by another Member State applying the TPD, the beneficiary may, with a view to ensuring family unity, ask the asylum authority if the temporary protection afforded in the other Member State can be extended to them. The asylum authority shall then consult the Member State concerned as to whether the beneficiary is to be granted temporary protection with a view to ensuring family unity in that other Member State. If the requested Member State agrees to grant the beneficiary temporary protection, the asylum authority shall withdraw recognition as a beneficiary of temporary protection and issue them with a certificate specified in Annex 4 of the Asylum Decree, containing the personal data of the beneficiary and the fact that the certificate is issued for the purpose of transfer from Hungary to the other member state. If the requested state does not grant temporary protection to the beneficiary, the asylum authority shall notify them thereof, at the same time informing them of the provisions of Article 20(2) of the Asylum Act providing that the family member of the beneficiary, who is beneficiary of temporary protection in another Member State, is to be recognised as a beneficiary for the purpose of family unity in Hungary upon request.¹³³² Within the meaning of Asylum Act family members are: spouse (if family relationship existed before entering the territory of Hungary), minor child (including adopted and foster children), the parent or an accompanying foreign person responsible for them under Hungarian law.¹³³³

If family members of temporary protection beneficiaries are reunited by applying the above rules, there are no material requirements.

2. Family reunification beyond the Temporary Protection Directive

Beyond the framework of TPD, it is not possible to apply for family reunification, neither for the sponsor (beneficiary of temporary protection), nor for their third-country national family members. Under the scope of Act II of 2007 and Act XC of 2023¹³³⁴ on the entry and stay of third country nationals, setting forth the rules for family reunification of third-country nationals (for further information see [General Report – Family Reunification](#)), a sponsor of a family reunification may not be a beneficiary of temporary protection.

C. Movement and mobility

Beneficiaries of temporary protection enjoy freedom of movement within Hungary, they are not subjected to any territorial restrictions.

In the view of the HHC, travelling between member states is possible by holding a TP card and a valid passport. This is so as according to the Preamble 16 of Council Decision and the EC's Operational Guidelines, once a Member State has issued a TP card (considered as residence permit), the beneficiary of temporary protection is entitled to travel to a Member State other than the one that issued the residence permit, for a period of 90 days within 180 days.

As the practice of the border police was, however, inconsistent as to what type of travel/residence documents are needed for beneficiaries of temporary protection to travel to other EU Member States

¹³³² Section 105 of Asylum Decree.

¹³³³ Section 2 j.) of Asylum Act.

¹³³⁴ Act II of 2007 is not effective from 1 January 2024 but was to be applied till 29 February 2024. It is replaced by Act XC of 2023, which is effective from 1 January 2024, but its provisions are to be applied from 1 March 2024. Rules concerning family reunification relevant for the purpose of this report have not changed.

from Hungary, the HHC turned to the NDGAP asylum authority and National Police Headquarters, requesting them to describe the border control practice concerning TP card holders and specify the legal basis of the practice.

The NDGAP asylum authority stated in their answer that the Council Decision and the EC Operational Guideline were not appropriate to be considered as *lex specialis* overriding the Schengen Border Code. The authority also highlighted that although the Council Decision and the Guidelines talk of the possibility of travelling to another Member State and the duration of stay, they remain silent as to what type of documents are needed for border crossing. Furthermore, in the view of the asylum authority, it is for the target country to decide what documents are required for entering the country.¹³³⁵

The National Police Headquarters Border Police Department, to whom the HHC sent a request to clarify the practice and applicable law with regard to border-crossing of temporary protection beneficiaries, stated in its answer of 2022 that the National Police Headquarters as a law enforcement body is not entitled to interpret the law to any person or organisation – whose conducts may be thereby influenced – not subject to its direct supervision.¹³³⁶

In 2024, the HHC again turned to the Police asking if beneficiaries of temporary protection, irrespective of their nationality may travel freely between Member States for 90 days if they hold a TP card or other document proving temporary protection issued in another Member State and a valid passport (old Ukrainian passport or biometric passport). The Police answered the question of the HHC this time and stated that persons may travel freely within Schengen area if “if the Schengen Member State notifies the residence permit issued for temporary protection in the annex to the Schengen Border Code.” The answer further stated that “third-country nationals who hold a valid residence permit in the uniform format issued by one of the Member States applying the Schengen *acquis* in full shall have the right to move freely within the Schengen area for a maximum period of 90 days from the date of entry into the Member State.”¹³³⁷ In 2022, the HHC recorded cases of beneficiaries of temporary protection believing that they had needed a valid biometric passport to be able to re-enter Hungary from Ukraine as Ukrainian border guards require it. Some people not holding such passports were therefore worried about going back to Ukraine. Terre des Hommes Hungary also recorded such information.¹³³⁸ This information has not been confirmed via official channels. In 2023, some cases in which Ukrainian individuals complained about being confused of what the required travel documents were enabling them to go back to Ukraine from Hungary and then return to Hungary again were recorded by the HHC.¹³³⁹

¹³³⁵ Letter received from the NDGAP asylum authority by the HHC on 16 June 2022.

¹³³⁶ Letter received from the National Police Headquarter by the HHC on 5 January 2023.

¹³³⁷ Information received from the National Police Headquarter by the HHC on 19 February 2024.

¹³³⁸ Information received from Terre Des Hommes Hungary on 28 January 2023.

¹³³⁹ Cases recorded on 20-21 February 2023 in Tata by the HHC during its monitoring mission.

D. Housing

Indicators: Housing

- | | | |
|----|--------------------------------------------------------------------------------------------|----------------------------------------------|
| 1. | For how long are temporary protection beneficiaries entitled to stay in reception centres? | For the whole duration of TP ¹³⁴⁰ |
| 2. | Number of beneficiaries staying in reception centres as of 12/23 | Not available |
| 3. | Number of beneficiaries staying in private accommodation as of 12/23 | Not available |

Accommodation solutions

According to the HHC, which visited nearly 600 places in relation to the Ukrainian crisis in 2022, and 297 in 2023, housing has been one of the most chaotic areas of the Hungarian implementation of the temporary protection scheme. This is because the accommodation of not only TP beneficiaries, but of all people fleeing Ukraine and being in need of a shelter, has not been coordinated in a centralised manner by the Government. Non-governmental actors, such as municipalities, NGOs, international organisations and private individuals took an equally important role in organising the housing of fleeing people as state actors did.

Tasks and competencies relative to accommodation have not been regulated by the usual legal instruments (e.g. in Government decrees), rather mechanisms have been established in an *ad hoc* manner. If an applicant indicates to the asylum authority upon submitting the application for temporary protection that they need accommodation, the National Directorate for Disaster Management, operating under the Ministry of Interior, carries out related arrangements, following notification of the asylum authority.¹³⁴¹

The HHC in its information request sent to the NDGAP asked how many persons fleeing Ukraine or being already beneficiaries of temporary protection signalled their need of accommodation at the NDGAP. In its answer the NDGAP stated that in 2022, a total number of 31 persons, while in 2023 3 persons - 'all' beneficiaries of temporary protection - requested accommodation.¹³⁴² The HHC in its information request sent to the Ministry of Interior asked for the number of types (state-run or operated by municipalities) of accommodation sites and also for the number of those temporary protection applicants and beneficiaries who had been accommodated by the National Directorate for Disaster Management in 2022 and in 2023 respectively. The chaotic coordination of housing is also well-reflected by the fact that the Ministry of Interior responded that it did not qualify as the owner of this data.

The HHC therefore also asked the Ministry of Interior in 2024 to provide the list of accommodation facilities hosting people fleeing Ukraine to Hungary in the period from 1 January 2023 to 31 December 2023, which have received financial support.¹³⁴³ The Ministry of Interior referenced a list it had sent to the HHC earlier, which contains the address of 73 accommodation sites.¹³⁴⁴ However, it is clear from the monitoring mission trips the HHC conducted that the number of accommodation sites is a multiple of this number. According to the communication of the Ministry of Human Resources, the disaster management department set up operational teams in each county and Budapest, which manage tasks

¹³⁴⁰ Section 41 (2) of the Asylum Decree.

¹³⁴¹ Press release of the Disaster Management on its website: <https://bit.ly/3RkMczv>. The NDGAP confirmed in its response sent upon the information request of the HHC that the National Directorate for Disaster Management is responsible to accommodate temporary protection applicants and beneficiaries.

¹³⁴² Information received from the NDGAP by the HHC on 19 February 2024.

¹³⁴³ Accommodations could receive financial support under the Act XXV of 2022 on the Central Budget of Hungary for 2023, under the Chapter XIV of the Central Budget, Ministry of Interior.

¹³⁴⁴ Information received from the Ministry of Interior by the HHC on 26 February 2024.

related to accommodation and transfer of people arriving from Ukraine.¹³⁴⁵ The (legal) basis of this practice is unclear. If people who fled reach any of the helping points at the border, members of the Charity Council could provide them with very short term (few days) accommodation on the spot, and later more long-term accommodation is organised either by the Disaster Management or by the Charity Council member.

From Záhony railway station (border-crossing point) Ukrainian citizens and third-country nationals with Ukrainian residence permits can get a so-called free of charge 'solidarity ticket' and ride to Budapest by train. Those who are in need of accommodation were directed to the **BOK** Centre in Budapest until 1 August 2023. As mentioned earlier, this was a humanitarian transit spot, operated by the government, where people may access basic services (food, health care provision, relief items).¹³⁴⁶ Staff members of the Disaster Relief were on the spot and need for housing may be indicated to them. Since 1 August 2023, people arriving from Ukraine and travelling directly to Budapest can seek assistance at the Government Office at the Western Railway Station during opening hours, from where people may be sent to longer-term accommodation. If someone arrives outside opening hours and cannot ask for help that day in the Government Office, or if one passes through Hungary and does not want to stay for a longer period, a temporary accommodation for one night may be requested at Galvani utca 44/A, 1117 Budapest, Hungary. The accommodation is run by the Hungarian Maltese Charity Service.¹³⁴⁷ At the Western Railway Station, railway staff and police officers can help you find your way to this accommodation.

Most accommodation solutions have been provided by municipalities at various locations: in schools, cultural centres, social and elderly homes and in random empty buildings owned by the municipality. According to Gov. Decree 104/2022 (III.12), accommodation for people fleeing Ukraine can be provided by a municipality or by an accommodation provider who has signed an agreement with the Ministry or the county or Budapest defence committee, in which cases accommodation providers may request an allowance (financial support) from the state. Between 24 February and 1 November 2022, municipalities and other state contracted accommodation providers could receive an allowance of 4,000 HUF/day/capita. After 1 November 2022, this amount increased to 7,000 HUF, but then from 1 August 2023, the amount again decreased to 5,000 HUF.¹³⁴⁸ Effective as of 1 August 2023, the rules of how and when the allowance may be requested have substantively changed.¹³⁴⁹ The applicable rules will be summarised in the ensuing paragraphs.¹³⁵⁰

After people from Ukraine who are eligible for temporary protection status or dual nationals, accommodation providers may claim the state allowance by the following deadlines:

- ❖ Accommodation provider may claim an allowance for a month after the arrival of the person eligible for temporary protection or dual citizen from Ukraine or if the person who is eligible for temporary protection status submits the TP application within one month after his/her arrival in Hungary, the allowance may be claimed until the NDGAP has decided on the TP application.

¹³⁴⁵ Ministry of Human Resources, *Information to support families from Ukraine for family and child welfare service providers*, May 2022, available in Hungarian at: <https://bit.ly/3HXccxG>, 22.

¹³⁴⁶ BOK Centre is indicated as a transit spot by UNHCR, see UNHCR, 'Information for people from Ukraine', available at: <https://bit.ly/3Rn3GLs>.

¹³⁴⁷ No official information available on this. Assistance partners received this information via unofficial channels. Information appears on the website of UNHCR too: <https://help.unhcr.org/hungary/emergency-housing/>. Although the UNHCR website states that assistance may be available at the Eastern Railway Station (Keleti Pályaudvar), since November 2023, this is not the case.

¹³⁴⁸ As a result of a legislative amendment enacted by Government Decree 337/2023 (VII.24) amending Gov. Decree 104/2022 (III.12); Section 4 of Gov. Decree 104/2022 (III.12).

¹³⁴⁹ As a result of a legislative amendment enacted by Government Decree 337/2023 (VII.24) amending Gov. Decree 104/2022 (III.12).

¹³⁵⁰ Section 3, 3A-H and 4 of Gov. Decree 104/2022 (III.12).

- ❖ If the person eligible for TP does not lodge an asylum application, allowance beyond one month after arrival may be claimed by the accommodation provider, if the person who fled Ukraine is:
 - a pregnant woman, as from the date of the establishment of her pregnancy;
 - a parent of a child under six years of age;
 - a person with a disability and their caretaker;
 - a person aged 65 or over;
 - a person under 18 living in the same household as one of the above persons.

- ❖ If the applicant is recognised as a TP beneficiary, the accommodation provider, as a general rule, may be entitled to a daily allowance of HUF 5,000 per day until the end of the month following the month in which the TP status was granted. For dual nationals coming from Ukraine, the allowance is available until the end of the month following their arrival. After the following persons (recognised TP beneficiaries or dual nationals), the accommodation provider may continue to benefit from the allowance:
 - pregnant woman, from the moment her pregnancy is established;
 - a person under 18 and his/her parent living in the same household;
 - a person with a disability and their caretaker;
 - a person aged 65 or over.

If the person in need of accommodation does not belong to one of the above groups, allowance may only be requested if the beneficiary of TP or the dual citizen works (undertakes employment). In this case, the allowance will be paid to the employer and not to the municipality or the accommodation provider.¹³⁵¹ The Ministry of Economic Development stated that between the period of 1 August 2023 and 31 December 2023, the number of employees covered by the allowance given to employers was 133.¹³⁵² After those who arrived in Hungary before the entry into force of the new rules, i.e. before 1 August 2023, the accommodation was entitled to the allowance under the old rules until 31 August 2023. The amended law also ambiguously states that a person not eligible for assistance under the law shall be entitled to shelter and the infrastructure of the reception centre may also be used for accommodation. This practically meant that the Városszabadi and Balassagyarmat reception centres (should have) accommodated some of those whom the accommodation provider could not claim allowance. According to the NDGAP, on 31 December 2023, there was only one beneficiary of temporary protection accommodated in Balassagyarmat reception facility, while throughout 2023, there were 2 accommodate beneficiary of temporary protection in total in the Városszabadi reception centre.¹³⁵³

It is important to underline that if a person is not working or does not fall within the categories of persons defined above but has temporary protection status or is a dual national fleeing from Ukraine, they will still be entitled to accommodation. However, as no allowance may be claimed by such people, accommodation providers have been clearly less motivated. As a result, a lot of people with TP status or dual citizens who fled Ukraine were moved out of previously Government-funded locations.

Families have been split up, as the new legislation states that allowance may be claimed in any case after 'a person under 18 and his/her parent living in the same household', but the noun 'parent' is used in singular. This meant that one parent could stay in the accommodation but the other had to leave. Many such cases have been reported to the HHC after September 2023. Although the change was supposed to foster integration by pushing adults to the labour market, it had the opposite effect.

¹³⁵¹ See the section on Government support of employers below under Employment and education.

¹³⁵² Information received from the Ministry of Economic Development by the HHC on 20 February 2024.

¹³⁵³ Information received from the NDGAP by the HHC on 19 February 2024.

The integration of families through schools and connections made had been abruptly halted, the consequences of which are unforeseen. The recent changes regarding the diminished amount of state support for accommodations affected almost every shelter the HHC team visited. Many families face insecurity due to the potential loss of accommodation for one or more family members, which also affects their mental health. In the experience of the HHC, the overall trend is that families choose to stay together, so if one family member has to leave the shelter, the whole family follows, even if there is no consequent accommodation option. Many accommodation providers do not agree with the new rules and try to continue accommodating people even without state support.

The Budapest Methodological Centre of Social Policy and Its Institutions (BMSZKI), which is the largest homeless service provider in Budapest, reported that upon request of Budapest municipality, they opened their accommodation centre dedicated specifically to people fleeing Ukraine with a capacity of 100 persons already on 26 February 2022. Two days later BMSZKI opened another site for 60 persons. In total, between the period of 26 February and 31 December 2022, they provided 964 persons with accommodation. They also reported that they assisted 6 families in finding permanent accommodations with the help of Utcáról Lakásba! Association, Jesuit Refugee Service and Wekerle Community. In its report BMSZKI, whose main profile is the housing of the homeless, also emphasised that they had no prior professional experience in the reception of refugees and it posed a great challenge for them to provide people with need-appropriate services without a state-led coordination and clear legal framework. BMSZKI pointed out that the capacities of their reception centres and staff members were insufficient in some instances. They noted that Ukrainian refugees needed complex social assistance apart from housing that they could provide and managing these needs required BMSZKI to find ad-hoc practical and financial solutions without substantive help from the state.¹³⁵⁴ BMSZKI sent no data for the purpose of this report concerning 2023.

The Charity Council members provided the following housing-related services:

According to Caritas Hungarica in 2022 they provided thousands of people with accommodation at very diverse spots, ranging from clergy houses to private apartments run by or with the support of the charity.¹³⁵⁵ It is unclear whether the Charity Council members have funded their services, including accommodation provided by them, exclusively through government allocated funds,¹³⁵⁶ or through their private funds too. In 2023, they provided accommodation to 670 persons in Esztergom, Bicske, Iszkaszentgyörgy, Balatonakali from government funds.¹³⁵⁷ The Hungarian Interchurch Aid provided 693 persons with accommodation (16,425 nights) in 2022, and 661 persons (18.634 nights) in 2023. This service was funded by own resources.¹³⁵⁸ The Hungarian Reformed Church Aid provided accommodation in 4,666 cases in the period from 24 February 2022 to 31 December 2024.¹³⁵⁹ The Hungarian Red Cross provided accommodation for 3,466 persons in 2023 and since August 2023 – when the legislation concerning the accommodation of temporary protection beneficiaries became stricter – they assisted 651 persons in finding housing solutions.¹³⁶⁰

NGOs, private entities and individuals from the civic sphere have also mobilised themselves in an exceptional manner and assisted many Ukrainians in finding or by providing accommodation. Kalunba, a Budapest-based NGO, reported, for instance, that they alone provided 161 individuals with temporary

¹³⁵⁴ Information received from BMSZKI by the HHC on 13 February 2023.

¹³⁵⁵ Information received from Caritas Hungarica on 23 January 2023.

¹³⁵⁶ The Hungarian Government announced on 5 March 2022 that members of the Charity Council would receive 3 billion forint. The official press release can be found here: <https://bit.ly/3JyP0Hk>. In the Act XXV of 2022 on the central budget of Hungary for 2023 there is 1,218 billion forint allocated to the Charity Council, see: <https://bit.ly/3jmFVH0>.

¹³⁵⁷ Information received from Caritas Hungarica on 22 February 2024.

¹³⁵⁸ Information received from the Hungarian Interchurch Aid by the HHC on 2 April 2024.

¹³⁵⁹ Information received from the Hungarian Reformed Church Aid by the HHC on 20 March 2024.

¹³⁶⁰ Information received from the Hungarian Red Cross by the HHC on 22 February 2024.

accommodation for a total of 501 nights, and also could provide 31 apartments for rent for a total of 180 individuals in the period between 1 June 2022 and 6 February 2023.¹³⁶¹

The Jesuit Refugee Service provided housing-related services to 1,176 people in 2023. This primarily meant financial contributions to housing costs. A total of 2 families were accommodated in apartments in Budapest, 6 persons in the dormitories of the Jesuit College in Budapest, and 3 persons in the dormitory of the Jesuit High School of Fényi Gyula in Miskolc with the assistance of the organisation.¹³⁶²

The Evangelical Lutheran Diakonia supported 192 Ukrainian families to find housing solutions in the following manners:

- they provided rent assistance for people living in private accommodations
- financial assistance for people living in official accommodation sites. The charity also accommodated families from in rented apartments in the Mandák House (evangelical church house in Budapest), In cooperation with the BMSZKI, the charity supported families moving out of the refugee shelter in Bányá street into rented accommodation by paying the deposit and several months' rent. They also paid hostels for people in need until a more permanent solution was found.¹³⁶³

UNHCR conducted a multi-sectoral needs assessment in September 2022 with the participation of 512 respondents (83% Ukrainian refugees, 15% Hungarian-Ukrainian dual citizens, and 2% third-country nationals). Although it is emphasised that the result cannot be considered representative for the challenges of reaching out to private households, the paper found that 'one in three interviewees is residing in private accommodation and the percentage differs based on the location of residence; 61% of the refugees surveyed in Budapest are staying in private accommodation (7% in the rest of the country), while 74% of the refugees surveyed outside of Budapest are accommodated in collective sites, followed by hotels/hostels (18%)'.¹³⁶⁴ The same assessment was conducted by the UNHCR in 2023,¹³⁶⁵ with the following result: 60% of the surveyed households live in private settings and 18% of households are in workers' accommodation, defined as arrangements provided by employers. Collective sites, often offered by the government or charitable organisations, house 14% of the respondents while 8% reside in hotels/hostels.¹³⁶⁶

Access to reception facilities

Temporary protection beneficiaries,¹³⁶⁷ applicants,¹³⁶⁸ as well as Hungarian-Ukrainian dual citizens¹³⁶⁹ as explained earlier, are entitled to access reception conditions. Pursuant to Section 26 (1) of the Asylum Act, 'reception conditions include material reception conditions, and all entitlements and measures defined in an act of Parliament or Government decree relating to the freedom of movement of applicants, as well as health care, social welfare and the education provided to applicants.'¹³⁷⁰ Beneficiaries in need are entitled to 'material reception conditions and to care and support, in accordance with specific other legislation'¹³⁷¹ (for specific entitlements within reception conditions see [Residence Permit](#)). According to the Asylum Decree, the implementing law of the Asylum Act, material

¹³⁶¹ Information received from Kalunba organisation by the HHC on 6 February 2023.

¹³⁶² Information received from the Jesuit Refugee Service by the HHC on 12 April 2024.

¹³⁶³ Information received from the Evangelical Lutheran Diakonia by the HHC on 24 February 2024.

¹³⁶⁴ UNHCR, *Hungary: Multi-Sectoral Needs Assessment*, November 2022, available at: <https://bit.ly/3RkMoPf>.

¹³⁶⁵ The assessment, guided by the Refugee Coordination Forum (RCF), involved nearly 700 adult respondents from refugee households across 18 counties in Hungary.

¹³⁶⁶ UNHCR, *Hungary: Multi-Sectoral Needs Assessment, Final Report*, December 2023, available [here](#), 30.

¹³⁶⁷ Section 32 (2) of Asylum Act.

¹³⁶⁸ Section 26 (2) of Asylum Act.

¹³⁶⁹ Section 8 of the TP Decree.

¹³⁷⁰ Section 26 (1) of Asylum Act.

¹³⁷¹ Section 32 (2) of Asylum Act.

conditions are accommodation and care provided at the reception centres, the use of travel discounts, and payment of the costs of the public burial of applicants for recognition.¹³⁷²

Based on Section 41 (2) of the Asylum Decree beneficiaries of temporary protection may be entitled to accommodation and care. This provision, however, became non-applicable as of 1 August 2023 as a result of a legislative change.¹³⁷³ This change affected the accommodation and care of beneficiaries, as it was partially explained above under the section ‘accommodation solutions’.

Although Section 32(2) of the Asylum Act, as mentioned, provides for the material reception conditions for beneficiaries if temporary protection “in need”, it is now unclear if there is a legal ground based on which accommodation and care (meals) are to be provided. In practice, those beneficiaries, after whom the accommodation provider is entitled to receive state allowance, are provided with meals 3 times a day at the accommodation sites. The situation of those beneficiaries of temporary protection, after whom the accommodation provider is not entitled to receive the allowance or who do not belong under (as explained above) is ambiguous. As a result of the mentioned legislative change, Section 3(7) of Gov. Decree 104/2022 (III.12.) ambiguously states that a person not eligible for assistance under the law shall be entitled to shelter and the infrastructure of the reception centre might also be used for accommodation. The wording of the provision suggests that accommodation in reception centres is only a possibility, not an obligation, in case other options are absent. The law does not, however, clarify, what other options would be available. Moreover, the Government decree stays silent on the issue of ‘care’, such as providing these beneficiaries of temporary protection with meals and basic hygiene.

As mentioned earlier, the NDGAP stated that on 31 December 2023, there was only one beneficiary of temporary protection accommodated at the Vámoszabadi reception centre, while 2 were accommodated in total throughout 2023. Worryingly, the NDGAP also stated that “in the Vámoszabadi reception centre only those beneficiaries of temporary protection were accommodated throughout 2023, who, according to Section 3(7) of Gov. Decree 104/2022 (III.12), were not entitled to receive care (meals), but were only entitled to accommodation. They were provided with basic hygiene items, but in a few days, they left and their whereabouts was unknown.”¹³⁷⁴ Based on this statement of the NDGAP, it seems that for some unclear reasons, the authority interprets the law as obliging them to provide the beneficiaries in question with hygiene items but not with meals. In the absence of food provision, it is unsurprising that those - only 1 or 2 persons - who went to the reception centre left after a very short time. The HHC was not granted leave to enter the premises of the Vámoszabadi reception centre despite requesting it from the NDGAP, with reference to the fact that those beneficiaries of temporary protection who were accommodated at the centre could reach out to the HHC “*outside the centre*”.¹³⁷⁵

Reduction or withdrawal of reception conditions

The Asylum Act defines the circumstances in which reception conditions provided to a beneficiary of temporary protection may be reduced and withdrawn, that is when the beneficiary:

- ❖ is engaged in repeated or serious violation of the rules of conduct at the reception centre;
- ❖ is engaged in any repeated or serious breach of the obligation of cooperation;
- ❖ has disclosed false information or untrue facts concerning his/her assets or income, or if he/she refused to provide such information in the interest of obtaining the material reception conditions or the aid and assistance provided in accordance with the relevant legislation; or

¹³⁷² Section 15 (2) of Asylum Decree

¹³⁷³ Gov. Decree 337/2023 (VII.24.) amending the TP Decree by adding Section 5(4) providing that “Section 41(2) of the Asylum Decree shall apply with the exception that the beneficiary of temporary protection shall not be entitled to accommodation and care at the reception centre.”

¹³⁷⁴ Information received from the NDGAP by the HHC on 19 February 2024.

¹³⁷⁵ Request to grant entry was sent to the NDGAP on 13 September 2023 by the HHC, rejection of the NDGAP was received by the HHC on 15 September 2023.

- ❖ is engaged in seriously violent behaviour.¹³⁷⁶

Government Decree 104/2022 (III.12.) furthermore provides that if the person accommodated does not leave the accommodation upon the request of the accommodation provider (if it is a private accommodation, for instance) the accommodation provider may notify the police. The police may oblige the person to leave the accommodation and, upon request, transfers them to another accommodation designated by the local defence committee.¹³⁷⁷

Legislative changes amending Government Decree 104/2022 (III.12.)¹³⁷⁸ affected the situation of those whose TP application was rejected or renounced but submitted a subsequent application: these persons would not be entitled to be placed at emergency accommodation sites, but they may be placed in the reception centres.¹³⁷⁹ If the TP status was renounced, this restriction does not apply to:

- ❖ a pregnant woman, as from the date of the establishment of her pregnancy;
- ❖ a parent of a child under six years of age;
- ❖ a person with a disability and their caretaker;
- ❖ a person aged 65 or over;
- ❖ a person under 18 living in the same household as one of the above persons.¹³⁸⁰

Tasks related to the provision of reception conditions are to be carried out by the asylum authority.¹³⁸¹ In order to carry out reception-related tasks more efficiently, the asylum authority may conclude contracts with in particular, a non-governmental organisation, a local authority, church, a foundation, an institution of the mentioned entities, a company or any other legal entity to provide:

- ❖ the applicant with the material conditions for admission;
- ❖ the benefits falling within the material reception conditions to which the beneficiary is entitled;
- ❖ the social and mental health care to applicants and beneficiaries;
- ❖ information on the rights and obligations of the applicant and beneficiary;
- ❖ Hungarian language course to beneficiaries.¹³⁸²

There is no official data available as to the number and capacity of those state-run accommodation sites which are dedicated to temporary protection beneficiaries. The HHC sent a freedom of information request to the relevant ministries inquiring about the matter, but none of the ministries engaging in the crisis response (Ministry of Interior, Prime Minister's Cabinet Office, Prime Minister's Office, Ministry of Economic Development) could answer the HHC's housing-related question, stating that they do not qualify as official owners of these data. At the time of writing, it is legally unclear which central government body is responsible to ensure compliance with the TPD's reception condition requirements, and no law specifies it.

In the HHC's experience, the very essential material reception conditions are generally accessible by those entitled. A disturbing occurrence, however, was recorded by the HHC staff on 4 August 2022 in the border area. Namely, persons of concern belonging to the Roma community stated that they did not receive any type of assistance in **BOK** Centre Budapest in spite of having requested it. The other issue to be highlighted is that the quality of the service provision may differ by locations, which is a direct consequence of the absence of coordination of services and service providers on a national level. As

¹³⁷⁶ Section 32/A (1) a.)- d.) of Asylum Act.

¹³⁷⁷ Section 6 of Gov. Decree 104/2022 (III.12.)

¹³⁷⁸ Changes effective as of 1 March 2024, introduced by Gov. Decree 30/2024 (II.22) amending Government Decree 104/2022 (III.12.)

¹³⁷⁹ Sections 3 (8) and (10) of Gov. Decree 30/2024 (II.22).

¹³⁸⁰ Section 3 (9) of Gov. Decree 30/2024 (II.22).

¹³⁸¹ Section 12 (2) of Asylum Decree.

¹³⁸² Section 14 (2) a.)-e.) of Asylum Decree.

most accommodation sites are run by different entities, under different circumstances (e.g. some municipalities are in better financial situation than others), the level and the quality of assistance offered to the population varies significantly across the various shelters.

Living conditions

The increased utility costs put all accommodation providers under serious financial pressure and some of the accommodation sites had to close due to this. Consequently, the accommodated people then had to move to new locations, despite the fact that their children had already been enrolled in schools. In 2022, the HHC monitors reported in some locations that people lack basic food and non-food supplies.¹³⁸³ At the accommodation site in **Vitnyéd-Csermajor** conditions were degrading, food and hygiene items were lacking, and health care provision was also dissatisfactory.¹³⁸⁴ Conditions in this accommodation site were similarly degrading in 2023 too. Concerning 2023, the following issues of concern were observed by the HHC monitors at the accommodation sites:

- ❖ The reception conditions at the Uszka accommodation site remain poor.¹³⁸⁵ The room where people sleep is extremely overcrowded and conditions are generally degrading.¹³⁸⁶
- ❖ Bed bugs at the Gárdony accommodation site.¹³⁸⁷
- ❖ Building in need of renovation of old wiring.¹³⁸⁸
- ❖ There is no internet connection in Fülöpösdaróc.¹³⁸⁹
- ❖ The Páty accommodation site, since it is close to the highway and it is not in the village, is isolated. There are no transfer or other transport opportunities to use to get into Páty or elsewhere. People are therefore unable to manage their everyday life (e.g. go to work, immigration office etc), unless they have a car.¹³⁹⁰ Thus the children have no access to kindergarten or schools.¹³⁹¹
- ❖ Páty accommodation site is very remote and is seriously hindering the integration efforts of PoCs (accessing education, healthcare and employment).¹³⁹²
- ❖ Seriously ill patients living in inhumane conditions were placed in the two dilapidated houses in Kisléta.¹³⁹³
- ❖ In the Vitnyéd-Csermajor accommodation, the building is poorly maintained, wires and cables are hanging out of walls, which could be a safety hazard, especially as there are many children here. The building is poorly maintained, wires and cables are hanging out of walls, which could be a safety hazard, especially as there are many children here.¹³⁹⁴
- ❖ People from the opposite sex, who are not related, are accommodated together in Kisléta and Mérk.¹³⁹⁵ The most worrying incident registered by the HHC concerned a beneficiary of temporary protection woman.
- ❖ The Kocs accommodation site is surrounded by a fence, although PoCs can freely access and exit the site. People live in container homes.¹³⁹⁶

¹³⁸³ 5 September 2022 HHC monitoring mission report, Uszka.

¹³⁸⁴ 21-22 November 2022 HHC monitoring mission report, Vitnyéd-Csermajor.

¹³⁸⁵ 12-13 July HHC monitoring mission report, Uszka.

¹³⁸⁶ 13-14 March HHC monitoring mission report, Uszka.

¹³⁸⁷ 31 Jan_2023 HHC monitoring mission report, 2484 Gárdony Üdülök útja 27. – Piramis Hotel.

¹³⁸⁸ 31 Jan 2023_HHC monitoring mission report, 2484 Gárdony Üdülök útja 27. - Piramis Hotel.

¹³⁸⁹ 13-14 February 2023_HHC monitoring mission report, Fülöpösdaróc Social Care Home.

¹³⁹⁰ 20-21 February 2023_HHC monitoring mission report, Páty, Gastland M1 Hotel.

¹³⁹¹ 12-13 June 2023 HHC monitoring mission report, Páty, Gastland M'.

¹³⁹² 24-25 April 2023_HHC monitoring mission report, 2071 Páty, hrsz. 0161/17 (Gastland Hotel M1).

¹³⁹³ 30 March 2023_HHC monitoring mission report, Kisléta.

¹³⁹⁴ 12-13 June 2023HHC monitoring mission report, Vitnyéd Csermajor.

¹³⁹⁵ 19-20 June 2023 HHC monitoring mission report, Kisléta Pócsi út 52, 4325, 19_20_JUN_HHC monitoring mission report, Mérk Hunyadi u.183.

¹³⁹⁶ 21-22 August 2023HHC monitoring mission report, Kocs, Kossuth Lajos u. 9.

- ❖ Ercsi accommodation is quite crowded.¹³⁹⁷
- ❖ The bathing area in a Szigetszentmiklós accommodation site was very unsanitary, close to unusable, the rooms seemed to be crowded and under-equipped.¹³⁹⁸
- ❖ No meals are provided at the Békés accommodation site.¹³⁹⁹
- ❖ At the Celldömölk, Fonyód, Vértesszőlős and Oroszlány accommodation sites, people are in need of any type of donation (hygiene items, diapers, clothing, food).¹⁴⁰⁰

Subsistence allowance

Another issue of great concern has been the inconsistent receipt of the monthly subsistence allowance. This was a frequently reported and constant issue both in 2022 and 2023. Beneficiaries of temporary protection have regularly complained to the HHC about either not receiving the subsistence allowance at all despite requesting it or receiving it with a great delay. In some cases, the subsistence allowance arrived in one month but was absent in the following months. Families also reported that while they requested the subsistence allowance together, some family members received it, while others did not (typically the subsistence allowance requested for minor children).

In its multi-sectoral needs assessment report the UNHCR noted that out of 512 respondents 93% had been granted temporary protection, and those granted protection had received this financial assistance at least once.¹⁴⁰¹ The UNHCR added that this does not mean that the allowance is currently received or that it has been received regularly. In 2023, UNHCR's multi-sectoral needs assessment reported that 56% of surveyed households acknowledged receiving subsistence allowances upon their arrival, while 28% reported such allowances in the last 30 days since the survey took place.¹⁴⁰² The HHC requested data in 2022 from the Ministry of Economic Development on the number of beneficiaries receiving subsistence allowance, but the Ministry stated in its response that they did not have this information.¹⁴⁰³ In 2023, upon the same request, the Ministry stated that by December 2023, there had been 10,967 request for subsistence allowance submitted from beneficiaries of temporary protection. The Ministry did not state how many of these requests were granted.¹⁴⁰⁴ The director of NGDAP's asylum department suggested on 3 March 2023 to the representatives of HHC, that, according to his knowledge, a stable average of around 7,000 beneficiaries receive subsistence allowance on a regular basis in Hungary.

Moreover, until around September 2022, it was unclear to the relevant authorities (asylum authority and government/district offices) who is responsible for processing subsistence allowance requests. The HHC received numerous inquiries from people eligible for the subsistence allowance stating that neither the asylum authority nor the government/district office wanted to register their request for the subsistence allowance, claiming the other body was responsible for this. Some of HHC clients stated that their request for financial assistance was registered by the asylum authority, others said that it was done at the district office. This situation was the result of an ambiguous legal environment: according to the Asylum Decree, which is to be applied with Government Decree 106/2022 (III.12) setting forth special rules relative to the subsistence allowance, it is granted by the asylum authority upon request of the beneficiary.¹⁴⁰⁵ The referenced decree also provides that the allowance is transferred by the asylum authority,¹⁴⁰⁶ but at the same time, states that the transfer of the allowance is subject to a

¹³⁹⁷ 18-19 September 2023 HHC monitoring mission report, Ercsi, Cukorgyári ltp. 3.

¹³⁹⁸ 18-19 September 2023 HHC monitoring mission report, Szigetszentmiklós Viola utca 12.

¹³⁹⁹ 2-3 November 2023 HHC monitoring mission report, Békés, Jantyik utca 6/2. – „MPS Cigánymisszió”, Kevermes, Jókai utca 98. - „MPS Cigánymisszió”.

¹⁴⁰⁰ 21-22 August 2023 HHC monitoring mission report, 12-13 October 2023 HHC monitoring mission report.

¹⁴⁰¹ UNHCR, *Hungary: Multi-Sectoral Needs Assessment*, November 2022, available at: <https://bit.ly/3HrxW39>, 14.

¹⁴⁰² UNHCR, *Hungary: Multi-Sectoral Needs Assessment, Final Report*, December 2023, available [here](#), 25.

¹⁴⁰³ Information received from the Ministry of Economic Development by the HHC on 27 January 2023.

¹⁴⁰⁴ Information received from the Ministry of Economic Development by the HHC on 19 February 2024.

¹⁴⁰⁵ Section 53 (3) of Asylum Decree.

¹⁴⁰⁶ Section 4 (4) of Government Decree 106/2022 (III.12).

monthly appearance in person before the district office for beneficiaries over the age of 6.¹⁴⁰⁷ Accordingly, in March 2022, the asylum authority also published a form on its website, which was to be used for the purpose of requesting the allowance. This form was available online until May 2022. To clarify this controversy, the HHC turned to the NDGAP asylum authority. The asylum authority stated in its answer that the allowance is to be transferred by them, without a formal request of the beneficiary, as long as they fulfil their obligation to appear before the district office, a fact which is then reported to the asylum authority. Consequently, according to the interpretation of the asylum authority, the beneficiary, if older than 6 years, only has to appear before the district office and the allowance will be granted to them. The authority also stated that the form they published was no longer in use, and that the allowance was also transferred to beneficiaries under the age of 6 without them formally requesting it.¹⁴⁰⁸ Considering the referenced provisions, this legal interpretation is obscure and not conclusive. At the same time, however, in the second half of 2022, the practice of both the asylum authority and the district offices became consistent and followed this interpretation by the asylum authority. In 2023, no such competency issues were reported or observed.

Accommodation of vulnerable people

As has been noted under [Guarantees for vulnerable persons](#), there has been no comprehensive screening for people with special protection needs,¹⁴⁰⁹ which often resulted in people being accommodated in inappropriate conditions with regard to their needs. In the experience of the HHC, people with disabilities or special medical needs have been frequently placed in shelters lacking the necessary medical/psychological assistance. The most notable case concerned a 65-year-old Ukrainian man met by the HHC team on 4 August 2022 in the **Fülpösdaróc** (village close to the border) accommodation site. The accommodation was not well-equipped and hygiene was completely absent. A total of 22 individuals were accommodated there at the time. They were generally in a poor mental and physical state, complaining about not receiving sufficient food provision. The said Ukrainian man, who was a beneficiary of temporary protection already, looked seriously underfed, he was barely able to speak. Following his arrival in Hungary, he had been diagnosed with lung cancer. It was apparent that he would have needed constant and special medical attention, which was absent in the accommodation site. HHC monitors were informed that no Hungarian health-care provider could accept the man, although operators of the accommodation site and staff members of IOM had tried multiple times, at various hospitals. As a consequence, as the HHC was later informed by the operators of the accommodation site, the man was transferred back to Ukraine and was placed in a hospice near the border. His example is exceptional, but quite alarming at the same time, highlighting the potential deficiencies of the reception system with regard to the population with special needs. The **Fülpösdaróc** accommodation site was later renovated with the assistance of IOM and conditions became decent by October.

In 2023, the most notable case recorded by the HHC¹⁴¹⁰, highlighting all potential the deficiencies of the accommodation scheme, concerned a Ukrainian woman, who claimed to have been a violence of sexual abuse at the Kisléta accomodation site. One house of the site accommodated only a woman and a man, who were not related. The man was disabled (the upper part of both feet were missing). The woman - who had been diagnosed as paranoid schizophrenic by the medical institution in Nagykálló beforehand - complained of the man drinking, smoking, harassing and threatening her. She also stated that the man regularly abused her sexually when he got drunk. She repeatedly asked the volunteers and different workers attending them to move her to a different place but to no avail. She wrote a letter in Hungarian with the use of a dictionary to report the assaults to the police but did not know how to send it.

¹⁴⁰⁷ Section (4a) - (4b) of Government Decree 106/2022 (III.12).

¹⁴⁰⁸ Letter of the NGDAP asylum authority received by the HHC on 16 June 2022.

¹⁴⁰⁹ UNHCR, *Inter-Agency Operational Update Hungary*, 10 May 2022, available at: <https://bit.ly/3wS7A5v>.

¹⁴¹⁰ Recorded first by the HHC on 20 June 2023 at Kisléta during HHC's monitoring mission.

Risks of human trafficking

As it has been similarly mentioned, no adequate preventive measures specifically targeting persons fleeing Ukraine have been implemented concerning the risks of human trafficking, although the arriving population mainly consisted of women and children and there is substantial lack of information (see [Guarantees for vulnerable groups](#)). The HHC's continuous monitoring visits in 2022 also revealed several relevant experiences by displaced persons, revealing potential exploitation patterns related to the Ukrainian crisis¹⁴¹¹:

- ❖ Two sisters from Kyiv informed the HHC that every evening a Hungarian woman from Zakarpattia talks to them and wants to offer them work, asking them to sign papers. The sisters did not find this lady trustworthy and felt intimidated by her.
- ❖ Several women, encountered during several monitoring visits informed the HHC that they were given job offers by online recruiters, who also offered them housing. Many of them found these job offers through a leaflet placed at their accommodation facility advertising a company called 'Safe in Hungary' (www.safeinhungary.hu). One woman informed the HHC team that the recruiters had told her that she could work for them, but her 20-year-old daughter would have to work too and, for this, she should stop her studies. After a background check, the HHC found this dubious recruitment campaign concerning. It was particularly worrying that the for-profit recruitment agency was posing as a humanitarian actor offering 'help', which was at odds with its actual character and motivation. Also, it was clear for HHC monitors that Ukrainian refugees lacked proper information and could be easily misled by these job offers that may not give them the same rights and choices as registering for temporary protection would. It appeared that accepting job offers from this company could 'divert' refugees from acquiring temporary protection and put them in a more vulnerable situation with an elevated risk of exploitation. This was observed in March 2022 in visits at Helping Points and accommodation centres in the border area. An investigative journalism portal later published an article¹⁴¹² revealing the close ties of this company to the Hungarian government, which can explain their exclusive placement at Helping Points on the Ukrainian-Hungarian border.
- ❖ Some Ukrainian refugees complained of being employed without the necessary permits by a company called 'Prohuman' (which is the one mentioned under the previous point, operating the www.safeinhungary.hu website). A woman informed the HHC that her uncle who worked for this company did not have any residence permit and that the company refused to initiate the relevant procedures.
- ❖ Some Ukrainian refugees informed the HHC that, after arrival, the men among them worked for 2 weeks for a local person who disappeared without paying their salaries (3 million HUF altogether).
- ❖ The HHC visited a former hotel, which functioned as an accommodation site for Ukrainian refugees, and which was in a very run-down state, offering dubious living conditions. The manager of the site was overtly hostile to the HHC monitors, not allowing them to enter and saying that 'there is no need to worry, people accommodated here are all employed and paid well'. Due to his resistance to provide access and hostile behaviour, the HHC monitors considered that working conditions offered to persons hosted at this site may be inadequate.
- ❖ An HHC monitoring team talked to a woman with a small child, who arrived in Hungary after acquiring temporary protection in Romania. She was robbed in Romania, and thus had no identity documents. She was offered a job and accommodation by a stranger on the internet, which raised some concerns about unlawful employment and exploitation, given that she had no identity documents, nor a proof of her temporary protection status in the EU.

There are also risks of labour exploitation, as described below in [Access to the labour market](#).

¹⁴¹¹ HHC's experience of 2022 in this regard is summarised in a thematic paper called "Labour exploitation encountered in the framework of the Ukraine refugee crisis response of the Hungarian Helsinki Committee", January 2023, available [here](#).

¹⁴¹² Atlatso, 'Kormányközeli munkaerő-toborzó cég hirdethet az ukrán menekülteknek az állami központokban', 31 March 2022, available in Hungarian at: <http://bit.ly/3HZzMdq>.

E. Employment and education

1. Access to the labour market

A temporary protection beneficiary or applicant has the same rights regarding employment as Hungarian citizens do, except in the public service and civil servant sector where Hungarian citizenship is a requirement.¹⁴¹³ According to the TP Decree, beneficiaries and applicants may work in the territory of Hungary without special permission, including temporary employment and public employment.¹⁴¹⁴ This has not always been the case as when the TP Decree came into effect on 8 March 2022, only beneficiaries had this right and only in certain sectors of the labour market as defined in the communication of the competent minister.¹⁴¹⁵ This regulation was amended and consequently, not only beneficiaries, but applicants could also be employed in the jobs specified in the mentioned communication.¹⁴¹⁶ This regime was in effect from 23 March to 29 April 2022. Since 30 April 2022, as a result of another legislative change, it is possible for both beneficiaries and applicants to be employed in any sector, without any limitation.¹⁴¹⁷

To be employed, the applicant or the beneficiary has to be at least 16 years old.¹⁴¹⁸ The employer shall notify the immigration authority of the employment of a person under the TP Decree.¹⁴¹⁹ The employer is required to ascertain on or before the first day of employment that the person holds a TP card (if beneficiary) or a humanitarian residence card (if applicant) and shall make a copy of the permit which is to be kept for the entire duration of employment. The employer is then to notify the immigration authority of the start of employment and also of its termination. The detailed rules of notification procedure are set out in the Act II of 2007 on the entry and stay of third-country nationals.¹⁴²⁰

Since 29 April 2022, a person who intends to receive the subsistence allowance and who is eligible for employment must register as a service claimant (in Hungarian it is phrased as *foglalkoztatásba bevonható személy*, which would translate as 'a person who can be employed') with the district office and cooperate with the district office before receiving the first regular subsistence allowance.¹⁴²¹ A person who is eligible for employment shall accept an offer for a suitable job, including public employment, in cooperation with the district office, within 45 days of receiving the first regular subsistence allowance.¹⁴²² A person eligible for employment is not obliged to accept the job offered to them if:

- ❖ at the time of the offer of employment, they are in an employment relationship with an employer in Hungary and the employer in Hungary can prove it, or
- ❖ they provide care for a minor under the age of three, or
- ❖ they are enrolled in full-time school education and have not reached the age of 18.¹⁴²³

¹⁴¹³ As provided in Section 39 (1) of Act CXCIX of 2011 on Public Service Officials and Section 20 (1) c.) of Act XXXIII of 1992 on Civil Servant Status.

¹⁴¹⁴ Section 6(4) and Section 7 of the TP Decree.

¹⁴¹⁵ NGM Communication on the authorisation of the employment of third-country nationals in Hungary on the basis of a non-aggregated application procedure, on the exemption from the obligation to obtain an authorisation, on the cooperation of the labour office of the metropolitan and county government office in the aggregated application procedure, and on the notification of the employment of third-country nationals who are employed in Hungary without authorisation and on the reimbursement of wages pursuant to point 26 of paragraph (1) of Article 15 of Government Decree 445/2013 (28.XI.), available in Hungarian at: <http://bit.ly/3HzD8Cr>.

¹⁴¹⁶ TP Decree as amended by Section 2 of Government Decree 112/2022 (III.22).

¹⁴¹⁷ TP Decree as amended by Section 1 of Government Decree 175/2022 (IV.29).

¹⁴¹⁸ Section 1 b.) of Government Decree 106/2022. (III. 12.).

¹⁴¹⁹ Section 6 (6) of the TP Decree.

¹⁴²⁰ Section 71 of Act II of 2007 on the entry and stay of third-country nationals.

¹⁴²¹ Section 2 (3) of Government Decree 106/2022 (III.12) as amended by Section 9 of Government Decree 170/2022 (IV.29).

¹⁴²² Section 2 (5) of Government Decree 106/2022 (III.12).

¹⁴²³ Section 2 (7) of Government Decree 106/2022 (III.12).

The integration of healthcare professionals has been facilitated by the government by introducing some rules which make it easier for the healthcare professionals who fled Ukraine to start working in Hungary. Government Decree 121/2022 (III.28.) provides that a person holding a health professional qualification obtained in Ukraine, on the basis of a state-recognised qualification and academic degrees, shall - notwithstanding the provisions of Act CLIV of 1997 on Health Care (hereinafter referred to as the - be entitled to perform health care activities without the naturalisation or recognition of his/her professional qualification or professional qualifications in Hungary, even before the recognition or naturalisation procedure has been completed. This person shall, no later than the commencement of the health care activity, be obliged to apply for recognition of the professional qualification or academic degree attested by the certificate or diploma issued in Ukraine in accordance with the provisions of the Act on the Recognition of Foreign Certificates and Diplomas of Act C of 2001 (Recognition Act), but, notwithstanding Article 6(3) of the Recognition Act, the recognition or naturalisation procedure is not subject to the condition of a residence permit issued for the purpose of employment or family reunification.¹⁴²⁴

Government support to employers

In order to facilitate access to the labour market of temporary protection beneficiaries and applicants, the government enacted a series of decrees concerning the support of those entities who employ these groups in 2022.

Between 11 March 2022 and 31 August 2023,, the Government provided support to employers in order to facilitate the employment in Hungary of persons with Ukrainian citizenship or dual Ukrainian-Hungarian citizenship.¹⁴²⁵ The Ministry of Economic Development stated that between 11 March 2022 and 31 August 2023 the number of employees covered by the support to employers was 2436.¹⁴²⁶

Since 1 August 2023, as a result of a legislative change¹⁴²⁷, employers can no longer claim any support for employing people who fled Ukraine but they may claim a housing allowance after those beneficiaries of temporary protection who they employ. Rules may be summarised as follows¹⁴²⁸:

Allowance is paid if the temporary protection beneficiary or dual national works in Hungary for a fixed or indefinite period, for at least 20 hours a week. The allowance must be claimed by the employer. If the employee has a child under the age of 16, the allowance is conditional on the child attending school until the end of primary school, as certified by the school. The accommodation provider and the employer must conclude a contract for the accommodation of the worker. The employer must apply for the allowance and this contract must be attached to the application. Under the contract, the employer must first pay the accommodation fee to the accommodation provider and only then is the employer entitled to claim the housing allowance.

The application for the allowance can be submitted electronically using the form published on the National Employment Service's website¹⁴²⁹ or to the government office responsible for the place where the employee is employed. The allowance is paid to the employer on a monthly basis and is normally equal to the monthly accommodation allowance under the accommodation contract.

The allowance shall cease if

- ❖ the employment relationship ceases or is terminated,
- ❖ the employer fails to fulfil his obligations in respect of the allowance,

¹⁴²⁴ Section 2 of Government Decree 121/2022 (III.28.).

¹⁴²⁵ Based on Section 1 of Government Decree 96/2022 (III.10), which is not in effect since 1 August 2023..

¹⁴²⁶ Information received from the Ministry of Economic Development by the HHC on 20 February 2024.

¹⁴²⁷ Introduced by Government Decree 337/2023 (VII.24.) amending the provisions of Government Decree 104/2022 (III.12.).

¹⁴²⁸ Sections 3/A-3/H of Government Decree 104/2022 (III.12.)

¹⁴²⁹ Available at: <https://nfsz.munka.hu/>.

- ❖ the allowance could not have been established in the first place,
- ❖ the accommodation contract is terminated or cancelled,
- ❖ a child under 16 years of age living in the same household as the worker ceases to be a pupil before leaving primary school.

The Ministry of Economic Development in its response to the HHC’s freedom of information request asking for the number of registered employment-seekers with international protection stated that as of 31 December 2023, 12 “*Ukrainian refugees*” were registered as employment-seeker.¹⁴³⁰

Labour market integration opportunities organised by the civic sphere

Organisations in the civic sphere provided numerous labour market integration opportunities for Ukrainian refugees.

According to the Hungarian Maltese Charity Service, their project called ‘Work for you’ has been set up specifically for the labour market integration of third-country nationals and is accessible for applicants and beneficiaries of temporary protection too. In 2022, 14 beneficiaries of temporary protection participated in their programme called MMIA, which is a housing project but also provides labour market assistance services.¹⁴³¹

Menedék Association runs a complex integration programme involving facilitation of access to the labour market, information provision for employers, mediation of intercultural conflicts in the workplace. Menedék Association moreover reported that within their common project with IKEA they supported the labour market integration of Ukrainian refugees throughout 2022.¹⁴³² The Association highlighted concerning 2023 that for-profit companies the challenge was that the labour market expectations and realities were different, in many cases the programmes targeted highly qualified people, but the lack of language skills (Hungarian and English) prevented those who have fled Ukraine from joining these programmes.¹⁴³³

Kalunba reported that it too operated its own labour-market integration programme in 2022 available for Ukrainian refugees.¹⁴³⁴

BMSZKI also stated that in 2022 they facilitated access to employment opportunities either via Budapest Esély Non-Profit Organization or via for-profit stakeholders.

Since September 2023, IOM Hungary has been also offering individual and group counselling, as well as thematic workshops in the area of labour market integration. In November, IOM – along with UNHCR – organized a Job Fair with the aim of connecting temporary protection beneficiaries, as well as third-country nationals with other legal statuses with interested companies and potential employers.¹⁴³⁵

The Hungarian Maltese Charity Service reported that they had run their labour market integration programme in 2023. They had 15 beneficiaries of temporary protection clients within their programme, of which 3 persons managed to get employed with their help. Furthermore, they reported that the programme called ‘Incopora’, run by the one of the non-profit companies established by the Maltese Charity Service, helped beneficiaries to get integrated into the Hungarian labour market by providing

¹⁴³⁰ Information received from the Ministry of Economic Development by the HHC on 20 February 2024.

¹⁴³¹ Information received from the Hungarian Maltese Charity Service by the HHC on 19 January and 2 February 2023.

¹⁴³² Information received from Menedék Association by the HHC on 28 February 2023.

¹⁴³³ Information received from Menedék Association by the HHC on 21 February 2024.

¹⁴³⁴ Information received from Kalunba organisation by the HHC on 6 February 2023.

¹⁴³⁵ Information received from the IOM by the HHC on 21 February 2024.

them with mentoring.¹⁴³⁶ The Hungarian Red Cross also provided assistance and counseling concerning labour market integration.¹⁴³⁷

Barriers to employment

No information (practical or legislative in nature) is known to the HHC indicating that beneficiaries of temporary protection would not enjoy equal treatment as Hungarian nationals with regard to employment. The Act CXXV of 2003 on equal treatment and the promotion of equal opportunities prohibits employment related discrimination based on nationality or the use of mother tongue.

Discrimination based on a genuine and determining occupational condition which is justified by the nature of the work or working conditions, pursuing a legitimate aim and is proportionate, and discrimination based on religion or belief, or on national or ethnic origin, directly arising from an ethos which is fundamental to the nature of the organisation, justified by the content or nature of the particular occupational activities, and which is proportionate and based on a genuine occupational requirement, do not constitute a breach of the requirement of equal treatment.¹⁴³⁸

Naturally, however, the most recurrent reasons for unemployment in the population of concern are the inability to find work due to lack of language skills, especially among those not accommodated at collective sites and having master degrees.¹⁴³⁹ Menedék Association also points out that the expectations of employers and the reality of Ukrainian refugees are not corresponding as most labour market programmes aim at involving highly-qualified individuals with more diverse language skills.¹⁴⁴⁰ Next Step Hungary Association suggested that in 2022 labour market integration of Ukrainian refugees was also hindered by the fact that there were not enough institutions carrying out skill validation, therefore, otherwise experienced people could not substantiate their qualifications.¹⁴⁴¹

The IOM reported in 2023 that beneficiaries with temporary protection faced obstacles when trying to integrate into the Hungarian labour market due to language barriers and a limited understanding of the Hungarian labour market and its associated legal frameworks. Besides, as noted by the IOM, the risk of overqualification of these individuals in the Hungarian labour market was very high. The early employment uptake has been concentrated in low-skilled jobs; therefore skills mismatches are widespread. According to IOM's data of 2023, respondents who have settled or intend to settle in Hungary and are of working age (18-64 years old) imply that 62% of respondents within the active population is employed, with 62% of women and 61% of men. In addition, less than half of the respondents (43%) indicated that their current job in Hungary corresponds to their educational background and professional experience. Among those whose academic and professional background did not align with their current employment, disparities were evident, with a significant proportion having tertiary education (74%), a smaller percentage with upper secondary education (19%), and respondents with post-secondary education accounting for 7%. Among these respondents, women with children experience a lower employment rate (57%) compared to those without children who have an employment rate of 66%. In addition, a notable disparity in employment rates was observed by the IOM among women caring for infants (0-4 years old) compared to those with children aged 5-17 years old. The employment rate is 52% for women with at least one infant, while it stands at 57% among women with children aged 5-17 years old.¹⁴⁴²

¹⁴³⁶ Information received from the Hungarian Maltese Charity Service by the HHC on 26 February 2024.

¹⁴³⁷ Information received from the Hungarian Red Cross by the HHC on 22 February 2024.

¹⁴³⁸ Section 22 (1) of Act CXXV of 2003 on equal treatment and the promotion of equal opportunities.

¹⁴³⁹ UNHCR, *Hungary: Multi-Sectoral Needs Assessment*, November 2022, available at: <https://bit.ly/3HrxW39>, 16.

¹⁴⁴⁰ Information received from Menedék Association by the HHC on 28 February 2023.

¹⁴⁴¹ Information received from Next Step Hungary Association on 6 February 2023.

¹⁴⁴² Information received from the IOM by the HHC on 21 February 2024.

The Evangelical Lutheran Diakonia furthermore pointed out that the situation of people with reduced working capacity is not resolved. In Ukraine, many people were demobilised at some level (out of 3 grades), which the Hungarian system cannot cope with.¹⁴⁴³

There is no official data available on how many temporary protection beneficiaries could access the labour market in Hungary so far. The ministry competent in employment matters stated upon the freedom of information request of the HHC that they did not have this data.¹⁴⁴⁴

Risks of labour exploitation

The presence of online recruitment agencies tackling fresh arrivals and those without a temporary protection status is particularly concerning, as well as the recruitment of workers for badly or unpaid seasonal, informal or other physical jobs. (Please also see the section of risks of human trafficking under Housing).

Menedék Association launched a project¹⁴⁴⁵ called SAFEmployment Hungary specifically to tackle and prevent the potential labour exploitation of the population fleeing Ukraine. Within the programme, Menedék Association initiated a four-language information campaign (in Hungarian, English, Ukrainian, Russian) conveying the most important information about the rights of employees, as well as how to recognise exploitation. Moreover, they provide complex help through their qualified social workers for victims of exploitation. This project of Menedék Association has also been promoted by the asylum authority on their website¹⁴⁴⁶ and physically on leaflets in the asylum client services. Within the project, Menedék Association produced 3 videos in 2023, raising attention to the dangers of labour exploitation.¹⁴⁴⁷ Terre des Hommes organised a discussion on issues related to labour exploitation for people who fled Ukraine in 2022.¹⁴⁴⁸ Next Step Hungary Association reported that they held an awareness raising event on work permit acquisition and anti-exploitation for third-country nationals from Ukraine.¹⁴⁴⁹

2. Access to education

Education in Hungary is a right and obligation for children who fled Ukraine: the law does not only provide education for foreign children (not only applicants and beneficiaries of temporary protection), but obliges them to take part in it. According to the Act on Public Education, children, in the year when they turn 3 years old until 31 August, are to go to kindergarten for at least 4 hours a day.¹⁴⁵⁰ In the year when the child turns 6 years old until 31 August, the child may be enrolled and is to attend school. This can be delayed by a year upon request of the parent. Education is compulsory until the end of the school year when the child turns 16 years old, but for children with special educational needs this may be extended until they turn 23 years old. The obligation to get education can be fulfilled in primary, secondary schools and also in schools for children with special needs.¹⁴⁵¹

The right to education of temporary protection applicant and beneficiary children is also foreseen by the Act on Public Education, which asserts that upon submitting the application, the child becomes entitled to take part in public education in kindergarten, dormitory care, specialised pedagogical services, school education until the end of his studies that begun before their age of eighteen. The law states that this

¹⁴⁴³ Information received from the Evangelical Lutheran Diakonia by the HHC on 24 February 2024.
¹⁴⁴⁴ Information received from the Ministry of Economic Development by the HHC on 27 January 2023.
¹⁴⁴⁵ Safemployment Hungary project on Menedék Association's website: <https://bit.ly/3YiGMax>.
¹⁴⁴⁶ Safemployment Hungary project on the NGDAP's website: <https://bit.ly/3RpHC2J>.
¹⁴⁴⁷ Videos available at <https://bit.ly/3JAcURz>, <https://bit.ly/4btRqSv>, <https://bit.ly/3UfL9mn>.
¹⁴⁴⁸ Information received from Terre des Hommes Hungary on 28 January 2023.
¹⁴⁴⁹ Information received from Next Step Hungary Association by the HHC on 6 February 2023.
¹⁴⁵⁰ Section 8(2) of Act CXC of 2011 on Public Education.
¹⁴⁵¹ Section 45 (2)-(3) and (5) of Act CXC of 2011 on Public Education.

may be done on the same conditions as Hungarian citizens.¹⁴⁵² A Government Decree also provides since March 2022 that if the temporary protection beneficiary cares for a minor, they are entitled to use the services of crèches, nursery cares and the services of the "Biztos Kezdet" children's home under the same conditions as Hungarian citizens.¹⁴⁵³ Lastly, in the set of legal instruments providing for the education of temporary protection beneficiaries, the Asylum Decree holds that the beneficiary is entitled to the reimbursement of the cost of education.¹⁴⁵⁴

Day care in crèches is regulated under Act XXXI of 1997 on child protection and childcare administration. The law provides that day care is mainly for the children of working parents, but other needs (e.g. children at risk due to their social situation or children of a single parent or a parent's illness, etc.) may be considered. However, it is generally subject to a fee depending on the family's income, and free of charge only on grounds of need.¹⁴⁵⁵

The competent central administrative body, the Office of Education, stated in its response to the HHC's information request that they only had data covering all foreign asylum-seeking, refugee or beneficiary of temporary protection students, therefore, no data is available specifically as to child beneficiaries of temporary protection who accessed education in Hungary.¹⁴⁵⁶ Aggregated data concerning enrolled asylum-seeking, refugee and beneficiary of temporary protection children in the educational years of 2021-2022 and 2022-2023 looks as follows¹⁴⁵⁷:

Enrolled asylum-seeking, refugee and beneficiary of temporary protection children		
	2021/2022	2022/2023
Kindergarten	28	619
Elementary school	55	2,009
High school	12	96
Vocational gymnasium	0	22
Vocational training schools	0	0
Vocational school	0	0
Special needs education	0	0

The Office of Education stated in its response sent to the HHC in 2024 that they registered aggravated data concerning refugee and beneficiary of temporary protection children for the educational years of 2022-2023 and 2023-2024 as follows:¹⁴⁵⁸

Enrolled asylum-seeking, refugee and beneficiary of temporary protection children		
	2022/2023	2023/2024
Kindergarten	619	481
Elementary school	2,009	1,898
High school	118	105

One of the main barriers of accessing Hungarian (public) education of any level may be the fact that people who fled from Ukraine do not know the Hungarian language. Legislation supports the

¹⁴⁵² Section 92 (1) a.), (3)-(4) of Act CXC of 2011 on Public Education.

¹⁴⁵³ Section 3 of Government Decree 106/2022 (III.12).

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

¹⁴⁵⁵ Ministry of Human Resources, *Information to support families from Ukraine for family and child welfare service providers*, May 2022, available at: <https://bit.ly/3HXccxG>, 15.

¹⁴⁵⁶ Information received from the Office of Education by the HHC on 27 January 2023.

¹⁴⁵⁷ *Ibid.*

¹⁴⁵⁸ Information received from the Office of Education by the HHC on 7 February 2024.

beneficiaries of temporary protection in overcoming this barrier as the Asylum Decree provides that within twenty-four months from the date of recognition, the participation of the beneficiary of temporary protection in 520 hours of basic or intermediate Hungarian language course at an institution designated by the NDGAP is free of charge, if the person continues his/her studies in accordance with the conditions set by the institution or meets the examination requirements set by the language service provider.¹⁴⁵⁹ The law furthermore provides that once per grade and per type, a basic or intermediate Hungarian language examination of type "A", "B" or "C", organised by the institution designated by the asylum authority and recognised by the state, and a Hungarian language course for a beneficiary studying in full-time school education - until reaching the age of 18 - in the institution designated by the asylum authority is free of charge.¹⁴⁶⁰ The HHC requested data from the NDGAP regarding the implementation of the said provisions. The NDGAP stated in its answer that no institution was designated for Hungarian language courses, that no request was submitted to them by anyone concerning a Hungarian language exam and that no institution was designated specifically for the minor beneficiaries of temporary protection, should they wish to attend Hungarian language courses.¹⁴⁶¹

Actors of the civic sphere recognized the need to teach Hungarian as a foreign language to Ukrainian students. As Menedék Association reports, the language barrier is the main reason for which Ukrainian children cannot perform in accordance with their skills and abilities.¹⁴⁶² Teaching Hungarian as a foreign language is one of the main activities of the Jesuit Refugee Service which is aimed at supporting inclusion in Hungarian schools. In 2023, the organisation reported to have worked with 23 secondary school-age students per week in 7 different schools in Budapest and provided Hungarian language sessions for Ukrainian children visiting the Fényi Gyula Jesuit High School in Miskolc. Further, it offered weekly Hungarian as a foreign language classes and informal support talks for unaccompanied minor children in the Károlyi István Children Home in Fót. The Jesuit Refugee Service also put together a beginner Hungarian language book for foreign children. The book can be requested free of charge by Hungarian schools.¹⁴⁶³ The Next Step Association offered playful Hungarian summer lessons for Ukrainian children at the 'Ukraine Space' pop-up school. 27 children attended this course, which helped them to acquire basic language skills and be able to smoothly transit to the Hungarian school system.¹⁴⁶⁴ Caritas Hungarica and the Hungarian Red Cross also reported that they held Hungarian language courses for people from Ukraine.¹⁴⁶⁵

Practical challenges to accessing public education

Organisations assisting people fleeing Ukraine identified many practical challenges faced by children when trying to access public education in 2023.

First, kindergartens and schools often refused to receive children from Ukraine, despite their parents having submitted an application on time at the competent institution. The competent institution is where the child belongs based on their address. The HHC recorded a case in March 2023 in **Bag**, where children were unable to attend kindergarten while in August 2023 in Tatabánya, the school was unavailable for the children, as the institutions stated they did not have capacity to take them.

Once the children managed to get enrolled, a systemic problem in reception into schools has been the lack of assistance in integrating non-Hungarian speaking children. The most significant issue in that regard is that children who started attending Hungarian schools/kindergarten are generally not being provided with Hungarian language lessons, whereas the language of education is Hungarian.

¹⁴⁵⁹ Section 51 (1) of the Asylum Decree

¹⁴⁶⁰ Section 51 (2) of the Asylum Decree

¹⁴⁶¹ Information received from the NDGAP by the HHC on 2 April 2024.

¹⁴⁶² Information received from the Menedék Association by the HHC on 21 February 2024.

¹⁴⁶³ Information received from the Jesuit Refugee Service by the HHC on 12 April 2024.

¹⁴⁶⁴ Information received from Next Step Hungary Association by the HHC on 27 April 2024.

¹⁴⁶⁵ Information received from Caritas Hungarica and the Hungarian Red Cross by the HHC on 22 February 2024.

Therefore, it has become very much *ad hoc* how much children can integrate due to the obvious language barriers. UNHCR’s multi-sectoral needs assessment also highlights that for the language barriers Ukrainian children often have to attend grades below their previous grade in Ukraine, affecting their motivation and learning path.¹⁴⁶⁶ Parents are also often reluctant to enrol their children into Hungarian schools for fear of their children feeling excluded by their Hungarian peers for not speaking Hungarian, and, as noted by the IOM and Evangelical Lutheran Diakonia, for the lacking information on enrolment rules¹⁴⁶⁷, thus, parents rather choose the Ukrainian online education for them. Such cases were recorded by the HHC in multiple locations (Pest county and Mérék, in February 2023, in Demjén-Albertmajor in May 2023, in Tuzsér in June 2023). The Jesuit Refugee Service also noted in that regard that some Ukrainian parents simply prioritize Ukrainian online education over the Hungarian one, in the hope of their return to Ukraine soon.¹⁴⁶⁸ The IOM reported that according to data collected through IOM Hungary’s Displacement Tracking Matrix (DTM)¹⁴⁶⁹ programme, among respondents who have registered for EU Temporary Protection or applied for protection/refugee status with national authorities, 32% have children pursuing online schooling from Ukraine, while 28% enrolled their children in a local school while they are also following classes online from Ukraine. 32% of respondents reported having children who only follow classes in a local school in Hungary.¹⁴⁷⁰ By attending Ukrainian public education, children do not fulfil their obligation to take part in the Hungarian public education as explained in the previous section. This obligation, however, is articulated by a *lex imperfecta*, accordingly, non-compliance with the law does not attract any sanction. Menedék Association, the Jesuit Refugee Service and the IOM all emphasise that one of the greatest challenges in the education system is affecting those children who are to leave elementary school and go to high-schools as high-schools normally require an entry exam, which is to be taken in Hungarian.¹⁴⁷¹ These occurrences highlight that not only the children, but also the schools have been in need of assistance and centralised support in tackling these language barriers.

The need for organised summer break activities for children from Ukraine was also identified by the HHC during its monitoring mission to Gyöngyös in July. A lot of children spend their days without meaningful activities in the school breaks and without the care of adults, as those parents who are employed are mostly away at work and neither state nor (or just a few and not country-wide and in a systemic manner) civic organisations organise such activities or care for these children. Recognizing this gap, the Jesuit Refugee Service ran two camps during the summer of 2023 for secondary school students in Budapest, a drama camp and an English camp, the latter in two groups by language level.¹⁴⁷²

The Hungarian Interchurch Aid reported that they organized state-funded child-supervision services for under 6 in their Budapest community space.¹⁴⁷³

Paediatricians and nurses need general guidance regarding the vaccination of Ukrainian children as many do not have their vaccination record with them, but for kindergarten and school enrolment it is mandatory. The HHC recorded cases where children were not received by kindergarten/schools for lacking the compulsory vaccination (cases recorded in Pest County, February and March 2023, Heves

¹⁴⁶⁶ UNHCR, Hungary: Multi-Sectoral Needs Assessment, Final Report, December 2023, available [here](#), 22.
¹⁴⁶⁷ Information received from the IOM by the HHC on 21 February 2024 and information received from the Evangelical Lutheran Diakonia by the HHC on 24 February 2024.
¹⁴⁶⁸ Information received from the Jesuit Refugee Service by the HHC on 12 April 2024.
¹⁴⁶⁹ According to the IOM’s website, the Displacement Tracking Matrix (DTM) gathers and analyses data to disseminate critical multi layered information on the mobility, vulnerabilities, and needs of displaced and mobile populations that enables decision makers and responders to provide these populations with better context specific assistance. More on this available at: <https://dtm.iom.int/>.
¹⁴⁷⁰ Information received from the IOM by the HHC on 21 February 2024.
¹⁴⁷¹ Information received from the Menedék Association and Jesuit Refugee Service by the HHC on 28 February and 3 March 2023. Information received from IOM and Menedék Association on 21 February 2024 and from Jesuit Refugee Service on 12 April 2024 by the HHC.
¹⁴⁷² Information received from the Jesuit Refugee Service by the HHC on 12 April 2024.
¹⁴⁷³ Information received from the Hungarian Interchurch Aid by the HH C on 2 April 2024.

country in February 2023 and in Dunaújváros in April 2023). The IOM also reported the lack of vaccination as an issue preventing children's enrolment to education.¹⁴⁷⁴

Lastly, the education of bilingual/dual (Hungarian-Ukrainian) citizen children, who have no solid age-appropriate educational background has also been of great concern. While the language barrier is not an issue, the fact that these children - most typically Roma children from **Zakarpatia** - need catch-up and tutoring classes, which are not provided in most of the schools for evident capacity issues, has made their parents reluctant to apply to schools. This phenomenon was recorded by the HCC in **Uszka** (border area village) in March 2023, where parents also claimed they did not enrol their children to the local school for fearing discriminatory treatment. BMSZKI noted that in 2022 dual citizen Roma children sometimes faced prejudice in Hungarian schools for being Ukrainian and Roma. As some of these children had not even met any non-Roma person before coming to Hungary, it was a quite distressing situation for them.¹⁴⁷⁵ IOM similarly noted that in 2022 discriminatory patterns emerged concerning dual citizen Roma children, including discrepancies in vaccination records and practices between Ukraine and Hungary, claims on lack of capacity at school districts and requests for unnecessary certificates for enrolment, compelling parents to return to their house in Ukraine to retrieve them.¹⁴⁷⁶ The Jesuit Refugee Service reported that enrolling children to age-appropriate education in Hungary was problematic on some occasions, both in 2022 and 2023. The Service therefore provided assistance to parents and their children during school enrolment processes.¹⁴⁷⁷ BMSZKI helping around 50 children to access public education in 2022 also underlined this finding.¹⁴⁷⁸ In the absence of Ukrainian elementary school certificates, Hungarian high-schools sometimes refused to receive the children, who, for that reason, were compelled to be enrolled to the 8th grade of elementary schools instead of starting the 9th grade in high-schools. They also underlined that even if - typically - dual citizen children spoke Hungarian, their reading and writing skills were behind their speaking skills, therefore, they had to get enrolled in lower classes.¹⁴⁷⁹ In the experience of the Evangelical Lutheran Diakonia, Ukrainian children too are typically enrolled in lower grades in Hungarian public schools, primarily for the language barriers.¹⁴⁸⁰

Menedék Association points out that while child beneficiaries of temporary protection are entitled to free meals in schools and kindergarten upon request, they sometimes could not access this right for the competent administrative bodies providing contradictory information on where and how to manage the request. The Association added that the issuance of student cards has also been an issue in some instances as the officers of responsible government offices were not properly informed on the rights of beneficiaries of temporary protection and were thereby requesting documents (e.g. social security card) that the beneficiary could not and did not have to hold.

Menedék Association put together a guide on the most essential information on the Hungarian education system for parents, available in Ukrainian, English and Hungarian.¹⁴⁸¹ In 2023, they also produced a short film for parents on school enrolment, available with subtitles in Russian, Ukrainian, English.¹⁴⁸² Staff member of the Association furthermore authored a study on the integration of foreign children into Hungarian education.¹⁴⁸³

¹⁴⁷⁴ Information received from the IOM by the HHC on 21 February 2024.

¹⁴⁷⁵ Information received from the BMSZKI by the HHC on 13 February 2023.

¹⁴⁷⁶ Information received from the IOM by the HHC on 14 February 2023.

¹⁴⁷⁷ Information received from the Jesuit Refugee Service by the HHC on 3 March 2023 and 12 April 2024.

¹⁴⁷⁸ Information received from BMSZKI by the HHC on 13 February 2023.

¹⁴⁷⁹ Information received from the Jesuit Refugee Service by the HHC on 3 March 2023.

¹⁴⁸⁰ Information received from the Evangelical Lutheran Diakonia by the HHC on 24 February 2024.

¹⁴⁸¹ Menedék Association: Going to Kindergarten and School in Hungary: a parent's guide to the Hungarian Education System, available: <https://bit.ly/3ZrTvba>.

¹⁴⁸² Positive stories – foreign children in Hungarian schools, available at: <https://bit.ly/3WaXeM8>.

¹⁴⁸³ Éva Füredi: Külföldi gyerekek iskolai integrációja Magyarországon – szükségletek, lehetőségek és kihívások, Modern Nyelvoktatás, 2023/3-4, available in Hungarian at <https://bit.ly/3xPc7cJ>.

On a positive note, BMSZKI reported concerning the year 2022 that in the 9th district of Budapest, where one of their accommodation sites is, the procedure of the local child protection service, which cooperated with them to find the most appropriate educational institution for the children, was exemplary. Staff members of the child protection service went directly to the accommodation site, they assessed the needs of parents and children, and then personally contacted the schools and kindergartens. Moreover, they even assisted the parents in the first weeks to get to the schools and kindergartens, so parents could learn the way. BMSZKI stated that in the 10th district of Budapest, they also managed to have all children enrolled in public education; all steps of the procedure, however, had to be managed by the social workers as the local child protection service did not anyhow engage in this process.¹⁴⁸⁴

The Evangelical Lutheran Diakonia, the charity service of the Evangelical-Lutheran Church, furthermore highlighted that in 2023 some districts in Budapest refuse to take beneficiaries of temporary protection children for capacity issues. The reason of refusal has sometimes been the fact that these children lacked social security numbers. The charity service also noted that children accommodated in the countryside had sometimes difficulties with getting to schools for the absence of well-connected public transport.¹⁴⁸⁵

Children with special needs

From a legal perspective, minor applicants and **beneficiaries** of temporary protection including those with special needs are entitled (and obliged) to take part in public education, also in specialised pedagogical services, as explained above. The Act on Public education foresees special rules concerning the education and training of children with special educational needs and integration, learning and behavioural difficulties.

A child with special educational needs is defined as a child who, according to an expert opinion of the competent body under the Act on Public Education, has a motor, sensory (visual, auditory), mental or speech disability, multiple disabilities, an autism spectrum disorder or other mental development disorder, including severe learning, attention or behavioural disability.¹⁴⁸⁶ These children shall have the right to receive pedagogical, remedial or conductive educational care appropriate to their condition. The care appropriate to the special educational needs must be provided in accordance with the expert opinion. The parent may choose the educational establishment providing appropriate care for children with special educational needs on the basis of the expert opinion of the competent expert committee, taking into account the needs and capacities of the parent and the child. The education of these children is to be carried out in institutions established for the specific purpose of educating children with special needs. If children have difficulties in integration, learning or behaviour, they are entitled to developmental pedagogical care.¹⁴⁸⁷

At the time of writing, the HHC is not aware of specific information regarding the practical challenges met by children with special needs in accessing education, although they are likely to at the very least face the challenges described above met by other children. IOM, however, noted that children with special education needs face obstacles for obtaining expert's opinion and official diagnoses needed for their enrolment in special needs education.¹⁴⁸⁸ In the experience of the Evangelical Lutheran Diakonia, schools are generally reluctant to receive Ukrainian children with special needs, with reference to capacity issues and language barriers.¹⁴⁸⁹

¹⁴⁸⁴ Information received from the BMSZKI by the HHC on 13 February 2023.

¹⁴⁸⁵ Information received from the Evangelical Lutheran Diakonia by the HHC on 24 February 2024.

¹⁴⁸⁶ Section 4 point 25. of Act CXC of 2011 on Public Education.

¹⁴⁸⁷ Section 47 of Act CXC of 2011 on Public Education.

¹⁴⁸⁸ Information received from the IOM by the HHC on 21 February 2024.

¹⁴⁸⁹ Information received from the Evangelical Lutheran Diakonia by the HHC on 24 February 2024.

Moreover, as explained in [Guarantees for vulnerable persons](#), there are no specific identification mechanisms in place in Hungary to identify vulnerable individuals and there has been no comprehensive screening for people with special protection needs within the temporary protection scheme. This is unfortunately also true with regard to children with special needs.

In the context of the temporary protection scheme, no measures were introduced concerning the education of young people. They are thus in the same situation as beneficiaries of international protection (see [General Report – Access to education](#)).

Higher education

Beneficiaries of temporary protection may be admitted into higher education under the same conditions as Hungarian citizens and they are eligible for state-subsidised education in line with Act CCIV of 2011 on Higher Education.¹⁴⁹⁰ In practice, however, there are gaps in enforcing the rights of the refugee population in higher education (see [General Report – Access to education](#)).

It is worth noting that in the context of the Ukrainian crisis, in 2022 it was not the temporary protection-eligible population, but primarily the third-country nationals with short-term student visas issued by Ukraine who sought assistance regarding access to the Hungarian higher education system in the experience of the HHC.

Although no official data is available as to how many students from Ukraine are enrolled in Hungarian higher education and into which institutions, according to Hungarian media outlets and university communications, numerous Hungarian universities opened their doors not only to temporary protection-eligible students, but to all students fleeing Ukraine in 2022. The University of Pécs, among the first, opened a registration platform for those who had to interrupt their studies in Ukraine due to the ongoing war and offered over 100 study programmes in English and Hungarian covering all major academic fields. Guest students from Ukraine were also [exempted](#) from paying the tuition fees and dormitory fees for the spring semester. [Semmelweis University](#) also announced earlier in March 2022 that it was accepting foreign medical students. The [Eötvös Loránd University](#), the [Moholy-Nagy University of Art and Design](#), the University of Pannonia, the [Corvinus University of Budapest](#) and the [Hungarian University of Agriculture and Life Science](#) also opened their courses to refugees from Ukraine in 2022.

Students and teachers who would like to stay in Hungary can also apply to the Tempus Public Foundation. The [Students at Risk Programme](#) was launched in 2022 by Tempus Public Foundation in the frame of the Stipendium Hungaricum Scholarship Programme supervised by the Ministry of Foreign Affairs and Trade, with the aim to provide higher education scholarships supporting the students in continuing their studies that they started in Ukraine and earning a bachelor's, master's or doctoral degree in Hungary.¹⁴⁹¹ Menedék Association noted that this is a highly useful programme for those who fled Ukraine, however, according to their knowledge, only a very few people was granted participation.¹⁴⁹² The programme was ongoing in 2023 too. Applicants with Ukrainian citizenship can choose any study field and study programme offered in the Stipendium Hungaricum Scholarship Programme. Applicants with third-country citizenship can select study programmes offered in the Stipendium Hungaricum Programme in the field of Economic Science, Engineering Science, Computer Science and Information Technology, Natural Science, Agricultural Science and Medical and Health Science and they are eligible to apply for the Conductive Education study programme as well. Similarly, the applicants can apply to study at those Hungarian higher education institutions that are involved in the Stipendium Hungaricum Programme. Moreover, Széchenyi Funds and Óbuda University supported

¹⁴⁹⁰ Article 39 (1)b.) of Act CCIV of 2011 on Higher Education.

¹⁴⁹¹ Tempus Public Foundation, 'Students at risk programme for students fleeing the war in Ukraine', 1 April 2022, available at: <http://bit.ly/3JFpfVO>.

¹⁴⁹² Information received from the Menedék Association by the HHC on 21 February 2024.

students from Ukraine with scholarships in 2022.¹⁴⁹³ The listing of universities and scholarship is not exhaustive herein, this exemplificative description solely aims at pointing out the unparalleled solidarity of the actors of higher education towards the student population fleeing Ukraine.

The Jesuit Refugee Service reported that in their experience it was the adequate command of the English language which was the most typical problem for the Ukrainian youth trying to access higher education or vocational programmes. The organization therefore ran several tutoring sessions conducted by volunteers in order to help Ukrainian people to pass the exams in English.¹⁴⁹⁴

The Evangelical Lutheran Diakonia noted that there was not enough organisation assisting young Ukrainians to access higher education, whose access to higher education was generally poor in 2023.¹⁴⁹⁵

F. Social welfare

The law does not provide access to social welfare for beneficiaries of temporary protection. The Act III of 1993 on Social Administration and Social Benefits and the Act XXXI of 1997 on child protection and child care administration regulating child welfare services do not apply to temporary protection beneficiaries and applicants, thus, they are not entitled to the social services. The care of the temporary protection-eligible population is carried out entirely within the system of asylum administration.

Maternity allowance is the only available benefit outside the scope of asylum administration, which may be accessed by any woman legally resident in Hungary at the time of applying for maternity allowance and who attended antenatal care in Hungary at least four times during their pregnancy, or at least once in the case of premature birth, in line with the provisions of Act LXXXIV of 1998 on aiding families.¹⁴⁹⁶ This support may be requested after the child is born. If the child is a foreign national, then the request is to be submitted at the competent Government Office.¹⁴⁹⁷

As temporary protection beneficiaries are generally not entitled to access the benefits of the social welfare system, only maternity allowance may could be requested in 2022, HHC and assistance partners do not have particular experience in this regard in terms of obstacles faced, contrary to those met when receiving the [subsistence allowance](#).

A positive 2023 development is to be noted. Namely, since 1 January 2024, the scope of available social benefits has been broadened and child care and infant care allowance is available for those Ukrainian parents, who work in Hungary and whose child was born after 31 December 2023, even if their official residence is registered in Ukraine. This has been a result of a legislative amendment of a government decree, which previously required beneficiaries of these allowances to have an official Hungarian residence, which, naturally, most people who fled Ukraine did not have. The legislative change, however, states that a place of accommodation in Hungary shall be regarded as official residence, thereby making Ukrainian workers eligible to the benefits.¹⁴⁹⁸ This development may be attributed to the advocacy efforts of Menedék Association.¹⁴⁹⁹

The Evangelical Lutheran Diakonia furthermore highlighted that the situation of pensioners is not resolved. In their experience, in order to apply for a Hungarian pension, the waiver of the Ukrainian pension had to be proved first and no employment was allowed while the case was pending. Decision

¹⁴⁹³ The university's official communication is available at: <https://bit.ly/3RBJKEL>.

¹⁴⁹⁴ Information received from the Jesuit Refugee Service by the HHC on 12 April 2024.

¹⁴⁹⁵ Information received from the Evangelical Lutheran Diakonia by the HHC on 24 February 2024.

¹⁴⁹⁶ Section 29 (4) of Act LXXXIV of 1998 on aiding families.

¹⁴⁹⁷ Section 35 of Act LXXXIV of 1998 on aiding families.

¹⁴⁹⁸ Gov. Decree 623/2023 (XII.23) amending Gov. Decree 246/2022 (VII.8)

¹⁴⁹⁹ Information received from the Menedék Association by the HHC on 21 February 2024.

in such a case could take up to 15 months in the charity's experience, and problematically, during this period, the person concerned - usually elderly or sick - has no income or social security.¹⁵⁰⁰

No data available as to the number of beneficiaries of temporary protection who accessed different forms of social welfare as of 31 December 2023.

G. Health care

Access to health care is provided both to temporary protection beneficiaries and applicants. The scope of services to which they are entitled is specifically defined in the Asylum¹⁵⁰¹ and TP¹⁵⁰² Decrees. These services are:

- A. examinations and treatment under the scope of general medical care (in practice these means the treatment generally provided by the district GP),¹⁵⁰³
- B. examination and treatment in emergency outpatient care, and medicines and dressings used in the course of such care;
- C. in-patient care in case of urgent need, and medical treatment prescribed by a doctor, including surgical operations and the medical materials and prostheses used, medical care, medicines, dressings and meals;
- D. following specialised out-patient care or in-patient hospital treatment, until recovery from the illness or until stabilisation of the condition:
 - a. the necessary examination and treatment,
 - b. medicinal products other than those referred to in point (h) which cannot be substituted for another medicinal product and medical devices necessary for the administration of the medicinal product;
- E. medical appliances other than those referred to in point (D)(D(b)) ordered by a doctor, and their repair;
- F. emergency dental care and treatment for the preservation of teeth, provided that the treatment is of the lowest reimbursement category;
- G. prenatal care and obstetric care or, under the conditions laid down in the Act on the Protection of Foetal Life, for an operation to terminate a pregnancy;
- H. medicines and dressings prescribed free of charge for "persons entitled to public health care" under a special law or with a 90% or 100% social security subsidy under a "health care provision";
- I. in the case of benefits under points (B) and (C), (D)(D(a)) and (G), transport of a patient if, because of their state of health, transport cannot be provided otherwise;
- J. compulsory vaccination linked to age,
- K. examination and treatment in oncological care and other chronic care, and medicinal products used by persons entitled to social security benefits for the purpose of improving, maintaining or relieving pain in the context of specialised oncological care and other chronic care and general health care with price support.

Barriers to accessing health care

Temporary protection applicants and beneficiaries' access to health care services is frequently hindered by administrative challenges faced by health care providers in practice. In the experience of the HHC, Menedék Association¹⁵⁰⁴ and the Evangelic Lutheran Diakonia¹⁵⁰⁵ health care providers frequently do

¹⁵⁰⁰ Information received from the Evangelical Lutheran Diakonia by the HHC on 24 February 2024.

¹⁵⁰¹ Sections 26-28 and 44(2) of Asylum Decree.

¹⁵⁰² Section 6(2) of TP Decree.

¹⁵⁰³ As provided in Act CXXIII of 2015 on general medical care.

¹⁵⁰⁴ Information received from Menedék Association by the HHC on 28 February 2023 and on 21 February 2024.

¹⁵⁰⁵ Information received from the Evangelical Lutheran Diakonia by the HHC on 24 February 2024.

not know how to register patients without a social security number, which is provided to those with a registered address and address card, having social security status. Without registration, the cost of healthcare services is not covered. Temporary protection applicants and beneficiaries (and dual - Ukrainian-Hungarian citizens) however, do not have an address card or social security card, as they are normally accommodated in a temporary manner, and as long as they lack employment, they cannot obtain social security status either. Therefore, if they turn to a health care provider, they are frequently sent away, for the health care providers fears that the expenses will not be reimbursed by the state. This was a significant and duly documented issue both in 2022 and 2023. The HHC recorded such cases in Pest, Heves Komárom-Esztergom and Szabolcs-Szatmár counties. It was documented multiple times by the HHC that people from Ukraine complained that they were refused to be provided with health-care services at the local hospital in Érd on the account of their Ukrainian nationality or Roma ethnicity. The Evangelical Lutheran Diakonia also reported discriminatory treatment concerning temporary protection beneficiaries in the public health sector. The charity noted that specifically in the hospital of Hatvan, Ukrainian families were refused to be treated or were charged for gynaecological services. Diakonia reported that in Érd, the local GP was also charging a fee of 10.000 HUF for his services and temporary protection beneficiaries were also charged for vaccines. The charity registered a case where the public dentist also wanted to charge temporary protection beneficiaries. Furthermore, according to the charity service, people from Ukraine are not offered influenza and COVID vaccines.¹⁵⁰⁶

As indicated under the previous point, applicants and beneficiaries of temporary protection in need are to be provided with a broad set of health care services. In order to manage their registration by health care providers, Government Decree 171/2022 (IV.29) introduced some executive regulations, instructing health care providers on how to register temporary protection applicants, beneficiaries and Hungarian-Ukrainian citizens who fled the war. The Decree provides that health care providers are to use a special, technical identification number instead of the social security number. It furthermore provides that the number of the TP card and humanitarian residence card, and the number of personal ID documents are to be registered.¹⁵⁰⁷ The cost of health care service is then to be reimbursed by the asylum authority.¹⁵⁰⁸ These legal provisions are, as pointed out above too, unknown by some of the health-care providers. Therefore, the intervention and assistance of lawyers and social workers of NGOs assisting the refugee population, who could explain the procedure to be followed to the health care providers have been frequently needed. In Terre Des Hommes 2022 experience, this issue did not come up at paediatrics and dental care, but was present in the practice of a district GP. Caritas Hungarica pointed out that in 2022 the lack of information on how to register patients who fled Ukraine not only came up with regard to health care providers, but also regarding patients, who sometimes did not know how they could navigate within the health care system, especially with language barriers involved. BMSZKI reported concerning 2022 that many of those who were accommodated at their reception centres could access public healthcare services exclusively with the help of their social workers, as staff members of health-care providers were not aware of the rights a beneficiary of temporary protection might access. Social workers therefore had to show the printed legal provisions to the staff of healthcare providers. BMSZKI noted that this was necessary only in the early phase of the crisis and later on the need for this procedure became less and less frequent.¹⁵⁰⁹ According to the Jesuit Refugee Service, the legal basis on which beneficiaries are entitled to health care services were better known by 2023, but still unknown by some health care providers.¹⁵¹⁰

In the experience of IOM, the main challenges concerning healthcare in 2022 were related to lack of language interpretation in healthcare facilities, lack of understanding of the rights linked to temporary protection from the side of the beneficiaries and the health personnel or administrative personnel at hospitals and discriminatory practices towards refugees from Ukraine, including Roma communities

¹⁵⁰⁶ Information received from the Evangelical Lutheran Diakonia by the HHC on 24 February 2024.

¹⁵⁰⁷ Section 2 of Government Decree 171/2022 (IV.29).

¹⁵⁰⁸ Ministry of Human Resources, *Information to support families from Ukraine for family and child welfare service providers*, May 2022, available at: <https://bit.ly/3HXccxG>, 13.

¹⁵⁰⁹ Information received from BMSZKI by the HHC on 13 February 2023.

¹⁵¹⁰ Information received by from the Jesuit Refugee Service by the HHC on 12 April 2024.

from the Transcarpathia region.¹⁵¹¹ As for 2023, the IOM reported the following obstacles beneficiaries of temporary protection had to face while trying to access public healthcare¹⁵¹²:

- ❖ Lack of knowledge among healthcare professionals about relevant legislation, entitlements provided by the temporary protection (TP) card and validity of documentation which may result in denial of services. DTM data: 36% of respondents with TP or other protection schemes reported the lack of relevant documents as an impediment to accessing healthcare services. In addition, 50 per cent of them mentioned the high cost of services;
- ❖ Misinterpretation of procedures and lack of usage of the ‘Technical Identifier’ allowing TPs to easier access of services, constraining the comprehensive patient data management through EESZT;
- ❖ Lack of awareness among pharmacies related to social insurance benefits of TPs and applicable benefit rates;
- ❖ Language barriers constraining verbal interaction and acceptance of medical documentation from Ukraine. According to DTM findings, 96% of respondents with TP or other national protection schemes identified language barrier as an obstacle when accessing healthcare services;
- ❖ Refusal to accept remote interpretation modalities;
- ❖ General capacity issues across the sector. According to DTM data, 36% of respondents with TP or other national protection schemes cited long queues, while 18% mentioned the unavailability of services as a barrier;
- ❖ Additional obstacles for refugees with disabilities, chronic conditions and with limited mobility have been reported, especially with the acceptance of Ukrainian medical documentation and the recognition of their respective conditions. This can result in delayed treatments and ineligibility to other services;
- ❖ Refugees often are not aware of available mobility support services. DTM data: 7% of respondents referred to the lack of adequate transport options to available healthcare facilities.

The Jesuit Refugee Service also reported that the need of accurate interpretation for the language barriers was a significant issue in 2023 in the health care provision concerning those who fled Ukraine.¹⁵¹³

Menedék Association put together a policy-specific recommendation based on their experience concerning the health-care provision of people fleeing Ukraine.¹⁵¹⁴

Caritas Hungarica reported that they – uniquely - provided health screenings throughout 2023 on a monthly basis through their Medical Mission Programme team and physician volunteers, with the aim of providing access to appropriate services. In addition to providing screenings, the assisted families in accessing appropriate additional examinations. Their Integration Centre staff (Ukrainian-Hungarian speaking) also personally accompanied families to overcome language barriers in accessing health care services. Their medical missionary services provided the following screening tests: ophthalmology (with the provision of glasses if necessary), blood sugar, blood pressure, ECG, gynaecological cancer screening, orthopaedics and dentistry.¹⁵¹⁵

Further, a very typical 2023 concern which came up in numerous locations accommodating beneficiaries of temporary protection was that the expiry date on the TP card caused confusion as many health-care providers were not aware of the automatic extension of TP cards (without new documents being issued) and the obligation to regard the cards valid, regardless of the date stated on the

¹⁵¹¹ Information received from the IOM by the HHC on 14 February 2023.

¹⁵¹² Information received from the IOM by the HHC on 21 February 2024.

¹⁵¹³ Information received from the Jesuit Refugee Service by the HHC on 12 April 2024.

¹⁵¹⁴ Menedék Association: Recommendations in the area of health care provision of people fleeing Ukraine, available in Hungarian at: <https://bit.ly/3M0oJ5X>.

¹⁵¹⁵ Information received from Caritas Hungarica by the HHC on 22 February 2024.

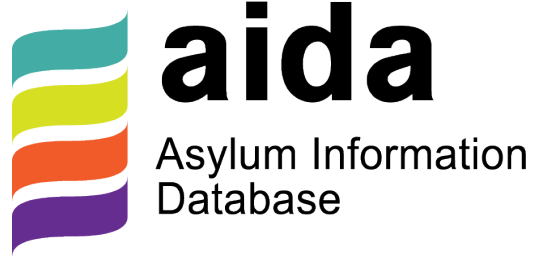
document.¹⁵¹⁶ Beneficiaries had therefore difficulties with accessing medical care on account of the expired validity date on the temporary protection card.

Finally, as noted by both the Jesuit Refugee Service and Evangelic Lutheran Diakonia, Ukrainian people are generally distrustful regarding Hungarian health-care provision, as they used to have different routines in Ukraine, thus, they chose to wait for medicines arrive from the Ukraine on some occasions than follow the instructions of Hungarian health-care workers.¹⁵¹⁷

Regarding access to mental health support, see [Guarantees for vulnerable groups](#).

¹⁵¹⁶ Recorded in Szentes and Beregsurány in March 2023, in Szigetszentmiklós in May 2023, in Sulyánbukor in June 2023, in Nyíregyháza in July 2023.

¹⁵¹⁷ Information received from the Jesuit Refugee Service and Evangelical Lutheran Diakonia by the HHC on 12 April and 24 February 2024.



Ireland

2023 Update



Temporary Protection Procedure

A. General

Temporary protection refers to an exceptional measure to provide immediate and temporary protection to displaced persons from non-EU countries and those unable to return to their country of origin.¹⁵¹⁸ Temporary Protection is established in EU law pursuant to the Temporary Protection Directive,¹⁵¹⁹ which was introduced in 2001. While Ireland did not initially implement the Directive, the State subsequently opted in on 11 April 2003. The Directive was deemed to apply in Ireland from 31 December 2003.¹⁵²⁰

Main legislative acts relevant to temporary protection

Title	Web Link
International Protection Act 2015 Section 60	http://bit.ly/2inFha1 (EN)
Social Welfare and Civil law (Miscellaneous Provisions) Act 2024 Section 1, 11	https://tinyurl.com/mpknmwtn (EN)
Social Welfare and Civil Law (Miscellaneous Provisions) Act 2024 (Chapter 2 of Part 4) (Commencement) Order 2024 (S.I. No. 95 of 2024)	https://tinyurl.com/2j7ktpjt (EN)

The Directive is transposed into Irish law pursuant to s.60 of the International Protection Act from 2015. Section 60(2) of the 2015 Act provides for permission for displaced persons to enter and remain in the State pursuant to a Council Decision under the TPD, whereby the individual's personal data is entered onto a register maintained by the Minister for Justice.¹⁵²¹ Section 60(7) states that permission shall be for a period of one year and may be renewed.

As per s.60(1) of the 2015 Act, beneficiaries of temporary protection are entitled to engage in employment or self-employment and access education on the same basis as an Irish citizen. Beneficiaries of temporary protection are also entitled to receive the same medical care and social welfare benefits and right of travel within the State as Irish citizens.

Subject to s.60(8) temporary protection may be revoked whereby the Council has ended temporary protection, where the person has been transferred to another Member State, or where the person has been excluded from temporary protection for one the reasons established in s.60(3) of the 2015 Act.¹⁵²²

Temporary protection was first activated in Ireland following the European Council's decision in March 2022 in response to the war in Ukraine; on 16 February 2023 was subsequently extended for an additional year, until March 2024,¹⁵²³ and lastly on 28 September 2023 Member States agreed to extend TPD until March 2025, i.e. the full three years foreseen by the Directive.¹⁵²⁴

¹⁵¹⁸ Section 60(1), International Protection Act 2015, available at: <https://bit.ly/42wSMY9>.

¹⁵¹⁹ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof [2001] OJ L 212/12, available at: <http://bit.ly/409uJhu>.

¹⁵²⁰ Bar of Ireland, 'A Primer on The Temporary Protection Directive – Alternative protection for those fleeing Ukraine', 9 March 2022, available at: <https://bit.ly/45a4yK0>.

¹⁵²¹ Section 60(8), International Protection Act 2015, available at: <https://bit.ly/42wSMY9>.

¹⁵²² *ibid.*, s.60(3).

¹⁵²³ Department of Justice, 'Extension of Temporary Protection Permissions', 17 February 2023, available at: <https://bit.ly/41Hvpli>.

¹⁵²⁴ UNHCR Ireland, 'Temporary Protection', available at: <https://tinyurl.com/3wh52b34>.

As of 4 February 2024, **104, 870** individuals had registered for temporary protection in Ireland.¹⁵²⁵

The following table indicates a breakdown of the total number of applicants for temporary protection by gender and age based on Personal Public Services Number allocation:¹⁵²⁶

Age Group	Both Sexes	Male	Female
0 - 4 years	4, 731	2, 269	2, 462
5 - 9 years	8, 834	4, 505	4, 329
10-14 years	9, 689	5, 009	4, 680
15-19 years	9, 197	5, 105	4, 092
20-24 years	6, 359	2, 153	4, 206
25-29 years	7, 304	2, 653	4, 651
30-34 years	8, 858	3, 260	5, 598
35-39 years	10, 840	3, 770	7, 070
40-44 years	9, 600	3, 201	6, 399
45 – 49 years	7, 182	2, 271	4, 911
50 – 54 years	5, 377	1, 568	3, 809
55 – 59 years	4, 136	983	3, 153
60 – 64 years	4, 844	1, 649	3, 195
65 and over	7, 919	2, 437	5, 482
All ages	104, 870	41, 026	63, 844

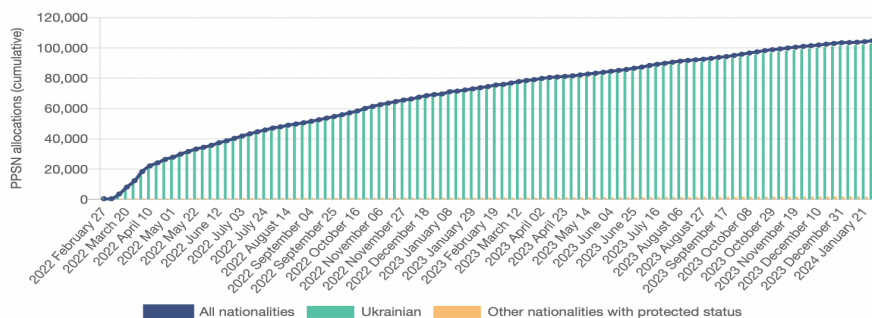
Additionally, the following graph, produced by the Central Statistics Office, demonstrates the cumulative number of arrivals in the State per month since the onset of the war in February 2022:¹⁵²⁷

¹⁵²⁵ Central Statistics Office, 'Arrivals from Ukraine in Ireland Series 12, 4 February 2024, available at: <https://tinyurl.com/2r53f25n>.

¹⁵²⁶ *ibid.*

¹⁵²⁷ Central Statistics Office, 'Arrivals from Ukraine in Ireland Series 12, 4 February 2024, available at: <https://tinyurl.com/2r53f25n>.

PPSN Allocations to arrivals from Ukraine per month since February 2022:



Source: Central Statistics Office, February 2024.

While the exact number of persons present in the State who were displaced but do not fall within the remit of the TPD is unknown, the Irish Refugee Council does, from time to time, meet with individuals who have fled the conflict but are nevertheless ineligible for temporary protection. In the vast majority of cases, such individuals are left with little choice but to seek international protection.¹⁵²⁸

B. Qualification for temporary protection

Applicants can avail of temporary protection to reside in Ireland whereby they are:

- ❖ A Ukrainian national living in Ukraine before 24 February 2022;
- ❖ A third country national (a non-EU country other than Ukraine) or stateless person with refugee status or an equivalent national protection status in Ukraine living there before 24 February 2022;
- ❖ A ‘family member’ of one of the categories of persons above, who was resident in Ukraine prior to 24 February 2022. A ‘family member’ in this instance is defined as a spouse or unmarried partner in a stable relationship, minor unmarried children, or the minor children of the beneficiary’s spouse, without distinction as to whether they were born in or out of wedlock or adopted; as well as any other close relatives who lived together as part of the family unit at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent on the beneficiary;
- ❖ Stateless persons, and nationals of third countries other than Ukraine, who can prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit issued in accordance with Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin. Member States may also apply this Decision to other persons, including to stateless persons and to nationals of third countries other than Ukraine, who were residing legally in Ukraine and who are unable to return in safe and durable conditions to their country or region of origin.¹⁵²⁹

With regard to the latter two categories, the Irish Refugee Council’s Ukraine Support Team report that whether such individuals are granted temporary protection in practice is somewhat inconsistent and dependant on the factors of individual cases. For example, whereby a family is comprised of both individuals who are citizens of Ukraine and other third country nationals, then temporary protection may

¹⁵²⁸ Information provided by Irish Refugee Council Information and Advocacy Service, April 2024.

¹⁵²⁹ Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection, 4 March 2022, available at: <https://bit.ly/42QDBJM>.

be refused to a third country national in circumstances whereby it is considered for the individual to return to the country concerned. However, exceptions may be made whereby the family member concerned is particularly vulnerable.¹⁵³⁰

Ukrainian nationals who were at the time of the initial Council decision, present in Ireland on a short stay 'C' visa can also receive temporary protection. Ukrainian nationals who were present in Ireland on another immigration permit or stamp (e.g. student or employment permits) at the time of the initial Council decision were allowed to decide whether to further extend or renew their existing permit, or to avail themselves of Temporary Protection.¹⁵³¹

In all other circumstances, whereby an individual arrived in Ireland from Ukraine prior to 24 February 2022, they are deemed ineligible for temporary protection. However, they may instead apply for international protection or some alternative form of migration permit.

In April 2023, the Irish Authorities confirmed that, in accordance with the Council decision, Temporary Protection status had been extended until March 2024. Current status holders were not required to obtain updated certificates and originally issued certificates remained valid. A notice of confirmation was printed on the Immigration Service Delivery's website which could be used upon request from foreign immigration authorities or travel carriers.¹⁵³²

Subsequently, in September 2023, the government began contacting Temporary Protection Status holders on a phased basis in order to confirm their address and personal details with a view to begin issuing Irish Residence Permits to beneficiaries of Temporary Protection.¹⁵³³

From January 4, 2024, all current residence permits granted on the basis of temporary protection have been automatically extended until March 4, 2025. All future grants of temporary protection will also be valid until March 4th 2025.¹⁵³⁴

C. Access to temporary protection and registration

1. Admission to territory

On 25 February 2022, in response to the outbreak of war in Ukraine, the Irish Government announced, pursuant to the Immigration Act 2004 (Visas) (Amendment) Order 2022, the immediate lifting of visa requirements for Ukrainian citizens seeking to travel to Ireland.¹⁵³⁵

The visa waiver applies only to Ukrainian nationals. Non-EEA nationals, if they were visa required nationals, would still need a visa to enter Ireland. Those who travel to Ireland under the visa waiver will have a period of 90 days in which to regularise their status in the State.¹⁵³⁶

As of April 2024, the visa waiver continued to apply.

¹⁵³⁰ Information provided by Irish Refugee Council Ukraine Support Team, April 2024.

¹⁵³¹ Immigration Service Delivery, 'Temporary Protection', 10 March 2022, available at: <https://bit.ly/3InVNSE>.

¹⁵³² Immigration Service Delivery, 'Travel Confirmation Notice', 5 January 2024, available at: <https://tinyurl.com/3j89a636>.

¹⁵³³ Immigration Service Delivery, 'Introduction of Irish Resident Permit (IRP) cards for Beneficiaries of Temporary Protection', 20 September 2023, available at: <https://tinyurl.com/37mz89pv>.

¹⁵³⁴ Immigration Service Delivery, 'Extension of Temporary Protection Permissions', 5 January 2024, available at: <https://tinyurl.com/4y9pmu66>.

¹⁵³⁵ Immigration Act 2004 (Visas) (Amendment) Order 2022.

¹⁵³⁶ Immigration Service Delivery, 'FAQ's – For Ukraine Nationals and Residents of Ukraine', 23 December 2022, updated 4 March 2024, available at: <https://bit.ly/3hMbVzK>.

There have been no known reports of persons fleeing from Ukraine refused entry at the Irish border, nor have there been any reports of refusal of entry or other difficulties for beneficiaries of temporary protection re-entering the state after having returned to Ukraine.

2. Freedom of movement

The Irish Government asked all airline carriers to accept government-issued identity documents, not usually accepted for the purposes of international travel, in lieu of a national passport for people seeking protection: including, national ID Cards, birth certificates, internal passports, and expired passports.¹⁵³⁷ However, it should be noted that immigration authorities and transportation carriers must be satisfied with the identification of any individual arriving at a border. In addition, the state requested that no one seeking protection bound for Ireland be denied boarding without first contacting Irish immigration authorities.¹⁵³⁸

3. Registration under temporary protection

At the outset of the conflict, a reception centre opened at the Dublin Airport in order to process applications for temporary protection in respect of persons arriving in Ireland from Ukraine. Individuals were provided with Temporary Protection certificates, Personal Public Service numbers, medical cards and other relevant supports and advice. The Department of Justice and the Department of Children established offices in the centre and the International Organisation of Migration (IOM) supported the operation of the facility. Translation services were also provided where required.¹⁵³⁹

Further Ukraine Support Centres were subsequently established in Dublin city centre, Limerick, and Cork.¹⁵⁴⁰ As of December 2022, operations at the Dublin Airport and Dublin city centre had ceased and instead moved to Citywest Convention Centre in west Dublin. Individuals arriving in Dublin Airport were brought directly to Citywest where they could apply for Temporary Protection and a PPS number. Individuals arriving at Rosslare Port could apply for Temporary Protection at the Port reception centre, while individuals arriving at Cork and Shannon airports could apply at the Cork and Limerick support centres respectively.¹⁵⁴¹ As of April 2024, applications for temporary protection continued to be accepted at Citywest, as well as at regional support centres in Cork and Limerick.¹⁵⁴² While there is no particular timeline established in law in which persons are required to apply for Temporary Protection, the visa waiver applies only for an initial period of 90-days, so it is advisable that individuals register for temporary protection during this time.

The Department of Justice is responsible for the registration of temporary protection applications. Upon arrival at Citywest Convention centre, applicants are met by representatives of the International Organisation for Migration (IOM) and are assisted in completing the relevant forms required for registration. Applicants are then issued with a Personal Public Service number by the Department of Social Protection, permitting them access to social welfare and public services in Ireland.¹⁵⁴³ Finally,

¹⁵³⁷ *ibid.*

¹⁵³⁸ European Union Agency for Asylum, 'Temporary Protection: Ireland', June 2022, available at: <https://bit.ly/3oalZJV>.

¹⁵³⁹ Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

¹⁵⁴⁰ Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary Question Nos 8, 13, 19, 30, 50, 65, 72, 73, 298 and 306, 24 March 2022, available at: <https://bit.ly/3jZ13D8>.

¹⁵⁴¹ Immigration Service Delivery, FAQs – for Ukraine nationals and Residents of Ukraine, 6 January 2023, available at: <https://bit.ly/3jP6F2y>.

¹⁵⁴² Information provided by Irish Refugee Council Ukraine Support Team, April 2024.

¹⁵⁴³ European Union Agency for Asylum, 'Temporary Protection: Ireland', June 2022, available at: <https://bit.ly/3oalZJV>.

Immigration Officers record the details of each applicant, applicants are photographed and copies of their passport and other ID documents are made.

In order to demonstrate eligibility for temporary protection, applicants should provide identity and travel documents, as well as any supporting documents (e.g. marriage certificate, birth certificate, adoption certificate etc.), and any other essential information which proves that the requirements of temporary protection are met. Applicants are typically required to evidence by way of relevant exit stamp in their passport that they were present in Ukraine on or after the outbreak of the war on 24 February 2022. Where an applicant fails to provide such evidence, the Irish Refugee Council are aware of reports of applicants being required to supply other documentary evidence, for example, receipts or bank statements evidencing their presence in Ukraine at the outbreak of the war.¹⁵⁴⁴ According to the Irish Refugee Council's Ukraine Support Team, it is preferable for such evidence to be in electronic format.¹⁵⁴⁵

Where an applicant has been determined to comply with the requirements of the Directive, a certificate confirming temporary protection under the EU Directive is issued to the applicant by the Department of Justice. This certificate confers the holder with permission to reside in Ireland for a period of 1 year, which may be extended for further periods in accordance with the Directive.¹⁵⁴⁶

In the experience of the Irish Refugee Council, at the outset of the conflict, persons who arrived in Ireland from Ukraine in possession of long-stay visas for certain countries, in particular Canada and the United Kingdom, were refused temporary protection, despite being eligible. Additionally, those who had fled Ukraine and subsequently resided in other countries without a valid immigration permission were also refused, despite being otherwise eligible. The exact reasons for this practice are unclear.¹⁵⁴⁷ This practice appeared to have ceased as of April 2024.¹⁵⁴⁸

There is no established appeals mechanism whereby an applicant can challenge a decision to refuse temporary protection. However, according to the Department of Justice, depending on the individual circumstances of the applicant, it may be possible for them to re-present to Immigration Officials at Citywest or one of the dedicated Ukraine Support Centres to submit new evidence demonstrating that they fall within the remit of the Directive.¹⁵⁴⁹ Where such evidence is accepted, the applicant may be granted temporary protection in the State.

In the experience of the Irish Refugee Council's Ukraine Support team, there have been no practical difficulties for applicants in registering for temporary protection. The Citywest Transit Hub is staffed by trained volunteers and interpreters who are supported by IOM staff. The system is streamlined so that registration is conducted, and documentation is received by applicants expeditiously.¹⁵⁵⁰

4. Legal assistance

There is no dedicated legal assistance service for beneficiaries of temporary protection in Ireland. Various NGOs have, since the outset of the conflict, offered free legal advice and information services to persons requiring them. Beneficiaries of temporary protection may also access assistance for a variety of legal matters through the Legal Aid Board, a statutory body responsible for the provision of civil and criminal legal aid and advice, on the same basis as Irish citizens, should they meet the eligibility criteria.¹⁵⁵¹

¹⁵⁴⁴ Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

¹⁵⁴⁵ Information provided by Irish Refugee Council Ukraine Support Team, May 2024.

¹⁵⁴⁶ *ibid.*

¹⁵⁴⁷ Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

¹⁵⁴⁸ Information provided by Irish Refugee Council's Ukraine Support Team, April 2024.

¹⁵⁴⁹ Information provided by Department of Justice, May 2022.

¹⁵⁵⁰ Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

¹⁵⁵¹ Legal Aid Board, 'Financial Eligibility and Contributions', available at: <https://tinyurl.com/3nu9x54x>.

5. Information provision and access to NGOs

On arrival at a port of entry in Ireland, individuals seeking temporary protection are guided to a specific area at immigration control whereby they will be met by an immigration officer, an interpreter and a representative of IOM. If an applicant indicates that they wish to apply for Temporary Protection, they will then be transported to the Citywest Transit hub by bus where they will be assisted in making their application.¹⁵⁵²

The law does not provide for the provision of information to temporary protection beneficiaries. However, all beneficiaries are provided with written information regarding particular services available to them while in Ireland. This information is provided in Ukrainian, Russian, and English.¹⁵⁵³

The Immigration Service Delivery has prepared two documents for persons seeking temporary protection, 'Information on Temporary Protection for People fleeing the conflict in Ukraine'¹⁵⁵⁴ and a 'Frequently Asked Questions' document.¹⁵⁵⁵ Both documents are published in English on the Immigration Service Delivery website.

Non-governmental organisations, citizens information services and community groups have also compiled information which is widely available for beneficiaries of temporary protection. Many immigration advocacy services have also established information and advice services staffed by Ukrainian and Russian speakers in order to provide information and support to beneficiaries of temporary protection.

D. Guarantees for vulnerable groups

There is no specific identification mechanism in place providing for the identification of individuals entitled to temporary protection who require specific procedural guarantees. All individuals are met by an immigration officer upon arrival at the relevant point of entry and will be assisted by an interpreter and an IOM representative.¹⁵⁵⁶

Where an applicant is identified as an unaccompanied minor, they will be met by a representative of TUSLA and taken into the care of the State.¹⁵⁵⁷

The Health Service Executive (HSE) are also present at the Citywest Transfer Hub in order to conduct health screenings in respect of persons arriving from Ukraine. Applicants requiring further medical attention or assessment will be sign posted to relevant services.¹⁵⁵⁸

In relation to mental health support, at the onset of the conflict, the Ukrainian community in Ireland created a list of Ukrainian-speaking psychotherapists from Kyiv Gestalt University who are providing free counselling to those impacted by the conflict.¹⁵⁵⁹ Additionally, the 'Call Tanya Helpline' was established on 17 April 2023, by the migrant-led organisation, Together Razeem, in order to provide

¹⁵⁵² *ibid.*

¹⁵⁵³ *ibid.*

¹⁵⁵⁴ Immigration Service Delivery, "Information on Temporary Protection for People fleeing the conflict in Ukraine", 23 December 2022, available at: <https://bit.ly/458iS5E>.

¹⁵⁵⁵ Immigration Service Delivery, 'FAQ's – For Ukraine Nationals and Residents of Ukraine', 23 December 2022, available at: <https://bit.ly/3hMbVzK>.

¹⁵⁵⁶ Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

¹⁵⁵⁷ *ibid.* For further information regarding the care system, please see: ECRE and Irish Refugee Council, 'Country Report – Republic of Ireland', available [here](#).

¹⁵⁵⁸ *ibid.*

¹⁵⁵⁹ Help Ukraine Ireland, 'Counselling Services for Ukrainians', March 2022, available at: <https://bit.ly/43cFfFu>.

confidential psychosocial support to Ukrainians in Ireland who are experiencing distress due to displacement and the ongoing conflict in Ukraine. Trained call ambassadors are available on Mondays, Tuesdays, and Wednesdays from 9:00 to 11:00 and from 15:00 to 18:00 to provide psycho-social support in Ukrainian and Russian.¹⁵⁶⁰

Counselling and Psychotherapy is provided free of charge to displaced Ukrainians by MyMind. Counselling is provided through Ukrainian and Russian speaking counsellors and psychologists and supported by the Health Service Executive.¹⁵⁶¹ Specialised treatment and psychosocial support for torture survivors is mainly provided by SPIRASI, which receives some funding from the Health Service Executive. Organisations such as Aware and the Irish Red Cross also have resources and psychological supports available to Ukrainians living in Ireland.¹⁵⁶²

Turn2me, a national mental health charity, is offering all Ukrainians staying in Ireland up to 6 free one-to-one counselling sessions. The charity is also offering free online support groups for Ukrainians. The initiative is funded by a grant from the Community Foundation Ireland, as part of the Ireland for Ukraine project.¹⁵⁶³ Sessions are conducted by a mental health professional, in English. Ukrainians will be connected to psychotherapists who have experience working with clients who have been through a traumatic event.

Finally, the National Psychological Association of Ukraine (NPA) has set up a toll-free Irish helpline number to support Ukrainians in need of psychological support, The helpline operates from 10:00am-20:00pm daily and all psychologists are provided with specialist training. The helpline is supported by the UN, the EU, and the governments of Denmark and Canada.¹⁵⁶⁴

¹⁵⁶⁰ Irish Examiner, 'National Psychological support helpline for Ukrainian refugees to be launched in Cork', 17 April 2023, available at: <https://bit.ly/42SIPFR>.

¹⁵⁶¹ MyMind, 'Free Counselling for Displaced Ukrainians', available at: <https://mymind.org/ukrainianproject>.
¹⁵⁶² Information provided by Irish Refugee Council Ukraine Support Team, May 2024.

¹⁵⁶³ Turn2Me, 'Turn2Me Offering Free Counselling to Ukrainians', available at: <https://tinyurl.com/5k93hhzc>.

¹⁵⁶⁴ Psychological Society of Ireland, 'Time of War Resources' available at: <https://tinyurl.com/yw6z5jte>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|-----------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | 1 year (renewable) |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive? | 104,870 as of the 17 April 2024 ¹⁵⁶⁵ |

Upon obtaining temporary protection, beneficiaries of temporary protection are issued with a Certificate of Temporary Protection. Certificates are issued by the Department of Justice and can be obtained following registration at Citywest Processing hub in West Dublin or one of the dedicated Ukraine Support Centres located in Cork and Limerick.

In order to demonstrate eligibility for temporary protection, applicants should be able to present identity and travel documents, as well as any supporting documents (e.g. marriage certificate, birth certificate, adoption certificate etc.), and any other essential information which proves that the eligibility requirements for temporary protection are met. Applicants are typically required to evidence, by way of relevant exit stamp in their passport, that they were present in Ukraine on or after the outbreak of the war on 24 February 2022. Where an applicant fails to provide such evidence, the Irish Refugee Council was made aware of cases in which applicants were required to supply other documentary evidence, for example, receipts, evidencing their presence in Ukraine at the moment of the war outbreak.¹⁵⁶⁶

Where an applicant has been determined as eligible for temporary protection, a certificate confirming their status is issued to the applicant by the Department of Justice. This certificate confers the holder the permission to reside in Ireland for a period of up to 1 year, which may be automatically extended for further periods in accordance with the Directive.¹⁵⁶⁷ Certificates do not contain an expiry date and remain valid until the 4th March 2025.¹⁵⁶⁸

Beneficiaries of Temporary Protection may subsequently register their permission in the State and are entitled to an Irish Residence Permit (IRP) card for the duration of their temporary protection permission in Ireland.¹⁵⁶⁹ It should be noted that in practice, in order to open a bank account, or access employment, beneficiaries of Temporary Protection are required to possess an IRP card.¹⁵⁷⁰ Expired IRP cards may be renewed online whereby the applicant lives in Dublin. However, applicants residing outside Dublin must contact the Department of Justice by email in order to request a renewal.¹⁵⁷¹

Beneficiaries of Temporary Protection in Ireland may transfer their residence to another EU Member State, however, persons wishing to do so must ensure to withdraw their temporary protection status in Ireland after having taken up Temporary Protection in another Member State.¹⁵⁷² In order to do so,

¹⁵⁶⁵ Central Statistics Office, 'Arrivals from Ukraine in Ireland Series 12, 4 February 2024, available at: <https://tinyurl.com/2r53f25n>.

¹⁵⁶⁶ Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

¹⁵⁶⁷ Immigration Service Delivery, 'Information on Temporary Protection for People fleeing the conflict in Ukraine', 23 December 2022, available at: <https://bit.ly/458iS5E>.

¹⁵⁶⁸ Immigration Service Delivery, 'Travel Confirmation', 5 January 2024, available at: <https://tinyurl.com/3j89a636>.

¹⁵⁶⁹ Immigration Service Delivery, 'Registration Renewal – Beneficiaries of Temporary Protection', 20 March 2024, available at: <https://tinyurl.com/3rapbyc4>.

¹⁵⁷⁰ Information provided by Irish Refugee Council's Ukraine Support Team, April 2024.

¹⁵⁷¹ *ibid.*

¹⁵⁷² Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

applicants can submit a request in writing along with a copy of their passport to the Department of Justice, or alternatively, attend the Citywest Transfer Hub.¹⁵⁷³

2. Access to asylum

There is no requirement for those fleeing the war in Ukraine to seek international protection in order to receive support and protection upon arrival in Ireland. While individuals eligible for temporary protection can instead choose to seek international protection, they cannot do so while benefitting from temporary protection at the same time. Once registered under the Temporary Protection Directive, it is possible for a beneficiary to instead apply for international protection, provided they first renounce their temporary protection status. Equally, it is possible for someone who has previously applied for international protection to subsequently register for temporary protection, provided they withdraw their asylum application and meet the qualifying criteria for temporary protection.¹⁵⁷⁴

There have been no issues reported regarding access to the the international protection process in respect of those entitled to temporary protection. However, it should be noted that the asylum procedure has a significant length at present. Throughout 2022, the median processing time for first instance decisions was approximately 18 months.¹⁵⁷⁵ The EU temporary protection directive provides a quicker and more streamlined process in these circumstances. Temporary protection provides beneficiaries with immediate access to the labour market, along with access to social welfare income supports and accommodation. If an applicant chooses to apply for asylum, they will not be permitted to access employment until 6 months after making their initial application for protection. Moreover, international protection applicants are not permitted to access social welfare supports in the State and are instead provided with a weekly stipend, known as the Daily Expense Allowance, in the amount of € 38.80 per week.

422 applications for international protection were made by Ukrainian nationals in 2022. It is not known whether they would be automatically entitled to temporary protection as some of those applications may have been lodged prior to 24 February 2022.¹⁵⁷⁶ The total number of applicants for international protection

made by Ukrainian nations throughout 2023 was not available. However, 110 Ukrainian nationals were granted international protection or permission to remain throughout 2023.¹⁵⁷⁷

B. Family reunification

1. Family reunification as provided under the Temporary Protection Directive

The Council Implementing Decision provides for family reunification for beneficiaries of temporary protection with spouses or partners, or any children under the age of 18.¹⁵⁷⁸ As a beneficiary of temporary protection, it is possible to activate a family reunification procedure, either in Ireland or in another Member State of the EU whereby the spouse, partner or child holds temporary protection in another EU member State. This is subject to cooperation between Ireland and the Member State

¹⁵⁷³ *ibid.*

¹⁵⁷⁴ Immigration Service Delivery, 'FAQ's – For Ukraine Nationals and Residents of Ukraine', 23rd December 2022, available at: <https://bit.ly/3hMbVzK>.

¹⁵⁷⁵ Acting Minister for Justice Simon Harris, Response to Parliamentary Question No 558, 31 January 2023, available at: <https://bit.ly/3X56bmM>.

¹⁵⁷⁶ Breaking News, 'Almost 450 Ukrainians have entered Direct Provision since start of last year', 1 March 2023, available at: <https://bit.ly/3BTGVrv>.

¹⁵⁷⁷ Information provided by International Protection Office, April 2024.

¹⁵⁷⁸ Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection, 4 March 2022, available at: <https://bit.ly/42QDBJM>.

concerned.¹⁵⁷⁹ At the time of updating, there was no established mechanism by which to facilitate family reunification in Ireland. This remained the case as of April 2024. In the experience of the Irish Refugee Council's Ukraine Support Team, the vast majority of applicants seeking family reunification in Ireland claimed temporary protection independently of their family members. However, it is sometimes the case that a family member may be refused temporary protection for various reasons. Moreover, whereby family members arrive in Ireland and seek temporary protection at different times, they are often not accommodated together.¹⁵⁸⁰

2. Family reunification beyond the Temporary Protection Directive

The provisions of the International Protection Act 2015 expressly provide for family reunification with core family members, however, beneficiaries of temporary protection do not constitute 'qualified persons' for the purpose of the Act and thus, cannot benefit from family reunification provisions pursuant to s.56. This difficulty is circumvented by the family reunification option provided under the TPD and the Council Implementing Decision directly (see [Family reunification as provided under the Temporary Protection Directive](#)).

C. Movement and mobility

Freedom of movement within the State is not restricted by law, and beneficiaries of temporary protection are afforded the same liberties as Irish citizens.

However, in practice, freedom of movement is restricted for some beneficiaries of Temporary Protection residing in International Protection Accommodation Services (IPAS) accommodation. This is due to IPAS rules which restrict residents' ability to freely leave and subsequently re-access their accommodation following a period of absence.

From 31 of March 2022 to October 2023, beneficiaries of Temporary Protection were permitted to take one short-term absence in exceptional circumstances (a maximum of 7 non-cumulative days) over a 6-month calendar period. Residents were obliged to notify their accommodation provider of their planned absence and were required to complete an Absence Notification Form and submit same to IPAS. Absences were considered on a case-by-case basis by IPAS and applicants were required to remain in regular contact with their accommodation provider and provide updates on the duration of their proposed absence.¹⁵⁸¹

From the 9th of October 2023, in response to the constrained supply of IPAS accommodation, a revised absence protocol came into place, whereby beneficiaries of temporary protection are only permitted to be absent from State-funded accommodation in exceptional circumstances. The previous allowance of one, short-term absence of 7 calendar days was suspended.¹⁵⁸²

Approval for absences in exceptional circumstances must be sought in advance from IPAS' Ukraine Crisis Temporary Accommodation Team (UCTAT) who will consider all applications on a case-by-case basis. Whereby an absence is taken without approval, accommodation may be re-allocated, and no further offer of accommodation will be made to the applicant.

¹⁵⁷⁹ Immigration Service Delivery, 'FAQ's – For Ukraine Nationals and Residents of Ukraine', 23 December 2022, available at: <https://bit.ly/3hMbVzK>.

¹⁵⁸⁰ Information provided by Irish Refugee Council's Ukraine Support Team, May 2024.

¹⁵⁸¹ Department of Children, Equality, Disability, Integration and Youth, 'Short term accommodation: Refusals Protocol for Beneficiaries of Temporary Protection from Ukraine', 24 November 2022, available at: <https://bit.ly/43fTokZ>.

¹⁵⁸² Department of Children, Equality, Disability, Integration and Youth, 'Absence Protocol: Beneficiaries of Temporary Protection from Ukraine', 10 October 2023, available at: <https://tinyurl.com/4sr75jyw>.

The updated protocol also gives applicants the option to relinquish their accommodation to allow for non-exceptional travel. Any applicant who chooses to do so will be permitted to re-apply for accommodation upon their return to Ireland whereby accommodation is available. However, it should be noted that there is no guarantee that the new offer will be of similar quality to the accommodation that was vacated, or that the accommodation provided will be in the same area.¹⁵⁸³ The Irish Refugee Council's Ukraine Support Team have received several reports from individuals who were not offered re-accommodation in circumstances whereby they voluntarily relinquished their accommodation, or left the State for a period and returned.¹⁵⁸⁴

Thus, while there are no constraints with regard to beneficiaries of temporary protection leaving the State temporarily, should they wish to do so, as indicated above, this may result in a loss of accommodation whereby the travel is not for an exceptional purpose.

At present, there is no notification system in place by which beneficiaries of temporary protection are required to advise the State of their intention to travel. However, beneficiaries who leave the State may still require a visa to travel. Beneficiaries planning to travel and subsequently return to Ireland should retain their Temporary Protection Certificate and show same to the immigration authorities on re-entering the country. Ukrainian nationals and nationals of any other country that are eligible for the visa waiver need not take any additional steps when returning to Ireland.¹⁵⁸⁵

There have been no known reports of persons fleeing from Ukraine refused entry at the Irish border, nor have there been any reports of loss of temporary protection status or refusal of entry for beneficiaries of temporary protection re-entering the state after having returned to Ukraine.

It should be noted that beneficiaries who are receiving social welfare supports from the State should notify the Department of Social Protection if they intend to be outside of the country for a period greater than two weeks. Pursuant to s.249(6) of the Social Welfare Consolidation Act 2005, payments may be made administratively for up to two weeks in any calendar year in respect of periods of absence from the State. On that basis, temporary periods of absence of up to two weeks may be facilitated. Beneficiaries' payment will be suspended for a two-week period and paid upon their return. Where a beneficiary is going to be absent from the State for a period greater than two weeks, they will be required to close their claim and reapply for income supports upon their return.¹⁵⁸⁶ It should be noted that the Irish Refugee Council's Ukraine Support Team have received reports from beneficiaries of Temporary Protection of administrative delays in re-opening social welfare claims upon return to State.¹⁵⁸⁷

¹⁵⁸³ *ibid.*

¹⁵⁸⁴ Information provided by Irish Refugee Council Ukraine Support Team, April 2024.

¹⁵⁸⁵ Information provided by Department of Justice, October 2022.

¹⁵⁸⁶ Department of Social Protection, 'Operational Guidelines, 20 June 2019, available at: <https://bit.ly/42Xnev0>.

¹⁵⁸⁷ Information provided by Irish Refugee Council's Ukraine Support Team, April 2024.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?	90 days ¹⁵⁸⁸
2. Number of beneficiaries staying in reception centres as of 14 th April 2024	49,595 ¹⁵⁸⁹
3. Number of beneficiaries staying in private accommodation as of 14 th April 2024	18,352 ¹⁵⁹⁰

Individuals requiring immediate accommodation by the State have been housed in facilities contracted by IPAS.

IPAS Accommodation was previously provided through different channels including hotels, guest houses, bed and breakfasts, hostels, repurposed institutional religious buildings and local authority facilities. Beneficiaries of temporary protection could remain in such accommodation indefinitely.¹⁵⁹¹

However, in March 2024, in response to a shortage in available accommodation, the Department of Children, Equality, Disability, Integration and Youth, announced changes to the accommodation of newly arrived beneficiaries of temporary protection. Legislation was introduced pursuant to the Social Welfare and Civil Law (Miscellaneous Provisions) Act 2024, in order to give effect to these changes.¹⁵⁹²

Under the revised approach, as of the 14th of March 2024,¹⁵⁹³ anyone who registers for temporary protection in the State and seeks state-provided accommodation, will be accommodated by IPAS for a maximum period of 90-days. During this period, beneficiaries of Temporary Protection will be provided with food, laundry, other services and integration supports in Designated Accommodation Centres. At present six accommodation centres have been identified as ‘Designated Accommodation Centres’ and these centres are located throughout the country. Accommodation comprises of tents, modular buildings and large halls. While living at designated centres, there will be a focus on orientation with regard to living and working in Ireland, as well as options for sourcing accommodation independently or through pledged or hosted accommodation.¹⁵⁹⁴ Following 90 days, applicants must leave the designated accommodation and will not be permitted to return. Applicants are required to source independent accommodation in the community and will continue to be permitted to access rent supplement, however, cannot apply for Housing Assistance Payment or access homeless services. Applicants may also access pledged accommodation or hosting arrangements.¹⁵⁹⁵

Social welfare payments are reduced under the revised arrangements. Previously, beneficiaries of Temporary Protection living in state-provided accommodation were entitled to social welfare supports equivalent to those available to Irish citizens. However, under the revised accommodation

¹⁵⁸⁸ Department of Children, Equality, Disability, Integration and Youth, ‘Changes to Accommodation for People Fleeing War in Ukraine’, 13 March 2024, available at: <https://tinyurl.com/44wyeshh>.

¹⁵⁸⁹ Department of Children, Equality, Disability, Integration and Youth, ‘Accommodation of Beneficiaries of Temporary Protection – Weekly Statistics’, 15 April 2024, available at: <https://tinyurl.com/bdrypvkf>.

¹⁵⁸⁹ Central Statistics Office, ‘Arrivals from Ukraine in Ireland Series 12, 4 February 2024, available at: <https://tinyurl.com/2r53f25n>.

¹⁵⁹⁰ *ibid.* **Note:** This figure includes both persons who have moved into pledged accommodation, as well as those who have moved into Offer a Home scheme accommodation.

¹⁵⁹¹ ECRE and Irish Refugee Council, ‘AIDA: Temporary Protection – Ireland’, 25 May 2023, available at: <https://tinyurl.com/3jrmy9vt>.

¹⁵⁹² Social Welfare and Civil Law (Miscellaneous Provisions) Act 2024, s.11, available at: <https://tinyurl.com/567z7pnm>.

¹⁵⁹³ Social Welfare and Civil Law (Miscellaneous Provisions) (Chapter 2 of Part 4) (Commencement) Order 2024 (SI No. 95 of 2024), available at: <https://tinyurl.com/4j42fths>.

¹⁵⁹⁴ Department of Children, Equality, Disability, Integration and Youth, ‘Changes to Accommodation for People Fleeing War in Ukraine’, 13 March 2024, available at: <https://tinyurl.com/44wyeshh>.

¹⁵⁹⁵ Information provided by Department of Children, Equality, Disability, Integration and Youth, 7th March 2024.

arrangements, a weekly allowance of € 38.80 per adult and € 29.80 per child is provided to residents while accommodated in designated centres. Beneficiaries of Temporary Protection remain entitled to child benefit payment (€ 140.00 per child per month). Whereby an individual subsequently leaves the designated centre, or whereby they make their own accommodation arrangements on arrival, they will be entitled to apply for social welfare assistance, equivalent to that which is offered to Irish citizens, subject to meeting the requisite eligibility conditions.¹⁵⁹⁶

Applicants will also have access to education, health services and employment support while resident in designated centres, however, whereby children require access to primary and secondary education, it is advised that school places are sought only when children move to longer term accommodation. Vulnerable residents, residents with small children or residents who are pregnant will have access to family units.¹⁵⁹⁷

The Ukraine Civil Society Forum, a consortium of civil society organisations supporting Ukrainians in Ireland, of which the Irish Refugee Council is a member, wrote to Government expressing significant concerns regarding the revised accommodation policy. In particular, concerns were raised with regard to the lack of exception for vulnerable, elderly and disabled persons, the lack of access to education for minor children while resident in designated centres, as well as the risk of homelessness for persons who are unable to source independent or hosted accommodation after 90 days.¹⁵⁹⁸ The revised protocol does not apply to those residing in state-provided accommodation who arrived in Ireland prior to 14th March 2024.

In addition to State-provided accommodation, the Irish Red Cross, in conjunction with the government and Local Authorities, operates an accommodation pledge programme in which Irish residents can pledge a spare room in their home or a vacant property in which to accommodate Ukrainian beneficiaries of temporary protection.¹⁵⁹⁹ This programme was originally established in 2015, but was further expanded following the outbreak of the war in Ukraine and continues to operate as of April 2024. In March 2022, a voluntary organisation, Helping Irish Hosts, was established, whereby prospective hosts can register and be matched with displaced beneficiaries of temporary protection requiring accommodation. Hosts can also register with Helping Irish Hosts in order to connect with other host families, share experiences and provide mutual support.¹⁶⁰⁰

The Red Cross, Helping Irish Hosts, subsequently established a consortium of 'implementing partners' in which to manage pledges on behalf of the government. All organisations have access to the same database of pledged accommodation, while Helping Irish Hosts also provides a matching service in respect of hosted accommodation.¹⁶⁰¹ No information is available regarding the extent to which properties are assessed prior to being accepted by the implementing partners. It is understood that Garda Vetting is required in respect of hosts who accommodate families comprised of children under the age of 16, however, the extent to which this takes place in practice is unknown.¹⁶⁰²

Local Authorities around the country also launched the 'Offer a Home' Programme, in which unoccupied properties are sought to accommodate beneficiaries of Temporary Protection. Rent is not payable on properties associated with the programme; however, property owners can avail of the Government's Accommodation Recognition Payment in the amount of € 800 per month. All properties offered under

¹⁵⁹⁶ Department of Children, Equality, Disability, Integration and Youth, 'Changes to Accommodation for People Fleeing War in Ukraine', 13 March 2024, available at: <https://tinyurl.com/44wyeshh>.

¹⁵⁹⁷ Information provided by Department of Children, Equality, Disability, Integration and Youth, 7th March 2024.

¹⁵⁹⁸ Information provided by Ukraine Civil Society Forum, April 2024.

¹⁵⁹⁹ Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary Question Nos 8, 13, 19, 30, 50, 65, 72, 73, 298 and 306, 24 March 2022, available at: <https://bit.ly/3jZ13D8>.

¹⁶⁰⁰ Open Community, Supports for Hosts and Host Communities, January 2023, available at: <https://bit.ly/3VVSDtr>.

¹⁶⁰¹ Information provided by Irish Refugee Council Ukraine Support Team, April 2024.

¹⁶⁰² *ibid.*

the scheme are assessed by the Local Authority and must comply with certain minimum standards, however, the extent to which this is complied with in practice is unknown.¹⁶⁰³

As of April 2024, 18,352 individuals were living in pledged accommodation or hosting arrangements.¹⁶⁰⁴

In July 2022, the Government introduced an Accommodation Recognition Payment (ARP) for households hosting beneficiaries of Temporary Protection having fled the conflict in Ukraine. An initial payment of € 400.00 per month was paid to hosts and backdated as far as the 4 March 2022. The payment is administered by the Department of Social Protection on behalf of the Department of Children, Equality, Disability, Integration and Youth.¹⁶⁰⁵ In December 2022, the payment was increased to € 800.00 per month.¹⁶⁰⁶ The ARP continues in operation as of 2024 at a rate of € 800.00 per month. The payment is available to any individual hosting a beneficiary of Temporary Protection provided they meet the following eligibility criteria:

- ❖ Be aged 18 years or over.
- ❖ Are the owner of, or a tenant in, accommodation being provided and have the consent of any other owners or tenants.
- ❖ Be providing accommodation for at least 6 months to at least one individual covered by the EU Temporary Protection Directive.
- ❖ Have at least one individual who is covered by the EU Temporary Protection Directive living in the property on the last day of the calendar month in order to obtain payment for that month.¹⁶⁰⁷

Beneficiaries of temporary protection may be entitled to apply for state housing support such as Rent Supplement and the Rental Accommodation Scheme in the case that they have independently rented a house or apartment and meet the requisite eligibility criteria.¹⁶⁰⁸ However, it should be noted that due to the ongoing housing crisis, it is extremely difficult for individuals to source private rented accommodation in Ireland. Consequently, there are very few progression opportunities for beneficiaries of temporary protection living in state-provided accommodation or hosting or pledged accommodation arrangements.

Numerous challenges have arisen in the provision of accommodation to beneficiaries of temporary protection. The primary and most significant challenge is that of accommodation services reaching capacity due to difficulties in sourcing appropriate accommodation. On 24 January 2023, the government announced that it could no longer guarantee that beneficiaries of temporary protection in Ireland would be provided with temporary accommodation by the State. This was due to a lack of State-accommodation capacity.¹⁶⁰⁹ However, in the experience of the Irish Refugee Council, there have been no reported cases to date of a beneficiary of temporary protection having been refused accommodation upon initial arrival in Ireland.¹⁶¹⁰

¹⁶⁰³ Local Government Ireland, Information about Offering a Home, <https://tinyurl.com/fej2ncyj>.

¹⁶⁰⁴ Department of Children, Equality, Disability, Integration and Youth, 'Accommodation of Beneficiaries of Temporary Protection – Weekly Statistics', 15 April 2024, available at: <https://tinyurl.com/bdrypvkf>.

¹⁶⁰⁵ Government of Ireland, €400 'Accommodation Recognition Payment' for hosts accommodating people from Ukraine is open for applications, 26 July 2022, available at: <https://bit.ly/3ZuWj8C>.

¹⁶⁰⁶ Government of Ireland. Accommodation Recognition Payment, 5th January 2023, available at: <https://bit.ly/3QIFnNw>.

¹⁶⁰⁷ Department of Children, Equality, Disability, Integration and Youth, 'Accommodation of Beneficiaries of Temporary Protection – Weekly Statistics', 15 April 2024, available at: <https://tinyurl.com/bdrypvkf>.

¹⁶⁰⁸ Minister for Social Protection Heather Humphreys, Response to Parliamentary Question No 211, 22 June 2022, available at: <https://bit.ly/3BO1MNa>.

¹⁶⁰⁹ Department of Children, Equality, Disability, Integration and Youth, 'Citywest Transit Hub to pause entry of new International Protection arrivals to its emergency accommodation area', 24 January 2023, available at: <https://bit.ly/3Ow3wlu>.

¹⁶¹⁰ Information provided by Irish Refugee Council's Ukraine Support Team, May 2023.

E. Employment and education

1. Access to the labour market

Having received their Temporary Protection Certificate, Beneficiaries of Temporary Protection are entitled

to access the labour market on the same basis as Irish citizens. The Temporary Protection Certificate itself is adequate proof of entitlement to take up employment in the State. Beneficiaries of temporary protection are thus entitled to the full range of statutory employment rights and protections in the same manner as Irish employees.¹⁶¹¹

As of the 13th March 2023, 18,101 beneficiaries of temporary protection had accessed the labour market in Ireland.¹⁶¹² As of the 4th of April 2024, 18,182 individuals had accessed the labour market. The following table provides a breakdown a breakdown of the sectors in which individuals were employed:¹⁶¹³

Financial, Real Estate, Administrative	2,687
Agriculture, Forestry and Fishing	319
ICT, Scientific and Recreation	1,058
Industry	2,831
Public Service, Education and Health	1,879
Construction	936
Wholesale, Transport and Accommodation	8,472
All Economic Sectors	18,182

While beneficiaries of Temporary Protection are entitled to access the labour market on the same basis as Irish citizens, there are certain regulated professions in which applicants must comply with certain criteria required by law prior to accessing employment. Examples include legal practice, medical practitioners, and teaching. Whereby beneficiaries of Temporary Protection seek access to a regulated profession they must meet certain professional requirements. This may involve undertaking additional study or registration, depending on the particular profession.¹⁶¹⁴

While there are no specific measures established to combat labour exploitation in respect of beneficiaries of Temporary Protection, such individuals are entitled to a full range of statutory employment rights and protections on the same basis as Irish citizens.

2. Access to education

Child beneficiaries of temporary protection between the ages of 4 and 18 years are entitled to access public primary or post-primary education provided by the State on the same basis as Irish children.¹⁶¹⁵ Beneficiaries of temporary protection can approach any primary or post-primary school and seek

¹⁶¹¹ Immigration Service Delivery, 'FAQ's – For Ukraine Nationals and Residents of Ukraine', 23 December 2022, available at: <https://bit.ly/3hMbVzK>.

¹⁶¹² Central Statistics Office, 'Temporary Protection granted to arrivals from Ukraine', 11 May 2023, available at: <https://bit.ly/3pMju0B>.

¹⁶¹³ Central Statistics Office, 'Arrivals in Ireland Series 12, 4 February 2024, available at: <https://tinyurl.com/2r53f25n>.

¹⁶¹⁴ Information provided by Irish Refugee Council Ukraine Support Team, April 2024.

¹⁶¹⁵ Immigration Service Delivery, 'FAQ's – For Ukraine Nationals and Residents of Ukraine', 23 December 2022, available at: <https://bit.ly/3hMbVzK>.

information on how to enrol a child in the school. The Tusla Education Support Service provides assistance to parents in locating school places for their children.¹⁶¹⁶

The Department of Education also established the Regional Education and Language Teams (REALT) to support the needs of child beneficiaries of temporary protection. REALT is hosted by the 16 regional Education and Training Boards. The primary role of REALT is to build upon existing regional education support structures with an initial focus on assisting Ukrainian families to secure school places. English language classes for child beneficiaries of temporary protection are available through local Education and Training Boards.¹⁶¹⁷

As of February 2024, there were **18,185** Ukrainian students enrolled in primary and secondary education in Ireland. Of these, **11,312** were enrolled in primary education and **6,873** enrolled in secondary education.¹⁶¹⁸

All Beneficiaries of Temporary Protection are eligible to access higher education and vocational training on the same basis as Irish citizens, provided they undertake a mandatory English language exam. Beneficiaries of Temporary Protection who are seeking to apply for a first-time place in higher education in Ireland are required to apply through the CAO (Central Applications Office). Beneficiaries of Temporary Protection applying to access the Irish higher education system are subject to the same conditions as Irish students for the purposes of fees, meaning that students with temporary protection status will be liable for EU fees.¹⁶¹⁹ In order to assist students with the cost of tuition fees, an administrative scheme, the Temporary Tuition Fee Support Scheme for displaced Ukrainian Students, was established by the Department of Further and Higher Education for the academic year 2022/2023. In order to be considered eligible for the scheme, students were required to be an individual in respect of whom a permission to reside in the State had been granted pursuant to s.60 of the International Protection Act 2015 or an Irish national who was attending a Higher Education Institution in Ukraine during the 2021/2022 academic year and subsequently arrived in Ireland due to the conflict without completing their course of study, but who had taken up a place on an authorised transition scheme during the academic year 2022/2023. Moreover, applicants were required to be present and residing at an address within the State and attending or intending to pursue an approved course in the 2022/2023 academic year.¹⁶²⁰

Additionally, the Department of Further and Higher Education established a Post-Leaving Certificate (PLC) Bursary for Displaced Persons from Ukraine for the academic year 2022/2023. The Scheme provided students with the opportunity to undertake full-time study for a period of one or two years, with courses leading to major awards at National Framework of Qualifications (NFQ) Levels 5 and 6, while also receiving a bursary not exceeding € 6,115 in total for the academic year. In order to be eligible for the scheme, students were required to have been granted temporary protection pursuant to s.60 of the International Protection Act 2015, be living in Ireland and participating in an approved full-time post leaving certificate (PLC) course.¹⁶²¹

¹⁶¹⁶ European Union Agency for Asylum, 'Temporary Protection: Ireland', June 2022, available at: <https://bit.ly/3oalZJV>.

¹⁶¹⁷ ETBI, 'Regional Education and Language Teams for Ukraine', 6 June 2022, available at: <https://bit.ly/3OwYI4X>.

¹⁶¹⁸ Central Statistics Office, 'Arrivals in Ireland Series 12', 4 February 2024, available at: <https://tinyurl.com/2r53f25n>.

¹⁶¹⁹ Minister for Further and Higher Education, Research, Innovation and Science Simon Harris, Response to Parliamentary Question No 1050, 18 January 2023, available at: <https://bit.ly/3Mtlqmk>.

¹⁶²⁰ Department of Further and Higher Education, Research, Innovation and Science, 'Minister Harris announces new measures to provide access to further and higher education for displaced Ukrainian students', 21 June 2022, available at: <https://bit.ly/42VvMCp>.

¹⁶²¹ Department of Further and Higher Education, Research, Innovation and Science, 'PLC Bursary for Displaced Persons (Ukraine) Scheme 2022: Your questions answered', 17 August 2022, available at: <https://bit.ly/3WprWix>.

In August 2023, then-Minister for Further and Higher Education, Research, Innovation and Science, Simon Harris, confirmed the supports offered to Ukrainian students who commenced their studies in the 2021/2022 academic year will be extended to new entrants for the 2023/24 academic year. This includes payment of tuition fees in respect of full-time higher education, a financial stipend for qualified persons undertaking a full-time course in a publicly funded higher education institution, and the bursary for qualified persons pursuing a post-leaving certificate course (PLC). The financial support rates were maintained at the same level as the previous year.¹⁶²²

E. Social welfare

Beneficiaries of temporary protection are entitled to social welfare payments in the same manner as eligible Irish nationals pursuant to s. 60(10)(b) of the IPA 2015. As such, there are a broad range of social welfare entitlements of which a beneficiary of temporary protection may avail themselves, including access to jobseeker's allowance for those who are unemployed but actively seeking work; access to disability allowance for those unable to provide for themselves due to disability or illness; access to the one-parent family payment for single parents, and access to child benefit for parents/guardians. Applications for the various payments may be made at the applicant's local Intreo office.

Social welfare payments were reduced under the revised accommodation arrangements announced in early 2024. Previously, beneficiaries of Temporary Protection living in state-provided accommodation were entitled to social welfare supports equivalent to those available to Irish citizens on arrival. However, under the revised accommodation arrangements, a weekly allowance of €38.80 per adult and €29.80 per child is provided to newly-arrived residents while accommodated in designated centres. Beneficiaries of Temporary Protection remain entitled to child benefit payment (€140.00 per child per month). Whereby an individual subsequently leaves their designated centre, or whereby they make their own accommodation arrangements on arrival, they will be entitled to apply for social welfare assistance, equivalent to that which is offered to Irish citizens, subject to meeting the requisite eligibility conditions.¹⁶²³

In May 2024, Cabinet signed off on a proposal to extend the reduction in social welfare support to all beneficiaries of Temporary Protection living in state-provided accommodation, regardless of when they arrived in Ireland. The proposals are due to be signed into law within three months and will apply to those who do not work and who live in what is termed 'State-provided serviced accommodation', such as a hotel where meals are provided. It will not apply to residents living in pledged accommodation or State-provided accommodation that is not serviced. The measures are estimated to affect approximately 27,000 beneficiaries of Temporary Protection living in the State.¹⁶²⁴

As of February 2024, **60,733** beneficiaries of temporary protection were receiving income support payments, including **22,433** beneficiaries of child benefit payment.¹⁶²⁵

¹⁶²² Department of Further and Higher Education, Research, Innovation and Science, 'Ukraine Student Fees and Financial Support Update', 11 September 2023, available at: <https://tinyurl.com/3zztc3rh>.

¹⁶²³ Department of Children, Equality, Disability, Integration and Youth, 'Changes to Accommodation for People Fleeing War in Ukraine', 13 March 2024, available at: <https://tinyurl.com/44wyeshh>.

¹⁶²⁴ RTE, 'Payments to Ukrainian refugees in State accommodation to be cut', 14 May 2024, available at: <https://tinyurl.com/5yz8daek>.

¹⁶²⁵ Central Statistics Office, 'Arrivals in Ireland Series 12, 4 February 2024, available at: <https://tinyurl.com/2r53f25n>.

F. Health care

Beneficiaries of temporary protection are entitled to the same medical and social care as Irish citizens in accordance with s. 60(10)(b) IPA 2015. Beneficiaries of temporary protection receive healthcare services from the Health Service Executive (HSE), including access to General Practitioners (GPs), community care, hospital or emergency care, children’s health services, mental health services, disability services, and maternity care.¹⁶²⁶

The Health Service Executive (HSE) are present at the Citywest Transfer Hub in order to conduct health screenings in respect of persons arriving from Ukraine. Applicants requiring further medical attention or assessment will be sign posted to relevant services.¹⁶²⁷

Beneficiaries of Temporary Protection are automatically entitled to a medical card on arrival in Ireland. A medical card permits access to medical services, prescription medications and hospital services free of charge.¹⁶²⁸ After nine months, beneficiaries of Temporary Protection will be subject to a review of their entitlement for a Medical Card. The HSE will write to the applicant and request that they complete an application form containing a full financial assessment of their means. Applicants will need to provide details of their income and outgoings (if any). Applicants will be subject to the standard means assessment under which all medical card applicants are assessed.¹⁶²⁹

As of January 2024, medical cards had been issued to **80,000** arrivals from Ukraine.¹⁶³⁰

In general, access to healthcare for Beneficiaries of Temporary Protection has been well-facilitated, however, reports of language barriers and lack of access to interpreters persist.¹⁶³¹ Additionally, the HSE has provided specific information and resources for Beneficiaries of Temporary Protection in English, Ukrainian and Russian, including information on how to apply for a medical card and access a GP and other medical services while living in Ireland.

Regarding psycho-social supports, at the onset of the conflict, the Ukrainian community in Ireland created a list of Ukrainian-speaking psychotherapists from Kyiv Gestalt University who are providing free counselling to those impacted by the conflict.¹⁶³² Additionally, the ‘Call Tanya Helpline’ was established on 17 of April 2023, by the migrant-led organisation, Together Razeem, in order to provide confidential psychosocial support to Ukrainians in Ireland who are experiencing distress due to displacement and the ongoing conflict in Ukraine. Trained call ambassadors are available on Mondays, Tuesdays, and Wednesdays from 9:00 to 11:00 and from 15:00 to 18:00 to provide psycho-social support in Ukrainian and Russian.¹⁶³³

Counselling and Psychotherapy is provided free of charge to displaced Ukrainians by MyMind. Counselling is provided through Ukrainian and Russian speaking counsellors and psychologists and supported by the Health Service Executive.¹⁶³⁴ Specialised treatment and psychosocial support for torture survivors is mainly provided by SPIRASI, which receives some funding from the Health Service Executive.

¹⁶²⁶ HSE, ‘Healthcare services for Ukrainian nationals in Ireland’, available at: <https://bit.ly/42VUF16>.

¹⁶²⁷ *ibid.*

¹⁶²⁸ *ibid.*

¹⁶²⁹ HSE, ‘Healthcare services for Ukrainian nationals in Ireland’, available at: <https://bit.ly/42VUF16>.

¹⁶³⁰ Irish Independent, ‘80,000 Ukrainian Refugees have Medical Cards, Cabinet committee told, 25 January 2024, available at: <https://tinyurl.com/4tpt39dj>.

¹⁶³¹ Information provided by Ukraine Support Team, April 2024.

¹⁶³² Help Ukraine Ireland, ‘Counselling Services for Ukrainians’, March 2022, available at: <https://bit.ly/43cFfFu>.

¹⁶³³ Irish Examiner, ‘National Psychological support helpline for Ukrainian refugees to be launched in Cork’, 17 April 2023, available at: <https://bit.ly/42SIPFR>.

¹⁶³⁴ MyMind, ‘Free Counselling for Displaced Ukrainians’, available at: <https://tinyurl.com/2p88b67>.

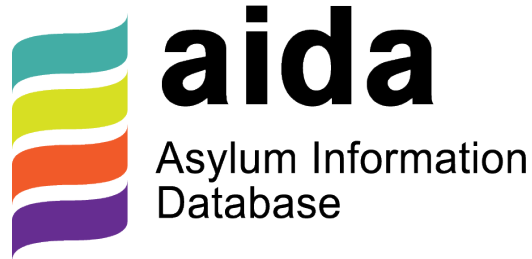
Turn2me, a national mental health charity, is offering all Ukrainians staying in Ireland up to 6 free one-to-one counselling sessions. The charity is also offering free online support groups for Ukrainians. The initiative is funded by a grant from the Community Foundation Ireland, as part of the Ireland for Ukraine project.¹⁶³⁵ Sessions are conducted by a mental health professional, in English. Ukrainians will be connected to psychotherapists who have experience working with clients who have been through a traumatic event.

Finally, the National Psychological Association of Ukraine (NPA) has set up a toll-free Irish helpline number to support Ukrainians in need of psychological support. The helpline operates from 10:00am-20:00pm daily and all psychologists are provided with specialist training. The helpline is supported by the UN, the EU, and the governments of Denmark and Canada.¹⁶³⁶

The Author wishes to thank Oksana Starzhynska and Anastasiia Kovalchuk of the Irish Refugee Council Ukraine Support Team for their expertise, insight and contributions in the preparation of the Temporary Protection Annex.

¹⁶³⁵ Turn2Me, 'Turn2Me Offering Free Counselling to Ukrainians', available at: <https://tinyurl.com/5k93hhzc>.

¹⁶³⁶ Psychological Society of Ireland, 'Time of War Resources' available at: <https://tinyurl.com/yw6z5jte>.



Italy

2023 Update



Temporary Protection Procedure

A. General

Italy incorporated the Temporary Protection Directive (TPD) in its legislation with the adoption of the Legislative Decree of April 7th 2003, n. 85.

Title (EN)	Original Title (XX)	Web Link
Legislative Decree of 7 April 2003, n. 85	Decreto Legislativo n. 85 del 7 aprile 2003	https://bitly.cx/68Jm
D.P.C.M. (Decree of the President of the Minister's Council) of 8 March 2022	Decreto del Presidente del Consiglio dei Ministri dell'8 marzo 2022	https://bitly.cx/6Yb6

After the Russian invasion of Ukraine on 24 February 2022, the European Commission identified a risk that the standard asylum system could be struggling to cope with the demand stemming from the arrivals of displaced persons, risking a negative impact on the efficiency of said asylum system, as stated in the 2001/55/EC Directive, due to the massive numbers of displaced Ukrainian citizens fleeing the country's territory without being able to return. Following a call from the Home Affairs Ministers of EU countries, on 2 March 2022, the Commission proposed to activate the Temporary Protection Directive. On 4 March 2022, the Council unanimously adopted decision 382/2022, giving those fleeing the war in Ukraine the right to access temporary protection.

Transposing Directive 2001/55/EC, Italy issued LD no. 85 of 7 April 2003. According to Article 4 of LD 85/2003, if the conditions of the directive are met, the President of the Council of Ministers, in agreement with the regions and local authorities, establishes by decree the welfare measures to implement. This is also done through the involvement of associations and entities providing voluntary work, including those focusing on housing, social and health assistance, access to the educational system for minors on par with Italian citizens, as well as for access to vocational training or internships.¹⁶³⁷

On 28 February 2022, the Government declared the state of emergency until 31 December 2022 and entrusted the organisation and implementation of emergency relief and assistance interventions to the population fleeing from Ukraine to the Head of the Civil Protection Department, who regulates these matters with ordinances.¹⁶³⁸

Italy implemented the directive by adopting D.P.C.M. (Decree of the President of the Minister's Council) of 8 March 2022, and through several Head of Civil Protection Department Ordinances.¹⁶³⁹

¹⁶³⁷ Legislative Decree no. 85 of 7 April 2003, Article 4 (1 g).

¹⁶³⁸ Resolution of the State of emergency, 28 February 2022, published on 10 March 2022, available at: <https://bit.ly/3uN1bbl>.

¹⁶³⁹ OCDPC OF 4 march 2022, published on 12 march 2022, which provided urgent dispositions to ensure the rescue, hosting and assistance of population displaced as a consequence of the events in Ukraine, available at: <http://bitly.ws/AVt6>; OCDPC of 13 march 2022, published on 19 march 2022, which contains directions on special public transport concessions for displaced persons from Ukraine and appoints an extraordinary Commissioner for unaccompanied minors, available at: <http://bitly.ws/AVv2>; OCDPC n. 881 of 29 march 2022, published on 1 April 2022, with measures to increase the widespread hosting capacity for displaced persons from Ukraine and financial measures to ensure that displaced persons who find a private accommodation receive a financial contribution, available at: <http://bitly.ws/AVUQ>; OCDPC of 24 May 2022, published on 30 May 2022, which (among other financial provisions) establishes the possibility to enter into agreements with UNHCR for humanitarian activities regarding displaced persons from Ukraine, available at: <http://bitly.ws/AVV7>; OCDPC n. 926 of 22 September 2022, published on 3 October 2022, which establishes an agreement with IOM (available at: <http://bitly.ws/AVWM>).

From 11 March 2022, Questure were entitled to release receipts for those coming from Ukraine who request temporary protection. These receipts, free of charge, immediately indicate a tax code, give access to the national health service and allow work.¹⁶⁴⁰ The permit to stay includes the wording “Prot. Temporanea Emerg. Ucraina” and was initially valid for one year.¹⁶⁴¹

According to the Prime Ministerial Decree signed on 28 March 2022,¹⁶⁴² temporary protection was recognised for people who were residing in Ukraine before 24 February, escaped from Ukraine on or after 24 February and :

- ❖ Are Ukrainian;
- ❖ Are family members of Ukrainian nationals, which includes the partner, spouse, and underage and unmarried children, including the children of the spouse. Parents and adult children can also be entitled to temporary protection in case they were totally or partially dependent on their Ukrainian relatives’ assistance;
- ❖ Are refugees or stateless persons and held a permit to stay in Ukraine, as well as their family members;
- ❖ Are third country nationals who were permanent residents in Ukraine.

In case holders of temporary protection also applied for international protection, their request was suspended in order to be examined only after the expiring date of their temporary protection permit to stay.

The Prime Ministerial Decree also stated that beneficiaries of international protection cannot ask for temporary protection or for the related benefits.¹⁶⁴³

In terms of access to the labour market, Decree Law 21/2022 provided for a derogation from the discipline of the recognition of professional health qualifications, stating that public or private health structures can hire with fixed-term contracts Ukrainian doctors, nurses and OSS resident in Ukraine before 24 February 2022 and in possession of the European Qualification passport for refugees.¹⁶⁴⁴

The following table summarises the content of the European directive and that of the Italian decrees, highlighting the differences between EU and national provisions:

Content of temporary protection	
European Directive	Decree of the President of the Council of Ministers and Ordinances of the Head of Civil Protection department
1. Release of a permit of stay allowing the holder to stay regularly in the territory of the country for all the duration of protection	<ul style="list-style-type: none"> ❖ Right to enter Italian territory as a tourist (with visa exemption) ❖ Right to travel free of charge for the first 5 days of presence on Italian territory to reach their destination (as per Obligation to issue a declaration of presence (dichiarazione di presenza) within 8 days from arrival, to border authorities or police authorities of the area of destination

¹⁶⁴⁰ Ordinance of the Head of Civil Protection department no. 872 of 4 March 2022, available in Italian at: <https://bit.ly/3k7njY2>.

¹⁶⁴¹ MOI - state police Department, Circular no. 20815 of 10 March 2022 and Article 2 of the Prime Ministerial Decree of 29 March 2022. According to the MOI circular the permit to stay cannot exceed the date of 4 March 2023.

¹⁶⁴² Article 1 of the Prime Ministerial Decree of 28 March 2022, published on 15 April 2022, available at: <https://bit.ly/38Wxyfw>.

¹⁶⁴³ Ibid. Article 3.

¹⁶⁴⁴ Article 34 DL 21 of 21 March 2022.

	<ul style="list-style-type: none"> ❖ Right to stay on Italian territory for 90 days without formalities as a tourist ❖ Right to a residence permit for Temporary protection (1-year validity, issued without costs or taxes, electronic badge, validity extended every 6 months after 1st expiration date)
2. Right to work (subordinate or self-employed)	<ul style="list-style-type: none"> ❖ Right to work (subordinate or self-employed) granted also to holders of the receipt certifying the permit application, waiting for the issuance of the permit ❖ Facilitated access to sanitary professions ❖ Right to convert the permit of stay for temporary protection to a permit of stay for work, if all the requirements provided by the law are met (introduced with L. 213/2023, art. 1, par. 395-396)
3. Right to access education and professional training for adults	<ul style="list-style-type: none"> ❖ The holder of temporary protection in Italy has access to adult education, as well as professional training.
4. Right to access education for children	<ul style="list-style-type: none"> ❖ Minors who are TP holders have access to the education system on par with Italian citizens
5. Right to adequate housing or to receive financial help to get adequate housing	<ul style="list-style-type: none"> ❖ The Council of Ministers approved the proclamation of a state of national emergency¹⁶⁴⁵ and entrusted the Head of the Department of Civil Protection with the role of Extraordinary Commissioner of the Government with a coordination task. ❖ The Department established specific rules for the reception of TP beneficiaries, providing different forms of support, which complement those already provided for asylum seekers and refugees. ❖ Each Region sets up a coordination structure which works in conjunction with private ones and, if present, local representatives of the Ukrainian community. ❖ It is up to the Prefectures responsible for the area to verify the availability of accommodation in the ordinary network of CAS (Extraordinary Reception Centres for asylum seekers) and SAI (reception and integration system). ❖ People displaced from Ukraine have the right to access: <ul style="list-style-type: none"> a) First reception centres for asylum seekers; b) Extraordinary reception centres (CAS); c) Reception structures of the Reception and Integration System (SAI); d) Independent accommodation in private lodgings. The support contribution provided in these situations amounts to EUR 300 per month for each displaced adult beneficiary of temporary protection, who has found independent accommodation; the adult who is the guardian or custodian of minors under the age of 18 is also entitled to a contribution of EUR 150 per month for each minor. The contribution is paid for a maximum of 90 days, starting from the date of submission of the temporary protection request.

¹⁶⁴⁵ The state of emergency has been extended until 31 December 2024 by L. 213/2024, art.1 par 389.

6. Right to social care, means of subsistence and access to healthcare	❖ The platform of the Civil Protection Department, which has been online since 2 May 2022, allows people fleeing the war in Ukraine to apply for a subsistence grant for oneself, for one's children, and for minors of whom one has legal guardianship.
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The invasion of Ukraine has not only caused the displacement of Ukrainian citizens or residents. After the beginning of the war, many Russian nationals started to flee their country due to the increasingly harsh measures taken by the Russian government to limit freedom of expression and free speech by political opponents, at every level. According to data provided by Ministry of Interior in response to a FOIA request sent by ASGI, in the year 2023, 224 asylum requests from Russian citizens were examined.¹⁶⁴⁶ Many Russian asylum seekers, in the experience of ASGI lawyers, were dissidents since long before the beginning of the war, or were of half-Ukrainian heritage, or LGBTIQI persons with a long history of harassment from Russian authorities or police. The invasion was a trigger for their decision to leave the country. They obtained refugee status. In 2023, arrivals from Russia continued. International protection is granted in the majority of cases.¹⁶⁴⁷ In some cases, protection was denied, for example the case of a very young Russian female student. She chose to go back to Russia and not appeal the decision.¹⁶⁴⁸

Regarding the number of beneficiaries of protection in the country, in 2023 the total number of residence permits for Temporary protection issued from in the same period was 21,395. Disaggregated data on requests sorted by nationality was not provided for 2023.¹⁶⁴⁹

B. Qualification for temporary protection

Temporary protection applies to the following groups of persons in the national context:

- a) citizens of Ukraine residing in Ukraine before 24 February 2022, who fled the country starting from 24 February 2022;
- b) stateless persons and nationals of third countries other than Ukraine who enjoyed international protection or an equivalent national protection in Ukraine before 24 February 2022;
- c) family members of the persons referred to in letters a) and b).
- d) stateless persons and nationals of third countries other than Ukraine who can prove that they stayed in Ukraine before 24 February 2022 on the basis of a permanent residence permit issued in accordance with Ukrainian law and which cannot return in safe and stable conditions to their country or region of origin.

People unable to provide proof/evidence of having entered the country after 24 February are not eligible for temporary protection. Police authorities follow this rule when deciding whether someone is eligible for temporary protection, following a restrictive interpretation of national legislation as described in the previous paragraphs. Ukrainian citizens (or residents) who, solely on these grounds, are not eligible for temporary protection, and not excluded for the causes provided by the Directive, are usually granted special protection (Art. 19 of T.U.I.), if they choose not to apply for international protection.

The Civil Court of Bologna recently ruled on the case of a Moroccan man holding a Ukrainian permit of stay of 5 years for study, who fled Ukraine and came to Italy, where he had acquaintances, immediately after the beginning of the invasion. Not being eligible for TP, he applied for special protection, which the

¹⁶⁴⁶ Figures and charts provided by the Ministry of Interior at the request of ASGI by FOIA public access on 17 and 18 April 2023.

¹⁶⁴⁷ Data provided by MOI – National Asylum Commission on 4 march 2024: in 2023 59% of Russian asylum seekers obtained refugee status; 1% obtained subsidiary protection; 24% obtained special protection and 16% of the requests were rejected

¹⁶⁴⁸ Practice-based observation by ASGI, December 2023

¹⁶⁴⁹ Data provided by Eurostat, available at: <https://bitly.cx/DZz1h>.

Questura of Bologna refused to grant him, following the negative decision of the local Territorial Commission for international protection. On appeal the Court granted him special protection, on the grounds of his positive integration process in Italy rather than due to the situation in the country of his last habitual residence.¹⁶⁵⁰

When compared to the scope of TPD, additional categories are covered in the national framework, in particular:

- a) stateless persons and nationals of third countries other than Ukraine who enjoyed international protection or national protection equivalent in Ukraine before 24 February 2022;
- b) family members of Ukrainian citizens or stateless persons and third countries nationals.

The scope of TPD in Italy is not restricted compared to the Council Decision, except with regard to displaced people who cannot prove they left Ukraine after 24 February 2022 through official documentation such as passport stamps or equivalent documents. The Council Decision (para. 14) encourages MS 'to consider extending temporary protection to those persons who fled Ukraine not long before 24 February 2022 as tensions increased or who found themselves in the territory of the Union (e.g. on holidays or for work reasons) just before that date and who, as a result of the armed conflict, cannot return to Ukraine'. However, the date of 24 February 2022 is being used as a strict time limit by Italian authorities as far as temporary protection is concerned.

TCN and stateless persons are included under the scope of the temporary protection, if holders of a permanent permit of stay in Ukraine or holders of international/national protection in Ukraine. Family members are those included in the definition of family members eligible for family reunification according to art. 29 of T.U.I. (parents, spouse, minor children or unable to provide for themselves in case of serious incapacity/invalidity).

Special protection under article 19.1 and 19.1.1 of T.U.I. is available for people fleeing Ukraine who do not fall under the scope of the temporary protection regime (for example, people who cannot provide evidence that they left Ukraine after 24 February 2022). Special protection has been significantly modified by law decree n. 20/2023 converted by law n. 50/2023. The new law provisions do not allow requesting special protection directly to Police authorities and this form of protection can be granted as a residual form of protection, only within the international protection procedure, when requirements for international protection are not met.

The Court of Rome established the right of a Ukrainian citizen, not eligible for temporary protection, to obtain special protection, having applied directly to the local Questura, after the entry into force of Law Decree n. 20/2023 but before entry into force of Law of Conversion n. 50/2023 that cancelled this possibility.¹⁶⁵¹

The Court of Bologna recognised the right of a Moroccan student, who had fled Ukraine after the beginning of the war but was not eligible for temporary protection being holder of a temporary permit in Ukraine, the right to obtain special protection according to art. 8 of ECHR, considering "*the situation of the country of origin, which he left almost eight years ago, and especially for his personal experience in Ukraine, where he had settled and lived for some time now*".¹⁶⁵²

Ukrainian citizens who are not eligible for temporary protection often choose to apply for international protection.¹⁶⁵³

¹⁶⁵⁰ Civil Court of Bologna, Decision no. 14313/2022.

¹⁶⁵¹ Court of Rome, 14 February 2024, n. 37931/20123 available at: <https://bitly.cx/ft3uGàò>.

¹⁶⁵² Court of Bologna, 7 December 2023, n. 8176/2023.

¹⁶⁵³ Practice – based observations by ASGI, January 2024.

The duration of temporary protection was of one year, starting from 4 March 2022. The residence permits issued expired on 4 March 2023, but could be extended every 6 months for another year. The first extension expired on 31 December 2023 (Council of Ministers deliberation of 23 February 2023, published 10 March 2023). L. 213/2023, art. 1 par. 389 granted a second extension until 31 December 2024, as well as the extension of the state of emergency until the same date.

C. Access to temporary protection and registration

1. Admission to territory

There were some reports of restrictions on admission to Italian territory in 2023. For example, a Ukrainian citizen, mother of Ukrainian citizens holders of temporary protection in Italy, was denied access to Italian territory in Marco Polo airport in Venice, because she was not in possession of a biometric passport. Border police held her and wanted to deport her until she applied for international protection with the help of a colleague who was already helping the family in Italy, which led to her decision to go back to Ukraine.¹⁶⁵⁴

Ukrainian citizens could already travel with a visa exemption before the war, being granted the right to enter the country for 90 days for tourism. The EU Decision states that, in the first 90 days after entering EU territory, they have freedom of movement and can choose in which Member State they want to apply for temporary protection. Volunteers have been organising transport from the Ukrainian border to Italy with private means of transport.

2. Freedom of movement

Individuals entitled to temporary protection who do not hold a biometric passport, or a biometric travel document did not experience any issues in moving within the territory or when attempting to continue their journey towards other European countries.

Under the EU Council Decision, once temporary protection has been obtained, the holder has the right under EU law to temporarily reside in another EU Member State for 90 days over a period of 180 days, without prejudice of the obligation to possess a passport or travel document equivalent. The Italian legislation, however, was more restrictive, providing that a holder of temporary protection cannot leave the national territory (art. 10, legislative decree 85/2003).

The only exceptions to the rule are any 'bilateral agreements with another Member State, or in case of voluntary transfer between Member States' or 'prior authorisation of the Authority that issued the residence permit'. Art. 10 forbids holders of TP from leaving the Italian territory, but it is not clear what the consequences would be if a temporary protection beneficiary decided to leave anyway and whether their permit for temporary protection could be revoked for this reason.

In 2023 a Ukrainian citizen holder of a temporary protection permit issued by Austria, who later joined his mother, holder of a long-term residence permit in Italy, had his request to obtain temporary protection in Italy rejected by local police authorities. He then decided to become an asylum seeker in Italy.¹⁶⁵⁵

¹⁶⁵⁴ Practice – based observations by ASGI, October 2023.

¹⁶⁵⁵ Practice – based observation by ASGI, April 2023 – April 2024.

3. Registration under temporary protection

Police authorities (Questure, i.e. provincial police headquarters) are responsible for registering temporary protection applications after the declaration of presence submitted by Ukrainian citizens in the municipality of domicile as mentioned above. The applicants have their fingerprints taken and are issued a receipt certifying that the procedure has been started. After a certain period of time (between one month and two months, on average) an electronic permit of stay is issued.

Specific time limits to apply for TP were not laid down in the DPCM.

In terms of evidence required for registration, applicants are required to show proof of their Ukrainian nationality or resident status and of the date they left the country (mainly through exit passport stamps). In fact, those who fled without being able to get an exit stamp (due to dangerous conditions, coming from areas under attack, etc.) are often denied temporary protection and offered alternatives such as special protection if they do choose to not apply for international protection.

After completing the declaration of presence, the applicant is provided with a copy of the declaration containing their personal details, domicile, and a photo. Immediately after registration for temporary protection at the Questura, the applicant is given a receipt certifying that the request has been submitted and is pending.

One practical problem common to all areas of the country is the time needed to issue the permits (for TP, treated with priority, at least 3-4 months). It should be noted, however, that basic rights such as housing and health care are provided also to holders of the receipt of application, partially solving the issues related to the waiting time.

Applicants who are refused temporary protection have the right to appeal such decisions before Administrative Courts, as stated in art. 9 of Legislative Decree n. 85 of 2003.

However, due to the formulation of the rule prior to the jurisprudential and regulatory evolution that took place in Italy regarding the judicial protection of international and national protection, and the fact that temporary protection can be classified as a subjective right, the competence to decide in cases of this kind could be assigned to the ordinary judge. In 2022 and 2023, however, no cases of appeal were reported to ASGI.

4. Legal assistance

Free legal assistance for persons entitled to TP is provided through general legislation granting free legal aid for nationals and residents who do not have sufficient resources (D.P.R., 30/05/2002 n° 115). The income limit is currently fixed at EUR 12,838 annually per household. Under this threshold, access to free legal aid is granted and covered with State funds (through the Ministry of Justice). However, the Italian legislative framework ensures it only for the – eventual – judicial phase and not for the administrative steps. Therefore, people displaced from Ukraine applying for temporary protection cannot benefit from this aid until the judicial appeal.

TP holders who enter hosting programmes for asylum seekers and holders of international protection (C.A.S. and S.A.I.) have access to legal assistance and legal counsel concerning the procedure for obtaining TP and on the territory. Such assistance is funded through hosting programmes.

People privately accommodated can benefit from legal support provided by some International organisations, such as IRC, Save the Children, UNHCR and by some NGOs that have received *ad hoc* funding.

In particular, the Intesa San Paolo bank financed 10 Italian associations, including the Italian Refugee Council (CIR), to offer free legal aid to Ukrainian citizens and legal support to unaccompanied minors and single-parent families.¹⁶⁵⁶

5. Information provision and access to NGOs

According to Article 8 LD 85/2003, TP beneficiaries are delivered a document which illustrates their rights, duties and the rules relating to temporary protection either in a language which they are presumed to understand, or in English, French, Spanish or Arabic.

In practice, at the check points set up for the emergency – from March 2022 until December 2022 – on the Italian-Slovenian border (Ferneti border) and on the Italian-Austrian border (Ugovizza - Tarvisio), while the police carry out checks of new arrivals and the Civil Protection provided primary goods, the organisations present at the so called “bluedots” provided psychosocial support and legal information. Bludots were implemented by UNHCR and UNICEF with implementing partners Save the Children, Arci, D.i.r.e, Stella Polare (only in Ferneti), Terres des Hommes (only in Ugovizza -Tarvisio).

At the same borders, UNHCR and Save the Children provided a brochure in Ukrainian, Russian and English informing about the right to asylum and to temporary protection.

These information points have not been active in 2023.

No information sheets were distributed by the authorities; instead, an information sheet prepared by the MOI and EEUA was available in Italian and Ukrainian and is present on the Civil protection website.¹⁶⁵⁷

In general, from the beginning of the emergency, on national territory and depending on the region or municipality, some organisations provided information to people fleeing from Ukraine. Some of these organisations are still providing information and support, even if the flow of Ukrainian citizens has significantly slowed down. Information is also provided by the Italian government through a dedicated website,¹⁶⁵⁸ which links to a written booklet on temporary protection and the rights of people fleeing from Ukraine in Italy.

D. Guarantees for vulnerable groups

By March 2024,¹⁶⁵⁹ 3,970 Ukrainian minors were present on Italian territory. During 2023, however, there has been a sharp decrease in the arrivals of Ukrainian minors, whose number went from 7,107 minors arriving in 2022 to just 207 in 2023.¹⁶⁶⁰

According to the provisions of L 47/2017 (the Zampa Law), minors arriving from Ukraine without their parents, even in the presence of referent adults, were considered unaccompanied minors.¹⁶⁶¹

¹⁶⁵⁶ Linkiesta “Intesa Sanpaolo dona 10 milioni di euro per aiutare il popolo ucraino”, 2 September 2022, available at: <https://bit.ly/3KG1nSo>.

¹⁶⁵⁷ Information sheet available in Italian and Ukrainian at: <https://bit.ly/3LzngDb>.

¹⁶⁵⁸ See the booklet at: <https://bit.ly/3oRDoHf>.

¹⁶⁵⁹ Ministry of Labour, Monthly data on MSNA (latest update). Monthly updated dashboard available at: <https://bitly.cx/pneR>.

¹⁶⁶⁰ Ministry of Labour, Monitoring report on unaccompanied foreign minors, 31 December 2023, available at: <bit.ly/4bM9XKD>.

¹⁶⁶¹ Article 2 L. 47/2017

On 13 March 2022, the Head of the Department for Civil Liberties and Immigration of the Ministry of the Interior was appointed Deputy Commissioner for the coordination of assistance measures for unaccompanied minors from Ukraine.¹⁶⁶²

On 13 April 2022, the Ministry of Interior issued the Plan for unaccompanied foreign minors, reaffirming the need to apply to minors fleeing from Ukraine all the guarantees provided by the Zampa Law for the identification, reception and protection of foreign minors.¹⁶⁶³ Then, in order to address specific cases emerging after the outbreak of the conflict, an addendum published on the same day established specific procedures and reports in cases of transfers of minors promoted by associations or other organisations operating in Italy.¹⁶⁶⁴

The plan provides that the Ministry of Interior's Departments of civil protection, civil liberties and immigration and public security are informed of the transfer at least 10 days in advance. The Departments also receive information on the personal details of the minors and the reception measures they will have access to. It also established that the territorially competent Prefecture should immediately activate coordination with the local institutions concerned, including the school office, the health authority and the Juvenile Court for the orderly access to reception measures.¹⁶⁶⁵

Many Juvenile Courts recalled the need to respect the age assessment procedures and the procedure to name the guardians dictated by the Zampa law.¹⁶⁶⁶

According to ASGI's experience, in 2023, procedures related to Ukrainian minors were treated with priority, often skipping the appointment of a temporary external legal guardian in favour of relatives already on the Italian territory who were available to take care of the minor. On the other hand for children of other nationalities an external temporary legal guardian is usually appointed while the territorial social services verify that the relative available on the Italian territory is adequate and can qualify to be appointed legal guardian for the child

On 6 April 2022, the Juvenile Court of Bolzano rejected the request to proceed with the appointment of a guardian for seven minors coming from Ukraine where they were housed in an orphanage, deeming that the presence of the Head of the orphanage, who was their legal guardian in Ukraine, should be taken into consideration and that her role as guardian should also be recognised in Italy without proceeding with the appointment of further guardians.¹⁶⁶⁷

In September 2022, ASGI received information on the decisions to authorise repatriation, issued by the Juvenile Court of Venice, concerning some Ukrainian unaccompanied minors. These decisions were taken based on the wishes expressed by the representatives of the communities where the children lived in Ukraine and upon request of the Ukrainian embassy, without hearing the guardians or the minors themselves. The minors had not been able to access the temporary protection measures as no one had started the procedure on their behalf. After the intervention of a solicitor, appointed by some of the guardians, the minors were heard, but the Court confirmed the decision as all the minors expressed their willingness to return to Ukraine.

¹⁶⁶² Article 2 Ordinance of the Head of the Civil Protection Department no. 876 of 13 March 2022

¹⁶⁶³ The Plan, published on 13 April 2022, available at <http://bit.ly/42oiCgX>, was issued as provided by the Ordinance of the Civil Protection no. 876/2022.

¹⁶⁶⁴ Addendum to the Plan, available at: <http://bit.ly/40MUsew>.

¹⁶⁶⁵ Plan for unaccompanied minors, Ukraine emergency, Prot. 4070 of 13 April 2022.

¹⁶⁶⁶ See for example, the letter sent by the Juvenile Court of Milan to all the municipalities of Milan district, to Questure of Lombardy, to the border police of Lombardy, and to Prefectures of Lombardy, available at: <http://bit.ly/3J9Vjzg>. Also, the note issued by the Juvenile Court of Brescia, available at: <https://bit.ly/3nfQwFx>, the Juvenile Court of Genoa, available at <http://bit.ly/42aueUB>, and the Court of Turin, available at <http://bit.ly/41Klxk4>.

¹⁶⁶⁷ Juvenile Court of Bolzano, decision of 6 April 2022, available in Italian at: <https://bit.ly/41Mt5C>.

Ukrainian women have been considered at high risk of being trafficked. The National anti – trafficking plan¹⁶⁶⁸ recommends an increased level of attention to the Ukrainian case, also through a specific project focused on Ukrainian citizens at risk of trafficking. An article published in November 2023 highlights how an increasing number of women is caught in trafficking networks operating along the main migratory routes from Ukraine and through social networks. The article is based on data provided by I.O.M. and U.N.O.D.C. referring to the years 2021 and 2022.¹⁶⁶⁹

¹⁶⁶⁸ Piano nazionale d'azione contro la tratta e il grave sfruttamento 2022-2025, available at: <https://bit.ly/3x680Jq>.

¹⁶⁶⁹ Available in Italian at: <https://bitly.cx/D2ZXD>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | One year with 6 months extensions |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2023? | 164,070 |

The procedure for granting a residence permit is started by a direct request to the police authorities (which can be submitted by email, certified email, or in person at the front desk of an immigration office). Following the request, an appointment is given where the applicant is fingerprinted and given a receipt certifying that the application has been submitted and is pending. After some time (2 months or more, average), an electronic permit is issued.

The Ministry of Interior is the authority responsible for the procedure, through Questure (Provincial Police Headquarters) located in every provincial capital city/town. Delays and blockages in the release and renewal procedures have been experienced in many areas throughout the country in 2023, due to lack of personnel and poor organisation of the responsible police offices. This also affected the procedures of request and issuance of TP permits. In any case, the sole possession of the receipt proving the submission of the request for TP gives the holder access to basic fundamental rights.

The duration of the TP residence permit is of one year. L. 213/2023, art. 1 par. 389 has granted a second extension until 31 December 2024, as well as the extension of the state of emergency until the same date. The possibility to enjoy certain rights to which TP holders are entitled is directly connected to the permit. Such is the case for:

- ❖ Facilitated access to sanitary professions
- ❖ Access to adult education, as well as professional training

L. 213/2023, art. 1, par. 396 established the right to convert the permit for temporary protection into a work permit, for those who meet the requirements provided by the Consolidated Immigration Act.¹⁶⁷⁰

All other rights connected to the temporary protection status (e.g. employment, school, healthcare, etc) can be enjoyed directly upon receiving the receipt upon registration.

According to the information sheet arranged by the Civil Protection, if temporary protection beneficiaries move to another EU Member State, they can request and receive TP in the State where they move but, will as a consequence lose temporary protection in Italy.¹⁶⁷¹ There is no available information as to a procedure to be followed by the beneficiaries to end their status in Italy when obtaining status elsewhere in the EU.

2. Access to asylum

Access to asylum for holders of temporary protection is regulated by art. 3 of DPCM 28 March 2022.¹⁶⁷² according to this provision, the holder of a residence permit for temporary protection has the right to submit, at any time, an application for international protection. The examination and decision on the

¹⁶⁷⁰ L. 213/2023, art. 1, par. 396, available at <https://bitly.cx/MRGtN>

¹⁶⁷¹ Protezione civile, Opuscolo informativo, available at: <https://bit.ly/3LzngDb>.

¹⁶⁷² Available at: <https://bitly.cx/wPM>.

application for international protection, submitted by the holder of TP, are deferred to the expiration date of the permit for temporary protection.

The application for international protection submitted in Italy by a person entitled to temporary protection belonging to categories listed in art. 1 of DPCM 28 March 2022 does not preclude the possibility of submitting the application for temporary protection.

In case of recognition of temporary protection, the Questore (head of Questura, Chief of provincial police department) immediately communicates with the Territorial Commission for the recognition of international protection for the purposes of deferment. These provisions apply also, where compatible, to the application for special protection.

Recognition of international protection precludes access to temporary protection.

Questore had treated these situations in two different ways:

- ❖ Some register the application of international protection and suspend it until the end of temporary protection;
- ❖ Some refuse to register the application and postpone registration until the end of temporary protection (thus violating the DPCM provision).

In 2023, 1,653 decisions were issued to Ukrainian asylum seekers (not holders of temporary protection). 77 obtained refugee status; 1,398 obtained subsidiary protection; 29 obtained special protection; 149 were denied any form of protection.¹⁶⁷³

In a case related to the asylum request submitted by a Ukrainian conscientious objector who had refused to perform military service in Ukraine, the Court of Cassation decided that the applicant had to be granted refugee status because the conscription, due to the armed conflict in place throughout the entire territory, entailed a high risk of involvement, even indirectly, in the commission of war crimes and crimes against humanity. In this case, the Court specified that the penal sanction envisaged by the foreign legal system for evading military service constitutes an act of persecution, pursuant to Article 7, (2 e) of the Qualification Decree and of Article 9 (2(e)), of Qualification Directive, as interpreted by the CJEU in the judgement *Shepherd v. Germany* (case C-472/13), regardless of any consideration related to the proportionality of the penalty.¹⁶⁷⁴ On the same grounds, in 2023 other Italian courts granted the refugee status to Ukrainian citizens who refused to fight in the war. The Court of Naples granted refugee status to a Ukrainian citizen who had withdrawn from military service in his country to avoid being sent to fight in war zones with Russia, establishing that if the applicant refused to enlist, he would face recently imposed penalties which, irrespective of their proportionality, would integrate persecutory acts.¹⁶⁷⁵

On April 2022, the Civil Court of Salerno recognised the refugee status to an Ukrainian citizen who was HIV positive, suffering from hepatitis C e addiction to narcotic substances, believing that the appellant, in the event of repatriation, would have been exposed to the risk of suffering persecutory acts, including the intentional refusal of life-saving treatment, in reason for belonging to the social group of HIV-positive people and to that of drug-addicted people, within a context of systemic discrimination by the society to these categories of people.¹⁶⁷⁶

¹⁶⁷³ Figures and charts provided by the Ministry of Interior (National Asylum Commission) at the request of ASGI by FOIA public access on 4 March 2024.

¹⁶⁷⁴ Court of Cassation, decision no. 18626 of 9 June 2022.

¹⁶⁷⁵ Civil Court of Naples, 27 February 2023, n. 34170/2018.

¹⁶⁷⁶ Civil Court of Salerno, 20 April 2022, available at: <https://encr.pw/FZksF>.

B. Family reunification

Transposing the Directive 2001/55/EC, Italy issued LD no. 85 of 7 April 2003, whose Article 6 governs family reunification for TP holders. The DPCM of 28 March 2022 also made clarifications with respect to the use of the procedure as applied to temporary protection holders.

Family members covered under the procedure are:¹⁶⁷⁷

- ❖ unseparated spouses and stable partners
- ❖ the minor unmarried children of the sponsor or of their spouse, without distinction as to whether they were born in or out of wedlock or adopted as well as minors entrusted or under guardianship;
- ❖ parents, who lived together as part of the family unit at the time of the events leading to the mass influx, who were wholly or mainly dependent on the sponsor at the time, and who are living outside the territory of the EU Member states, if they have no other adult children in the country of origin or of provenance or, if over 65 years old, if the other adult children are unable to support them for documented serious health reasons;
- ❖ the adult children of the TP beneficiary who lived with them as part of the family unit at the time of the events leading to the mass influx, who were wholly or mainly dependent on the sponsor at the time, if they cannot for objective reasons provide for their livelihood due to their state of health leading to total disability. They are admitted for purposes of family reunification if they are living outside the territory of an EU Member State.¹⁶⁷⁸

Italian law has used of the possibility provided for by Article 15 (2), second part of the Directive to allow family reunification in cases where the separate family members enjoy temporary protection in different Member States.¹⁶⁷⁹

The reunification procedure is the same as for ordinary family reunification (see [AIDA Country Report, section on Family Reunification](#)) and is thus divided into: request for authorisation from the competent prefecture, and issuance of the family visa at the Italian embassy where the family member is located.

Reunited family members obtain a residence permit for temporary protection whose duration is the same as that of the TP holder.¹⁶⁸⁰ They enjoy all the rights recognised to TP beneficiaries.

C. Movement and mobility

There are no national territorial restrictions for beneficiaries of temporary protection, and freedom of movement within the State is granted.

There are reports of restrictions on movement to and from other Member states: in one case a Ukrainian citizen holder of a permit for temporary protection issued by Austria decided to join his mother, a long-term resident in Italy. The local police authorities denied him the access to temporary protection based on art. 10, leg. Decree n. 85/2003; the Ukrainian citizen chose to apply for international protection (still pending)

Beneficiaries of temporary protection are allowed to return in Ukraine and to subsequently re-access the Italian territory, provided they are in possession of a valid travel document. In ASGI's experience,

¹⁶⁷⁷ Article 6 Legislative Decree no 85/2003 and DPCM of 28 March 2022.

¹⁶⁷⁸ DPCM of 28 March 2022, Article 1 (5).

¹⁶⁷⁹ DPCM DPCM of 28 March 2022, Article 1 (5).

¹⁶⁸⁰ Article 6 (3) LD no. 85 of 7 April 2003.

people who returned to Ukraine did not experience difficulties in re-accessing national territory but did in some cases when leaving Ukraine for the second time if holding an expired passport.

ASGI lawyers were contacted regarding the case of a Ukrainian young mother who left Italy to go back to Ukraine to apply for benefits granted to new-born children by Ukrainian law, as the procedure can be started only on Ukrainian territory. At the moment of publication of this report, she had not yet obtained permission to leave the country (despite holding a valid Italian permit of stay for temporary protection) as her passport expired and she was unable to renew it.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?
At least for the duration of Temporary Protection
2. Number of beneficiaries staying in reception centres as of 12/23
11,175 in temporary reception centres
2,121 in structures of the Reception and Integration system
3. Number of beneficiaries staying in private accommodation as of 12/23
An unknown number of accommodation places are currently occupied out of the 5,332 offered by local communities

Beneficiaries of temporary protection have the right to access different forms of accommodation:

- a) First reception centres for asylum seekers;
- b) Temporary reception centres (CAS);
- c) Reception structures of the Reception and Integration System (SAI);
- d) A specific form of reception in local communities (*accoglienza diffusa*).

In 2022 an economic contribution was provided in case of independent accommodation in private lodgings, with a support of EUR 300 per month for each displaced adult holder of temporary protection, who has found independent accommodation; an adult who is the guardian or custodian of minors under the age of 18 is also granted a contribution of EUR 150 per month for each minor.

In 2023 it is still possible to request the contribution; note that the extension of the state of emergency provided by L. 213/2023 came with a financial provision of 274 million euros for 2024.

Transposing the Directive 2001/55/EC, Italy issued LD no. 85 of 7 April 2003. According to Article 4 of LD 85/2003, if the conditions of the directive are met, the President of the Council of Ministers, in agreement with the regions and local authorities, establishes by decree the welfare measures to implement, also through the involvement of the associations and entities providing voluntary work, including those for housing, social and health assistance, access to the educational system for minors on par with Italian citizens, as well as for access to vocational training or internships.¹⁶⁸¹

On 28 February 2022, the Government declared the state of emergency until 31 December 2022 and entrusted the organisation and implementation of emergency relief and assistance interventions to the population fleeing from Ukraine to the Head of the Civil Protection Department who regulates these matters with ordinances.¹⁶⁸²

¹⁶⁸¹ Legislative Decree no. 85 of 7 April 2003, Article 4 (1 g).

¹⁶⁸² Resolution of the State of emergency, 28 February 2022, published on 10 March 2022, available at: <https://bit.ly/3uN1bbl>.

After the outbreak of the conflict and the decision to implement the 2001/55/EC Directive, the Government issued some decrees, detailed by the civil protection ordinances.

The planned interventions were mainly of two types: on one hand, it was planned to increase the places within the asylum reception system (first governmental, CAS and SAI facilities); on the other, alternative forms of reception in local communities (*accoglienza diffusa*) and economic support were foreseen.

Moreover, for further reception needs, the possibility to use the structures already set up for COVID-19 fiduciary isolation was foreseen; for further needs not covered by other measures, the presidents of the Regions, appointed delegated commissioners, are allowed to request Prefectures to prepare further housing solutions, especially for people in transit.¹⁶⁸³

Expansion of the reception system

DL 16 of 28 February 2022 established that people fleeing from Ukraine could access the reception system even without having submitted an asylum request.¹⁶⁸⁴

It also established the *ad hoc* creation of 3,000 additional SAI places, the possibility for people fleeing from Ukrainian's war to access SAI places that had been increased for Afghans¹⁶⁸⁵ and the financing for the management, activation and rental of the reception centres of an additional 54,162,000 euros for the year 2022, corresponding, as specified by a following circular¹⁶⁸⁶ to about 5,000 CAS places.

By ordinance of 5 October 2023 the Civil Protection department (responsible for additional hosting programmes for holders of temporary protection) extended funding for hosting programmes in hotels and similar structures, limiting the funding to 33 euros per day, per person.¹⁶⁸⁷

By ordinance of 29 December 2023 the Civil Protection department extended the hosting of 2,168 holders of temporary protection in the SAI system for three months.¹⁶⁸⁸

Article 5 quarter of DL 14/2022 modified by the conversion L 28 of 5 April 2022 – and to which the DL 16/2022 provisions on accommodation were transposed - provided that the above-mentioned resources should be used as a matter of priority for the reception of vulnerable people¹⁶⁸⁹ coming from Ukraine.

It also provided for the transfer of the beneficiaries (both Ukrainians and Afghans) from the first reception and CAS facilities to the SAI facilities progressively activated, within the limit of available places.

A MOI communication regarding the start of the procedure for expanding the SAI network to face the Ukrainian emergency,¹⁶⁹⁰ published on 16 March 2022, announced the opening of the procedure to

¹⁶⁸³ Ordinance of the Head of the Civil Protection no. 872 of 4 March 2022, Article 2 (1 lett b), Article 3 (2), and Article 3(4) available at: <https://bit.ly/3k7njY2>. See also MOI Circular, no. 0015709 of 8 March 2022, available at: <https://bit.ly/3s2XBs2>.

¹⁶⁸⁴ DL 16/2022, Article 3, then repealed and transposed in the DL 14/2022, Article 5 quarter as modified by the conversion Law n. 28 of 5 April 2022, without prejudice to all effects, acts and measures adopted in the meantime on the base of DL 16/2022.

¹⁶⁸⁵ 3,000 places increased by Article 7 (1) DL 139/2021, converted into L 205/2021, as modified by Article 5 quarter (5) DL 14/2022 converted into L 28/2022 and also 2,000 places according to Article 3(4) DL 16/2022, modifying Article 1 (390) L 234/2021, later transposed in DL 14/2022 as modified by Article 5 quarter (6) DL 14/2022 converted into L 28/2022.

¹⁶⁸⁶ MOI Circular, 2 March 2022 available at: <https://bit.ly/3OiV7zt>.

¹⁶⁸⁷ See: <https://encr.pw/s15nZ>.

¹⁶⁸⁸ See: <https://11nq.com/Upv5k>.

¹⁶⁸⁹ It refers to Article 17 (1) of the Reception Decree, LD 142/2015.

¹⁶⁹⁰ MOI communication about the start of the procedure for expanding the SAI network for the Ukrainian emergency, 16 March 2022, available at: <https://bit.ly/37ICDxF>.

activate 3,530 additional SAI places,¹⁶⁹¹ to be dedicated with priority to the reception of families, including single parents, with a deadline for the applications made by 19 April.

However, as also affirmed by the Prime Ministerial Decree of 28 March 2022, published on 15 April 2022, accommodation was ensured only within the limit of available places and relevant resources as implemented by Article 31 DL 21/2022.¹⁶⁹²

DL 50 of 17 May 2022 has provided for the funding of a further 8,000 SAI places.¹⁶⁹³ It also established the increase in SAI places, due to the 2022 *ad hoc* funding, should be intended as mainly directed at granting reception for people who fled the Ukrainian conflict and to Afghan evacuees.¹⁶⁹⁴

Later, DL 115 of 9 August 2022 increased by further 8,000 the places in SAI again specifying that the increase was intended to give priority to the reception needs of people who fled from Ukraine and Afghanistan.¹⁶⁹⁵

Alternative forms of accommodation for people fleeing from Ukraine and asking temporary protection

DL 21 of 21 March 2022, later converted by L. 51 of 20 May 2022, at Article 31 (1) (a), established:

- ❖ The establishment of further forms of reception in local communities (*accoglienza diffusa*), different and additional respects to the governmental first accommodation centres and the temporary centres (CAS) to be implemented in agreement with the Municipalities, and through non-profit organisations, volunteer service centres, selected organisations and associations registered at the Presidency of the Council of Ministers¹⁶⁹⁶ and religious bodies recognised according to national law, in substantial homogeneity of services and costs with the reception system facilities (CAS and first governmental facilities), for a maximum of 15,000 units, later increased by the DL n. 50 of 17 May 2022 that included 7,000 additional places;¹⁶⁹⁷
- ❖ To establish additional forms of support and assistance to persons entitled to temporary protection who have found autonomous accommodation, for a maximum duration of 90 days from the moment the temporary protection was requested and up to 60,000 units, later increased by the DL 50 of 17 May 2022 by 20,000 additional units and, in September, extended by 40,000 additional units;¹⁶⁹⁸
- ❖ To recognise, in proportion to the number of people accommodated in each region and up to a limit of 152 million, a flat-rate contribution for access to the National Health Service to the regions and provinces of Trento and Bolzano, up to 100,000 units, later integrated by DL 50 of 17 May 2022 by 27 million up to further 20,000 units;¹⁶⁹⁹

¹⁶⁹¹ The number also includes SAI places first foreseen to be reserved for Afghans.

¹⁶⁹² Article 5 of the Prime Ministerial Decree, 28 March 2022, published on 15 April 2022, available at: <https://bit.ly/38Wxyfw>.

¹⁶⁹³ In detail, the decree has provided for funding of 50 million and 500 thousand euros to the Ministry of the Interior for this purpose, Article 44 (1 c-bis), DL 50 of 17 May 2022.

¹⁶⁹⁴ Article 44 (3 bis) DL 50 of 17 May 2022, converted by L. 91 of 15 July 2022.

¹⁶⁹⁵ Article 26, LD. 9 August 2022, no 115, converted with amendments by L 142 of 21 September 2022.

¹⁶⁹⁶ This is the register referred to in article 42 of the TUI where selected associations and organisations dealing with migration themes can be registered in order to promote activities for foreign people and allowed to file appeals before the administrative Courts for the annulment of illegitimate acts.

¹⁶⁹⁷ Article 44 (1 a) DL 50 of 17 May 2022 converted by L. 91 of 15 July 2022.

¹⁶⁹⁸ Civil protection ordinance no. 921 of 15 September 2022 - Further urgent civil protection provisions to ensure, on the national territory, the reception, rescue and assistance to the population as a result of the events taking place in the territory of Ukraine, in implementation of article 44, paragraph 2, of the legislative decree 17 May 2022, no. 50, converted, with amendments, by law 15 July 2022, n. 91. The ordinance acknowledged that as of 15 August 2022, a total of 99,772 economic contribution transfers were authorised, referring to 61,485 individuals; a total of 37,248 supplementary contributions were also disbursed for minor children.

¹⁶⁹⁹ Article 44 (1 c) DL 50 of 17 May 2022 converted by L. 91 of 15 July 2022.

The Ordinance issued by the Head of the Civil Protection Department on 29 March 2022 better detailed these provisions. Regarding the financing of accommodation projects, it informed about the publication of notices to collect expressions of interest to the reception measures for people fleeing Ukraine.¹⁷⁰⁰

On 11 April 2022, the MOI Civil Protection Department published the first notice according to which each organisation offering its services had to make at least 300 places available, with a maximum of 30,000, also in associated form, and to prove an experience of at least 3 years in the reception of migrants or social and work integration activity.

The cost per capita was set at a maximum of EUR 33 per day.

The document highlighted that within the limit of 15,000 units, priority in terms of funding would be given to projects located in places with the greatest request for hospitality by people fleeing from Ukraine and then to the projects in places gradually closer.¹⁷⁰¹

The notice requested the submission of proposals for reception places but determined the time limit to send the proposals would be 22 April 2022.

The strict time limit and the need to offer at least 300 places made it difficult to submit such proposals for many organisations.

Of the 48 proposals presented, 29 were approved, for a total of 17,012 places offered¹⁷⁰² but the first conventions were then only signed in early August.

By December 2022, only 12 entities signed agreements for the reception in local communities (*accoglienza diffusa*) for a total of 5,332 places. They were in detail:

Caritas	1,489
ARCI	840
Apulia Anolf	310
Apeiron	501
Comunità Papa Giovanni XXIII	171
CSV Monza Lecco Sondrio	297
CSV Vicenza	180
Dimora D'Abramo	340
Esculapio	352
Gea	527

¹⁷⁰⁰ Ordinance from the Head of the Civil Protection Department no. 881 of 29 March 2022, available at: <https://bit.ly/3LH2VJ0>.

¹⁷⁰¹ Civil Protection Department, Notice for the acquisition of expressions of interest for the reception activities for people fleeing from the war in Ukraine, 11 April 2022 available at: <https://bit.ly/3KKYpJv>.

¹⁷⁰² See overview provided by the Civil Protection website, Emergenza Ucraina. Dashboard accoglienza diffusa, available at: <https://bit.ly/3Aw6G0C>.

San Marco	119
Umana Solidarietà	206

As of 15 February 2023, the distribution was the following: 11,149 people displaced from Ukraine were hosted in CAS (temporary reception centres); 2,402 were hosted in structures of the Reception and Integration System (SAI); 3,266 people were accommodated in hotels; 2,162 persons in local communities (*accoglienza diffusa*).¹⁷⁰³

On 29 March 2024, the Ministry of the Interior published two financing decrees for the continuation until the end of 2024 of the SAI projects (Reception and Integration system) and of the places in the reception system already financed through the funds reserved to the so-called “Ukraine emergency”.

These decrees follow up on what was already provided for in the previous decrees (DM no. 41931704 and DM no. 41951705, both of 30.1.2024), concerning the continuation of the aforementioned projects for the first months of 2024.

In particular:

The Ministerial Decree n. 3196 of 29 March 2024¹⁷⁰⁶ provides for the continuation - from 1 April to 31 December 2024 - of 1,221 places, activated by 54 new SAI projects originally financed with Ministerial Decree no. 35312 of 26.9.2022, subsequently expired on 31.12.2023 and continued as per the Ministerial Decree of 30.1.2024.

The Ministerial Decree n. 3195 of 29 March 2024¹⁷⁰⁷ provides for the continuation of the expanded positions originally financed with Ministerial Decree no. 30147 of 23.8.2022, subsequently expired on 31.12.2023 and continued as per Ministerial Decree 01.30.2024.

The Ministry of Interior established the financing of:

- ❖ 748 places distributed among 38 SAI projects, for the period from 1 April to 31 December 2024.
- ❖ 359 places distributed among 22 SAI projects, for the period from 1 March to 30 April 2024. In this case the Ministry decided to finance only one additional month.

These places have been subsequently financed again until 30.06.2024 through Ministerial Decree n.25596 of 07.06.2024.

The Decree Law no. 16 of 2 March 2023 established the continuation of the provision of reception in local communities (*accoglienza diffusa*) until 31 December 2023 and up to a maximum of 7,000 places.¹⁷⁰⁸

Article 1, par. 390 of L. 213/2023 extended the state of emergency to 31 December 2024 and Article 1, par. 388 of L. 213/2023 allocated the amount of 7,650,000 euros to ensure the extension of the hosting programs already in place. The provision of reception in local communities (*accoglienza diffusa*) is extended, up to a maximum of 7,000 places, until 31 December of 2024. Existing agreements about access to public health care and economic support are also extended until 31 December 2024.¹⁷⁰⁹

¹⁷⁰³ Redattore Sociale, Accoglienza ucraini, quel “modello nuovo” frenato da ritardi e troppa burocrazia”, 22 February 2023, available in Italian at: <http://bitly.ws/DvxZ>.

¹⁷⁰⁴ Ministerial Decree n. 4193 of 30.1.2024 available at <https://bitly.cx/EUBm>

¹⁷⁰⁵ Ministerial Decree n. 4195 of 30.1.2024 available at <https://bitly.cx/lx6JL>

¹⁷⁰⁶ Ministerial Decree n. 3196 of 29 march 2024, available at <https://bitly.cx/svbDY>

¹⁷⁰⁷ Ministerial Decree n. 3195 of 29 march 2024, available at <https://bitly.cx/4f2>

¹⁷⁰⁸ DL 16 of 2 March 2023, Article 1 (1) a) and b).

¹⁷⁰⁹ L. 213/2023, art. 1, par. 392 a) available at: <https://bitly.cx/MRGtN>.

The same law, Article 1, par. 389 authorised the expense of 274 million euros for the year 2024 for the continuation of the reception agreements existing in 2022-2023 at the same conditions.¹⁷¹⁰

Regarding economic support to persons entitled to temporary protection who have found autonomous accommodation, the Ordinance of Civil protection of 29 March 2022 stated that they would receive an economic contribution of EUR 300, plus EUR 150 per child for up to three months from the date of the temporary protection receipt.¹⁷¹¹ On 30 April 2022, the online platform through which to apply for the contribution was opened.¹⁷¹² Even if on 9 May 2022, a Civil Protection Note specified that the economic contribution could be asked only up to 30 September 2022,¹⁷¹³ although the online platform was still opened and usable for all 2022. L. 213/2023 ensured the continuation of provision of economic support for people privately accommodated.¹⁷¹⁴

L. 213/2023, article 1, par. 391 also allocated the sum of 40,000,000 euros to improve social services in the municipalities that host a significant number of holders of Temporary Protection.¹⁷¹⁵

According to ASGI's experience, TP holders requesting to access reception measures are given accommodation. They are also able to maintain their places in the facilities even when they need to leave the accommodation for a short period of time (this usually is not the case of asylum seekers or holders of international or special protection, see [AIDA Country Report on Italy - 2022 Update](#)).

However, the existing offer of places is severely limited; 173,900 people fleeing the war in Ukraine reached Italy in 2023,¹⁷¹⁶ and state-sponsored reception (CAS, SAI and widespread reception) could only ensure accommodation measures for 20% of those arriving.

Finally it should be mentioned that the Ordinance of the Civil Protection no. 937 of 20 October 2022¹⁷¹⁷ ordered to cease, within 30 days from its entry into force, the use of temporary housing solutions in hotel structures.¹⁷¹⁸ The Ordinance established that this solution can be used only as a provisional and temporary measure for a maximum period of 30 days, exclusively in case of new arrivals of people escaping from Ukraine or in favour of people whose forms of spontaneous assistance by associations or families are no longer sustainable, when no immediate possibility of housing in other forms of reception can be guaranteed by the state.

E. Employment and education

1. Access to the labour market

Right to work (subordinate or self-employed) is granted to beneficiaries of temporary protection, and to holders of the receipt certifying the permit application, waiting for the release of the permit.

Access to sanitary professions is facilitated according to art.34 of Decree Law 21/2022, which provided for a derogation from the discipline of the recognition of professional health qualifications, stating that public or private health structures can hire with fixed-term contracts Ukrainian doctors, nurses and OSS

¹⁷¹⁰ See: <https://bitly.cx/HVzMe>.

¹⁷¹¹ Ordinance issued by the Head of the Department of Civil Protection, no. 881 of 29 March 2022, available at: <https://bit.ly/3LH2VJ0>.

¹⁷¹² Department of Civil Protection, communication available at: <https://bit.ly/3vtsLLy>.

¹⁷¹³ Department of Civil Protection, Note no. 30457 of 9 May 2022.

¹⁷¹⁴ L. 213/2023, art. 1, par. 392 lett b).

¹⁷¹⁵ L. 213/2023, art. 1, par. 391, available at <https://bitly.cx/MRGtN>.

¹⁷¹⁶ UNICEF, available at <https://bitly.cx/qoZ9z>.

¹⁷¹⁷ Ordinance of the Civil Protection no. 937 of 20 October 2022, Article 1 and 2.

¹⁷¹⁸ As was established by Articles 2 and 3 Ordinance of the Civil Protection no 872/2022.

resident in Ukraine before 24 February 2022 and in possession of the European Qualifications Passport for Refugees.¹⁷¹⁹ The facilitation was extended also for 2024.¹⁷²⁰

TP beneficiaries also have access to professional training or apprenticeships in companies.¹⁷²¹

A report of the Ministry of Labour and Social Policies is available for the first semester of 2022.¹⁷²² The report shows a higher rate of employment compared to other communities in Italy (64.1% vs. average 58.4%), and underlines a higher level of education of the Ukrainian community, but doesn't analyse the consequences of the massive flow of Ukrainian citizens in the first months of 2022 on the job market.

On 30 December 2023, Law 213/2023 allowed beneficiaries of temporary protection to convert the permits to stay into work permits to stay.

According to the data provided by the Government after a public access request, from 30 December 2023 up to 7 March 2023, 303 requests of conversion had been submitted.¹⁷²³

2. Access to education

TP status gives the right to access education. In this regard, the DPCM of 28 March 2022, Article 2, grants minor TP holders access to the education system on par with Italian citizens.

The Ministry of Education ensured that minors who fled the war in Ukraine and entitled to TP would have a place in Italian schools. The Ministerial Notes n. 381 of 4 March 2022 'School reception of Ukrainian exile students - Initial indications and resources' and n. 576 of 24 March 2022 'Refugee students from Ukraine - Contributions to pedagogical and didactic reflection' reaffirmed the need for schools, through immediate and concrete didactic-training interventions, to ensure the fulfilment of the training obligation and full integration into the services of Italian education.

To support the integration process of these minors, in a particular state of fragility or emotional shock, it is requested to foster relations between those displaced by the war and the Ukrainian communities permanently inserted in Italy, in order to avoid any form of isolation. The possibility of organising psychological support courses to help these minors is also foreseen within the schools.

As an emergency measure, the Ministry of Education allocated an initial loan of one million euros to be allocated to educational institutions significantly involved in the reception and integration of Ukrainian minors.¹⁷²⁴

As regards access to the University, nothing was specified in the DPCM.

F. Social welfare

I.N.P.S. (National Institute of Social Providence) is the national entity responsible for social welfare provisions, through its local offices and Social services of Municipalities. Foreign nationals holding a residence permit with a duration of more than a year are granted access to social welfare under the same conditions as Italian citizens. Some specific categories of aid however require having been a

¹⁷¹⁹ Article 34 DL 21 of 21 March 2022.

¹⁷²⁰ Article 1, par. 395 -396 of L. 213/2023.

¹⁷²¹ Article 4 letter g of LD no. 85/2003.

¹⁷²² Ministry of Labour and Social Policies, La comunità Ucraina in Italia, 2022, available at: <https://bit.ly/3RgXuGa>.

¹⁷²³ Response to a Foia access submitted by Asgi, 2024.

¹⁷²⁴ Ministry of Labour, report on unaccompanied minors, December 2022, available at: <http://bit.ly/3kol1b5>.

resident in the country for a certain period before applying (for example, “assegno unico” – unified family aid – requires a previous residence period of 2 years). These requirements, unless they are considered discriminatory by courts, exclude holders of temporary protection from access, not on the grounds of the type of permit but depending on other requirements (for example, previous residence).

However, through circular no. 41 of 4 July 2023, I.N.P.S. specified that, “in agreement with the Ministry of Labor and Social Policies”, TP holders are entitled to receive “assegno unico”.¹⁷²⁵

Thus, residence is the main issue when it comes to social welfare (see [AIDA Country Report, Content of Protection, Housing](#)).

G. Health care

Access to health care is guaranteed to people fleeing the war in Ukraine since the presentation of the declaration of presence, which gives access to the STP system (Temporary Present Foreigner), which is usually granted to undocumented migrants who need to access national health care. Registration in the national healthcare system is guaranteed from the issuing of the application receipt. All medical treatments are free of charge (*regime di esenzione*).

TP holders do not appear to experience particular issues regarding access to healthcare. Some sanitary districts have put in place measures to overcome language barriers through a service of cultural mediation. In the country, public health care is managed at regional level, so practical measures may vary significantly depending on the territory and on the regional administration.

Pursuant to the DPCM of 28 March 2022,¹⁷²⁶ TP holders’ access to health care is guaranteed on the national territory, with equal treatment compared to Italian citizens, subject to registration in the sanitary offices of the place where they live. They can ask for a general doctor and for a paediatrician. Until the application for the residence permit is submitted, health care is in any case guaranteed in emergency cases (Article 35 of TUI) by registering as temporarily present third-country nationals (STP-code).

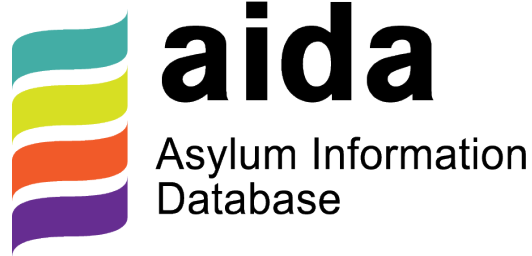
The civil protection ordinance no. 895 of 24 May 2022 established that the TP holders have access to healthcare in the regime of exemption from participation in health care costs, if they do are not employed.¹⁷²⁷

Medical treatments remained free of charge for all the duration of the first permit of stay (until 4.3.2023). As all the permits have been extended automatically until 31 December 2023, the exemption from medical fees is extended as well, though it is reported that some districts are not providing an automatic extension but are, instead, requesting holders of TP to present a specific extension application (which is then granted). The new extension to December 2024 covers also access to healthcare; the exemption from medical fees is extended as well.

¹⁷²⁵ See ASGI: Circolare INPS sull’Assegno Unico Universale: anche chi è titolare di protezione temporanea ne ha diritto” available at: <https://bit.ly/43h9ivZ>.

¹⁷²⁶ Article 5 (3) DPCM of 28 March 2022.

¹⁷²⁷ O.c.d.p.c. no. 895 of 24 May 2022 ‘Further urgent civil protection provisions to ensure, on the national territory, the reception, relief and assistance to the population as a result of the events taking place in the territory of Ukraine’.



Malta

2023 Update



Temporary Protection Procedure

A. General

Title (EN)	Web Link
Temporary Protection For Displaced Persons (Minimum Standards) Regulations, S.L. 420.05, 2005	https://tinyurl.com/5ymue9sn
Temporary Protection for Displaced Persons (Minimum Standards) (Amendment) Regulations, Legal Notice 188 of 2022. This amendment transposes Article 27 of the Directive.	https://tinyurl.com/5h6n48n4

The Temporary Protection for Displaced Persons (Minimum Standards) Regulations¹⁷²⁸ were adopted by the Home Affairs Ministry in May 2005 as subsidiary legislation to the International Protection Act. In terms of content, the Regulations faithfully transpose the Directive provisions to the letter. The Regulations specify that the CEO's declaration will also specify the groups of persons eligible for Temporary Protection.

On 8 March 2022, Malta activated the Regulations following the relevant Council decision.¹⁷²⁹ The Regulations state that the existence of a *“mass influx of displaced persons shall be made by the Chief Executive Officer”*, being the CEO of the International Protection Agency. The only public information available regarding the CEO's declaration is an undated page on the Home Affairs Ministry's website.¹⁷³⁰

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

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

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

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

Finally, the declaration also states that Temporary Protection shall also be granted to stateless persons third country nationals (other than Ukraine), as long as they are able to prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit issued

¹⁷²⁸ Temporary Protection for Displaced Persons (Minimum Standards) Regulations, Subsidiary Legislation 420.05, 6 May 2005, available at: <https://bit.ly/3AlbNRg>.

¹⁷²⁹ European Union Agency for Asylum, Information on Temporary Protection: Malta, June 2022, available at: <https://bit.ly/3H2RLP4>.

¹⁷³⁰ Ministry for Home Affairs, Security, Reforms and Equality, Temporary Protection Directive (2001/55/EC) – Ukraine Nationals, available at: <https://bit.ly/3N4ckyr>.

in accordance with Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin.

Furthermore, following the amendment of the operating plan with EUAA, the Agency committed to provide specific support for the registration and processing of TP applications. This support includes:¹⁷³¹

- ❖ Standard operating procedures on the implementation of the Temporary Protection Directive established and fully in line with the Council Implementing Decision (EU) 2022/382 of 4 March 2022;
- ❖ Regular coordination meetings held among the concerned representatives of the national authorities and EUAA to ensure effective collaboration and coordination;
- ❖ The Maltese authorities make the necessary office space available for the Agency's deployed personnel and provide the necessary equipment for implementation of the activities, unless otherwise agreed;
- ❖ A bi-directional data sharing on the outputs of EUAA deployed personnel under the performed operational activities and detailed overall national data on the respective statistical indicator;
- ❖ Support the delivery of information sessions on the provisions of the TPD with the use of leaflets/info-material developed by the national authorities in a language likely to be understood;
- ❖ Support TP registrations;
- ❖ Support in assessing the eligibility criteria for TP applications;
- ❖ Support the issuing of TP decisions;
- ❖ Support the issuing and the delivery of TP certificates;
- ❖ Support provided in the dissemination of two campaigns: 1) Survey of Arriving Migrants for Displaced People from Ukraine (SAM Ukraine Project); 2) Awareness raising campaign run by the European Commission-DG HOME against trafficking in human beings and targeting people fleeing Ukraine;
- ❖ Additional support for the implementation of TP activities, conditional upon agreement between EUAA and the Maltese authorities.

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

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

¹⁷³¹ Information provided by the EUAA in July 2024.

- Discrimination: some with expensive possessions from home (e.g. a car) were criticised as not being worthy of protection or support;
- No affordable housing;
- No legal aid.

Throughout 2023, persons granted TP struggled with access to basic support largely due to the extremely limited social support provided under the national social security system. The humanitarian group Ukrainian Refugees in Malta provided essential support to the community, largely by receiving and distributing food donations.¹⁷³²

Between 24 February 2022 and the end June 2024, a total of 2,062 were granted temporary protection in Malta. Out of this number, 1,533 currently have a valid protection certificate. Of the 1,533 persons with a valid protection certificate, 834 are female, 205 are minor females, 287 are male and 207 minor males.¹⁷³³

In 2023, 573 persons applied for TP and the IPA took 573 positive decisions. Legal practitioners noted that, as in 2022, persons deemed ineligible to apply for TP were barred for submitting their applications and documentation.

B. Qualification for temporary protection

The persons eligible for temporary protection are those outlined in the CEO's declaration, mentioned above. This criterion has been strictly applied and no changes in practice were seen throughout 2023.

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

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

In 2022, TCN parents of Ukrainian nationals were not deemed to be eligible for temporary protection in terms of the "family member" definition. These persons were then required to show, if possible, that they fulfilled the criteria relating to all other TCNs. Attempts were made by some applicants to argue that separation from their children would constitute a situation falling under "unable to return in safe and durable conditions to their country or region of origin". This was not accepted by the International Protection Agency. It is understood that these persons left Malta to seek protection elsewhere. NGOs did not report any similar cases for 2023.

In 2023, NGOs providing legal services confirmed that no stateless persons approached their offices for assistance relating to temporary protection.

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

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

¹⁷³² Ukrainian Refugees in Malta Facebook page: <https://tinyurl.com/s5p3ad6k>; The Alfred Mizzi Foundation, 'The Alfred Mizzi Foundation Donates to Ukrainian Refugees in Malta', 12 September 2023, <https://tinyurl.com/yeyrm46y>.

¹⁷³³ Information provided by the International Protection Agency on 11 July 2024.

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

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

In February 2022, a Community Crisis Centre was created with the help of the Honorary Consulate of Ukraine in Malta, to better coordinating reception efforts.¹⁷³⁴ As of March 2022, the International Protection Agency started to provide specific information regarding applications to Ukrainian Nationals that wish to apply for the Temporary Protection under the Temporary Protection Directive (2001/55/EC).¹⁷³⁵

On 18 March 2022, the Maltese authorities requested support from EUAA, with personnel and services to support the implementation of the Temporary Protection Directive in Malta, via a letter addressed to the Executive Director of the EUAA.¹⁷³⁶

C. Access to temporary protection and registration

1. Admission to territory

The vast majority of applicants reached Malta by plane in a regular manner. No particular immigration checks were applied, and no restrictions for what concerned access to the territory were reported.

Applicants and beneficiaries who returned to Ukraine could re-enter the country. Malta lifted COVID-19 restrictions very early in 2022 and quarantine at an alternative accommodation was allowed.

2. Freedom of movement

No reports or incidents were noticed. Applicants and beneficiaries are free to move and reside in any part of the country.

In 2022, the IPA clarified that TP beneficiaries returning to Ukraine would have their protection status withdrawn, irrespectively of the duration and reason of the return to Ukraine. The IPA further clarified that, if the person managed to return to Malta, they could reapply for TP upon their return.¹⁷³⁷ Practitioners were unable to confirm whether any persons had their TP withdrawn for this reason, or whether they managed to return to Malta.

3. Registration under temporary protection

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

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

¹⁷³⁴ Information distributed by the centre can be found at: <https://bit.ly/3wPKGgA>.

¹⁷³⁵ Information available on the Home Affairs Ministry of Malta at: <https://tinyurl.com/24ef7ze5>.

¹⁷³⁶ The letter is not publicly available, but referred to in the 2022-2024 Operational Plan (Amendment 3), page 4. Available at: <https://tinyurl.com/shh94jk7>.

¹⁷³⁷ Malta Refugee Council, Ukraine Info: Holders of Temporary Protection temporarily returning to Ukraine, 5 August 2022, available at: <https://tinyurl.com/4brw7ee5>.

Applicants are expected to provide the following documents:¹⁷³⁸

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

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

Persons denied temporary protection who subsequently appealed this negative decision were also not provided with any document relating to their status in the country pending the appeal.

The Regulations do not stipulate any right or procedure to appeal against negative decisions on temporary protection. In 2022, challenges were faced by some applicants who were deemed not to be eligible for temporary protection and were not provided with any decision in writing explaining reasons in fact and law for the decision on ineligibility.

When approached on this matter, in 2022 the International Protection Agency informed legal practitioners that the Directive does not place an obligation on the competent national authorities to give reasons in writing as to why a request for temporary protection is not being acceded to. The IPA further noted that the Temporary Protection Directive does not give the possibility to file an appeal in those instances where the competent national authorities conclude that someone is not eligible for Temporary Protection, referring to the Directive's Article 29 limiting appeals to situations where someone is excluded from the benefit of Temporary Protection.

It appears that the International Protection Appeals Tribunal has not, so far, declared any such appeal as ineligible or inadmissible yet no information is available as to whether the IPAT decided on the substance of any TP appeals in 2023.

4. Legal assistance

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

In practice, since the establishment of temporary protection, most applicants approached the NGOs *aditus*

Foundation and Jesuit Refugee Service Malta for information and legal assistance. The Ukrainian community in Malta also provided information to applicants and referred individual cases where necessary. Some applicants were able to pay private lawyers.

NGOs provided the only free legal services. As was the case in 2022, in 2023 the only practical obstacles possibly encountered included identifying suitable interpreters/translators, including for documents, and waiting lists since the NGOs providing the services also provide their services to several other groups of people.

¹⁷³⁸ Information provided by the International Protection Agency to the Malta Refugee Council, available at: <https://bit.ly/3UXAWea>.

5. Information provision and access to NGOs

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

The International Protection Agency produced two leaflets in English, disseminated to persons together with the decision and temporary protection certificate: ‘Frequently Asked Questions’ and ‘Rights of persons enjoying temporary protection’.¹⁷³⁹

The Malta Refugee Council regularly posted information updates on its website and social media sites, under the heading ‘Ukraine Info’.¹⁷⁴⁰ The NGO aditus foundation published a Fact Sheet on Temporary Protection.¹⁷⁴¹ During the early months of the arrivals to Malta, the Malta Refugee Council organised a series of information meetings with representatives of the Ukrainian community and government officials, with the aim of explaining issues such as social support, accommodation, documentation, etc. Throughout 2023, the Council maintained communication with the community discussing individual cases and also broader challenges and issues experienced.

In 2022, the Ukraine Community Crisis Centre Malta was established with the help of the Honorary Consulate of Ukraine in Malta.¹⁷⁴² It provided support relating to information and practical assistance mainly to newly-arrived applicants. The Centre was less active in 2023.

Similarly to 2022, in 2023 the main challenges regarding information provision related to the absence of information in Ukrainian, the limited availability of interpreters/translators and the seemingly uncoordinated approach of Government entities on the content of protection and related procedures.¹⁷⁴³ However, in 2023 several NGOs providing support to migrants and refugees noticed an increase in the number of service-users from Ukraine including for language classes and social support.

At the Malta International Airport, immigration officials refer applicants to the International Protection Agency. No interpretation service is currently available at the airport.

D. Guarantees for vulnerable groups

There is no specific mechanism for temporary protection applicants, yet it is assumed that the regular procedures for identifying vulnerable asylum-seekers could be applied (see [Identification of vulnerable applicants, AIDA Country Report – 2023 Update](#)).

No specific procedure was set-up to address the needs of individuals fleeing from Ukraine suffering from mental health problems, including survivors of torture and other traumatised persons. Throughout 2023, NGOs providing services to TP beneficiaries commented that mental health issues ranked as the highest priority of the community, particularly due to the on-going conflict, the separation from family members and the challenges of integrating and moving in in Malta.

¹⁷³⁹ The two leaflets are available on this news post of the Malta Refugee Council: <https://bit.ly/3LuhD9n>.

¹⁷⁴⁰ Malta Refugee Council, Latest News from Malta Refugee Council: <https://bit.ly/3H4nbEV>.

¹⁷⁴¹ aditus foundation, Fact Sheet No. 24 – Temporary Protection for Persons Fleeing Ukraine, May 2022: <https://bit.ly/3H55cOB>.

¹⁷⁴² Facebook page of the Ukrainian Community Crisis Centre Malta: <https://bit.ly/41rmzB3>.

¹⁷⁴³ Malta Refugee Council, Malta needs to coordinate its response to Ukrainian refugees: We urge Government to establish a Humanitarian Coordination Committee, with effective Civil Society participation, 21 March 2022, available at: <https://bit.ly/43Q46Qr>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | Valid until 4 March 2025 |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2023? | Not available |

Beneficiaries of temporary protection apply for an appointment at the public agency Identity Malta. Upon presentation and verification of the required documents, the residence permit is issued within days. The required documents are:¹⁷⁴⁴

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

Residence permits had an initial validity of one year (until 4 March 2023); after this date, all expired permits can be automatically renewed upon renewal of temporary protection certificate until 4 March 2025.

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

No additional conditions are imposed for the enjoyment of rights.

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

Without prejudice to the above, it is recommended that before requesting TP in Malta, the person concerned confirms that he/she is eligible for TP in Malta and informs the competent authorities of the Member State where he/she was originally granted TP of his/her intention to request TP in Malta.¹⁷⁴⁵

NGOs working with TP beneficiaries confirmed that they were in touch with small numbers of beneficiaries who had relocated to Malta from other EU MS.

¹⁷⁴⁴ Malta Refugee Council, Ukraine Info: Residence Permits for Temporary Protection holders, 29 April 2022: <https://bit.ly/3N3ojwj>.

¹⁷⁴⁵ Information provided by the IPA to the Malta Refugee Council, reproduced at: <https://bit.ly/3HcXKAQ>.

2. Access to asylum

The Regulations provide that persons enjoying temporary protection shall be able to lodge an application for asylum at any time. They also state that *“the examination of any asylum application not processed before the end of the period of temporary protection shall be completed after the end of that period.”*¹⁷⁴⁶ Furthermore, the Home Affairs Ministry confirms that temporary protection cannot be enjoyed simultaneously as the asylum applicant status.¹⁷⁴⁷

The Regulations further provide that after an asylum application has been examined and refugee status or, where applicable, any other kind of protection is not granted to a person eligible for or enjoying temporary protection, then, without prejudice to their right to appeal, that person shall enjoy or shall continue to enjoy temporary protection for the remainder of the period of protection.¹⁷⁴⁸

In 2023, there were no reports of TP holders wishing to apply for asylum, mainly since the TP procedure was speedier and provided more certain results. According to the IPA, in 2023, 30 applications were submitted by Ukrainian nationals and 89 such applications were pending at the end of the year. No decisions on international protection were taken by IPA in relation to Ukrainian nationals. Ukrainian citizens applying for international protection were processed in the same manner and together with all other asylum applicants.

B. Family reunification

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

C. Movement and mobility

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

In 2022, the International Protection Agency stated that a return to Ukraine – irrespectively of duration or purpose – could result in a withdrawal of TP,¹⁷⁴⁹ with the possibility of the person applying for TP once again. Nonetheless, withdrawal cases came to the attention of NGOs or legal practitioners.

¹⁷⁴⁶ Regulation 18 of the Temporary Protection for Displaced Persons (Minimum Standards) Regulations, Subsidiary Legislation 420.05 of the Laws of Malta.

¹⁷⁴⁷ Information available on the Home Affairs Ministry of Malta at: <https://tinyurl.com/24ef7ze5>.

¹⁷⁴⁸ Regulation 20(2) of the Temporary Protection for Displaced Persons (Minimum Standards) Regulations, Subsidiary Legislation 420.05 of the Laws of Malta.

¹⁷⁴⁹ Malta Refugee Council, Ukraine Info: Holders of Temporary Protection temporarily returning to Ukraine, 5 August 2022, available at: <https://bit.ly/40wpfMF>

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?	6 months
2. Number of beneficiaries staying in reception centres as of 12/2023	0
3. Number of beneficiaries staying in private accommodation as of 12/2023	Not available

TP holders are entitled to seek accommodated in the open reception centres managed by the Agency for the Welfare of Asylum-Seekers (AWAS) in accordance with the general rules applicable to international protection beneficiaries.

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

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

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

No places were specifically dedicated to TP beneficiaries in reception centres. Aside from Identitá, the national agency issuing residence permits, there is no centralised authority monitoring the housing situation of TP beneficiaries

In 2022, TP applicants and holders generally used hotels and private accommodation, as most had contacts here in Malta (being family or friends). These were not coordinated or in any way related to the general reception scheme and entirely private initiatives. Although there were no formal obstacles to accessing open reception centres, NGOs working with the Ukrainian community reported that TP applicants and holders refused to be accommodated in open reception centres due to the poor living conditions these offer.

The vast majority of applicants and holders secured accommodation privately, either through friends and/or family already based in Malta. NGOs received several offers of accommodation from residents in Malta willing to accommodate people fleeing Ukraine, yet there was no centralised platform to coordinate or monitor these spaces. Ad hoc initiatives were also being implemented.¹⁷⁵⁰

The March 2023 survey conducted by the NGO SOS Malta indicated that 60% of respondents were renting an apartment, 16.3% were renting with persons who were not family members, 10% were being accommodated by friends and 7.5% had accommodation provided by Maltese people. This is also reflected in the geographical spread of the community in Malta, with 45.9% of respondents living in the northern part of the island, generally known for lower rent prices.¹⁷⁵¹

In 2022, the Ukrainian Community set up a website for persons to refer to when seeking accommodation, yet no information regarding its effectiveness or operation is available. The website was eventually shut down and is no longer available.

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

¹⁷⁵⁰ For example, see: <https://bit.ly/3UXCHb3>.

¹⁷⁵¹ The survey results are not published, yet were shared with the Malta Refugee Council and NGOs working in the sector.

No compensation was provided to private hosts. Funds were made available at the beginning of the arrivals, to cover hotel and other accommodation costs linked to quarantine measures.¹⁷⁵²

In a first survey (September 2022) amongst the Ukrainian community, the NGO SOS Malta found that 45% of TP holders were renting an apartment themselves, 31% were in a private apartment or house with or without a foster family and 17% were renting an apartment with another Ukrainian family. The rest of the respondents indicated that they were hosted in a house or apartment provided by the authorities (this remains unclear) or were renting a hotel or Airbnb.¹⁷⁵³

The main challenges faced in securing housing were:

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

E. Employment and education

1. Access to the labour market

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

No specific regulation or policy is in place to facilitate access to the labour market for TP beneficiaries, yet no specific professions have been exempted from qualification recognition. TP beneficiaries are not entitled to equal treatment to nationals with regard to employment, meaning employment within the public service is not permitted.

2. Access to education

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

TP beneficiaries are entitled to education under the same conditions as nationals if they are under the age of 18. In their input to the survey prepared by SOS Malta, respondents flagged the issue that Ukrainian children were attending schools remotely at a Ukrainian school, limiting their available free time and heightening stress.

Language difficulties and administrative issues in securing documentation (in the early months of arrivals) were the main issues faced in accessing the education system. The Migrant Learners Unit, a public initiative offering language classes to prepare newly-arrived migrants for mainstreaming education, stepped up its registration efforts to meet the new increased demand for registrations.¹⁷⁵⁴

¹⁷⁵² Ministry of Foreign and European Affairs and Trade, The Ministry for Foreign and European Affairs is offering to cover the accommodation costs of Ukrainian nationals and their dependents fleeing from the current conflict in Ukraine, 2 March 2022, available at: <https://bit.ly/3Amj2Z7>.

¹⁷⁵³ Malta Council for Refugees, Ukraine info: SOS Malta publishes survey results persons who fled Ukraine to Malta, September 2022, available at <https://bit.ly/40nwPZW>.

¹⁷⁵⁴ See Malta Refugee Council, Ukraine info: Registering children at the Migrant Learners' Unit here: <https://bit.ly/3oBOOyM>.

Vaccinations, whilst necessary to access education, were freely administered.¹⁷⁵⁵

NGOs stepped in to provide language education classes to adults, with Blue Door Education confirming that it received large numbers of applications from Ukrainian nationals.

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

TP holders above the age of 18 are treated as **subsidiary protection holders for purposes of access to education**. They may apply for an exemption of fees for attending public educational institutions.¹⁷⁵⁶

Refugees, SP and TP holders have their fees waived when seeking to have their educational certificates recognised through the Malta Qualifications Recognition Information Centre (MQRIC).¹⁷⁵⁷

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

Language challenges remain the main obstacles to full enjoyment of education rights. The SOS Malta survey noted the challenges faced by children reaching Malta in the middle of the academic year and not permitted to access school before the end of the year. Respondents also commented on the administrative requirements for registering children and that the mental health needs of their children were not adequately seen to by the educational authorities.

F. Social welfare

The Regulations state that TP beneficiaries are entitled to “*necessary assistance*”, translated by policy to mean the same level of benefits as SP holders, being ‘social assistance’.¹⁷⁵⁸ This is a lower level of social welfare provided to Maltese nationals and recognised refugees.

Services are provided by the Foundation for Social Welfare Services,¹⁷⁵⁹ whilst welfare schemes and support are provided by the Department of Social Security.¹⁷⁶⁰

TP beneficiaries face obstacles such as lack of information and lack of clarity by State entities in accessing social assistance. In 2023, representatives of the Ukrainian community noted several TP holders were ordered to return sums of money that had been paid to them by Malta by way of social security contributions, on the premise that they were not been entitled to the support. According to the representatives, it appears the issue might be linked to TP holders who were struggling to survive on the provided social assistance and attempted to secure alternative employment.

G. Health care

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

¹⁷⁵⁵ Malta Refugee Council, Ukraine Info: Updated info re. Health issues for persons coming to Malta from Ukraine, 22 March 2022: <https://bit.ly/3Ne1qGy>.

¹⁷⁵⁶ See <https://bit.ly/40CmZUa>.

¹⁷⁵⁷ See Malta Refugee Council, Ukraine info: fees for the recognition of qualifications waived for Temporary Protection Holders at: <https://bit.ly/3LTDNrX>.

¹⁷⁵⁸ Department of Social Security, Social Assistance, available at: <https://bit.ly/3TESbRQ>.

¹⁷⁵⁹ Foundation for Social Welfare Services, here: <https://fsws.gov.mt/en>.

¹⁷⁶⁰ Department for social security – MALTA, here: <https://bit.ly/40CPvF6>.

No significant challenges were reported in relation to access to health care. As with 2022, in 2023 the main issues noted were in relation to mental health support, as these services are generally either inaccessible due to long waiting lists, or not sufficiently specialised to deal with particular issues faced by refugees and TP holders.

Netherlands

2023 Update



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	https://bit.ly/3qUN0MS (NL) https://bit.ly/3uzy7XV (EN)
Aliens Decree 2000	Vreemdelingenbesluit 2000	https://bit.ly/3ccPTEJ (NL)
Aliens Regulation 2000	Voorschrift Vreemdelingen 2000	https://bit.ly/3qUDYzz (NL)
Regulation for the Reception of Displaced Persons from Ukraine	Regeling Opvang Ontheemden Oekraïne	https://bit.ly/3Ujptpv (NL)
IND Work Instruction 2022/17 (valid from 4 August 2022 until 4 February 2024)	Werkinstructie 2022/17	https://bit.ly/3wkBouZ (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.¹⁷⁶¹

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

¹⁷⁶¹ Dutch Parliament, 'Aanpak opvang ontheemden uit Oekraïne', 30 March 2022, available in Dutch at: <https://bit.ly/44fP5rO>.

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 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.¹⁷⁶²

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 2024.¹⁷⁶³ However, following preliminary questions raised by the Regional Court Amsterdam¹⁷⁶⁴ and by the Council of State on 25 April 2024¹⁷⁶⁵ 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.¹⁷⁶⁶

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.¹⁷⁶⁷

¹⁷⁶² Dutch government, 'Cijfers opvang vluchtelingen uit Oekraïne in Nederland', only available in Dutch at: <https://bit.ly/3kww3KZ>.

¹⁷⁶³ Council of State, 202305663/1/V2, 17 January 2024, ECLI:NL:RVS:2024:32, available in Dutch at: <https://bit.ly/3UA6JDh>.

¹⁷⁶⁴ Regional Court Den Haag, Amsterdam, NL24.5401, 29 March 2024, ECLI:NL:RBDHA:2024:4394, available in Dutch at: <https://bit.ly/3Uh6mfJ>.

¹⁷⁶⁵ Council of State, 202401901/1, 202402020/1, 202402066/1, 25 April 2024, available in Dutch at: <https://bit.ly/3y1JM2V>.

¹⁷⁶⁶ Parliament, 'Prejudiciële vragen Afdeling inzake derdelanders uit Oekraïne', 25 April 2024, information available in Dutch at: <https://bit.ly/4aP9INZ>.

¹⁷⁶⁷ Dutch Parliament, 'Kamerbrief over uitwerking maatregelen opvangopgave', 10 February 2023, number 44 75144, information available in Dutch at: <https://bit.ly/3Je4Kii>.

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.¹⁷⁶⁸

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.¹⁷⁶⁹

¹⁷⁶⁸ IND, *Asylum Trends, Monthly Report on Asylum Applications in the Netherlands*, February 2024, available at: <https://bit.ly/3xLL7uH>.

¹⁷⁶⁹ Dutch Parliament, 'Tijdelijke wet opvang ontheemden Oekraïne', available in Dutch at: <https://bit.ly/4atBJde>.

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.

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.¹⁷⁷⁰ 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.¹⁷⁷¹ 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 ruled¹⁷⁷² 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

¹⁷⁷⁰ 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>.

¹⁷⁷¹ 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>.

¹⁷⁷² Council of State, 202305663/1/V2, 17 January 2024, ECLI:NL:RVS:2024:32, available in Dutch at: <https://bit.ly/3UA6JDh>.

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 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.¹⁷⁷³ 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 2025.¹⁷⁷⁴ 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.¹⁷⁷⁵

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 2024.¹⁷⁷⁶

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.

¹⁷⁷³ 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>.

¹⁷⁷⁴ 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>.

¹⁷⁷⁵ Regional Court Den Haag, Amsterdam, NL24.5401, 29 March 2024, ECLI:NL:RBDHA:2024:4394, available in Dutch at: <https://bit.ly/3xX7j5c>.

¹⁷⁷⁶ 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/4dkWVquq>; 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/44ou0vd>.

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.¹⁷⁷⁷

On 25 April 2024 the Council of State also raised preliminary questions to the CJEU.¹⁷⁷⁸ 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.¹⁷⁷⁹

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 the asylum procedures ('tracks'). However, as a result of Dutch policy, the processing of Ukrainian nationals' asylum applications have been suspended since 28 February 2022.¹⁷⁸⁰ 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.¹⁷⁸¹ 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

¹⁷⁷⁷ Council of State, 202402011/3, 2 April 2024, ECLI:NL:RVS:2024:1366, available in Dutch at: <https://bit.ly/4a01Tnn>.

¹⁷⁷⁸ 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>.

¹⁷⁷⁹ Parliament, 'Prejudiciële vragen Afdeling inzake derdelanders uit Oekraïne', 25 April 2024, information available in Dutch at: <https://bit.ly/4aP9INZ>.

¹⁷⁸⁰ 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>.

¹⁷⁸¹ Dutch government, 'Frequently asked questions about the situation in Ukraine', available at: <http://bit.ly/3K5sJj8>.

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.

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, 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.¹⁷⁸² 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.

¹⁷⁸² 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.

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:¹⁷⁸³

- ❖ 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.

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.¹⁷⁸⁴ 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.

¹⁷⁸³ 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.

¹⁷⁸⁴ Rijksdienst 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>.

The IND explains this on their website:¹⁷⁸⁵

- ❖ “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.

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.¹⁷⁸⁶

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;

¹⁷⁸⁵ IND, ‘War in Ukraine: appointment to collect proof of residency’, last updated 12 January 2024, available at: <https://bit.ly/3ZP4vR8>.

¹⁷⁸⁶ IND, ‘Temporary Protection Directive Ukraine’, last updated 15 March 2024, available at: <https://bit.ly/3ZSFzll>.

- ❖ the person concerned has committed a criminal offence as in Article 28 of the Temporary Protection Directive (2001/55/EG);¹⁷⁸⁷
- ❖ 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.¹⁷⁸⁸ 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 COA.¹⁷⁸⁹ 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.¹⁷⁹⁰

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 2022.¹⁷⁹¹ Some regional courts found that the Secretary of State should

¹⁷⁸⁷ See also IND, Informatiebericht 2022/73 'Oekraïne en inreisverboden of ongewenstverklaringen', 28 July 2022, available in Dutch at: <https://bit.ly/3W0NpN9>.

¹⁷⁸⁸ 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>.

¹⁷⁸⁹ 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.

¹⁷⁹⁰ Regional Court Utrecht, NL22.22224 and NL22.22246, 30 January 2023, ECLI:NL:RBDHA:2023:871, available in Dutch at: <https://bit.ly/3wd08Fu>.

¹⁷⁹¹ 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>.

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.¹⁷⁹²

However, in 2023 some courts did grant the requested provisional measure. Interestingly, the regional court Den Haag¹⁷⁹³ 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.¹⁷⁹⁴

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.¹⁷⁹⁵

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://www.refugeehelp.nl) in collaboration with the IND and other organisations.¹⁷⁹⁶

¹⁷⁹² Regional Court Den Haag, Amsterdam, NL23.2108, 3 April 2023 and Regional Court Den Haag, Roermond, NL22.23587, ECLI:NL:RBDHA:2023:4686.

¹⁷⁹³ Regional Court Den Haag, NL23.21314, 20 October 2023, ECLI:NL:RBDHA:2023:17425, available in Dutch at: <https://bit.ly/44iRkum>.

¹⁷⁹⁴ Regional Court Den Haag, Roermond, NL23.2718, 7 June 2023, ECLI:NL:RBDHA:2023:8261, available in Dutch at: <https://bit.ly/3WkIR82>.

¹⁷⁹⁵ Regional Court Den Haag, NL23.13086, 28 September 2023, ECLI:NL:RBDHA:2023:21851, available in Dutch at: <https://bit.ly/3QmWujm>.

¹⁷⁹⁶ [Refugeehelp.nl](https://www.refugeehelp.nl) is created by Dutch Council for Refugees in collaboration with several organisations: <https://bit.ly/3XrZMDp>.

Specialised organisations, such as Nidos, also provide information to displaced persons from Ukraine.¹⁷⁹⁷ 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 2022.¹⁷⁹⁸

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.¹⁷⁹⁹

Legal assistance for third country nationals fleeing Ukraine

On 18 July 2022¹⁸⁰⁰ 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 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 2023.¹⁸⁰¹ 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.

¹⁷⁹⁷ Nidos, see website at: <https://bit.ly/3wllJaa>.

¹⁷⁹⁸ Legal Aid Board, 'Rechtsbijstand aan niet-Oekraïners met tijdelijke Oekraïense verblijfsvergunning', 23 December 2022, available in Dutch at: <https://bit.ly/3Wfcp72>.

¹⁷⁹⁹ Legal Aid Board, 'About the Legal Aid Board', available at: <https://bit.ly/3QT7owh>.

¹⁸⁰⁰ IND, 'Residency non-Ukrainians with temporary Ukrainian residence permit', last updated 29 April 2024, available at: <https://bit.ly/49adHTH>.

¹⁸⁰¹ Dutch Parliament, 10 February 2023, 4475144, available in Dutch at: <https://bit.ly/3TR3A1N>.

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 2024,¹⁸⁰² 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).¹⁸⁰³ 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.¹⁸⁰⁴ Non-UA nationals whose income solely consists of a monthly allowance from the municipality are exempted from paying a contribution.¹⁸⁰⁵ 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.¹⁸⁰⁶

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.¹⁸⁰⁷

As the DCR has the public task, according to the Aliens Circular,¹⁸⁰⁸ 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.

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.¹⁸⁰⁹ [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.

¹⁸⁰² 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>.

¹⁸⁰³ IND, 'Residency non-Ukrainians with temporary Ukrainian residence permit', last updated 29 April 2024, available at: <https://bit.ly/49adHTH>.

¹⁸⁰⁴ Legal Aid Board, 'Eigen Bijdrage', available in Dutch at: <https://bit.ly/4aVu08D>.

¹⁸⁰⁵ Legal Aid Board, 'Geen eigen bijdrage', available in Dutch at: <https://bit.ly/4aRfa31>.

¹⁸⁰⁶ IND, 'Extension sticker or card temporary protection Ukraine', last updated 14 March 2024, available at: <https://bit.ly/3ZAYIDu>.

¹⁸⁰⁷ Ibid.

¹⁸⁰⁸ 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.

¹⁸⁰⁹ 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>.

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.¹⁸¹⁰

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.¹⁸¹¹

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.¹⁸¹² 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.¹⁸¹³

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.

¹⁸¹⁰ 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>.

¹⁸¹¹ IND, 'Ukraine: appointment to collect proof of residency', last updated 12 January 2024, available at: <https://bit.ly/3ZP4vR8>.

¹⁸¹² 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>.

¹⁸¹³ Dutch government, 'Aankomst, registratie en verblijf van vluchtelingen uit Oekraïne', available in Dutch at: <https://bit.ly/3k9KLXS>.

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.¹⁸¹⁴

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 Pyschotrauma Centrum* specialise in helping people traumatised by war or victims of torture.¹⁸¹⁵ 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.¹⁸¹⁶ 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.¹⁸¹⁷

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.¹⁸¹⁸

¹⁸¹⁴ Nidos, information available in Dutch at: <https://bit.ly/3HidB0v>.

¹⁸¹⁵ Arq Nationaal Pyschotrauma Centrum, 'De oorlog in Oekraïne: Psychosociale hulpverlening en adviezen vanuit ARQ', information available in the Dutch language at: <https://bit.ly/3wfd22f>.

¹⁸¹⁶ Wereldpsychologen, information available at: <https://bit.ly/3Kks5Q2>.

¹⁸¹⁷ Loket Ontheemden Oekraïne PSH (LOOP), information available in Dutch at: <https://bit.ly/3U8JX3v>.

¹⁸¹⁸ 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 2025.¹⁸¹⁹ 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.¹⁸²⁰ Beneficiaries can use their proof of residency (sticker) in combination with the letter of the IND in order to show that 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 2025.¹⁸²¹ 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 2024.¹⁸²² 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.¹⁸²³ 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.

¹⁸¹⁹ IND, 'Extension sticker or card temporary protection Ukraine', last updated 14 March 2024, available at: <https://bit.ly/3ZAYIDu>.

¹⁸²⁰ Ibid.

¹⁸²¹ Ibid.

¹⁸²² Ibid.

¹⁸²³ 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.¹⁸²⁴ 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.¹⁸²⁵ 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 2025.¹⁸²⁶ 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.¹⁸²⁷ 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](#)).

¹⁸²⁴ IND, 'Temporary Protection Directive Ukraine', last updated 15 March 2024, available at: <https://bit.ly/3ZUtimH>.

¹⁸²⁵ IND, 'Issuance of residence stickers to Ukrainians paused because of raw materials shortage', last updated 1 September 2022, available at: <https://bit.ly/3WsjlMUX>.

¹⁸²⁶ Dutch government, 'Europese Commissie verlengt Richtlijn Tijdelijke Bescherming Oekraïners', 14 October 2022, available in Dutch at: <https://bit.ly/3ZUnHNe>.

¹⁸²⁷ In Dutch, it is called 'Regeling Opvang Ontheemden uit Oekraïne', available in Dutch at: <https://bit.ly/3H9HmSi>.

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:

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.¹⁸²⁸

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.¹⁸²⁹

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.¹⁸³⁰

As of 1 October 2023, the situation is the following:¹⁸³¹

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.

¹⁸²⁸ Dutch government, Factsheet 'Living allowance for refugees from Ukraine', 12 October 2023, available at: <https://bit.ly/3x8TZdH>.

¹⁸²⁹ Ibid.

¹⁸³⁰ Ibid.

¹⁸³¹ Ibid.

Adult beneficiaries who generate income from work are not entitled to an allowance. Starting from 1 February 2023,¹⁸³² their allowance and that of the entire family can be reduced or withdrawn completely, 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.¹⁸³³ 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.¹⁸³⁴ 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.¹⁸³⁵ In case a beneficiary of temporary protection leaves the Netherlands permanently, after having disclosed this to the aforementioned authorities,¹⁸³⁶ 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.¹⁸³⁷

¹⁸³² 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.

¹⁸³³ IND, 'Temporary Protection Directive Ukraine', last updated 15 March 2024, available at: <https://bit.ly/3ZSFzII>.

¹⁸³⁴ IND, 'Temporary Protection Directive Ukraine', last updated 15 March 2024, available at: <https://bit.ly/3ZSFzII>.

¹⁸³⁵ 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>.

¹⁸³⁶ The permanent departure is announced when the municipality has been informed by the beneficiary and they deregister themselves from the BRP.

¹⁸³⁷ 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>.

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.¹⁸³⁸

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.¹⁸³⁹

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.¹⁸⁴⁰

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.¹⁸⁴¹ 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.¹⁸⁴²

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

¹⁸³⁸ Article 43a Aliens Act.

¹⁸³⁹ IND, Work Instruction 2022/17, 04 August 2022, available in Dutch at: <https://bit.ly/3wbJdiU>, 5.

¹⁸⁴⁰ Regional Court Den Haag, Amsterdam, NL22.5058, 30 June 2022, ECLI:NL:RBDHA:2022:9130, available in Dutch at: <https://bit.ly/3UhEFTP>.

¹⁸⁴¹ 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>.

¹⁸⁴² 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>.

them as to whether they wished to proceed with their asylum application.¹⁸⁴³ 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 the Aliens Act. This measure was prolonged until 28 November 2023.¹⁸⁴⁴ 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.¹⁸⁴⁵ Nevertheless, the government will ~~does~~ not take any measures regarding forced returns of Ukrainian nationals.¹⁸⁴⁶

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.¹⁸⁴⁷

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

¹⁸⁴³ IND, 'Residency non-Ukrainians with temporary Ukrainian residence permit', last updated 29 April 2024, available at: <https://bit.ly/40PcZlg>.

¹⁸⁴⁴ Dutch Parliament, 4 September 2023, TK 2022 – 2023, 19637, 3163, information available only in Dutch at: <https://bit.ly/4aVIFkb>.

¹⁸⁴⁵ 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 besluitmatorium 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>.

¹⁸⁴⁶ Dutch Parliament, 4 September 2023, TK 2022 – 2023, 19637, 3163, information available only in Dutch at: <https://bit.ly/4aVIFkb>.

¹⁸⁴⁷ IND Work Instruction 2022/17, 4 August 2022, available in Dutch at: <https://bit.ly/3wbJdiU>, 3.

before 27 November 2021, or in another EU Member State before 23 February 2022, comes within the scope of the TPD.¹⁸⁴⁸

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.

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.¹⁸⁴⁹

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.¹⁸⁵⁰ 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.¹⁸⁵¹ 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.¹⁸⁵² 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

¹⁸⁴⁸ Dutch Parliament, 'Tijdelijke wet opvang ontheemden Oekraïne', available in Dutch at: <https://bit.ly/4atBJde>.

¹⁸⁴⁹ IND, 'Extension sticker or card temporary protection Ukraine', last updated 14 March 2024, available at: <https://bit.ly/3ZAYIDu>.

¹⁸⁵⁰ IND, 'Temporary Protection Directive Ukraine', last updated 15 March 2024, available at: <https://bit.ly/3CXcKRra>.

¹⁸⁵¹ Ibid.

¹⁸⁵² Ibid.

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.¹⁸⁵³ The flyer is available in Dutch, English, Ukrainian, Russian and Arabic.

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 2024:¹⁸⁵⁴

- ❖ 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.¹⁸⁵⁵

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

¹⁸⁵³ IND, *Residence in the Netherlands: what does this mean to you?*, June 2022, specific webpage 'War in Ukraine', available at: <https://bit.ly/3XJdCRu>.

¹⁸⁵⁴ Dutch government, 'Cijfers opvang vluchtelingen uit Oekraïne in Nederland', available in Dutch at: <https://bit.ly/3ZUAU8M>.

¹⁸⁵⁵ Staatscourant 2023, 26413, 29 September 2023, available in Dutch at: <https://bit.ly/3WmNTAS>.

security regions¹⁸⁵⁶ 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.¹⁸⁵⁷

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.

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.¹⁸⁵⁸ 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.¹⁸⁵⁹

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

¹⁸⁵⁶ 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>.

¹⁸⁵⁷ 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>.

¹⁸⁵⁸ Dutch Parliament, ‘Tijdelijke wet opvang ontheemden Oekraïne’, available in Dutch at: <https://bit.ly/4atBJde>.

¹⁸⁵⁹ RefugeehomeNL, information available at: <https://www.rhnl.nl/en/>.

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.¹⁸⁶⁰

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.¹⁸⁶¹

In municipal reception facilities, procedures are also in place to face situations of exploitation, (child) abuse or any other forms of violence. In cases in which there is suspicion of (sexual) exploitation, CoMensHa can be contacted. It is also advised to supervisors of reception facilities to be in contact with local police officer on a regular basis. Information for municipalities is provided in the guide *Handreiking Opvang Ontheemden uit Oekraïne*.¹⁸⁶²

When employees of DCR identify abuse or domestic violence they can contact *Veilig Thuis*,¹⁸⁶³ 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.¹⁸⁶⁴ 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 permit¹⁸⁶⁵ 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.

¹⁸⁶⁰ 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 Oekraïners (POO)*, available in Dutch at: <https://bit.ly/3wc05pY>.

¹⁸⁶¹ CoMensHa is the National Coordination Centre against Human Trafficking, information available at: <https://bit.ly/3QY0XpZ>.

¹⁸⁶² Dutch government, Guide 'Naslagwerk voor gemeentelijke opvang Oekraïense ontheemden', 15 January 2024, available in Dutch at: <https://bit.ly/3QQE5dP>, 24-26.

¹⁸⁶³ Veilig thuis, information available at: <https://bit.ly/3GXl3hk>.

¹⁸⁶⁴ Refugeehelp.nl, information available at: <https://bit.ly/4a5O73f>.

¹⁸⁶⁵ 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.

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

Moreover, there are several initiatives, such as RefugeeWorkn¹⁸⁶⁶ 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 Refugeeehelp.nl.¹⁸⁶⁷

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.¹⁸⁶⁸

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 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.¹⁸⁶⁹

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 2024.¹⁸⁷⁰

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)¹⁸⁷¹ or by the college or university where the beneficiary wants

¹⁸⁶⁶ Refugeeework, available at: <https://www.refugeework.nl/en>. Information is available in several languages, such as Ukrainian.

¹⁸⁶⁷ See: <https://bit.ly/4bjZXY5>.

¹⁸⁶⁸ CBS Statistics Netherlands, 'More than half of Ukrainian refugees in paid employment', 2 February 2024, available at: <https://bit.ly/44kWvtO>.

¹⁸⁶⁹ Regulation on temporary educational facilities in case of mass influx of displaced persons, available in Dutch at: <https://bit.ly/3XFW9tn>.

¹⁸⁷⁰ Dutch government, 'Handreiking onderwijs voor kinderen en jongeren uit Oekraïne', 27 November 2023, available in Dutch at: <https://bit.ly/3ITuXle>.

¹⁸⁷¹ Nuffic is the Dutch organisation for internationalisation in education: see Nuffic, 'Higher education', information available at: <https://bit.ly/3XxO6P2>.

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.¹⁸⁷²

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.¹⁸⁷³

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.¹⁸⁷⁴ 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.

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.¹⁸⁷⁵ 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

¹⁸⁷² Ibid.

¹⁸⁷³ Ministry of Education (Education Executive Agency, DUO), 'Weekoverzicht inschrijving Oekraïense leerlingen op scholen', available in Dutch at: <https://bit.ly/4cxMmxM>.

¹⁸⁷⁴ Dutch government, information only available in Dutch at: <https://bit.ly/3ZLUDaG>.

¹⁸⁷⁵ Dutch government, 'Werk en inkomen voor vluchtelingen uit Oekraïne', available in Dutch at: <https://bit.ly/3UhrMEM>.

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.¹⁸⁷⁶ The Tax Authority provides specific information for beneficiaries of temporary protection from Ukraine.¹⁸⁷⁷ 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 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.¹⁸⁷⁸ 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.¹⁸⁷⁹ The RMO is similar to the health

¹⁸⁷⁶ UWV, information only available in Dutch at: <https://bit.ly/3kxKwq9>.

¹⁸⁷⁷ Dutch Tax Authority (*Belastingdienst*), information on rent benefits only available in Dutch at: <https://bit.ly/3y09AN5>.

¹⁸⁷⁸ 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>.

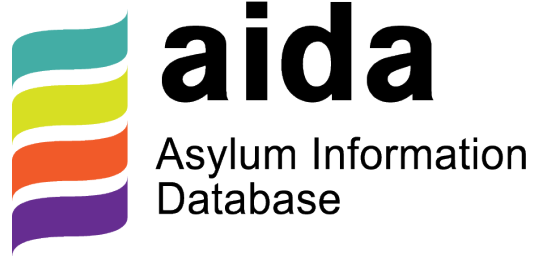
¹⁸⁷⁹ Dutch government, Q&A for municipalities regarding medical care for displaced persons from Ukraine.

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.¹⁸⁸⁰

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.

¹⁸⁸⁰ Dutch government, information on healthcare and displaced persons from Ukraine, information is only available in Dutch at: <https://bit.ly/3Y23p2X>.



Poland

2023 Update



Temporary Protection Procedure

A. General

Title (EN)	Original Title (XX)	Web Link
Law of 12 March 2022 on assistance to Ukrainian nationals with regard to the arm conflict on the territory of this country (Special Law)	Ustawa z 12 marca 2022 r. o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa	https://bit.ly/4afrzMZ
Law of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland (Act on Protection)	Ustawa z dnia 13 czerwca 2003 r. o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej	https://bit.ly/4bvQiOa
Law of 12 December 2013 on foreigners	Ustawa z dnia 12 grudnia 2013 r. o cudzoziemcach	https://bit.ly/4bwqMbl

The Temporary Protection Directive (TPD) was implemented into the Polish legal system in 2003,¹⁸⁸¹ in the Act of 21 July 2003 on the Protection of Foreigners in Poland (hereinafter: Act on Protection). While some incoherencies between the EU and Polish legal framework on temporary protection were identified back then,¹⁸⁸² it may be concluded that the respective national law mostly followed the EU law.

When the Council Implementing Decision (EU) 2022/382 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection (hereinafter: Council Implementing Decision) has been adopted, for a short period of time, the temporary protection regime arising from the Act on Protection was applied to persons mentioned in Article 2 of the Council Implementing Decision. As a result, 77 Ukrainian nationals received certificates for temporary protection beneficiaries on a basis of Article 110(5) of the Act on Protection. They were invalidated with the introduction of a new temporary protection regime in March 2022.¹⁸⁸³

In response to the war in Ukraine and the activation of the TPD, Polish authorities decided to adopt a new law¹⁸⁸⁴: the Act of 12 March 2022 on the Assistance to Ukrainian Nationals in relation to the Armed Conflict in this State (hereinafter: the Special Law). This law has been applied retroactively since 24 February 2022. Together with the Act on Protection, the new law implements TPD in Poland. However, it applies only to some persons displaced from Ukraine.

Accordingly, since March 2022, there are two temporary protection mechanisms in Poland¹⁸⁸⁵: a general one, arising from the Act on Protection (as changed in March 2022 and later), and a special one, based on the Special Law. Both apply to persons fleeing the war in Ukraine who are eligible for temporary protection under the Council Implementing Decision and TPD, albeit they are applicable to different

¹⁸⁸¹ Rada Ministrów, 'Projekt ustawy o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej. Druk nr 1304', 2003, available in Polish here: <https://bit.ly/3fGJ1Dq>.

¹⁸⁸² Noll G. and Gunneflo M., 'Directive 2001/55 Temporary Protection. Synthesis Report', Academic Network for Legal Studies on Immigration and Asylum in Europe. Study for the European Commission, 2007.

¹⁸⁸³ Information from the Office for Foreigners, 17 January 2023. See Article 100b of the Special Law.

¹⁸⁸⁴ Which was unnecessary, see P. Sadowski, 'Czy zakres podmiotowy prawa polskiego jest zgodny z decyzją wykonawczą Rady (UE) 2022/382 w sprawie masowego napływu wysiedleńców z Ukrainy?', *Studia Iuridica* 2022, vol. 94, April 2023, available in Polish here: <https://bit.ly/3UVtLF4>.

¹⁸⁸⁵ See Article 2(6-8) of the Special Law, clarifying that the Ukrainian nationals and their spouses covered by this act are considered to be enjoying temporary protection within the meaning of Article 106 of the Act on Protection, but their rights and obligations are specified in the Special Law, hence the Act on Protection is not applicable.

groups of beneficiaries (see [Qualification for temporary protection](#)). They also offer different rights to their beneficiaries. The status of a temporary protection beneficiary under the Act on Protection and under the Special Law are not the same, despite being based on the same EU legal acts.

Since the very beginning of the war, millions of displaced persons crossed the Polish-Ukrainian border. In total, in 2022, 9,436,203 third-country nationals entered Poland via this border (in comparison with 4,145,434 in 2021). In 2023, it was 8,903,401 third-country nationals.¹⁸⁸⁶ Only some of them were registered as temporary protection beneficiaries in Poland. Until the end of December 2023, in total, over 1.7 million persons were granted special temporary protection in Poland.¹⁸⁸⁷ As of 13 February 2024, there were 952,109 special temporary protection beneficiaries.¹⁸⁸⁸ 1,301 persons enjoyed general temporary protection in 2022 in total, with 1,343 beneficiaries as of 31 December 2023.¹⁸⁸⁹

In February 2024, Poland prolonged the validity of the special temporary protection only until 30 June 2024 (with some exceptions allowing for a longer stay in Poland).¹⁸⁹⁰ In May 2024, it was once again prolonged until 30 September 2025. General temporary protection is valid until 4 March 2025.¹⁸⁹¹

This annex scrutinises temporary protection law and practice in Poland until May 2024. It includes the changes to the Special Law introduced by the amendment of 15 May 2024,¹⁸⁹² in force (mostly) from 1 July 2024. Statistical data concern the years 2022-2023, supplemented by data for 2024 where available.

B. Qualification for temporary protection

Only persons specifically mentioned in Article 2 of the Council Implementing Decision have been eligible for temporary protection in Poland.

Special temporary protection

Special temporary protection, arising from the Special Law, is available only to Ukrainian nationals, who reached Poland on or after 24 February 2022 due to the war in Ukraine, and some of their non-Ukrainian family members, i.e.:

- ❖ their spouses and the closest family of the Ukrainian national who has a 'Poles Card' (*Karta Polaka* - a document confirming that a person concerned belongs to the Polish nation)¹⁸⁹³, and
- ❖ from 1 July 2024: children of Ukrainian nationals and of their spouses.¹⁸⁹⁴

With regard to family members, the following rules apply:

- ❖ Spouses of Ukrainian nationals are not eligible for special temporary protection if they have Polish or some other EU Member State citizenship.

¹⁸⁸⁶ Border Guard's official statistics for 2022 and 2023, published here: <https://bit.ly/3fDaMwB>.

¹⁸⁸⁷ Information provided by the Ministry of Digital Affairs, 9 April 2024.

¹⁸⁸⁸ Otwarte Dane, 'Szczegółowe statystyki dot. osób zarejestrowanych w rejestrze obywateli Ukrainy i członków ich rodzin, którym nadano status cudzoziemca na podstawie specustawy. Stan na 13.02.2024 r.', available here: <https://bit.ly/3UUJIP6L>.

¹⁸⁸⁹ Information from the Office for Foreigners, 17 January 2023 and February 2024.

¹⁸⁹⁰ Zmiany do Ustawy o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa', February 2024, available in Polish here: <https://bit.ly/4bdvBqI>.

¹⁸⁹¹ Office for Foreigners, 'Przedłużenie obowiązywania zaświadczeń o objęciu ochroną czasową do 4 marca 2025 r.', 18 January 2024, available in Polish here: <https://bit.ly/4aerXer>.

¹⁸⁹² The text of the amendment available [here](#).

¹⁸⁹³ Article 1 and 2 of the Special Law. See also HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 2-3.

¹⁸⁹⁴ Article 1(2) of the Special Law as amended on 15 May 2024.

- ❖ ‘Unmarried partners in a stable relationship’ (Article 2(4)(a) of the Council Implementing Decision) are not eligible for special temporary protection.
- ❖ The ‘closest family’ of the Ukrainian national who has a ‘Poles Card’ has not been defined in law, so it is unclear which family members are being considered to constitute this family.
- ❖ Until 1 July 2024, minor unmarried children of Ukrainian nationals (or his/her spouse) (Article 2(4)(b) of the Council Implementing Decision) were not eligible for special temporary protection unless they were the closest family of the Ukrainian national who has a ‘Poles Card’ or they were born in Poland of a mother who is a temporary protection beneficiary. However, in May 2024, the law was changed and starting from 1 July 2024 minor children of Ukrainian nationals and their spouses are included into the special temporary protection regime.
- ❖ Children born in Poland to mothers under temporary protection are entitled to legal stay as long as their mother maintains this status. In 2022, this rule applied to approx. 5,360 children born in Poland, in 2023 there was 4,920 new-born children who were given special temporary protection.¹⁸⁹⁵ In May 2024, this law was changed in order to exclude from special temporary protection those children born in Poland who hold Polish or EU citizenship.
- ❖ ‘Other close relatives who lived together as part of the family unit at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent on’ a Ukrainian national (Article 2(4)(c) of the Council Implementing Decision) may be eligible for this special temporary protection only if they are to be considered the ‘closest family’ of the Ukrainian national who has a ‘Poles Card’.

The exclusion of some children and other close relatives of Ukrainian nationals from the personal scope of special temporary protection is incoherent with Article 2(4)(b-c) of the Council Implementing Decision.¹⁸⁹⁶ Arguably, these family members could still be recognised as temporary protection beneficiaries under the Act on Protection.¹⁸⁹⁷ However, the official information of the Office for Foreigners does not mention them as persons eligible for general temporary protection.¹⁸⁹⁸

Initially, the personal scope of special temporary protection has been even further narrowed down by the requirement of a direct entry from Ukraine to Poland. Thus, Ukrainian nationals and their family members who escaped from Ukraine through other than the Polish border and subsequently travelled to Poland were not eligible for special temporary protection at first. The rule was incoherent with the EU law and was quickly repealed.

However, another limitation remains in force, despite its incoherence with the EU law.¹⁸⁹⁹ Ukrainian national or his/her spouse must enter Poland in a regular manner to qualify for special temporary protection (and intertwined set of rights). In practice, this rule has been understood broadly. For example, in 2023, HNLAC informed that some persons were denied special temporary protection on this basis because they had left Ukraine illegally, via Russia.¹⁹⁰⁰

¹⁸⁹⁵ Information provided by the Ministry of Digital Affairs, 1 March 2023 and 9 April 2024.

¹⁸⁹⁶ M. Łysienia, ‘Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland’, CEEMR vol. 12 no. 1, 2023, available here: <https://bit.ly/3y8GJWO>.

¹⁸⁹⁷ SIP, Letter of 30 November 2022 to the European Commission, available in English at: <https://bit.ly/3TgHaEX>, 2; W. Klaus and M. Górczyńska, ‘Administration and Law’, in: M. Bukowski and M. Duszczek (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 90.

¹⁸⁹⁸ Office for Foreigners, ‘Ochrona czasowa dla cudzoziemców niebędących obywatelami Ukrainy’, 23 March 2023, available in Polish here: <http://bit.ly/3Tf5Yx8>.

¹⁸⁹⁹ SIP, Letter of 30 November 2022 to the European Commission, available in English at: <https://bit.ly/3TgHaEX>, 2; M. Łysienia, ‘Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland’, CEEMR vol. 12 no. 1, 2023, available here: <https://bit.ly/3Wyx4mE>, 188.

¹⁹⁰⁰ K. Przybysławska, ‘Stateless persons from Ukraine seeking protection in Poland’, HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>, 8.

Moreover, some Ukrainian nationals are excluded from enjoying special temporary protection in Poland, i.e.:¹⁹⁰¹

- ❖ holders of a temporary residence permit, permanent residence permit, EU long-term residence permit;¹⁹⁰²
- ❖ international protection beneficiaries;
- ❖ holders of a tolerated stay and humanitarian stay;
- ❖ asylum seekers (albeit a Ukrainian national who seeks asylum in Poland can withdraw his/her asylum application and again be eligible for temporary protection);¹⁹⁰³
- ❖ and, since 28 January 2023, temporary protection beneficiaries in other EU member states.¹⁹⁰⁴

The latter amendment reflects the earlier practice of Polish authorities which denied access to temporary protection in Poland to persons enjoying this protection in another Member State, irrespective of their personal circumstances, even when a person concerned renounced temporary protection in this other state. The practice was based on internal guidance that had no legal force and was contrary to EU law.¹⁹⁰⁵ Since 28 January 2023, cases of persons displaced from Ukraine who were denied access to temporary protection in Poland due to being temporary protection beneficiaries in another state, have continued to be reported. In January 2024, the Ministry of Internal Affairs and Administration sent an instruction to respective authorities explaining that the fact of being a temporary protection beneficiary in another EU member state is actually not a sufficient reason to deny 'PESEL UKR' and a person concerned does not have to prove that they no longer enjoy temporary protection in another country to be granted this number. According to the Ministry, upon receiving it, all the entitlements connected with the temporary protection in another country are ceased.¹⁹⁰⁶

General temporary protection

General temporary protection mechanism applies to persons mentioned in Article 2 of the Council Implementing Decision, who are not eligible for special temporary protection,¹⁹⁰⁷ i.e.:

- ❖ stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022; with their family members, and
- ❖ stateless persons, and nationals of third countries other than Ukraine, who can prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit issued under Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin.

In September 2023, the Human Rights Commissioner indicated that stateless persons from Ukraine face several problems with accessing temporary protection in Poland. Due to the lack of documents, they may not be able to prove that they legally resided in Ukraine. Moreover, the recognition of statelessness procedure had been established in Ukraine not long before the outbreak of the war and

¹⁹⁰¹ Article 2(3) of the Special Law.

¹⁹⁰² Since 28 January 2023, the Special Law specifies that applying for these permits does not result in the loss of temporary protection (Article 2(5a)).

¹⁹⁰³ Article 2(5) of the Special Law.

¹⁹⁰⁴ Article 2(3)₍₃₎ and Article 11(4) of the Special Law, both in force since 28 January 2023.

¹⁹⁰⁵ HNLAC, 'Refugees from Ukraine: access to temporary protection in Poland after moving from another MS', 12 December 2022, available at: <http://bit.ly/3mTxGTY>.

¹⁹⁰⁶ Mapuj Pomoc, Odpowiedź MSWiA na apel ws. statusu UKR, 2 February 2024, available in Polish here: <https://bit.ly/3wF1hqv>.

¹⁹⁰⁷ Office for Foreigners, 'Ochrona czasowa dla cudzoziemców niebędących obywatelami Ukrainy', 23 March 2023, available in Polish here: <http://bit.ly/3Tf5Yx8>.

many stateless persons did not manage to benefit from this new solution. Lastly, there is no uniform understanding of the term ‘stateless person’, according to the Commissioner.¹⁹⁰⁸

In October 2023, HNLAC published a report “Stateless persons from Ukraine seeking protection in Poland”.¹⁹⁰⁹ The NGO listed groups of persons who cannot access or face difficulties in accessing temporary protection in Poland, i.e. Roma people, former citizens of the USSR, persons displaced after the 2014 Russian invasion and persons from the occupied territories, Russian nationals living permanently in Ukraine, children (especially separated), refugees, asylum seekers, migrants and undocumented persons. The report identified many protection gaps in Poland within this context. Specifically, it pointed out that the Border Guard applies a too narrow understanding of “statelessness” (i.e. focusing only on persons holding a travel document issued on the basis of the 1954 Convention Relating to the Status of Stateless Persons). Moreover, HNLAC echoed the concerns raised by the Human Rights Commissioner regarding difficulties in accessing temporary protection, as mentioned in the aforementioned letter. It added that there is no statelessness determination procedure in Poland, so unrecognised stateless persons coming from Ukraine may be unable to prove their statelessness and, consequently, benefit from temporary protection in Poland. As of 30 June 2023, only 29 stateless persons and 23 persons with undetermined nationality enjoyed general temporary protection in Poland, according to the Office for Foreigners.¹⁹¹⁰

Persons not enjoying temporary protection

Special solutions for Ukrainian nationals

Poland did not extend the personal scope of temporary protection to displaced persons from Ukraine other than the ones mentioned in Article 2 of the Council Implementing Decision. In particular, persons who came to Poland before 24 February 2022 are not covered by any of the temporary protection mechanisms.¹⁹¹¹ However, some special rules as regards their stay in Poland have been introduced in the Special Law.¹⁹¹²

- ❖ Validity of national visas issued to Ukrainian nationals was prolonged by law to 30 September 2025, if they were to expire after 24 February 2022. Such a prolonged visa did not entitle to cross a border unless the person concerned was a professional driver in international transportation.
- ❖ Validity of temporary residence permits issued to Ukrainian nationals was prolonged by law to 30 September 2025, if they were to expire after 24 February 2022.
- ❖ The 30-day period for leaving Poland applicable to Ukrainian nationals was prolonged by law until 30 September 2025, if it was to pass after 24 February 2022. In this prolonged period of legal stay, a person concerned could apply for a temporary, permanent or EU long-term residence permit.
- ❖ The period for a voluntary return determined in a decision concerning a Ukrainian national was prolonged by law until 30 September 2025, if it was to pass after 24 February 2022. In this prolonged period, a person concerned could apply for a temporary, permanent or EU long-term residence permit.

¹⁹⁰⁸ Human Rights Commissioner, ‘Problemy bezpieczeństwa - uchodźców z Ukrainy. Odpowiedź Szefa Urzędu ds. Cudzoziemców’, 7 and 27 September 2023, available in Polish here: <https://bit.ly/4dCAgDK>. See also HNLAC, ‘Refugees from Ukraine: stateless persons and persons at risk of being stateless. Most important challenges’, 21 November 2022, available at: <http://bit.ly/3Jgl2pN>; K. Przybysławska, ‘Stateless persons from Ukraine seeking protection in Poland’, HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGq6K>, 13-14.

¹⁹⁰⁹ K. Przybysławska, ‘Stateless persons from Ukraine seeking protection in Poland’, HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGq6K>.

¹⁹¹⁰ Ibid., 17.

¹⁹¹¹ See, critically, W. Klaus and M. Górczyńska, ‘Administration and Law’, in: M. Bukowski and M. Duszczyk (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 90.

¹⁹¹² Articles 42, 44 of the Special Law.

- ❖ The validity of residence permits (*karty pobytu*), Polish identity documents and tolerated stay documents of Ukrainian nationals was prolonged by law until 30 September 2025 if they were to expire after 24 February 2022. Such a prolonged residence permit does not entitle to cross a border.
- ❖ If a Ukrainian national came to Poland before 24 February 2022 on a basis of a Schengen visa, visa-free movement or other documents that entitle to travel in the EU, and the last day of his/her legal stay in Poland on this basis were to pass after 24 February 2022, his/her legal stay in Poland was prolonged by law until 30 September 2025.
- ❖ A 15-day permit to enter Poland given by the Border Guard at the Polish border to a Ukrainian national was prolonged by law by 18 months (for more, see [Admission to territory](#)).

Most of these prolonged visas and residence permits do not entitle to crossing the border. It limits the Ukrainian nationals' mobility and may lead to some practical difficulties. For example, in January 2023, the Human Rights Commissioner informed about a case of a Ukrainian worker, for years legally staying in Poland, whose entry was refused at the Polish border when she returned from holidays. The Commissioner argued that she was not fully aware of the law in force. She was denied access to legal assistance, and only after the Commissioner's intervention she was allowed to enter and seek asylum in Poland.¹⁹¹³

Since August 2022, some Ukrainian nationals, i.e. drivers in international transport and pilots, can also obtain a national visa for work purposes during their stay in Poland. The visa is issued by the Ministry of Foreign Affairs. Since 28 December 2022, a humanitarian visa may be also issued for a Ukrainian national who entered Poland with a visa having the annotation "Polish Business Harbour".¹⁹¹⁴ In 2023, 4.848 Ukrainian nationals applied for visas to the Ministry of Foreign Affairs. 4.703 received a visa.¹⁹¹⁵

Other third-country nationals fleeing Ukraine

While some Ukrainian nationals, not eligible for temporary protection, could benefit from the above-mentioned solutions, third-country nationals who lived in Ukraine before 24 February 2022 and who were not mentioned in Article 2 of the Council Implementing Decision (e.g. students, temporary workers, undocumented migrants, asylum seekers) were not eligible for any form of special support in Poland.

Some third-country nationals were detained upon crossing the Polish border.¹⁹¹⁶ The exact number of non-Ukrainian third-country nationals fleeing Ukraine who were detained remains unknown, as most of the detention centres declared that they do not gather such data or that they did not detain such persons. However, partial data has been made available, including information from the detention centre in Lesznowola, which confirmed the detention of 26 third-country nationals who fled Ukraine in 2022. The average duration of detention for these individuals was 95 days. In 2023, HNLAC reported that 49 persons with undetermined nationality were detained upon entry to Poland in the period of February 2022-June 2023.¹⁹¹⁷

¹⁹¹³ Human Rights Commissioner, 'Obywatelka Ukrainy niewpuszczona do Polski. Skuteczna interwencja RPO', 18 January 2023, available in Polish here: <https://bit.ly/4bxUvks>.

¹⁹¹⁴ See Article 79a of the Act on Foreigners and §§3-4 of the Ordinance of Minister of Foreign Affairs of 18 August 2022 (Rozporządzenie Ministra Spraw Zagranicznych, z dnia 18 sierpnia 2022 r. w sprawie wydawania wiz krajowych cudzoziemcom przebywającym na terytorium Rzeczypospolitej Polskiej), available in Polish at: <https://bit.ly/42ljqvW>.

¹⁹¹⁵ Information from the the Ministry of Foreign Affairs, 4 March 2024.

¹⁹¹⁶ See e.g. Human Rights Commissioner, 'Przedstawiciele BRPO w placówkach SG w województwach podkarpackim i lubelskim', 5 March 2022, available in Polish here: <https://bit.ly/3M6f3qi>; SIP, Lambda Warsaw, Birmingham City University and Global Detention Project, Third-party submission in the 4th cycle of Universal Periodic Review of Poland, available in English at: <https://bit.ly/3LPC4MG>, 13.

¹⁹¹⁷ K. Przybysławska, 'Stateless persons from Ukraine seeking protection in Poland', HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>, 14.

Those third-country nationals who were not detained, were admitted to Poland for a 15-day stay and were left without any state support during that time.¹⁹¹⁸ In practice, accommodation and other assistance for this group of displaced persons was provided by NGOs. Prolonging their legal stay upon 15 days was very difficult, if not impossible. Some third-country nationals, who overstayed in Poland, were subsequently detained.¹⁹¹⁹

There are also non-Ukrainian third-country nationals who fled from Ukraine and sought asylum in Poland, but their number is unknown.

Return and detention of Ukrainian nationals

In 2022, 994 Ukrainian nationals received return decisions (including 137 due to national security and similar reasons), and 207 of them appealed against those decisions. In 2023, 460 Ukrainian nationals received return decisions (incl. 387 due to national security reasons); 79 of them appealed. As of 18 March 2024, an additional 66 Ukrainian nationals have received this decision. In 2023, 138 Ukrainian nationals voluntarily returned to Ukraine, while 311 were expelled.¹⁹²⁰ Moreover, in 2023, 355 Ukrainian nationals were readmitted to Ukraine.¹⁹²¹

The Border Guard declared that the returns to Ukraine were suspended from 25 February 2022 to 27 January 2023.¹⁹²² Since 28 January 2023, however, the Special Law specifies that until 30 September 2025, return proceedings may not be initiated against Ukrainian nationals and the initiated proceedings can be discontinued if it is in the interest of a concerned person. This rule is not applicable to return decisions issued for national security and similar reasons (Article 42b). Thus, while the Border Guard can refrain from deporting Ukrainian nationals, the abovementioned statistical data show that the returns to Ukraine are not fully suspended: return decisions concerning Ukrainian nationals were in practice issued and executed in 2023. Moreover, SIP indicated that the safeguards provided for in Article 42b are insufficient also for other reasons: persons whose return proceedings were discontinued or not initiated find themselves in a legal limbo – unable to return yet lacking legal stay and the right to work.¹⁹²³

At the end of 2022, the Supreme Administrative Court stated that war in Ukraine has no impact on the return proceedings initiated before its outbreak. However, the Court highlighted that considering these new circumstances, the Border Guard can initiate separate proceedings concerning a humanitarian stay in Poland.¹⁹²⁴ However, in 2023, only 9 Ukrainian nationals were granted a humanitarian stay in Poland.¹⁹²⁵

Some Ukrainian nationals were detained in 2022 (21 Ukrainian nationals in total) and in 2023 (in total 39 Ukrainian nationals, including two with unconfirmed nationality, but declaring Ukrainian citizenship, as below).

¹⁹¹⁸ A. Minkiewicz, P. Mirabelli, A. Nosowska and L. Pelham, 'Equality versus equity: a case study from Poland', FMR no. 72, September 2023, available here: <https://bit.ly/3WAnoYY>, 21.

¹⁹¹⁹ SIP, 'SIP w działaniu. Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 r.', September 2023, available in Polish here: <https://bit.ly/3yfSw5V>, 14.

¹⁹²⁰ Information from the Border Guard Headquarters, 9 February 2023, 18 March 2024 and 27 March 2024.

¹⁹²¹ Information from the Border Guard Headquarters, 27 March 2024.

¹⁹²² Information from the Border Guard's Headquarters, 25 January 2023.

¹⁹²³ SIP, Letter to the Ministry of Internal Affairs and Administration, 28 October 2022, available in Polish at: <https://bit.ly/3VHuyrT>, 10-11.

¹⁹²⁴ Naczelny Sąd Administracyjny (Supreme Administrative Court), judgment of 15 December 2022, no. II OSK 993/22.

¹⁹²⁵ Information from the Office for Foreigners, 16 February 2024.

Detention of Ukrainian nationals in 2023		
Detention centre	Number of detained Ukrainian nationals in 2023	Period on detention
Przemysł	8	4-233 days, one person still detained as of 5 March 2024 (from 12 December 2023)
Krosno Odrzańskie	3 (one with unconfirmed nationality)	107 and 186 days, one person still detained as of 23 February 2024 (from 14 December 2023)
Kętrzyn	10	Unknown
Białystok	10	On average 40 days
Lesznowola	6	34 days on average
Biała Podlaska	1 and 1 with unconfirmed nationality	The Ukrainian national was detained for 14 days. The third-country national declaring Ukrainian nationality, which was not confirmed, was still detained as of 13 February 2024.

Source: Information from different branches of BG from February and March 2024.

C. Access to temporary protection and registration

1. Admission to territory

Allowing entry

At the beginning of the war in Ukraine, Poland swiftly opened its borders to displaced persons. Polish authorities widely informed that every person from Ukraine will be allowed to enter Poland and that they do not need to worry about documents normally required to cross a Polish border or to stay in Poland.¹⁹²⁶ Ukrainian nationals and other persons fleeing from Ukraine were admitted to Poland sometimes even without any formal check of their identity or registration of their arrival.¹⁹²⁷ However, in the first days of the war, displaced persons had to wait several dozens of hours (even up to 70 hours) to enter Poland due to long queues at the Ukrainian side of the border.¹⁹²⁸

¹⁹²⁶ See e.g. Ministry of Internal Affairs and Administration, 'Minister Kamiński: Wszystkim naszym ukraińskim braciom okażemy solidarność i wsparcie', 24 February 2022, available in Polish here: <https://bit.ly/3MiER2F>; Office for Foreigners, 'Informacja w sprawie pobytu w Polsce osób uciekających z Ukrainy', 27 February 2022, available in Polish here: <https://bit.ly/3ppPsQ0>. See also Jaroszewicz M., Krępa M., 'Stabilisation of Emergency Measures: Poland's Refugee Reception System One Month After the Russian Attack on Ukraine', in M. Ineli-Ciger, S. Carrera (eds), *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, EUI 2023, available at: <https://bit.ly/3U4ii3X>, 166.

¹⁹²⁷ For this reason, the Special Law, in Article 3, provides for the possibility of the post-factum registration of entry to Poland. For more, see [Registration under temporary protection](#). See also, as regards children travelling without parents to join their family members in Poland and beyond, who entered Poland without required documents and any registration, HFHR, 'Dzieci z pieczy zastępczej oraz małeletni bez opieki z Ukrainy: ocena ex-post regulacji i praktyki stosowania specustawy ukraińskiej', October 2022, available in Polish here: <https://bit.ly/3HSqeA6>, 12.

¹⁹²⁸ HFHR, 'Sytuacja na granicy polsko-ukraińskiej. Raport z monitoringu. 26.02-2.03.2022', available in Polish here: <https://bit.ly/3LHuvci>, 2-3.

At the beginning of the war, cases of discrimination and racial profiling were reported at the border.¹⁹²⁹ Some non-Ukrainian nationals, in particular foreign students, were not allowed by Ukrainian authorities to enter Poland; racist incidents were reported as well.¹⁹³⁰ Moreover, non-Ukrainians were singled out by the Polish Border Guard from the groups of people crossing the border and subjected to a more detailed identity control lasting from a couple of hours to several days. Seeking asylum was possible, but some of those ‘singled-out’ third-country nationals were detained upon failed identity verification.¹⁹³¹ Already in the first month of the outbreak of the war, over 104,000 non-Ukrainians crossed the Polish-Ukrainian border.¹⁹³²

Persons who were not entitled to cross the Polish border (e.g. they were not entitled to the visa-free movement in the EU), were issued by the Border Guard with a special permit for up to 15-day-long stay in Poland.¹⁹³³ Those permits, however, were prolonged by law by 18 months specifically for Ukrainian nationals and some of their family members.¹⁹³⁴ Other third-country nationals most often had to leave Poland before the expiration of the validity of this short-term permit. However, organizing travel in such a short time (e.g. obtaining a visa to another state, as the 15-day permit allowed only to enter and stay in Poland) proved difficult in practice.¹⁹³⁵ In 2022, the Border Guard issued 1,321,240 special permits for up to 15-day-long stay in Poland at the Polish-Ukrainian border: 1,239,814 for Ukrainian nationals and 81,426 for other third-country nationals.¹⁹³⁶ In 2023, the Border Guard issued 179,664 special permits for up to 15-day-long stay in Poland at the Polish-Ukrainian border, including 179,361 for Ukrainian nationals.¹⁹³⁷

It is also worth noting that the Act on Protection provides for the possibility to issue a free-of-charge visa to a person enjoying temporary protection under the general mechanism.¹⁹³⁸ No similar possibility has been guaranteed in the Special Law. However, the Act on Foreigners also mentions a visa issued in order to enjoy temporary protection.¹⁹³⁹ In 2022, only one such visa was requested and granted – to a Belarusian national. In 2023, only one such visa was requested and this time it was refused (also regarding a Belarusian national).¹⁹⁴⁰

¹⁹²⁹ Jaroszewicz M., Krępa M., ‘Stabilisation of Emergency Measures: Poland’s Refugee Reception System One Month After the Russian Attack on Ukraine’, in M. Ineli-Ciger, S. Carrera (eds), *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, EUI 2023, available at: <https://bit.ly/3U4ii3X>, 167-168. See also Fundacja w Stronę Dialogu, *To nie są uchodźcy, tylko podróżnicy. Sytuacja romskich osób uchodźczych w województwie podkarpackim. Raport monitoringowy 2022-2023*, July 2023, available in Polish here: <https://bit.ly/3UtcsJK>, 18-20.

¹⁹³⁰ Human Rights Commissioner, ‘Granica UA-RP: odmienne traktowanie studentów z innych państw. RPO interweniuje w MSWiA. Resort wyjaśnia’, 1 March 2022, available in Polish here: <https://bit.ly/3ACsJT8>. See also ECRE, ‘Seeking Refuge in Poland: A Fact-Finding Report on Access to Asylum and Reception Conditions for Asylum Seekers’, April 2023, available here: <https://bit.ly/41hGgdJ>, 20.

¹⁹³¹ Human Rights Commissioner, ‘Przedstawiciele BRPO w placówkach SG w województwach podkarpackim i lubelskim’, 5 March 2022, available in Polish here: <https://bit.ly/3Nu9Jy9>; HNLAC, ‘Poland: Information for stateless people and those at risk of statelessness fleeing Ukraine’, ENS, 6 April 2022, available at: <https://bit.ly/3M9z9zZ>, 1, 4.

¹⁹³² Klaus W. (ed), *Ustawa o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa. Komentarz*, Wolters Kluwer 2022, 26.

¹⁹³³ Human Rights Commissioner, ‘Kolejne wizyty przedstawicieli BRPO przy granicy polsko-ukraińskiej’, 12 March 2022, available in Polish here: <https://bit.ly/3HqKsRk>. See Article 32 of the Act on Foreigners, based on Article 6(5)(c) of the Schengen Border Code.

¹⁹³⁴ Article 44 of the Special Law.

¹⁹³⁵ W. Klaus and M. Górczyńska, ‘Administration and Law’, in: M. Bukowski and M. Duszczek (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 90. See also Jaroszewicz M., Krępa M., ‘Stabilisation of Emergency Measures: Poland’s Refugee Reception System One Month After the Russian Attack on Ukraine’, in M. Ineli-Ciger, S. Carrera (eds), *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, EUI 2023, available at: <https://bit.ly/3U4ii3X>, 167.

¹⁹³⁶ Information from the Border Guard’s Headquarters, 9 February 2023.

¹⁹³⁷ Information from the Border Guard’s Headquarters, 21 March 2024.

¹⁹³⁸ Article 110(1-2) of the Act on Protection.

¹⁹³⁹ Article 60(1)⁽²²⁾ of the Act on Foreigners.

¹⁹⁴⁰ Information from the Ministry of Foreign Affairs, 31 January 2023 and 4 March 2024.

While a possibility to issue special visas for temporary protection holders is not used in practice, persons displaced from Ukraine can be granted a visa for humanitarian reasons. In 2022, a total of 352 Ukrainian nationals applied for a visa to Poland based on humanitarian reasons¹⁹⁴¹, with 346 of them receiving approval. Additionally, 804 third-country nationals applied for a humanitarian visa in the Polish consulates located in Ukraine, and 798 were granted this visa. In 2023, the numbers decreased with 104 Ukrainian nationals applying for a humanitarian visa to Poland, of which 101 were approved.¹⁹⁴²

Denying entry

While the admission of displaced persons to Poland at the very beginning of the war in Ukraine did not raise major concerns, soon the Polish Border Guard started to issue decisions on a refusal of entry at the Polish-Ukrainian border.¹⁹⁴³ In the period between March and December 2022, the Border Guard issued in total 14,063 decisions on a refusal of entry at this border. This number includes decisions issued as regards 11,745 Ukrainian nationals. In the same period, 12,894 Ukrainian nationals were denied entry to Poland if one considers all Polish external borders. According to the Border Guard, those decisions on a refusal of entry were, first of all, reasoned by exceeding the 90-day period for visa-free movement in the EU, and, secondly, the lack of documents entitling to entry, e.g. a visa or a residence permit. Several persons have been denied entry for national security reasons.¹⁹⁴⁴ In 2023, 13,030 decisions on a refusal of entry were issued at the Polish-Ukrainian border; 12,006 Ukrainian nationals were denied entry at all Polish border crossings.¹⁹⁴⁵

In the period of March-December 2022, only 32 appeals against a decision on a refusal of entry were submitted by Ukrainian nationals; 29 third-country nationals appealed against this decision issued at the Polish-Ukrainian border.¹⁹⁴⁶ In 2023, only 20 appeals against a decision on a refusal of entry were submitted by Ukrainian nationals; 6 third-country nationals appealed against this decision issued at the Polish-Ukrainian border.¹⁹⁴⁷ An appeal against a decision on a refusal of entry is not an effective remedy – it lacks a suspensive effect – and is in general used rarely.

According to the NGOs, persons seeking protection in Poland due to the war in Ukraine, including recognised temporary protection beneficiaries, were amongst those who had been denied entry at the Polish-Ukrainian border.¹⁹⁴⁸ Recognised temporary protection beneficiaries in Poland struggled with re-entry to Poland upon their temporary return to Ukraine. Those difficulties resulted from the unfavourable practice of the Border Guard and the incorrect implementation of the TPD in Poland¹⁹⁴⁹ (see [Movement and mobility](#)).

¹⁹⁴¹ Based on Article 60(1)⁽²³⁾ of the Act on Foreigners.

¹⁹⁴² Information from the Ministry of Foreign Affairs, 31 January 2023 and 4 March 2024.

¹⁹⁴³ See also HIAS and R2P, 'The told me they couldn't help me... Protection Risks Facing Non-Ukrainian Asylum Seekers and Refugees Fleeing Ukraine to the EU', January 2023, available at: <https://bit.ly/3HOQYSc>, 5-6, referring to statements of a third-country national refused entry to Poland, and of a NGO by stating that 'since April 2022, the Ukraine-Poland border has operated the same as it did before February 2022: that is, there are no simplified procedures and there are strict border controls'. See also ACAPS, 'Poland: Loss of temporary protection status and social benefits for Ukrainian refugees', 14 November 2023, available here: <https://bit.ly/4ahHdrrd>, 5-6.

¹⁹⁴⁴ Information from the Border Guard's Headquarters, 9 February 2023. These data differ from the data provided by the same authority to SIP in 2022 and earlier in 2023 (see e.g. SIP, 'Disturbing refusals of entry at the Ukrainian border', 6 March 2023, available at: <https://bit.ly/3K0NoEI>; PRAB, 'Beaten, punished and pushed back', January 2023, available at: <https://bit.ly/432pqIm>, 12).

¹⁹⁴⁵ Information from the Border Guard Headquarters, 18 March 2024; Border Guard's official statistics for 2023, published here: <https://bit.ly/3fDaMwB>.

¹⁹⁴⁶ Information from the Border Guard's Headquarters, 9 February 2023.

¹⁹⁴⁷ Information from the Border Guard's Headquarters, 27 March 2024.

¹⁹⁴⁸ PRAB, 'Surprisingly surprised', September 2023, available in English here: <https://bit.ly/3J8QmqK>, 6.

¹⁹⁴⁹ SIP, Letter of 30 November 2022 to the European Commission, available in English here: <https://bit.ly/3TgHaEX>, 3-4.

Entering Poland is also hampered for non-Ukrainians fleeing the war. In July 2023, SIP, HIAS, Right to Protection and Alliance for Black Justice appealed to Polish authorities to enable entry of all persons fleeing Ukraine and seeking protection in Poland. NGOs noticed that asylum seekers, refugees and complementary protection holders¹⁹⁵⁰ face particular difficulties with entering Poland (mostly related to the lack of travel documents, visas and residence permits). They also stated that Poland seems to not recognise travel documents issued by Ukraine to complementary protection beneficiaries.¹⁹⁵¹ Moreover, in October 2023, HNLAC published a report focusing on the stateless persons. It stated that in the period of February 2022-June 2023, according to the Border Guard, 4,415 stateless persons, persons with undetermined nationality and recognised refugees were allowed to enter Poland. However, 42 stateless persons and persons with undetermined nationality were denied entry in this period. 49 persons with undetermined nationality were detained upon entry to Poland.¹⁹⁵²

2. Freedom of movement

No problems concerning moving within Poland by temporary protection beneficiaries were reported.

The journey towards other European countries and Ukraine was hindered in 2022 and 2023 (see [Movement and Mobility](#)).

3. Registration under temporary protection

Special temporary protection

Ukrainian nationals and some members of their family, who are eligible for temporary protection under the Special Law, can register with any of the local authorities (*organ wykonawczy gminy*) to obtain a special personal identification number 'PESEL UKR'.¹⁹⁵³ Obtaining this number is not mandatory, however, access to some rights is conditioned upon acquiring it. The first 'PESEL UKR' numbers were granted on 16 March 2022.¹⁹⁵⁴ In 2022, approx. 1,502,620 persons were given 'PESEL UKR' in Poland. Until the end of December 2023, in total, 1,727,540 persons were granted special temporary protection in Poland.¹⁹⁵⁵ As of 13 February 2024, there were 952,109 special temporary protection beneficiaries.¹⁹⁵⁶

The application for the 'PESEL UKR' must be submitted in person and in writing. Exceptionally, due to the ill health or disability of an applicant, the application can be submitted in the place of his/her stay. For children, an application is submitted by their parents, caregivers, guardians, temporary guardians, or, if needed, *ex officio*. Applicants are fingerprinted, with some exceptions *inter alia* concerning children under 12 years old (6 years old from 1 September 2024). Applications are also available in the Ukrainian language.

The application for the 'PESEL UKR' contains a declaration of the applicant that they entered Poland due to the war in Ukraine. Family members also declare that they are either a spouse of a Ukrainian

¹⁹⁵⁰ Ukrainian legislation defines a person in need of complementary protection as a person, who is not a refugee, but is in need of protection because of a threat to their life, safety or freedom in the country of origin, owing to a fear of death penalty, torture, inhuman or degrading treatment, punishment, or generalised violence in situations of international or internal armed conflicts, or systematic human rights abuses. UNHCR Ukraine, Forms of asylum and refugee protection, available here: <https://bit.ly/3wCubXh>.

¹⁹⁵¹ SIP, R2P, HIAS and ABJ, Letter of 5 July 2023, available in Polish and English here: <https://bit.ly/3JY5iZa>.

¹⁹⁵² K. Przybysławska, 'Stateless persons from Ukraine seeking protection in Poland', HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>, 14.

¹⁹⁵³ Article 4 of the Special Law.

¹⁹⁵⁴ Ministry of Internal Affairs and Administration, 'Ruszył proces nadawania numeru PESEL uchodźcom wojennym z Ukrainy', 16 March 2022, available in Polish here: <https://bit.ly/3M9dqrG>.

¹⁹⁵⁵ Information provided by the Ministry of Digital Affairs, 1 March 2023 and 9 April 2024.

¹⁹⁵⁶ Otwarte Dane, 'Szczegółowe statystyki dot. osób zarejestrowanych w rejestrze obywateli Ukrainy i członków ich rodzin, którym nadano status cudzoziemca na podstawie specustawy. Stan na 13.02.2024 r.', available here: <https://bit.ly/3UUJIP6L>.

national, a member of the ‘closest family’ of a Ukrainian national having a ‘Pole’s Card’, or a child born in Poland to a mother eligible for special temporary protection. These declarations are made under the penalty of criminal responsibility.

Until 1 July 2024, in accordance with the Special Law, an identity of Ukrainian nationals and their family members was established on a basis of a passport, Pole’s Card, or another document with a photo that enabled their identification. In the case of children, birth certificates were also accepted. Invalid documents could have been recognised if they enabled identification. In practice though, due to the lack of identity documents, some beneficiaries, in particular from the Roma minority and stateless persons, struggled with accessing temporary protection (see also [Qualification for temporary protection](#) and [Guarantees for vulnerable persons](#)).¹⁹⁵⁷ In May 2024 the Special Law was amended and since 1 July 2024 only a valid travel document is accepted to confirm a beneficiary’s identity.¹⁹⁵⁸ Persons whose identity was confirmed in a different manner will have to reconfirm it by showing a valid travel document in 60 days from the day of its issuance. During the legislative proceedings, UNHCR recalled that “20% of respondents reported that at least one of their household members lacks valid biometric passports. In addition, 13% of respondents stated that they are unable to renew or replace their documentation in Poland due to the cost, lack of information and long waiting times associated with the procedure”.¹⁹⁵⁹

Initially, the Special Law did not specify whether Ukrainian nationals or their family members who already had a PESEL number in Poland,¹⁹⁶⁰ could obtain ‘PESEL UKR’. Local authorities, not finding the answer in law, adopted varying approaches to address the matter.. As a consequence, some Ukrainian nationals and their family members could not register as special temporary protection beneficiaries.¹⁹⁶¹ Article 4(1a) of the Special Law, added in April 2022, clarified that a person who has a PESEL number can receive a ‘PESEL UKR’.

In 2023, some other specific difficulties with registration were reported too. For example, the Human Rights Commissioner informed about the practice of denying registration to Ukrainian nationals who had a valid Canadian visa in their passports.¹⁹⁶² Nomada and DRC reported that the Ukrainian documents with Latin transliteration were required. Thus, Ukrainian nationals needed biometric passports which are more costly when a person concerned applies for them from Poland. Accordingly, some Ukrainian nationals travelled back to Ukraine to acquire a biometric passport.¹⁹⁶³

In 2022, there was no specific time-limit to apply for a ‘PESEL UKR’. However, if a person concerned would like to have his/her entry to Poland registered by the Border Guard,¹⁹⁶⁴ an application for ‘PESEL UKR’ had to be submitted no later than 90 days upon arrival to Poland.¹⁹⁶⁵ Since 28 January 2023, the

¹⁹⁵⁷ Human Rights Commissioner, ‘Systemowo chronić grupy wrażliwe wśród uchodźców z Ukrainy. Odpowiedź pełnomocnika rządu ds. uchodźców z Ukrainy’, 8 April and 13 July 2022, available in Polish here: <https://bit.ly/3NRnp6g>. See also K. Przybysławska, ‘Stateless persons from Ukraine seeking protection in Poland’, HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>, 5-6.

¹⁹⁵⁸ Confirming the identity based on other documents is only possible based on a special ordinance that can be adopted in the face of mass influx from Ukraine (Article 4a of the Special Law, in force since 1 July 2024).

¹⁹⁵⁹ UNHCR, ‘Draft law amending the Act on Assistance to Citizens of Ukraine in the Context of the Armed Conflict in Ukraine (“the Special Act”). UNHCR Comments and Observations’, April 2024, available here: <https://bit.ly/3QHs0x>, 2.

¹⁹⁶⁰ A PESEL number is given to all Polish nationals and some foreigners who live or lived in Poland.

¹⁹⁶¹ SIP, ‘We are working for equal access to rights and benefits for Ukrainian citizens’, 14 June 2022, available at: <https://bit.ly/3B9thAm>.

¹⁹⁶² Human Rights Commissioner, ‘Ochrona specustawy nie dla Ukraińców z kanadyjską wizą. Rzecznik występuje do Wojewody Mazowieckiego’, 13 June 2023, available in Polish here: <https://bit.ly/3wub2H7>.

¹⁹⁶³ Nomada, DRC, ‘Poland. Protection Monitoring Analysis. Lower Silesian Voivodeship’, November 2023, available here: <https://bit.ly/3UUgYTta>, 11-12.

¹⁹⁶⁴ It was particularly important for persons who entered Poland at the beginning of the war. Back then, not all arrivals were registered at the border. Thus, in Article 3, the Special Law offered a possibility to have the arrival to Poland registered post-factum. In 2022, 1,280,977 applications under Article 3(1) of the Special Law were registered by the Polish Border Guard, 753,853 were accepted and 527,124 were rejected (information from the Border Guard’s Headquarters, 9 February 2023).

¹⁹⁶⁵ Article 3(2) of the Special Law.

90-day time limit has been removed from the Special Law, while a new 30-day time limit (from arrival to Poland) to apply for a 'PESEL UKR' has been introduced.¹⁹⁶⁶ Moreover, a Ukrainian national who entered Poland between 24 February 2022 and 28 January 2023, and who did not apply for a 'PESEL UKR' before the latter date, could apply for it only within 30 days from 28 January 2023.¹⁹⁶⁷ In May 2024, the Special Law was again amended by repealing the 30-day time limit and requiring submitting the application for a 'PESEL UKR' immediately upon entering Poland.

Human Rights Commissioner reported in 2022 long waiting periods – of even a couple of months – for obtaining a PESEL number by Ukrainian nationals and members of their family. It hampered access to some rights, in particular social welfare.¹⁹⁶⁸ In 2023, the situation seems to have improved. However, language barrier and working hours of the respective offices continued to hamper access to registration for Ukrainian nationals, especially for single mothers.¹⁹⁶⁹

Ukrainian nationals and their family members could acquire a written confirmation that they obtained a 'PESEL UKR' (albeit this right was also questioned by some authorities). However, they had no access to residence permits at least until July 2022 (see [Residence permit](#)).

The Special Law states that local authorities refuse to give 'PESEL UKR' in three situations: when a photo submitted with an application is incorrect; when fingerprints were not taken and no exceptions to fingerprinting apply; and when a person concerned did not disclose having an identity document despite having one. Appealing against this decision to the second instance administrative authority is excluded.¹⁹⁷⁰ It is unclear whether a judicial remedy is available in those circumstances.¹⁹⁷¹

The Special Law does not provide a clear answer to the question of how local authorities should act if a person concerned is considered not eligible for temporary protection. The lack of clear legal rules resulted in diverse practices throughout the country. In practice, as NGOs informed, Ukrainian nationals

¹⁹⁶⁶ Article 4(2) of the Special Law since 28 January 2023. The change has been criticized by NGOs as not justified and only making the beneficiaries' lives harder, see SIP, Letter to the Ministry of Internal Affairs and Administration, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 2-3.

¹⁹⁶⁷ Article 22 of the Act of 13 January 2023 amending the Special Law (Ustawa z dnia 13 stycznia 2023 r. o zmianie ustawy o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa oraz niektórych innych ustaw), available in Polish here: <https://bit.ly/42xC9vc>.

¹⁹⁶⁸ Human Rights Commissioner, 'Kolejki po PESEL przyczyną nierównego dostępu uchodźców do świadczeń. RPO pisze do minister Małag. Resort odpowiada', 6 and 29 April 2022, available in Polish here: <https://bit.ly/44ECTR3>. See also Jaroszewicz M., Krępa M., 'Stabilisation of Emergency Measures: Poland's Refugee Reception System One Month After the Russian Attack on Ukraine', in M. Ineli-Ciger, S. Carrera (eds), *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, EUI 2023, available at: <https://bit.ly/3U4ii3X>, 169.

¹⁹⁶⁹ See e.g. Nomada, DRC, 'Poland. Protection Monitoring Analysis. Lower Silesian Voivodeship', November 2023, available here: <https://bit.ly/3UUgYTa>, 10.

¹⁹⁷⁰ Article 4(16-17) of the Special Law.

¹⁹⁷¹ Klaus W. (ed), *Ustawa o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa. Komentarz*, Wolters Kluwer 2022, 53. Cf. HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 6. See also M. Łysienka, 'Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland', CEEMR vol. 12 no. 1, 2023, available here: <https://bit.ly/3Wyx4mE>, 193-194.

and their family members, who were refused to be issued with a 'PESEL UKR', were often informed about that only orally, no decision had been issued and no remedy was made available.¹⁹⁷²

The Ministry of Digital Affairs does not collect data as regards the number of applications for the 'PESEL UKR', only data concerning the given numbers are gathered.¹⁹⁷³ Thus, the actual number of individuals who were refused issuance of this number is unknown.

General temporary protection

The Head of the Office for Foreigners issues a certificate confirming that a person concerned enjoys temporary protection in Poland upon that person's request.¹⁹⁷⁴ There is no deadline to make such a request. There are no other rules provided for in the Act on Protection as regards the registration of persons enjoying temporary protection under a general mechanism. No procedure regarding registration and recognition has been established in the law. In particular, the Act on Protection does not specify what documents a person concerned must present to receive a certificate confirming that they enjoy temporary protection in Poland.

In practice, persons willing to be recognised as temporary protection beneficiaries under the Act on Protection can personally inform about that the Office for Foreigners – in Warsaw or in Biała Podlaska and sometimes other locations – or send an application by letter or online. According to the Office for Foreigners, to be recognised as temporary protection beneficiaries, they had to submit the following documents:

- ❖ Identity documents;
- ❖ Documents confirming that a person concerned was an international protection beneficiary in Ukraine or had a permanent residence permit there, as well as that they left Ukraine on or after 24 February 2022 (in particular, travel document);
- ❖ A statement that a person concerned is unable to return in safe and durable conditions to their country or region of origin;
- ❖ Other documents, if needed, e.g. school certificates, birth certificates, concerning living in Ukraine, especially documents confirming family relations.¹⁹⁷⁵

The Office for Foreigners stated in 2023 that, in the procedure concerning temporary protection, the statelessness of a person concerned is established based on his/her passport/identity document and statements.¹⁹⁷⁶ However, the Human Rights Commissioner and NGOs indicated that stateless persons who do not have any document confirming their identity or statelessness may have difficulties accessing temporary protection in Poland.¹⁹⁷⁷

¹⁹⁷² See e.g. HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 6; HFHR, Input to the EUAA's Asylum Report, February 2023, available in English here: <https://bit.ly/44EE82F>, 8; SIP, Letter of 30 November 2022 to the European Commission, available in English here: <https://bit.ly/3TgHaEX>, 3; HNLAC, 'Refugees from Ukraine: access to temporary protection in Poland after moving from another MS', 12 December 2022, available at: <https://bit.ly/44GKVJ8>; SIP, 'SIP w działaniu. Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 r.', September 2023, available in Polish here: <https://bit.ly/3yfSw5V>, 10-11; Mapuj Pomoc, Odpowiedź MSWiA na apel ws. statusu UKR, 2 February 2024, available in Polish here: <https://bit.ly/3wF1hqv>.

¹⁹⁷³ Information provided by the Ministry of Digital Affairs, 1 March 2023 and 9 April 2024.

¹⁹⁷⁴ Article 110(5) of the Act on Protection.

¹⁹⁷⁵ Information from the Office for Foreigners, 17 January 2023, and published by the Office online: <https://bit.ly/3B9frOs> and <https://bit.ly/3B5eYge>.

¹⁹⁷⁶ Letter of the Head of the Office for Foreigners to the Human Rights Commissioner of 20 September 2023, available in Polish here: <https://bit.ly/3WAd1UM>.

¹⁹⁷⁷ Human Rights Commissioner, 'Problemy bezpaństwowców - uchodźców z Ukrainy. Odpowiedź Szefa Urzędu ds. Cudzoziemców', 7 and 27 September 2023, available in Polish here: <https://bit.ly/4dCAgDK>; HNLAC, 'Refugees from Ukraine: stateless persons and persons at risk of being stateless. Most important challenges', 21 November 2022, available at: <http://bit.ly/3Jgl2pN>; K. Przybysławska, 'Stateless persons from Ukraine seeking protection in Poland', HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>.

The Office for Foreigners does not gather information with regards to the length of the waiting period for the certificate to be issued.¹⁹⁷⁸ It is unknown how long beneficiaries had to wait for the certificate. The Act on Protection does not provide for any appeal procedure in case of a denial of issuing a certificate (in case of not being recognised as a person enjoying temporary protection). The Office for Foreigners claims that in such a case a decision is issued that can be appealed to the Head of the Office for Foreigners (for a reconsideration) or directly to the administrative courts.¹⁹⁷⁹ However, the Office for Foreigners does not have data as regards the number of persons who applied for temporary protection under the Act on Protection, nor the information about the number of decisions on the refusal of issuing a certificate for temporary protection beneficiaries, or about the number of appeals that had been submitted and their results. Thus, it is unknown how many persons were denied this protection, and whether and to what extent the abovementioned remedy has been used in practice.

4. Legal assistance

Under the Special Law, only temporary guardians and unaccompanied minors enjoying temporary protection in Poland (see [Guarantees for vulnerable groups](#)) have an explicit right to access legal assistance. They can benefit from the general legal aid system, in the same way as Polish citizens.¹⁹⁸⁰ Similar right has been provided to children covered by the Ukrainian institutional foster care from 1 July 2024.¹⁹⁸¹ Apart from that, no state legal assistance has been guaranteed in the temporary protection law. State legal aid system for asylum seekers and persons deprived of international protection is not available to persons displaced from Ukraine (unless they apply for international protection).

In practice, in 2022 and 2023, legal aid has been provided *pro bono* to Ukrainian nationals and other persons fleeing the war in Ukraine by NGOs, law associations and individual lawyers.¹⁹⁸² To name some initiatives of Polish civil society organizations, SIP created a special portal where questions about the law applicable to temporary protection beneficiaries and other persons fleeing the war in Ukraine, could have been asked. The answers were published online.¹⁹⁸³ Another NGO, HNLAC, provided free legal aid for Ukrainian nationals in 13 different locations in 2022 and 11 locations in 2023, and operated a dedicated helpline.¹⁹⁸⁴ Also some Polish authorities offered special access to legal assistance. In 2022-2023, Polish Ombudsman for Children offered psychological and legal support to children in Ukrainian and Russian language (by phone and chat).¹⁹⁸⁵

The provision of legal assistance to temporary protection beneficiaries and other persons fleeing the war in Ukraine was hampered by the fact that the Polish law on temporary protection is of low quality, faulty, ambiguous, and overly complicated. Moreover, as of 20 March 2024, the Special Law has been changed 21 times and another amendment is proceeded by the government at the time of writing.

¹⁹⁷⁸ Information from the Office for Foreigners, 17 January 2023 and February 2024.

¹⁹⁷⁹ Ibid. See also governmental information published here: <https://bit.ly/3B9frOs>.

¹⁹⁸⁰ Article 25(3aa) of the Special Law.

¹⁹⁸¹ Article 25¹(5) of the Special Law, in force since 1 July 2024.

¹⁹⁸² E.g. SIP informed that from 24 February 2022 until the end of the year, it assisted over 3.500 persons fleeing the war in Ukraine (SIP Facebook post of 12 February 2023) – the assistance continued in 2023 (SIP, 'We have an impact! A summary of key SIP activities in 2023', 5 March 2024, available in English here: <https://bit.ly/3UE8MVA>); HNLAC, with supporting attorneys-at-law, provided assistance to over 300 persons until the end of June 2022: 'Dziękujemy prawnikom pro bono za pomoc prawną dla uchodźców z Ukrainy!', <https://bit.ly/3HrkfSJ>. See also legal assistance coordinated by the Krajowa Izba Radców Prawnych: <https://bit.ly/44HmV8Q>, and Naczelna Rada Adwokacka: <https://bit.ly/3LjABxX>. See also HFHR, *Input to the EUAA's Asylum Report*, February 2023, available in English here: <https://bit.ly/3VgXwOZ>, 4.

¹⁹⁸³ See <https://bit.ly/3B91hgf>. In 2023, it was viewed 900.000 times (see SIP, 'We have an impact! A summary of key SIP activities in 2023', 5 March 2024, available in English here: <https://bit.ly/3UE8MVA>).

¹⁹⁸⁴ HNLAC, 'Refugees from Ukraine: stateless persons and persons at risk of being stateless. Most important challenges', 21 November 2022, available at: <http://bit.ly/3Jgl2pN>; HNLAC, 'Summary of 2023 at the Halina Nieć Legal Aid Center', 13 March 2024, available [here](#).

¹⁹⁸⁵ Rzecznik Praw Dziecka, 'Informacja o działalności Rzecznika Praw Dziecka w 2022 roku oraz uwagi o stanie przestrzegania praw dziecka w Polsce', 31 March 2023, available in Polish here: <https://bit.ly/3QFw3FF>, 281.

5. Information provision and access to NGOs

Under the Special Law, there are no specific rules as regards the information provision for persons enjoying temporary protection.

Under Article 111 of the Act on Protection, a temporary protection beneficiary must be informed in the language that they understand about the procedure concerning temporary protection, as well as about his/her rights and obligations in this context. Since April 15, 2022, this information may be published online, on the website of the Office for Foreigners, where, in practice, details regarding eligibility, residence permits, social and medical assistance, employment, and education have been made available. It is available in four languages: Ukrainian, Russian, English and Polish.¹⁹⁸⁶

Moreover, under Article 118(2) of the Act on Protection, the Head of the Office for Foreigners is obliged to inform a temporary protection beneficiary in a language that they understand about all circumstances that may be of significance when a person concerned considers returning to their country of origin. However, this provision applies only when the temporary protection regime no longer applies, thus, it has not been applied yet.

In practice, in 2022 and 2023, information for Ukrainian nationals and other persons fleeing the war in Ukraine has been mostly provided by NGOs and local authorities.¹⁹⁸⁷ Access to information was particularly difficult in the first days of the war.¹⁹⁸⁸ To provide quick access to important information, SIP created a special portal – in Ukrainian, English and Polish – where questions about the law applicable to temporary protection beneficiaries and other persons fleeing the war in Ukraine, were asked and answered. IOM also activated a special website - in Polish and Ukrainian language – concerning legal employment in Poland.¹⁹⁸⁹ NGOs also published leaflets and brochures with the information needed by persons fleeing the war in Ukraine, concerning e.g.:

1. unaccompanied minors from Ukraine;¹⁹⁹⁰
2. financial allowances for Ukrainian nationals who came to Poland on or after 24 February 2022;¹⁹⁹¹
3. financial allowances for persons with disabilities, including those having ‘PESEL UKR’,¹⁹⁹²
4. persons with disabilities,¹⁹⁹³
5. restoration of PESEL UKR and social benefits,¹⁹⁹⁴
6. collective accommodation.¹⁹⁹⁵

Despite those efforts, there is still a lot of chaos and disinformation with regard to the legal situation of persons displaced from Ukraine staying in Poland.¹⁹⁹⁶ According to UNHCR, ‘20% of those interviewed

¹⁹⁸⁶ See Office for Foreigners’ website: <https://bit.ly/41dRZu0>.

¹⁹⁸⁷ For example, see S. Jarosz and W. Klaus (eds), ‘Polska szkoła pomagania’, Konsorcjum Migracyjne, OBMF and CeBaM 2023, available in Polish here: <https://bit.ly/3pmsAB0>, 29-30.

¹⁹⁸⁸ See e.g. HFHR, Input to the EUAA’s Asylum Report, February 2023, available in English here: <https://bit.ly/3VgXwOZ>, 3-4.

¹⁹⁸⁹ See <https://bit.ly/3B91hgf> and <https://bit.ly/3pcF12b>.

¹⁹⁹⁰ SIP, ‘Udostępniamy broszurę Dziecko bez opieki w Polsce i Ukrainie’, 28 April 2022, available in Polish and Ukrainian here: <https://bit.ly/3Vjxpaf>, HNLAC, ‘Opieka tymczasowa nad małoletnim z Ukrainy - poradnik dla opiekunów’, April 2023, available in Polish here: <https://bit.ly/3UUge0p>; In Ukrainian here: <https://bit.ly/4aad6lv>.

¹⁹⁹¹ SIP, UNHCR, ‘Świadczenia dla obywateli i obywaterek Ukrainy – broszura’, January 2023, available in Polish and Ukrainian here: <https://bit.ly/3LLYf6C>.

¹⁹⁹² HNLAC, ‘Świadczenia dla cudzoziemców z niepełnosprawnością, w tym dla osób z PESEL UKR’, available in Polish and Ukrainian: <https://bit.ly/41mgx41>.

¹⁹⁹³ SIP, ‘Informator dla osób z niepełnosprawnością, które przybyły do Polski w wyniku wojny w Ukrainie’, July 2023, available in Polish: <https://bit.ly/4adG6sr>, and Ukrainian: <https://bit.ly/3USSidD>.

¹⁹⁹⁴ HNLAC, ‘Instrukcja wznowienia świadczenia wychowawczego 500+ dla rodziców dzieci z Ukrainy’, 20 November 2023, available in Polish and Ukrainian here: <https://bit.ly/3WHRxW2>.

¹⁹⁹⁵ SIP, ‘Centra zbiorowego zakwaterowania. Poradnik dla osób przybyłych z Ukrainy’, June 2023, available in Polish here: <https://bit.ly/3WyzNfS>, and in Ukrainian here: <https://bit.ly/44yJ9u9>.

¹⁹⁹⁶ HFHR, Input to the EUAA’s Asylum Report, February 2023, available in English here: <https://bit.ly/44EE82F>, 4.

report the need for information on their legal status. Interviews with refugees indicate that both uncertainties around the extension of Temporary Protection and incidents relating to the withdrawal of status and deactivation of PESEL UKR could be factors for this need to still feature so prominently among both early and new arrivals' (for the latter, see also [Movement and mobility](#) and [Social welfare](#)).¹⁹⁹⁷ The study of CARE also confirmed a low awareness amongst Ukrainian nationals of their rights associated with the temporary protection status.¹⁹⁹⁸

D. Guarantees for vulnerable groups

Under the Special Law and the Act on Protection, there is no identification mechanism provided for to systematically identify temporary protection beneficiaries with special reception or procedural needs arising from their vulnerability. However, some special solutions have been introduced with regard to particular groups of vulnerable persons.

Special temporary protection

Accommodation

The vulnerability of some temporary protection beneficiaries has been noticed in the rules concerning their accommodation in Poland. First, the Special Law provides for a financial allowance for persons who offered accommodation and food to special temporary protection beneficiaries (for more see [Housing](#)). This assistance is limited to 120 days, but it may be prolonged if it concerns:

- a. Persons with disabilities,
- b. Elderly;
- c. Pregnant women and mothers of children of up to 1 year old,
- d. Single parents taking care of three or more children,
- e. Unaccompanied minors.¹⁹⁹⁹

Second, since 1 March 2023, the cost-free accommodation for special temporary protection beneficiaries is limited to 120 days, afterwards, they must co-participate in the costs of accommodation (for more see [Housing](#)). However, the co-payment obligation does not apply to:

- a. Persons with disabilities,
- b. Elderly;
- c. Pregnant women and mothers of children of up to 1 year old,
- d. Single parents taking care of three or more children (according to the Special Law amendment of 15 May 2024, in force from 1 July 2024, only if at least one of the children is not older than 14 years old),
- e. Minors (according to the Special Law amendment of 15 May 2024, in force from 1 July 2024, only of those who are in a foster care or who do not receive a 800+ financial allowance; if they get this allowance, then they are eligible for a reduced co-payment obligation),
- f. Persons in a difficult individual situation that prevents them from contributing to the costs.²⁰⁰⁰

It has not been specified in law how it is to be assessed whether a person concerned qualifies for the exemption from the co-payment obligation. In July 2023, the Ministry of Internal Affairs and

¹⁹⁹⁷ UNHCR, 'Poland: Joint Protection Analysis', October 2023, available here: <https://bit.ly/3JX197Y>, 8-9.

¹⁹⁹⁸ CARE, 'In the Shadows. Ukrainian Domestic Workers in Poland', 25 October 2023, available here: <https://bit.ly/4bxwb1X>, 33.

¹⁹⁹⁹ Article 13 of the Special Law and §4 of the Ordinance of 4 May 2022 (Rozporządzenie Rady Ministrów z dnia 4 maja 2022 r. w sprawie maksymalnej wysokości świadczenia pieniężnego przysługującego z tytułu zapewnienia zakwaterowania i wyżywienia obywatelom Ukrainy oraz warunków przyznawania tego świadczenia i przedłużania jego wypłaty), available in Polish here: <https://bit.ly/3HUFRai>.

²⁰⁰⁰ Article 12(17c) of the Special Law.

Administration claimed that these rules are intentionally vague to allow flexibility of local authorities. It also prepared a recommendation for these authorities on how the situation (vulnerability) of a Ukrainian national should be assessed. The Ministry recommends gathering information needed for the assessment in the form of a questionnaire (the example was reportedly provided by the Ministry to local authorities). Ukrainian nationals can be asked to prove the circumstances declared in the questionnaire, but available registries should be used as the primary source to verify these data. The local authorities should determine whether a person is exempt from payment obligations on a temporary or permanent basis. No confirmation of being exempted from the obligation is issued. Studies has shown however that there is no coherency in interpreting and applying these rules²⁰⁰¹ (for more, see [Housing](#)). By the Special Law amendment of 15 May 2024, the government attempted to clarify the rules concerning vulnerable persons and their obligation to pay for the accommodation, but the practical application of these changes is unknown at the time of writing.

Unaccompanied minors

Until 13 January 2023, in total 633,660 minors were given a 'PESEL UKR'. Most of them were accompanied by a parent, however, according to the Ministry of Digital Affairs, at least 3,690 were unaccompanied. Until the end of December 2023, almost 60,000 children who stayed in Poland without a parent or a guardian were granted PESEL UKR.²⁰⁰²

In response to an influx of unaccompanied minor Ukrainian nationals, a special registry was established.²⁰⁰³ In 2022, 485 unaccompanied Ukrainian children, and 2,750 minors who benefited from foster care in Ukraine, were registered in this registry. In 2023, it was 195 unaccompanied Ukrainian children and 170 minors who benefited from foster care in Ukraine.²⁰⁰⁴ According to the NGOs, not all unaccompanied minors are inscribed in this registry due to the gaps in law and in practice.²⁰⁰⁵

For Ukrainian unaccompanied minors, a special, new solution was introduced: a temporary guardian. Under Article 25 of the Special Law, a temporary guardian represents a Ukrainian unaccompanied minor and has custody over his/her person and property. Important decisions concerning an unaccompanied minor and his/her property require the court's consent. Temporary guardians should be supervised by local authorities, but they struggle with fulfilling this obligation in practice.

A temporary guardian should be a child's relative or, at least, a person guaranteeing the proper performance of duties. One person can be a temporary guardian for more than one unaccompanied minor. Siblings should have one temporary guardian. If a minor was in foster care in Ukraine (albeit, since 1 July 2024, not institutional, see below) and came to Poland with his/her caregiver, this person is appointed as a temporary guardian in Poland.

Temporary guardians are appointed by courts. The child's best interest should be taken into account. Proceedings on temporary guardianship are initiated *ex officio* or on motion and should last up to 3 days. A court hears a candidate for a guardian, and a child concerned, if his/her mental development, state of health and degree of maturity allows for it. A court should take into account the minor's opinion where possible. In particularly justified cases, a court can limit the proceedings to the documents' analysis.

²⁰⁰¹ S. Jarosz, W. Klaus (eds), 'W puknie wyjścia. Monitoring zbiorowego zakwaterowania uchodźczyń z Ukrainy w 2023 r. w świetle zmian ustawowych', Migration Consortium, August 2023, available in Polish here: <https://bit.ly/4dxILF0>.

²⁰⁰² Information provided by the Ministry of Digital Affairs, 9 April 2024.

²⁰⁰³ Article 25a-25b of the Special Law.

²⁰⁰⁴ Information from the Ministry of Family and Social Affairs, 16 January 2023 and 12 February 2024.

²⁰⁰⁵ SIP, Letter to the Ministry of Internal Affairs and Administration, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 17. See also K. Przybyłowska, 'Stateless persons from Ukraine seeking protection in Poland', HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGq6K>, 8; Fundacja Dajemy Dzieciom Siłę, 'Dzieci się liczą 2022', 2022, available in Polish here: <https://bit.ly/3UDrIE0>, 363-364.

In 2022, 555 temporary guardians were registered and 2,382 Ukrainian unaccompanied minors had a temporary guardian appointed. As of 31 December 2022, 507 temporary guardians were registered and 2,128 Ukrainian unaccompanied minors had a temporary guardian appointed.²⁰⁰⁶ In 2023, in total, 17 new temporary guardians were registered.²⁰⁰⁷

Furthermore, a minor special temporary protection beneficiary can be taken care of by a foster family or be accommodated in a family children's home created or run by another special temporary protection beneficiary even though the latter does not fulfil all legal requirements in this regard (i.e. they are lacking a proper training). Moreover, in justified cases, a care and education facility can be opened – only for Ukrainian children – without fulfilling legal requirements in this regard. Special rules have been also established to enable Ukrainian nationals enjoying special temporary protection to work in the Polish foster care system.²⁰⁰⁸

In March 2022, the Border Guard established a special procedure applied when an unaccompanied minor is crossing the Polish-Ukrainian border. Those internal guidelines were sent to the border check points on 21 March 2022.²⁰⁰⁹

In June 2022, Ukrainian and Polish Social Policy Ministries signed a political declaration concerning the situation of Ukrainian children in Poland. The Ministries agreed to support a voluntary return of those children to Ukraine, to exchange needed information, to register all Ukrainian unaccompanied children staying in Poland in the special registry, to not initiate, and suspend initiated, adoption procedures concerning Ukrainian children, and to provide free legal assistance and all relevant information to Ukrainian children staying in Poland. Moreover, Poland declared that it intends to provide 'high quality care for children from Ukrainian institutions'.²⁰¹⁰

In October 2022, Helsinki Foundation for Human Rights published a report concerning unaccompanied minors from Ukraine staying in Poland.²⁰¹¹ HFHR noticed that many children crossed the Polish border – in particular in the first days of the war – alone or with some caregivers (e.g. neighbours, friends of the family, or strangers) to join their parents or family members in Poland and beyond. Documents, normally required in those circumstances (e.g. a notary-certified agreement of the parent for this travel), were not checked; children were often not registered. Moreover, children from Ukrainian institutions were moved to Poland without or with insufficient control of Polish authorities. The Special Law, with its possibility of appointing a temporary guardian, offered a prompt solution to provide unaccompanied minors with some care and protection. However, those new rules are far from being perfect. First, the courts struggle to decide on temporary guardianship in 3 days. Evidentiary proceedings are insufficient in some cases. Second, there are no rules concerning relieving of duties of a temporary guardian, even in case of violence towards children or children being joined by their parents. Third, temporary guardians are not adequately controlled. HFHR also highlighted a particularly difficult situation of non-Ukrainian unaccompanied minors. They are not entitled to special temporary protection and they often remain in Poland irregularly. Moreover, the Polish foster care standards do not apply to children from Ukrainian foster care institutions. Lastly, the new rules facilitating access to foster care by decreasing the requirements in this regard, raise major concerns, according to the NGO.

²⁰⁰⁶ Information from the Ministry of Family and Social Affairs, 16 January 2023.

²⁰⁰⁷ Information from the Ministry of Family and Social Affairs, 12 February 2024.

²⁰⁰⁸ Article 27 of the Special Law.

²⁰⁰⁹ Human Rights Commissioner, 'Systemowo chronić grupy wrażliwe wśród uchodźców z Ukrainy. Odpowiedź pełnomocnika rządu ds. uchodźców z Ukrainy', 8 April and 13 July 2022, available in Polish here: <https://bit.ly/3NRnp6g>.

²⁰¹⁰ Ministry of Family and Social Affairs, 'Polskie i ukraińskie ministerstwa podpisały deklarację w sprawie ochrony dzieci', 30 June 2022, available here in Polish, with the declaration in English: <https://bit.ly/3nQZvx7>.

²⁰¹¹ HFHR, 'Dzieci z pieczy zastępczej oraz małeoltni bez opieki z Ukrainy: ocena ex-post regulacji i praktyki stosowania specustawy ukraińskiej', October 2022, available in Polish here: <https://bit.ly/3HSqeA6>.

In practice, cases of violence used by temporary guardians towards their wards were reported. Moreover, the temporary guardianship system was attempted to be used for potentially criminal purposes. Men were reported pressing on social welfare services to insert their names to the list of candidates for temporary guardians, but only for young girls. Those men argued that they cannot be denied due to the lack of rules concerning the candidates provided for in law.²⁰¹²

In December 2022, NGOs alarmed Polish authorities about the dangers and needs of unaccompanied minors displaced from Ukraine and staying in Poland.²⁰¹³ Civil society called for:

- ❖ Adopting clear rules as regards the appointment, control, time limits and relieve of duties of temporary guardians,
- ❖ More transparent and comprehensive data collection as regards those minors and their temporary guardians,
- ❖ Providing needed assistance to minors from Ukrainian foster care who reached the age of majority,
- ❖ Abolition of double standards between Polish and Ukrainian minors in foster care,
- ❖ Monitoring of the foster care personnel from Ukraine,
- ❖ Unifying the rules concerning temporary protection to all its minor beneficiaries (there are different rules for children from Ukraine and for other minor beneficiaries).

In May 2023, unaccompanied children from Ukrainian foster care started to be returned to Ukraine with their guardians. According to the Ministry of Family, Labour and Social Affairs, in 2023, 363 unaccompanied children from Ukrainian foster care were returned to Ukraine.²⁰¹⁴ It caused an outcry from national and international organisations. Save the Children, IRC and CARE appealed to stop the returns. They were 'deeply concerned about reports that children from institutional care centres are being sent back to Ukraine without an assessment of whether this is in their best interests and without coordinated preparation and planning'.²⁰¹⁵ In July 2023, UNHCR published a guidance "Voluntary Return to Ukraine of Refugee Children without Parental Care, including Unaccompanied Children and Children Evacuated from Care Institutions in Ukraine".²⁰¹⁶ Polish NGOs and Human Rights Commissioner also expressed concerns about the children's return to Ukraine. However, the Polish Ministry of Family and Social Policy consistently stated that the unaccompanied minors are returned on the basis of the Ukrainian authorities' decisions (and the children's guardians) and there is no possibility to stop these transfers by Polish authorities.²⁰¹⁷ However, the amendment of the Special Law of 15 May 2024, by adding Article 25¹, introduced some means of oversight by the Polish authorities over children covered by the Ukrainian institutional foster care while they are staying in Poland.

In February 2024, the Human Rights Commissioner also noticed the problems of unaccompanied minors from Ukraine who reached the age of majority (18 years old). They needed to leave the foster care system then, even if they continued education.²⁰¹⁸ In May 2024, some solutions to these problems were provided: upon the amendments, it is possible to remain in the foster care system until reaching

²⁰¹² Klaus W. (ed), *Ustawa o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa. Komentarz*, Wolters Kluwer 2022, 193-194.

²⁰¹³ SIP, 'Protection of unaccompanied children from Ukraine in Poland – what should be improved', 6 March 2023, available at: <https://bit.ly/3NSA1tX>.

²⁰¹⁴ Information from Ministry of Family, Labour and Social Affairs, 23 February 2024.

²⁰¹⁵ Save the Children, IRC, CARE, 'NGOs call for halt to returning children in institutional care centres from Poland to Ukraine', 15 May 2023, available here: <https://bit.ly/3UDTQHi>.

²⁰¹⁶ UNHCR, 'Voluntary Return to Ukraine of Refugee Children without Parental Care, including Unaccompanied Children and Children Evacuated from Care Institutions in Ukraine', July 2023, available here: <https://bit.ly/3UzCRpq>.

²⁰¹⁷ Human Rights Commissioner, 'Wobec ukraińskich dzieci uchodźczych mają być organizowane powroty do Ukrainy. Kolejna odpowiedź MRiPS', 12 June, 31 October and 14 November 2023, available in Polish here: <https://bit.ly/3UE5wts>. See also HNLAC, 'Stanowisko UNHCR w sprawie w sprawie dobrowolnych powrotów do Ukrainy dzieci uchodźczych', 3 August 2023, available in Polish here: <https://bit.ly/3QDtNid>.

²⁰¹⁸ Human Rights Commissioner, 'Dzieci-uchodźcy z Ukrainy muszą opuścić pieczę zastępczą po ukończeniu 18 lat. Wystąpienie do MRPiPS', 12 February 2024, available in Polish here: <https://bit.ly/3QFKycm>.

25 years old if a person concerned continues education or professional training. Some other means of support were also guaranteed for a person leaving the foster care (Polish and Ukrainian).²⁰¹⁹

Torture survivors and traumatised beneficiaries

By law, Ukrainian nationals and their family members enjoying special temporary protection can access the general healthcare system in Poland (see [Health care](#)). Furthermore, Ukrainian psychologists have been allowed to provide psychological assistance to their compatriots, but only until 24 August 2023 and again from 1 July 2024 to 30 September 2025. The gap in the provision of psychological assistance by Ukrainian nationals was criticised.²⁰²⁰ Moreover, a special temporary protection beneficiary *may* be provided with free-of-charge psychological assistance. However, providing this assistance is at the discretion of local authorities.²⁰²¹ Psychological assistance is only guaranteed by law with regard to temporary guardians and unaccompanied minors under their care who benefited from the Ukrainian foster care system, but the respective provision was repealed in May 2024, albeit not for children covered by the Ukrainian institutional foster care system.²⁰²² The general discretion of authorities as regards the provision of psychological assistance and the gross limitation of the personal scope of this assistance, is considered to be against Article 13(4) of the TPD.²⁰²³

Persons with disabilities

Under Article 4(2) of the Special Law, persons with disabilities can apply for a 'PESEL UKR' in their place of stay, e.g. an apartment or reception centre. They can be accommodated by Polish authorities without any time limits and the obligation of co-payment. If they live privately, their landlord can receive a financial allowance for more than 120 days (see above). The Special Law also enables financing support for persons with disabilities from some public funds.²⁰²⁴ Governmental programs offering special assistants to persons with disabilities were changed to include Ukrainian nationals with disabilities. Moreover, special reception centres for persons with disabilities were created in two voivodeships: podkarpackie and lubelskie.²⁰²⁵

In May 2022, the Human Rights Commissioner noticed that assistance for persons with disabilities displaced from Ukraine is mostly provided by NGOs. He considered the state's support for those persons insufficient and not adapted to their special needs.²⁰²⁶ In particular, Ukrainian certificates of disability are not recognised in Poland.²⁰²⁷ To access some forms of assistance for persons with disabilities, a decision in this regard, issued by the competent Polish authorities, is required. No special rules have been established to facilitate Ukrainian nationals' recognition of disability in Poland. Meanwhile, they struggle with obtaining the medical documentation required in these proceedings. The

²⁰¹⁹ Article 27a-27c of the Special Law, in force since 1 July 2024.

²⁰²⁰ Article 64a of the Special Law. See also Human Rights Commissioner, 'Ukraińcom chorującym psychicznie potrzebna jest pilna pomoc. RPO apeluje do premiera. MRiPS informuje: będzie zmiana specustawy', 25 March and 8 April 2022, available in Polish here: <https://bit.ly/3BaMCRQ>; Human Rights Commissioner, 'Psychologowie z Ukrainy stracili prawo wykonywania zawodu w Polsce. RPO pisze do marszałek Senatu', 2 October and 20 November 2023, 24 January, 13 February and 19 February 2024, available in Polish here: <https://bit.ly/3wvaXTs>.

²⁰²¹ Article 32 of the Special Law.

²⁰²² Article 25(3b) of the Special Law, repealed by the Special Law amendment of 15 May 2024.

²⁰²³ SIP, *Letter to the Ministry of Internal Affairs and Administration*, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 18-19.

²⁰²⁴ Articles 26a, 34-36 of the Special Law. See here: <https://bit.ly/3wl8w67>. See also K. Heba, 'Wsparcie osób z niepełnosprawnością', in: SIP, 'Informator dla osób z niepełnosprawnością, które przybyły do Polski w wyniku wojny w Ukrainie', July 2023, available in Polish here: <https://bit.ly/4adG6sr>, 68-71.

²⁰²⁵ Human Rights Commissioner, 'Jak wspierać uchodźców z Ukrainy z niepełnosprawnościami. Odpowiedź min. Pawła Szefernakera', 5 May and 27 December 2022, available in Polish here: <https://bit.ly/44Ac5Bs>.
²⁰²⁶ Ibid.

²⁰²⁷ See also K. Heba, 'Wsparcie osób z niepełnosprawnością', in: SIP, 'Informator dla osób z niepełnosprawnością, które przybyły do Polski w wyniku wojny w Ukrainie', July 2023, available in Polish here: <https://bit.ly/4adG6sr>, 38; Fundacja Dajemy Dzieciom Siłę, 'Dzieci się liczą 2022', 2022, available in Polish here: <https://bit.ly/3UDrIE0>, 359.

Polish government disagreed with the Commissioner’s analysis of the situation. It stated that no evidentiary problems were reported and, as of September 2022, 5,830 Ukrainian nationals applied for being recognised as a person with disability, 3,776 received positive decision, 109 appealed to a first-instance decision.²⁰²⁸

In October 2023, UNHCR counted “limited access to specialised services, especially for children with disabilities” as one of the main challenges faced by the Ukrainian children in Poland. The report mentioned in particular problems related to finding rehabilitation services and psychological help for children due to lack of specialised services or available places.²⁰²⁹

According to the Ministry of Family, Labour and Social Affairs, in 2023, 8,170 Ukrainian nationals applied for being recognised as a person with disability, 7,531 received positive decision, 500 appealed to a first-instance decision.²⁰³⁰

Roma minority

Roma from Ukraine have been particularly exposed to discrimination when accessing accommodation and other assistance in Poland.²⁰³¹ They also have struggled with accessing temporary protection, mostly due to the lack of required documents (see [Qualification for temporary protection](#)).²⁰³²

In September 2022, Amnesty International informed that it received several reports of Roma from Ukraine being not able to access reception centres financed or managed by Polish authorities. Those who managed to be accommodated in those centres informed about the discrimination they experienced there. Persons working in the centres denied them information and assistance, granted less material support (e.g. clothes) or food, and accused them of stealing while having no proof. Meanwhile, finding a private accommodation proved to be more challenging for this group of third-country nationals, also due to the persisting prejudice towards Roma in the Polish society.²⁰³³

The situation of Roma have been particularly disturbing in Przemyśl, the city nearest to the border, especially at the railway station. Roma were not allowed to enter the overnight room at the station without the valid train ticket, while alternative accommodations proved challenging to secure. Access to sanitary facilities at the station was also hampered. The medical point was closed. Additionally, Roma were also discriminated in accessing the room for mothers and children at the station.²⁰³⁴

²⁰²⁸ Human Rights Commissioner, ‘Problemy uchodźców z Ukrainy z uzyskaniem orzeczeń o niepełnosprawności. Rzecznik interweniuje w MRiPS. Odpowiedź resortu’, 29 June and 5 October 2022, available in Polish here: <https://bit.ly/3LPC8fD>. See also HFHR, *Input to the EUAA’s Asylum Report*, February 2023, available in English here: <https://bit.ly/44EE82F,16>; Amnesty International Polska, “Ukraińcom nie chcą wynajmować”. Najnowsze badania Amnesty International’, May 2023, available in Polish here: <https://bit.ly/3WTckSf>, 8-9.

²⁰²⁹ UNHCR, ‘Poland: Joint Protection Analysis’, October 2023, available here: <https://bit.ly/3JX197Y>, 12-13.

²⁰³⁰ Information from Ministry of Family, Labour and Social Affairs, 23 February 2024.

²⁰³¹ See also UNHCR, ‘Poland: Joint Protection Analysis’, October 2023, available here: <https://bit.ly/3JX197Y>, 17-18; ECRI, ‘ECRI Report on Poland (sixth monitoring cycle)’, 27 June 2023, available here: <https://bit.ly/4brWID6>, 28; Amnesty International, ‘Summary of the annual research project “Refugees from Ukraine in Poland”’, June 2023, available here: <https://bit.ly/4bwvblp>, 2-3.

²⁰³² K. Przybyłowska, ‘Stateless persons from Ukraine seeking protection in Poland’, HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>, 5.

²⁰³³ AI, ‘Polska: „Przyjechaliśmy tu, nie chcieli nas wpuścić”. Romowie z Ukrainy traktowani jak niechciani uchodźcy’, 27 September 2022, available in Polish here: <https://bit.ly/3ppA1HT>. See also Human Rights Commissioner, ‘Systemowo chronić grupy wrażliwe wśród uchodźców z Ukrainy. Odpowiedź pełnomocnika rządu ds. uchodźców z Ukrainy’, 8 April and 13 July 2022, available in Polish here: <https://bit.ly/3NRnp6g>.

²⁰³⁴ Human Rights Commissioner, ‘Problemy uchodźców wojennych w Przemyślu. Odpowiedź wojewody na ponowne pismo Rzecznika’, 23 December 2022, 25 January, 5 July and 25 July 2023, available in Polish here: <https://bit.ly/4bdlpxZ>.

In July 2023, the Towards Dialog Foundation published a report focusing on the situation of Roma displaced from Ukraine who stayed in the Podkarpackie Voivodship, where Przemyśl is situated.²⁰³⁵ The authors concluded that Roma had insufficient access to assistance and were – fully or partly – isolated from the support system offered to persons fleeing the war in Ukraine. Roma were offered lesser assistance in the reception centres, if they could access them at all. They were also discriminated at the border crossings and with regard to services like education, translation and transport. For months, mothers with children were sleeping on the ground at the Przemyśl railway station, despite the presence of national authorities and international organisations as well as in spite of the interventions of the Human Rights Commissioner. While the domestic authorities have not provided Roma with any or sufficient support, NGOs and Polish Roma community had to fill in the protection gap.²⁰³⁶

In February 2024, the Towards Dialog Foundation indicated that the Roma who fled from Ukraine are still discriminated in Poland and their situation needs to be urgently improved by taking decisive actions by Polish authorities.²⁰³⁷

Due to discrimination and lack of support in Poland, some Roma returned to Ukraine or moved to another EU state.²⁰³⁸

Human trafficking victims

In April 2022, the Polish Human Rights Commissioner called for providing adequate protection to vulnerable persons displaced from Ukraine, inter alia, women and girls at risk of human trafficking. In July 2022, the Polish government answered that the protection of vulnerable persons from Ukraine is sufficient.²⁰³⁹

The study of the Mixed Migration Centre (MMC) of June 2023 showed that “10% of respondents paid for smuggling services to enter Poland, (...). Most respondents who paid to leave Ukraine illegally arrived in Warsaw in the very first weeks of the crisis.” Moreover, “TCNs used those services less often than Ukrainians (2% vs. 8%), which could be explained by the absence of restrictions on TCNs leaving the country, compared to Ukrainian nationals under Ukrainian martial law”. According to the MMC, this level of smuggling should be considered low and it confirms the effectiveness of the TPD.²⁰⁴⁰

In June 2023, GRETA published its evaluation report on Poland,²⁰⁴¹ with some remarks concerning human trafficking of Ukrainians seeking protection in Poland:

- “At the time of GRETA’s visit, no victims of THB had been identified among persons fleeing the war in Ukraine. In their comments to the draft report, the Polish authorities indicated that that five investigations had been initiated by the Police into alleged cases of human trafficking targeting Ukrainian refugees, but

²⁰³⁵ Fundacja w Stronę Dialogu, ‘To nie są uchodźcy, tylko podróżnicy. Sytuacja romskich osób uchodźczych w województwie podkarpackim. Raport monitoringowy 2022-2023’, July 2023, available in Polish here: <https://bit.ly/3UtcsJK>.

²⁰³⁶ For more see E. Mirga-Wójtowicz, K. Fiałkowska, M. Szewczyk, ‘National and local mobilisation of Roma and non-Roma organisations and activists in Poland supporting Ukrainian Roma forced migrants in the face of the war in Ukraine’, Fundacja Jaw Dikh, ERGO Network, November 2023, available in English here: <https://bit.ly/4adu8za>.

²⁰³⁷ Fundacja w Stronę Dialogu, ‘Apel do polskich władz: Przestańcie traktować społeczność romską z Ukrainy jak uchodźców drugiej kategorii’, February 2024, available in Polish here: <https://bit.ly/3JUnjHR>.

²⁰³⁸ Amnesty International, ‘Summary of the annual research project “Refugees from Ukraine in Poland”’, June 2023, available here: <https://bit.ly/4bwvblp>, 2.

²⁰³⁹ Human Rights Commissioner, ‘Systemowo chronić grupy wrażliwe wśród uchodźców z Ukrainy. Odpowiedź pełnomocnika rządu ds. uchodźców z Ukrainy’, 8 April and 13 July 2022, available in Polish here: <https://bit.ly/3NRnp6g>.

²⁰⁴⁰ MMC, ‘Displaced from Ukraine to Warsaw A case study on journeys, living conditions, livelihoods and future intentions’, June 2023, available here: <https://bit.ly/3UDsTTW>, 7-8.

²⁰⁴¹ GRETA, ‘Evaluation Report: Poland. Access to justice and effective remedies for victims of trafficking in human beings’, 9 June 2023, available here: <https://bit.ly/3UA5LFZ>.

only one case was confirmed after investigation. It concerns two 17-year-old girls who were forced to provide sexual services. The proceedings are ongoing. No cases were reported by the Border Guard.”

- “Pursuant to the 2022 Law on Assistance to Refugees from Ukraine (Article 72), prison sentences have been temporarily increased for committing or preparing the crime of THB during the armed conflict on the territory of Ukraine (10 to 25 years for committing the crime, and a minimum of one year for preparing the crime). The authorities indicated that this provision is not intended only to situations where the victims or the perpetrator are Ukrainians, nor to crimes committed in Ukraine.”
- “Measures have also been taken to alert persons fleeing the war in Ukraine, as well as the general public, on how to avoid human trafficking through posters and leaflets at border crossing points, reception centres, train stations, and city halls, and also through online information. The Police HQ prepared a leaflet in Ukrainian on human trafficking with information on suspicious conducts as well as contact details of the police hotline and email address. The Border Guard HQ cooperated with NGOs, such as the Lighthouse Foundation, to produce awareness-raising leaflets on human trafficking. The Ministry of the Interior and Administration distributed similar leaflets in Ukrainian, English and Polish (half a million copies). Numerous civil society organisations also developed and disseminated awareness-raising materials on human trafficking amongst Ukrainian refugees, such as La Strada Poland, A21 and the University of Warsaw, as well as international organisations (e.g. the European Union and UNHCR). Information alerts via SMS were also sent to all people crossing the border from Ukraine to Poland with information on potential threat of THB and possibilities of assistance.”

In October 2023, UNHCR commented on the limited number of human trafficking cases registered in Poland: “In light of reports on presumed victims of trafficking among refugees from Ukraine, who seek assistance and support of Ukrainian services upon their return from EU countries, the low number of disclosed trafficking cases may be the result of some existing barriers in referral mechanism, including lack of trust in the response services available and/or limited knowledge where one should seek assistance”.²⁰⁴²

General temporary protection

Procedural guarantees for vulnerable groups provided for in Article 106 -118a of the Act on Protection are scarce and they only concern children. In 2022, 224 minors benefited from general temporary protection in Poland. In 2023, 29 children were granted general temporary protection.²⁰⁴³

For an unaccompanied temporary protection beneficiary, a guardian is appointed by a court on the motion of the Head of the Office for Foreigners.²⁰⁴⁴ A relative of a minor can be his/her guardian. Only in justified cases, an unrelated person may be indicated as a guardian in the Head of the Office for Foreigner’s motion. A court has 3 days to issue a decision. It should hear a candidate for a guardian and a child concerned, if his/her mental development, state of health and degree of maturity allows for it. A court should take into account the minor’s opinion where possible. In particularly justified cases, a court can limit the proceedings to the documents’ analysis.

Children staying in the reception centres should have access to food adapted to their age.²⁰⁴⁵

General temporary protection beneficiaries have access to the same medical assistance as asylum seekers. For years, it has been criticised. In particular, due to the fact that the specialised treatment for victims of torture or traumatised third-country nationals is not available in practice (see [Reception - Health care](#)).

²⁰⁴² UNHCR, ‘Poland: Joint Protection Analysis’, October 2023, available here: <https://bit.ly/3JX197Y>, 16-17.

²⁰⁴³ Information from the Office for Foreigners, 17 January 2023 and February 2024.

²⁰⁴⁴ Article 113 of the Act on Protection.

²⁰⁴⁵ Article 112(7) of the Act on Protection.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | Special TP: until 30.09.2025
General TP: Duration of TP |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive as of 31 December 2023? | Special TP: 496,990,
General TP: data not available |

Special temporary protection

Ukrainian nationals and some of their family members (spouses and, from 1 July 2024, children) who entered Poland legally on or after 24 February 2022 due to the war in Ukraine, provided that they declare the intention to stay in Poland, are entitled to a legal stay in Poland until 30 September 2025. A child born in Poland to a mother enjoying special temporary protection in Poland, is legally staying in Poland too. Those rules respectively apply to closest family of a Ukrainian national who has a 'Pole's Card'.²⁰⁴⁶

Until July 2022, Ukrainian nationals and some of their family members who were recognised as temporary protection beneficiaries in Poland were not given any residence permit, in violation of Article 8 of the TPD.²⁰⁴⁷

In July 2022, the electronic document 'Diia.pl' was introduced and notified to the European Commission as a residence permit required under the TPD.²⁰⁴⁸ However, in 2022, children, in particular those under 13 years old, struggled with accessing the 'Diia.pl'. Persons excluded digitally struggled with this solution too.²⁰⁴⁹ Only since June 2023, some access to 'Diia.pl' has been enabled to some children (through their parents' mobile application).²⁰⁵⁰ However, still not all children, e.g. unaccompanied or

²⁰⁴⁶ Article 2(1-2) of the Special Law.

²⁰⁴⁷ Commissioner for Human Rights, 'Trudności uchodźców przy ponownym wjeździe do Polski po powrocie do Ukrainy. Odpowiedź MSWiA', 22 August 2022, available at: <https://bit.ly/3Mf065N>; SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 3; HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 3-4.

²⁰⁴⁸ Ministry of Internal Affairs and Administration, 'Diia.pl – elektroniczny dokument dla uchodźców wojennych z Ukrainy', 22 July 2022, available in Polish here: <https://bit.ly/41eqEld>. See also European Commission. Update of the list of residence permits referred to in Article 2(16) of Regulation (EU) 2016/399 of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code). 2022/C 304/05.

²⁰⁴⁹ SIP, Letter to the Polish Parliament, 9 December 2022, available in Polish here: <https://bit.ly/3HUXhnc>, 16; Human Rights Commissioner, 'Aplikacja potwierdzająca status uchodźcy z Ukrainy nie dla osób poniżej 13. roku życia. Marcin Wiącek pisze do MSWiA', 24 March 2023, available in Polish here: <https://bit.ly/436wA84>; ACAPS, 'Poland: Loss of temporary protection status and social benefits for Ukrainian refugees', 14 November 2023, available here: <https://bit.ly/4ahHrd>; SIP, 'SIP w działaniu. Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 r.', September 2023, available in Polish here: <https://bit.ly/3yfSw5V>, 11.

²⁰⁵⁰ Article 10(1a-1d) of the Special Law, in force since 5 June 2023. See also Digital Affairs Ministry, 'Diia.pl dla dzieci w aplikacji mObywatel', 5 June 2023, available in Polish here: <https://bit.ly/3UEazdg>.

separated from their parents, can receive this document, in violation of TPD.²⁰⁵¹ In 2023, such a document for children was downloaded 289,620 times.²⁰⁵²

'Diia.pl' is accessible via the mobile application 'mObywatel' only after the temporary protection beneficiary obtains the 'PESEL UKR' (see [Registration under temporary protection](#)).²⁰⁵³

'Diia.pl' is valid for the period for which special temporary protection was granted, so, currently, until 30 September 2025. In Poland, special temporary protection was firstly granted for 18 months starting with 22 February 2022. Next it was prolonged, in April 2022, until 4 March 2024, and in February 2024 – until 30 June 2024. Two exceptions have been also introduced (in force from 27 June 2023 to 1 July 2024). The temporary protection remained valid until 30 August 2024, if a beneficiary attended kindergarten or school, and until 30 September 2024, if they passed the final exams in the high school. These longer periods of validity applied also to their parents and guardians.²⁰⁵⁴ These rules changed again in May 2024, when the special temporary protection was prolonged until 30 September 2025 for all beneficiaries, with no exceptions.²⁰⁵⁵

If a person concerned loses the 'PESEL UKR', 'Diia.pl' is invalidated.²⁰⁵⁶ In particular, a temporary protection beneficiary loses his/her status upon being absent from Poland for 30 days.²⁰⁵⁷ Since 28 January 2023, the status is also lost if a person concerned enjoys temporary protection in another EU Member State²⁰⁵⁸ (see [Movement and Mobility](#)).

In 2022, approx. 1,502,620 persons were given 'PESEL UKR' in Poland. In addition, children born in Poland whose mother enjoys temporary protection here are entitled to legal stay as long as the mother has this right. In 2022, this rule applied to approx. 5,360 children born in Poland. However, as of 31 December 2022, only approx. 288,850 temporary protection beneficiaries had access to 'Diia.pl', and another 215,432 persons did not instal 'Diia.pl' despite having this possibility.²⁰⁵⁹ Thus, approx. only one-third of persons enjoying special temporary protection had a residence permit at the end of the year. Moreover, in 2022, 2,380 beneficiaries lost 'Diia.pl' due to their 'PESEL UKR' being withdrawn.²⁰⁶⁰

As of 13 February 2024, there were 952,109 special temporary protection beneficiaries.²⁰⁶¹ However, in 2023, only 496,990 special temporary protection beneficiaries had access to 'Diia.pl'.²⁰⁶²

Only since 28 January 2023, the Special Law clearly states that 'Diia.pl', with a travel document, entitles its holder to travel without a visa.²⁰⁶³ It is the only right directly associated with this residence permit. Some of the rights of the temporary protection beneficiaries are conditioned upon obtaining the 'PESEL UKR', e.g. rights to run a business (Article 23(2) of the Special Law, see [Access to labour market](#)), to

²⁰⁵¹ M. Łysienia, 'Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland', CEEMR vol. 12 no. 1, 2023, available here: <https://bit.ly/3Wyx4mE>, 189.

²⁰⁵² Information provided by the Ministry of Digital Affairs, 9 April 2024.

²⁰⁵³ Article 10 of the Special Law.

²⁰⁵⁴ Article 2(10-11) of the Special Law, in force since 27 June 2023. See also Office for Foreigners, 'Wydlużenie okresu legalnego pobytu obywateli Ukrainy objętych ochroną czasową', 14 June 2023, available in Polish here: <https://bit.ly/4bBfYJj>; Office for Foreigners, 'Wydlużenie okresu legalnego pobytu obywateli Ukrainy objętych ochroną czasową', 22 February 2024, available in Polish here: <https://bit.ly/3JTENUX>.

²⁰⁵⁵ Article 2(1) of the Special Law, as amended on 15 May 2024, in force since 1 July 2024.

²⁰⁵⁶ However, the respective rules in this regard were only introduced by the amendment of the Special Law of 13 January 2023.

²⁰⁵⁷ Article 11(2) of the Special Law.

²⁰⁵⁸ Article 110(9)(4) and Article 110(10-11) of the Act on Protection, in force since 28 January 2023.

²⁰⁵⁹ Information provided by the Ministry of Digital Affairs, 1 March 2023.

²⁰⁶⁰ Ibid.

²⁰⁶¹ Otwarte Dane, 'Szczegółowe statystyki dot. osób zarejestrowanych w rejestrze obywateli Ukrainy i członków ich rodzin, którym nadano status cudzoziemca na podstawie specustawy. Stan na 13.02.2024 r.', available here: <https://bit.ly/3UUIP6L>.

²⁰⁶² Information provided by the Ministry of Digital Affairs, 9 April 2024.

²⁰⁶³ Article 10(7) of the Special Law.

continue with accommodation organised by Polish authorities beyond 120 days (Article 12(17a), since 1 March 2023, see [Housing](#)), and to some financial allowances and social aid (Articles 26(2), 29(1), 31(1) of the Special Law, see [Social Welfare](#)). Access to medical assistance is also facilitated by obtaining 'PESEL UKR' (Article 37(1a) of the Special Law, see [Health care](#)).

Further legalisation of stay

Articles 38 and 39 of the Special Law, as adopted in March 2022, offered temporary protection beneficiaries an easy access to a temporary residence permit. Upon a 9-month stay in Poland, they could apply for a 3-year residence permit, including a right to work. However, just before the first applications for this permit were about to be submitted, in November 2022, the Polish government announced that this possibility is to be withdrawn. Articles 38 and 39 have been repealed by the amendment of the Special Law of 13 January 2023 (in force since 28 January 2023). All the applications for a three-year residence permit submitted before that date were left without consideration.²⁰⁶⁴ The change was justified by the incapability of the Polish system of dealing with the expected large number of those applications.²⁰⁶⁵

Instead, for Ukrainian nationals, the facilitated possibility to apply for a one-year temporary residence permit was introduced on 28 January 2023. It can be issued until 30 September 2025 (Article 42a of the Special Law). Moreover, since 1 April 2023, special temporary protection beneficiaries can apply in a facilitated manner for a temporary residence permit related to their work or business run in Poland (Article 42(13-19) of the Special Law). Since 1 July 2024, also family members of Ukrainian nationals having PESEL UKR can receive a temporary residence permit in a facilitated manner (Article 42(13) and (13a) of the Special Law, as amended in May 2024).²⁰⁶⁶ Additionally, Articles 42c-42w, added by the Special Law amendment of 15 May 2024, but not in force yet at the time of writing, provide for the right of a special temporary protection beneficiary to receive a residence card (*karta pobytu*) if they had a 'PESEL UKR' on 4 March 2024, they continue to have this number on a day of applying for a residence card and they stayed in Poland for at least 365 days. It is to be valid for 3 years and is to be understood as having a temporary residence permit in Poland. It will enable working without a work permit and notification obligation and running a business in Poland; however, a person must inform the authorities about every change of their place of stay.²⁰⁶⁷

General temporary protection

Under Article 110(5-9) of the Act on Protection, temporary protection beneficiaries²⁰⁶⁸ may receive, upon request, a certificate confirming that they enjoy temporary protection in Poland. It is free of charge and it is valid for a duration of temporary protection (it is prolonged by law if temporary protection is extended in the EU). Thus, in February 2023, and next in January 2024, the Office for Foreigners informed that temporary protection beneficiaries should not apply for new certificates despite their validity being

²⁰⁶⁴ Article 25 of the Act of 13 January 2023 amending the Special Law (Ustawa z dnia 13 stycznia 2023 r. o zmianie ustawy o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa oraz niektórych innych ustaw), available in Polish here: <https://bit.ly/42xC9vc>. See also [critical comments concerning this amendment](#), SIP, Letter to the Ministry of Internal Affairs and Administration, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 7-10.

²⁰⁶⁵ I. Florczak, J.K. Adamski, 'Mass influx of people from Ukraine: social entitlements and access to the labour market: Poland', in: I. Florczak, J.K. Adamski (eds), *Mass influx of people from Ukraine: social entitlements and access to the labour market*, Universita di Bologna 2024, available here: <https://bit.ly/4akZlAd>, 302-303.

²⁰⁶⁶ Before, the law concerning access to a temporary residence permit for Ukrainian workers and persons running a business was criticised due to the lack of such a possibility for their children/ see Migration Consortium, Right to Protection, Letter of 24 August 2023, available in Polish and English here: <https://bit.ly/3wyiilh>, 4.

²⁰⁶⁷ Amendment of 15 May 2024 available [here](#).

²⁰⁶⁸ Since 28 January 2023, the Act in Protection, in Article 110(7a), provides for a right to this certificate for a child of a temporary protection beneficiary born in Poland.

determined as until 4 March 2023, 4 September 2023 or 4 March 2024. Their validity was automatically prolonged until 4 March 2025.²⁰⁶⁹

By law, the certificate is invalidated if its holder receives a decision refusing him/her temporary protection due to national security considerations; or moves to another EU Member State under the right to family reunification. However, no certificate was invalidated in 2022 and 2023 for these reasons.²⁰⁷⁰ Since 28 January 2023, the certificate is also invalidated if its holder receives a residence permit for temporary protection beneficiaries in another EU Member State, and since 1 July 2024, also when they were not entitled to receive that certificate or informs in writing that they no longer wishes to enjoy general temporary protection in Poland.²⁰⁷¹ After the invalidation, a person concerned should leave Poland in 30 days.²⁰⁷²

This certificate is the only proof of being recognised as a general temporary protection beneficiary in Poland. It also confirms the beneficiaries' right to stay in Poland. In July 2022, it was notified to the European Commission as a residence permit required under Article 8 of the TPD.²⁰⁷³ However, it has been contested whether it can be a residence permit within this meaning.²⁰⁷⁴ Moreover, only since 28 January 2023, the Act on Protection clearly states that this certificate, with a travel document, entitles its holder to travel without a visa. Moreover, access to medical assistance, as well as accommodation and food (or financial allowance), is conditioned upon obtaining this certificate (see [Social welfare and Health care](#)).²⁰⁷⁵

Until 25 January 2023, submitting an application for a certificate to be issued, was not necessary. A person concerned could orally inform the Office for Foreigners that they are a temporary protection beneficiary (see [Registration for temporary protection](#)).²⁰⁷⁶ Since 25 January 2023, the application for the issuance of the certificate must be submitted in writing: in person in the Office for Foreigners, sent by letter or submitted online.²⁰⁷⁷ Copies of the required documents should be submitted with the application; the originals are expected to be presented in the Office for Foreigners before the certificate's collection.²⁰⁷⁸

In 2022, in total, 1,301 third-country nationals have been registered as temporary protection beneficiaries under the Act on Protection, thus received a certificate that confirms their status (including 77 Ukrainian nationals whose certificates have been invalidated upon the entry into force of the Special Law.)²⁰⁷⁹ As of 31 December 2022, 1,224 third-country nationals were having a valid certificate confirming that they were enjoying temporary protection (mostly from Russia – 445, and Belarus – 200).²⁰⁸⁰ In 2023, 118 certificates were issued (mostly for Russian nationals: 52), including 29 for

²⁰⁶⁹ Office for Foreigners, 'Przedłużenie obowiązywania zaświadczeń o objęciu ochroną czasową do 4 marca 2025 r.', 18 January 2024, available in Polish here: <https://bit.ly/4aerXer>.

²⁰⁷⁰ Information from the Office for Foreigners, 17 January 2023.

²⁰⁷¹ Article 110(9)(4) and Article 110(10-11) of the Act on Protection, in force since 28 January 2023 and 1 July 2024.

²⁰⁷² Article 110(12) of the Act on Protection, added in May 2024, in force since 1 July 2024.

²⁰⁷³ European Commission. *Update of the list of residence permits referred to in Article 2(16) of Regulation (EU) 2016/399 of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)*. 2022/C 304/05.

²⁰⁷⁴ HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 4.

²⁰⁷⁵ Article 112(1) and (9) of the Act of Protection.

²⁰⁷⁶ Office for Foreigners, 'Dodatkowe miejsca wydawania zaświadczeń o ochronie czasowej', 13 May 2022, available in Polish here: <https://bit.ly/3B5eYge>.

²⁰⁷⁷ Office for Foreigners, 'Zmiana zasad wydawania zaświadczeń o ochronie czasowej', 18 January 2023, available in Polish here: <https://bit.ly/42kstEz>.

²⁰⁷⁸ Information from the Office for Foreigners, 17 January 2023, and published by the Office online: <https://bit.ly/3B9frOs>.

²⁰⁷⁹ See Article 100b of the Special Law.

²⁰⁸⁰ Information from the Office for Foreigners, 17 January 2023.

children. As of 31 December 2023, 1,343 third-country nationals were general temporary protection beneficiaries.²⁰⁸¹

2. Access to asylum

Special temporary protection

In 2022, in total, 1,778 Ukrainian nationals applied for international protection. 962 Ukrainian nationals were granted subsidiary protection, 3 Ukrainian nationals were granted refugee status, and 33 – were refused international protection.²⁰⁸² In 2023, 1,770 Ukrainian nationals applied for international protection. 1,126 Ukrainian nationals were granted subsidiary protection, 15 Ukrainian nationals were granted refugee status, 88 were refused international protection. In 2023, the recognition rate was 93%.²⁰⁸³ The positive decisions seem to be mostly based on a serious and individual threat posed to civilians' life or safety due to the indiscriminate violence stemming from the ongoing armed conflict in Ukraine.²⁰⁸⁴

In 2022, the Supreme Administrative Court concluded that the war in Ukraine must be taken into account in the court proceedings concerning asylum applications registered before the beginning of the war. The court relied on Article 46 of the Procedures Directive and Article 47 of the Charter of Fundamental Rights.²⁰⁸⁵ This approach continued in 2023.

781 asylum applications of Ukrainian nationals were still pending as of 31 December 2023. According to the Office for Foreigners, asylum applications of Ukrainian nationals were considered more promptly than the ones concerning other nationalities (except of Belarusians whose applications were also prioritised) in 2023. On average, these proceedings lasted 85 days in 2023.²⁰⁸⁶

Ukrainian nationals and their family members who applied for international protection in Poland, as well as Ukrainian nationals recognised in Poland as refugees and subsidiary protection beneficiaries, cannot enjoy temporary protection at the same time.²⁰⁸⁷ However, a Ukrainian national or his/her family member can withdraw his/her asylum application and again be eligible for temporary protection.²⁰⁸⁸ Thus, special temporary protection and international protection are exclusive.

In 2022, the Polish Border Guard informed about 36 cases of applying for asylum by special temporary protection beneficiaries, a number that surged to 400 cases in 2023.²⁰⁸⁹ Upon such information, the 'PESEL UKR' is withdrawn.²⁰⁹⁰

When temporary protection ends, its beneficiaries will have the possibility to apply for international protection in Poland.

General temporary protection

²⁰⁸¹ Information from the Office for Foreigners, January and February 2024.

²⁰⁸² SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English here: <https://bit.ly/3B8qWFW>, 20.

²⁰⁸³ Information from the Office for Foreigners, 16 February 2024.

²⁰⁸⁴ SIP, 'Subsidiary protection for Ukrainian citizens', 24 August 2022, available at: <https://bit.ly/3LOc5oV>.

²⁰⁸⁵ Naczelny Sąd Administracyjny, judgment of 5 July 2022, no. II OSK 1753/21, see also SIP, 'SIP w działaniu. Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 r.', September 2023, available in Polish here: <https://bit.ly/3yfSw5V>, 14-15.

²⁰⁸⁶ Information from the Office for Foreigners, 16 February 2024.

²⁰⁸⁷ Article 2(3) of the Special Law.

²⁰⁸⁸ Article 2(5) of the Special Law.

²⁰⁸⁹ Information from the Border Guard's Headquarters, 9 February 2023 and 12 February 2024.

²⁰⁹⁰ Article 4(17a)₍₃₎ of the Special Law.

The Act on Protection does not preclude seeking international protection by prospective and recognised temporary protection beneficiaries under a general mechanism.²⁰⁹¹ Article 112(1b) of the Act, indirectly confirms that the conjuncture of asylum proceedings and temporary protection is possible. Under this provision, medical assistance as well as accommodation and food (or financial allowance) for temporary protection beneficiaries is not provided if a person concerned benefits from material reception conditions for asylum seekers. However, in practice, some general temporary protection beneficiaries have been denied access to asylum.

If a general temporary protection beneficiary applies for international protection, general rules concerning asylum proceedings are applicable (see [General report](#)).

There is no information on the number of general temporary protection beneficiaries who also applied for asylum.

It is also unknown how many non-Ukrainian third-country nationals who came to Poland from Ukraine due to the war sought asylum here but did not qualify for temporary protection. However, such cases have been reported in practice. For example, in 2023, SIP informed about the Russian national of Chechen origin who had a permanent stay in Ukraine, but she was not present in Ukraine on 24 February 2022, so was not eligible for temporary protection in Poland. She applied for international protection instead. The Office for Foreigners concluded that her return to Russia after 20 years of stay in Ukraine, concerning her critical approach to Russian invasion in Ukraine, would be an inhuman treatment.²⁰⁹²

B. Family reunification

Special temporary protection

Contrary to Article 15 of the Temporary Protection Directive, there is no right to family reunification under the Special Law.²⁰⁹³ Ukrainian nationals cannot apply for family reunification with their family members neither staying in another EU Member State nor in Ukraine. Accordingly, there is also no appeal concerning denial of family reunification provided for in law, in violation of Article 29 TPD.²⁰⁹⁴ The calls of NGOs for the right to family reunification to be guaranteed in the Polish law for Ukrainian nationals fleeing the war in their country have been ignored.²⁰⁹⁵

General temporary protection

The Act on Protection provides for a right to family reunification for temporary protection beneficiaries. Under Article 117(1), if a spouse or a child of this beneficiary stays outside Poland, the Head of the

²⁰⁹¹ Critically towards this solution, M. Kosiel-Pająk, P. Sadowski, 'British and Polish Temporary Protection Schemes Addressing Displaced Persons from Ukraine', *Časopis pro právní vědu a praxi* nr 4/2023, <https://bit.ly/3WCs1Ik>, 906-907.

²⁰⁹² SIP, 'Ochrona uzupełniająca dla Czeczenki mającej pobyt stały w Ukrainie', 21 July 2023, available in Polish here: <https://bit.ly/4ahViEZ>.

²⁰⁹³ SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 6; HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 7; M. Łysienia, 'Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland', *CEEMR* vol. 12 no. 1, 2023, available here: <https://bit.ly/3Wyx4mE>, 191.

²⁰⁹⁴ M. Łysienia, 'Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland', *CEEMR* vol. 12 no. 1, 2023, available here: <https://bit.ly/3Wyx4mE>, 193.

²⁰⁹⁵ See e.g. SIP, *Letter to the Polish Parliament*, 9 December 2022, available in Polish here: <https://bit.ly/3HUXhnc>, 20.

Office for Foreigners takes actions to reunite the family. The Head of the Office for Foreigners may take those actions in regard to other close relatives who directly before coming to Poland lived together as part of the family unit, and who were wholly or mainly dependent on the temporary protection beneficiary (Article 117(2) of the Act on Protection). However, the actions that the Head of the Office is supposed to be taking are not specified in law.

The Head of the Office for Foreigners may also apply to another EU Member State asking for the temporary protection beneficiaries' transfer to that state in order to reunite a family therein. Such a transfer is realised only upon consent of the beneficiary (Articles 117a-117b of the Act on Protection).

The rules as regards family reunification provided for in the Act on Protection are insufficient. In particular, there are no rules concerning: the initiation of the family reunification proceedings, the documents that have to be submitted (e.g. concerning family ties), the form and time limits for the decision that is made by the Head of the Office for Foreigners, and appeal proceedings (the latter is against Article 29 TPD²⁰⁹⁶). The lack of procedural rules in this regard may make the right to family reunification illusory.²⁰⁹⁷ This conclusion is indirectly confirmed by the information provided by the Office for Foreigners. In 2022 and 2023, no applications for family reunification were submitted to the Office for Foreigners and no temporary protection beneficiary was reunited with his/her family.²⁰⁹⁸

C. Movement and mobility

Movement within Poland

Temporary protection beneficiaries – both under the Special Law and the Act on Protection – have freedom of movement within Poland. The same minor limitations that apply to asylum seekers (see [Reception, Freedom of movement](#)) also applied to the beneficiaries of temporary protection who are accommodated in the reception centres (only 6 persons in 2022 and 10 – in 2023, see [Housing](#)).

Movement to other EU Member States

Special temporary protection

In the first months upon the beginning of the war in Ukraine, travel to other EU Member States was hampered by the fact that Ukrainian nationals and their family members enjoying special temporary protection in Poland had no access to a residence permit (see [Residence permit](#)).²⁰⁹⁹ Only in July 2022, the electronic document 'Diia.pl' was introduced and notified to the European Commission. Moreover, only since 28 January 2023, the Special Law clearly states that 'Diia.pl', with a travel document, entitles its holder to multiple travels without a visa.²¹⁰⁰

Since 28 January 2023, a temporary protection beneficiary loses his/her status in Poland, if they enjoy temporary protection in another EU Member State. In those circumstances, his/her 'PESEL UKR' is withdrawn.²¹⁰¹ The Special Law amendment dated 13 January 2023 stated also that Ukrainian nationals

²⁰⁹⁶ M. Łysienia, 'Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland', CEEMR vol. 12 no. 1, 2023, available here: <https://bit.ly/3Wyx4mE>, 193.

²⁰⁹⁷ SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English here: <https://bit.ly/3B8qWFW>, 15.

²⁰⁹⁸ Information provided by the Office for Foreigners, 17 January 2023 and February 2024.

²⁰⁹⁹ HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 4; SIP, 'SIP w działaniu. Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 r.', September 2023, available in Polish here: <https://bit.ly/3yfSw5V>, 11-12.

²¹⁰⁰ Article 10(7) of the Special Law.

²¹⁰¹ Article 11(4) in conjunction with Article 4(17a)(4) of the Special Law.

who were registered as temporary protection beneficiaries in Poland, but were granted temporary protection in another EU Member State as of 28 January 2023, lost their temporary protection in Poland on the same date.²¹⁰²

Moreover, a temporary protection beneficiary loses his/her status ('PESEL UKR') upon the 30-day absence in Poland.²¹⁰³ This rule applies to all absences in Poland, so also to travels to other EU Member States. It has been considered against the EU law (as an unjustified limitation to a right to free movement within the EU).²¹⁰⁴ If a temporary protection beneficiary departs from Poland for a longer period than 30 days via an internal border of the EU, they may inform the respective authorities about this departure, including where and when they are going. Upon such notification, the 'PESEL UKR' is withdrawn.²¹⁰⁵ Such a withdrawal was reported in 2022 in approx. 4,000 cases and in 2023 – in 13,790 cases.²¹⁰⁶

If a person concerned confirms that his/her absence in Poland was no longer than 30 days, the 'PESEL UKR' may ("shall" since 1 July 2024) be restored.²¹⁰⁷ If a person concerned loses temporary protection due to the fact that they enjoy this protection in another EU Member State or due to the over 30-day absence in Poland, the 'PESEL UKR' may be re-granted, if a person again comes to Poland due to the war in Ukraine. However, difficulties with having the 'PESEL UKR' restored or re-granted were reported (see below, [Movement to and from Ukraine](#)).

Temporary protection beneficiaries in other Member States who subsequently wanted to benefit from temporary protection in Poland struggled with accessing this protection upon arrival to Poland (see [Qualification for temporary protection](#)).

In 2024, EWL reported that many Ukrainian nationals who had temporary protection in Poland decided to move to Germany. The reasons for the move were: recommendations from the family and friends already living in Germany, better social assistance, better remunerations and greater possibility to save some money. In Germany, Ukrainian nationals were offered German language lessons. 59% of respondents were not employed in Poland before moving to Germany. 35% of them declared that they want to stay in Germany, almost half were undecided whether they will go back to Poland.²¹⁰⁸

General temporary protection

Only in July 2022, the certificate for temporary protection beneficiaries issued under the Act on Protection was notified to the European Commission (see [Residence permit](#)). Beforehand, general temporary protection beneficiaries could have faced issues while travelling to another country.

Since 28 January 2023, a temporary protection beneficiary loses his/her status in Poland, if they enjoy temporary protection in another EU Member State. In those circumstances, his/her certificate is

²¹⁰² Article 23 of the Act of 13 January 2023 amending the Special Law (Ustawa z dnia 13 stycznia 2023 r. o zmianie ustawy o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa oraz niektórych innych ustaw), available in Polish here: <https://bit.ly/42xC9vc>.

²¹⁰³ Article 11(2) in conjunction with Article 4(17a)(1) of the Special Law. Before 28 January 2023, it was 'one month'.

²¹⁰⁴ HFHR, 'Opinion of the Helsinki Foundation for Human Rights on Incompliance of Certain National Regulations Concerning Temporary Protection with Relevant Provisions of the European Union Law', 15 July 2022, available at: <https://bit.ly/429OxIR>, 5. See also ECRE, 'Movement to and From Ukraine Under the Temporary Protection Directive', January 2023, available here: <https://bit.ly/3UBvf5Z>, 2, where this rule was considered to be at odds with the spirit of the TPD.

²¹⁰⁵ Article 4(17c-17d) of the Special Law.

²¹⁰⁶ Information provided by the Ministry of Digital Affairs, 1 March 2023 and 9 April 2024.

²¹⁰⁷ Article 4(17b) of the Special Law.

²¹⁰⁸ EWL, 'Z Polski do Niemiec. Nowe trendy ukraińskiej migracji uchodźczej', September 2023, available in Polish here: <https://bit.ly/3UVnkSr>.

invalidated.²¹⁰⁹ Re-granting temporary protection after invalidating the certificate for temporary protection beneficiaries has not been regulated in the Act on Protection. There is no available information concerning the practice in this regard.

Movement to and from Ukraine

Special temporary protection

The movement to and from Ukraine was hampered in 2022 and 2023. In particular, in the period of March-December 2022, the Border Guard issued 14,063 decisions on a refusal of entry at the Polish-Ukrainian border. This number includes decisions issued as regards 11,745 Ukrainian nationals. In 2023, 13,030 decisions on a refusal of entry were issued at the Polish-Ukrainian border; 12,006 Ukrainian nationals were denied entry at all Polish border crossings.²¹¹⁰ (see [Admission to territory](#)). The decisions concerned both first-time entrants and recognised temporary protection beneficiaries. With regard to the latter, those difficulties resulted from the unfavourable practice of the Border Guard and the incorrect implementation of the TPD in Poland.²¹¹¹

- ❖ Until July 2022, Ukrainian nationals and their family members who were recognised as special temporary protection beneficiaries were not given any residence permit, in violation of Article 8 of the TPD (see [Residence permit](#)). In consequence, if they returned temporarily to Ukraine and then again tried to enter Poland, they might have been requested at the Polish border for a visa or a residence permit and/or their right to visa-free movement in the EU was checked. Thus, some temporary protection beneficiaries who had exhausted their right to a visa-free stay in the EU and had not a valid visa were denied entry to Poland despite their temporary protection status therein. They had no residence permit to show at the border checkpoint that would confirm their status and entitle them to re-enter Poland.²¹¹²
- ❖ In July 2022, the electronic document 'Diia.pl' was introduced and notified as a residence permit to the European Commission (see [Residence permit](#)). With a valid passport, the 'Diia.pl' entitles to crossing a Polish border.²¹¹³ However, in 2022, children, in particular those under 13 years old, struggled with accessing the 'Diia.pl'. The Border Guard claimed though that a child having temporary protection in Poland wanting to re-enter Poland with his/her parent who presents a valid 'Diia.pl', will be allowed to enter by issuing him/her a special 15-day permit under Article 32 of the Act on Foreigners (see [Admission to territory](#)). Only in June 2023, the access to Diia.pl was enabled for some children (see [Residence permit](#)). In 2022, there were 22,834 registered border crossings into Ukraine and 69,631 border crossings back into Poland on the basis of the 'Diia.pl' document. Similarly, in 2023, these numbers increased to 187,565 crossings into Ukraine and 434,888 crossings back into Poland using the same document.²¹¹⁴
- ❖ Temporary protection beneficiaries have been denied entry to Poland if they stayed in Ukraine for a period longer than 30 days.²¹¹⁵ Under Polish law, the temporary protection status ('PESEL

²¹⁰⁹ Article 11(4) in conjunction with Article 4(17a)(4) of the Special Law. Article 110(10-11) of the Act on Protection.

²¹¹⁰ Information from the Border Guard Headquarters, 18 March 2024; Border Guard's official statistics for 2023, published here: <https://bit.ly/3fDaMwB>.

²¹¹¹ SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 3-4.

²¹¹² SIP, 'People who fled from Ukraine should be allowed to re-enter Poland – SIP's opinion', 19 July 2022, available at: <https://bit.ly/3MqBzZB>; Commissioner for Human Rights, 'Trudności uchodźców przy ponownym wjeździe do Polski po powrocie do Ukrainy. Odpowiedź MSWiA', 22 August 2022, available at: <https://bit.ly/3Mf065N>; ACAPS, 'Poland: Loss of temporary protection status and social benefits for Ukrainian refugees', 14 November 2023, available here: <https://bit.ly/4ahHdtd>, 6.

²¹¹³ This has been clarified in Article 10(7) of the Special Law, added only in January 2023.

²¹¹⁴ Information from the Border Guard's Headquarters, 9 February 2023 and 12 February 2024.

²¹¹⁵ Commissioner for Human Rights, 'Trudności uchodźców przy ponownym wjeździe do Polski po powrocie do Ukrainy. Odpowiedź MSWiA', 22 August 2022, available at: <https://bit.ly/3Mf065N>.

UKR') is withdrawn then,²¹¹⁶ so the 'Diia.pl' also becomes invalid.²¹¹⁷ In 2023, according to the Border Guard, Polish authorities were informed about the absence of a special temporary protection beneficiary in Poland for over 30 days in 694,562 cases.²¹¹⁸ Such information should automatically lead to withdrawal of 'PESEL UKR'. This number, however, differs from the data provided for by the Ministry of Digital Affairs which mentioned 384,100 cases of automatic withdrawal of PESEL UKR in 2023.²¹¹⁹

- ❖ If a person concerned confirms that his/her absence in Poland was no longer than 30 days, the 'PESEL UKR' may be ("shall be" since 1 July 2024) restored.²¹²⁰ In 2023, it was restored in 13,890 cases.²¹²¹ However, in practice, Ukrainian nationals face difficulties with proving that they did not leave Poland for over a month.²¹²²
- ❖ Moreover, if a person concerned loses temporary protection due to the over 30-day absence in Poland, the 'PESEL UKR' may be re-granted,²¹²³ if a person again comes to Poland due to the war in Ukraine. However, the fact of departure from Ukraine must be registered in the special registry run by the Border Guard, which is problematic (see below). Granting again 'PESEL UKR' should be automatic, if a person concerned entered Poland from Ukraine (via EU external border). The 'PESEL UKR' may be also re-granted on motion.²¹²⁴ In 2022, approx. 18,980 persons were automatically re-granted 'PESEL UKR', while approx. 19,950 persons were given this number back on motion.²¹²⁵ In 2023, according to the Border Guard, 164,184 persons were automatically re-granted 'PESEL UKR'.²¹²⁶ However, this number, differs from the data provided for by the Ministry of Digital Affairs (75,310 cases of re-granting PESEL UKR by the Border Guard and 48,330 cases of re-granting it by other authorities in 2023).²¹²⁷
- ❖ Furthermore, in 2022 and 2023, temporary protection beneficiaries claimed that they were denied entry to Poland despite being away for periods shorter than 30 days.²¹²⁸ It resulted from a practice of the Border Guard that registered all departures from Poland of those beneficiaries, but only some of their returns to Poland.²¹²⁹ Border Guard required at the border checkpoint a direct and clear declaration that a person concerned was entering Poland due to the war in Ukraine, even if they were a temporary protection beneficiary in Poland. Ukrainian nationals were often unaware that such a declaration was expected. If it was lacking, their return to Poland was not inscribed into the special registry. It could result in the loss of temporary protection status because the 30-day period abroad is only interrupted by inscribing the return to Poland to this special registry.²¹³⁰ Persons concerned were sometimes unaware that their return had not been properly registered and they were surprised by the fact that they are no longer temporary protection beneficiaries in Poland, *inter alia*, upon another attempt to re-enter

²¹¹⁶ Article 11(2) in conjunction with Article 4(17a)₍₁₎ of the Special Law. As of 28 January 2023, the law states that it is '30 days' instead of 'one month'.

²¹¹⁷ However, it has been clarified only in the amendment of the Special Law of 13 January 2023, in Article 10(8) of the Special Law (as of 26 March 2023, not yet in force).

²¹¹⁸ Information from the Border Guard Headquarters, 12 February 2024.

²¹¹⁹ Information provided by the Ministry of Digital Affairs, 9 April 2024.

²¹²⁰ Article 4(17b) of the Special Law.

²¹²¹ Information provided by the Ministry of Digital Affairs, 9 April 2024.

²¹²² Human Rights Commissioner, 'Uchodźcy z Ukrainy są błędnie pozbawiani statusu uprawniającego do opieki medycznej i pomocy. Interwencja RPO', 16 March 2023, available in Polish here: <https://bit.ly/3Kg37jI>; ACAPS, 'Poland: Loss of temporary protection status and social benefits for Ukrainian refugees', 14 November 2023, available here: <https://bit.ly/4ahHdrrd>, 7.

²¹²³ Since 1 July 2024, the Special Law clearly states that it is re-granted from the day of re-entry.

²¹²⁴ Article 4(17f-17h) of the Special Law.

²¹²⁵ Information provided by the Ministry of Digital Affairs, 1 March 2023.

²¹²⁶ Information from Border Guard Headquarters, 12 February 2024..

²¹²⁷ Information provided by the Ministry of Digital Affairs, 9 April 2024.

²¹²⁸ See e.g. UNHCR, 'Poland: Joint Protection Analysis', October 2023, available here: <https://bit.ly/3JX197Y>, 9; ACAPS, 'Poland: Loss of temporary protection status and social benefits for Ukrainian refugees', 14 November 2023, available here: <https://bit.ly/4ahHdrrd>; SIP, 'SIP w działaniu. Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 r.', September 2023, available in Polish here: <https://bit.ly/3yfSw5V>, 12; Nomada, DRC, 'Poland. Protection Monitoring Analysis. Lower Silesian Voivodeship', November 2023, available here: <https://bit.ly/3UUgYTa>, 11.

²¹²⁹ Human Rights Commissioner, 'Uchodźcy z Ukrainy są błędnie pozbawiani statusu uprawniającego do opieki medycznej i pomocy. Interwencja RPO', 16 March 2023, available in Polish here: <https://bit.ly/3Kg37jI>.

²¹³⁰ See also PRAB, 'What we do in the shadows', May 2023, available in English here: <https://bit.ly/3oBeAmS>, 12; PRAB, 'Surprisingly surprised', September 2023, available in English here: <https://bit.ly/3J8QmqK>, 6.

Poland after another short-term travel to Ukraine, or when their social welfare was ceased (see [Social welfare](#)).²¹³¹ The abovementioned practice of the Border Guard – despite the critique of civil society – was confirmed by the Ministry of Internal Affairs and Administration²¹³² as well as the Ministry of Family and Social Affairs.²¹³³ This approach led to the concerns of Ukrainian nationals regarding leaving Poland at all – even for short periods of time,²¹³⁴ potentially significantly impacting their mobility.

- ❖ Poland did not implement Article 21 of the TPD. Under Article 21(2) of the Temporary Protection Directive, the Member States are obliged to give favourable consideration to requests for a return to the Member State upon a voluntary return. However, this provision has not been implemented into the Special Law and, as shown above, the ‘favourable consideration’ seems to be in general lacking at the Polish borders.²¹³⁵

General temporary protection

Only in July 2022, the certificate for temporary protection beneficiaries issued under the Act on Protection was notified to the European Commission (see [Residence permit](#)). Beforehand, travels to and from Ukraine of those beneficiaries could have been hampered.

In 2022, the Border Guard registered 197 border crossings back to Ukraine by general temporary protection beneficiaries (on a basis of a certificate issued under Article 110(5) of the Act on Protection). 229 border crossings of those beneficiaries were registered in the opposite direction. In 2023, the numbers rose to 331 border crossings to Ukraine and 241 border crossings back.²¹³⁶

Under the Act on Protection, there are no rules concerning the withdrawal of temporary protection upon any absence in Poland. As a rule, general temporary protection beneficiaries can travel to Ukraine without (temporal or other) limitations.

However, difficulties with pendular movement of non-Ukrainian temporary protection beneficiaries recognised in other Member States have been reported in practice. SIP, HIAS, Right to Protection and Alliance for Black Justice informed in July 2023 about a case of a Russian national – a recognised refugee in Ukraine and a recognised temporary protection beneficiary in Germany, who was denied entry to Poland on her way back from Ukraine to Germany. She had a travel document as well as the documents confirming that she was a refugee in Ukraine and a temporary protection beneficiary in Germany. No decision was issued - she was just orally informed that she cannot enter Poland because she is Russian²¹³⁷. In some other cases, temporary protection beneficiaries were not allowed to enter

²¹³¹ Ibid., SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English here: <https://bit.ly/3B8qWFW>, 6; PRAB, ‘Surprisingly surprised’, September 2023, available in English here: <https://bit.ly/3J8QmqK>, 6; UNHCR, ‘Poland: Joint Protection Analysis’, October 2023, available here: <https://bit.ly/3JX197Y>, 10; ACAPS, ‘Poland: Loss of temporary protection status and social benefits for Ukrainian refugees’, 14 November 2023, available here: <https://bit.ly/4ahHdrr>. The information about these requirements has been published only in Polish at the Border Guard’s website, see: <https://bit.ly/3WAZL2l> (27.01.2023). However, the government [declared](#) in July 2023 that actions would be taken – with the Embassy of Ukraine in Poland – to disseminate this information (see Human Rights Commissioner, ‘Kiedy obywatel Ukrainy nie straci statusu UKR. Wyjaśnienia MSWiA dla RPO (також українською)’, 3 August 2023, available in Polish here: <https://bit.ly/4advycY>).

²¹³² Human Rights Commissioner, ‘Kiedy obywatel Ukrainy nie straci statusu UKR. Wyjaśnienia MSWiA dla RPO (також українською)’, 3 August 2023, available in Polish here: <https://bit.ly/4advycY>.

²¹³³ Ministry of Family and Social Affairs, ‘Odpowiedź na interpelację nr 40924 w sprawie problemów obywateli Ukrainy dotyczących nieuzasadnionej utraty świadczenia wychowawczego’, 7 July 2023, available in Polish here: <https://bit.ly/4drJPW6>.

²¹³⁴ UNHCR, ‘Poland: Joint Protection Analysis’, October 2023, available here: <https://bit.ly/3JX197Y>, 10.

²¹³⁵ SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 4. M. Łysienka, ‘Following the EU Response to the Russian Invasion of Ukraine? The Implementation of the Temporary Protection Directive in Poland’, CEEMR vol. 12 no. 1, 2023, available here: <https://bit.ly/3Wyx4mE>, 192.

²¹³⁶ Information from the Border Guard’s Headquarters, 9 February 2023 and 12 February 2024.

²¹³⁷ SIP, R2P, HIAS and ABJ, Letter of 5 July 2023, available in Polish and English here: <https://bit.ly/3JY5iZa>.

Poland due to the non-recognition/insufficiency of the residence permits issued for temporary protection beneficiaries by other Member States.²¹³⁸

Moreover, in 2023, some stateless persons were denied entry back to Ukraine, according to the HNLAC.²¹³⁹

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?
120 days of free accommodation, co-payment required afterwards
2. Number of beneficiaries staying in reception centres as of 31/12/23 Not available
3. Number of beneficiaries staying in private accommodation as of 31/12/23 Not available

Providing housing to all persons displaced from Ukraine posed the biggest challenge in 2022. In the early days of the war, the first reception centres were created, mostly near the Polish-Ukrainian border and in big cities, to provide a short-term accommodation to Ukrainian nationals and other persons fleeing the war. They were mostly run by local authorities, NGOs and volunteers from all over Poland.²¹⁴⁰ Throughout the year, long-term accommodation facilities were also established.

Numerous Polish citizens and residents promptly offered their houses and apartments – also free of charge – to displaced persons from Ukraine.²¹⁴¹ However, rents raised significantly during the year, making it more difficult for displaced persons to find affordable accommodation.²¹⁴² A reception in private housing was not organised by Polish authorities, however, some of them created special websites and services facilitating contact between landlords and tenants.²¹⁴³ While many displaced persons were

²¹³⁸ AIDA, 'Temporary Protection Netherlands', April 2023, available here: <https://bit.ly/3TN9zV5>, 5.

²¹³⁹ K. Przybysławska, 'Stateless persons from Ukraine seeking protection in Poland', HNLAC, 16 October 2023, available in English here: <https://bit.ly/3QGqh6K>, 17.

²¹⁴⁰ See also Jaroszewicz M., Krępa M., 'Stabilisation of Emergency Measures: Poland's Refugee Reception System One Month After the Russian Attack on Ukraine', in M. Ineli-Ciger, S. Carrera (eds), *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, EUI 2023, available at: <https://bit.ly/3U4ii3X>, 168-169.

²¹⁴¹ According to the one study, 7% of respondents offered this kind of assistance, see Baszczak, Ł., Kiełczewska, A., Kukołowicz, P., Wincewicz, A., Zyzik, R., 'Pomoc polskiego społeczeństwa dla uchodźców z Ukrainy', Polski Instytut Ekonomiczny, July 2022, available in Polish here: <https://bit.ly/3B7tNig>, 23. According to the another study, 3% of cities' residents offered their apartments to Ukrainian nationals, see T. Sobierajski, A. Sobestjańska, A. Sopińska and M. Kuszewska, 'Sąsiedzka pomoc', Unia Metropolii Polskich, August 2022, available in Polish here: <https://bit.ly/3HQ3JMk>, 12. See also O. Dziekoński, R. Matczak and R. Trzeciakowski, 'Housing and Accommodation', in: M. Bukowski and M. Duszczyk (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 46-47, indicating that in April 2022, 47% displaced persons lived free-of-charge with family, friends or strangers, and relatively few rented apartments on their own. See also S. Jarosz and W. Klaus (eds), 'Polska szkoła pomagania', Konsorcjum Migracyjne, OBMF and CeBaM 2023, available in Polish here: <https://bit.ly/3pmsAB0>, 48-49.

²¹⁴² Human Rights Commissioner, 'Sytuacja mieszkaniowa uchodźców z Ukrainy - posiedzenie komisji Ekspertów ds. Przeciwdziałania Bezdomności', 25 July 2022, available in Polish here: <https://bit.ly/42Ew6VS>.

²¹⁴³ See e.g. <https://bit.ly/3NOT3Bz>, Warsaw City Hall, 'Warsaw in the refugee crisis. Report for the first three months', June 2022, available at: <https://bit.ly/3NYEw6t>, 5; A. Dąbrowska, 'Lublin Social Committee to Aid Ukraine. 90 days of assistance. Report', available in English here: <https://bit.ly/3HRtMmc>, 40.

hosted by Polish society, after a couple of months, the diminishing involvement of those hosts was noticeable.²¹⁴⁴

Most of the persons displaced from Ukraine are living privately in Poland (93% according to the UNHCR's study of November 2023²¹⁴⁵). The use of collective accommodation has been decreasing. In July 2022, only 357,000 out of 1,2 million special temporary protection beneficiaries lived in the collective places of accommodation.²¹⁴⁶ In November 2022, the Polish government informed that, in total, 1,4 million persons received accommodation from Polish families, while 416,000 were living in the reception centres. As of November 2022, 80,000 persons from Ukraine were still staying in those centres.²¹⁴⁷

According to the Ministry of Internal Affairs and Administration, the number of persons accommodated in the centres decreased in 2023 (as of 1 March 2023 – 80,932 persons, as of 14 June – 58,732) compared to the end of 2022 (as of 28 December 2022 – 84,896).²¹⁴⁸ According to the UNHCR, as of April 2024, approximately 40,000 beneficiaries stayed in the centres contracted by the Voivodes or municipal authorities.²¹⁴⁹

In practice, forms and conditions of accommodation provided to beneficiaries of temporary protection by the Polish authorities differed significantly within a country. There are no applicable standards with regard to these conditions.²¹⁵⁰ In the first months, places of collective accommodation, i.e. conference halls, sports centres, railway stations, and offices, that were hosting hundreds and thousands of persons at the same time, were criticised by civil society organisations and human rights institutions for low sanitary and security standards, lack of privacy, overcrowding, distant locations and management by

²¹⁴⁴ J. Mędrzecka-Stefańska, A. Petroff-Skiba and A. Wieczorek, 'Konsekwencje społeczne i psychologiczne rozwiązań mieszkaniowych dla osób uchodźczych z Ukrainy', Unia Metropolii Polskich, September 2022, available in Polish here: <https://bit.ly/3psl2eP>, 7, 20, S. Jarosz and W. Klaus (eds), 'Polska szkoła pomagania', Konsorcjum Migracyjne, OBMF and CeBaM 2023, available in Polish here: <https://bit.ly/3pmsAB0>, 41.

²¹⁴⁵ UNHCR, 'Multi-Sector Needs Assessment - Results Overview (MSNA Poland 2023)', November 2023, available here: <https://bit.ly/4b8YuUP>, 36.

²¹⁴⁶ Baszczak, Ł., Kiełczewska, A., Kukołowicz, P., Wincewicz, A., Zyzik, R., 'Pomoc polskiego społeczeństwa dla uchodźców z Ukrainy', Polski Instytut Ekonomiczny, July 2022, available in Polish here: <https://bit.ly/3B7tNig>, 23.

²¹⁴⁷ Ministry of Internal Affairs and Administration, 'W Brukseli wiceminister Paweł Szefermaker zaprezentował raport podsumowujący działania Polski na rzecz pomocy uchodźcom wojennym z Ukrainy', 10 November 2022, available in Polish here: <https://bit.ly/3B7sTT5>.

²¹⁴⁸ Human Rights Commissioner, MSWiA wyjaśnia zasady udziału uchodźców wojennych z Ukrainy w kosztach udzielanej im pomocy, 19 June and 1 August 2023, available in Polish here: <https://bit.ly/3UV17nt>.

²¹⁴⁹ UNHCR, 'Draft law amending the Act on Assistance to Citizens of Ukraine in the Context of the Armed Conflict in Ukraine ("the Special Act"). UNHCR Comments and Observations', April 2024, available here: <https://bit.ly/3QHs0x>, 4.

²¹⁵⁰ As regards Warsaw, see Warsaw City Hall, 'Warsaw in the refugee crisis. Report for the first three months', June 2022, available at: <https://bit.ly/3NYEw6t>; Human Rights Commissioner, 'Zastępcy RPO odwiedzili centra recepcyjne w Warszawie', 14 April 2022, available in Polish here: <https://bit.ly/44lhCpG>, and 'Wizyta przedstawicieli BRPO w centrum recepcyjnym w hali Global EXPO przy ul. Modlińskiej w Warszawie', 6 May 2022, available in Polish here: <https://bit.ly/44LdpkY>. As regards Lublin, see A. Dąbrowska, 'Lublin Social Committee to Aid Ukraine. 90 days of assistance. Report', available in English here: <https://bit.ly/3HRtMmc>. As regards Przemyśl, see Human Rights Commissioner, 'Problemy uchodźców wojennych w Przemyślu. RPO ponownie pisze do wojewody. Jest odpowiedź', 23 December 2022, 25 January 2023, available in Polish here: <https://bit.ly/3VJSY43>; S. Jarosz, W. Klaus (eds), 'W pukniecie wyjścia. Monitoring zbiorowego zakwaterowania uchodźczyń z Ukrainy w 2023 r. w świetle zmian ustawowych', Migration Consortium, August 2023, available in Polish here: <https://bit.ly/4dxilFO>, 20; N. Bloch, Z. Szmyt, 'Nomadland. Miejsca zbiorowego zakwaterowania osób uchodźczych z Ukrainy w Wielkopolsce a procesy integracyjne', Raport CeBaM UAM 1/2024, available in Polish here: <https://bit.ly/3QEB69b>, 8.

different entities.²¹⁵¹ In 2023, the conditions in the centres that continued to operate were improved insignificantly or not at all.²¹⁵²

In 2023, many accommodation centres were shut down (with some closures being deemed premature).²¹⁵³ Before the closure of the centre, temporary protection beneficiaries needed to find an apartment by themselves or they were relocated to other centres – sometimes far away and many times. Such (multiple) relocations often hampered the integration processes that have already started in the previous place of accommodation.²¹⁵⁴ For example, in August 2023, the relocation of the residents of the PTAK centre in Nadarzyn started. The conditions in this centre were negatively assessed by the Commissioner for Human Rights.²¹⁵⁵

Some persons who fled from Ukraine were also discriminated in their access to accommodation, with Roma individuals being particularly affected²¹⁵⁶ (see [Guarantees for vulnerable groups](#)).

Special temporary protection

Special temporary protection beneficiaries are not accommodated in the reception centres for asylum seekers. Under Article 12(1) and (4) of the Special Law, regional and other authorities *may* provide special temporary protection beneficiaries with accommodation. Until 1 March 2023, regional authorities (voivodes) were obliged to provide accommodation for at least 2 months starting with entry to Poland of a person concerned.²¹⁵⁷ However, in January 2023, Article 12(17) of the Special Law was amended, and currently, there is no obligation of any Polish authorities to provide accommodation for persons enjoying special temporary protection in Poland. It is a discretionary power of Polish authorities.²¹⁵⁸ In May 2024, the law was changed again limiting the assistance that may be granted by the regional authorities. They may still, however, offer housing and food in collective accommodation centres.

Moreover, since 1 March 2023, the cost-free accommodation is limited to 120 days. It is considered to be against Article 13 of the TPD.²¹⁵⁹ After this period, a temporary protection beneficiary must cover 50% of the costs of his/her accommodation, no more than PLN 40 per day per person. Since May 2023, if a person concerned lives in the accommodation organised by voivodes or other Polish authorities, they must cover 75% of the costs (no more than PLN 60 per day per person). The abovementioned rules do not apply to the most vulnerable temporary protection beneficiaries (see [Guarantees for](#)

²¹⁵¹ S. Jarosz and W. Klaus (eds), 'Polska szkoła pomagania', Konsorcjum Migracyjne, OBMF and CeBaM 2023, available in Polish here: <https://bit.ly/3pmsAB0>, 26-27.

²¹⁵² S. Jarosz, W. Klaus (eds), 'W puknie wyjścia. Monitoring zbiorowego zakwaterowania uchodźców z Ukrainy w 2023 r. w świetle zmian ustawowych', Migration Consortium, August 2023, available in Polish here: <https://bit.ly/4dxiLF0>, 9.

²¹⁵³ Ibid., 6, 23-24, 26.

²¹⁵⁴ N. Bloch, Z. Szmyt, 'Nomadland. Miejsca zbiorowego zakwaterowania osób uchodźczych z Ukrainy w Wielkopolsce a procesy integracyjne', Raport CeBaM UAM 1/2024, available in Polish here: <https://bit.ly/3QEB69b>, 35-36.

²¹⁵⁵ Human Rights Commissioner, 'Po wizytacji BRPO punktu pobytu dla uchodźców z Ukrainy w Nadarzynie. Odpowiedź Wojewody Mazowieckiego', 5 and 22 September 2023, available in Polish here: <https://bit.ly/3wk5EXb>.

²¹⁵⁶ Fundacja w Stronę Dialogu, 'To nie są uchodźcy, tylko podróżnicy. Sytuacja romskich osób uchodźczych w województwie podkarpackim. Raport monitoringowy 2022-2023', July 2023, available in Polish here: <https://bit.ly/3UtcsJK>, 46-48.

²¹⁵⁷ The temporal limitation with regard to accommodation was in contradiction with Article 13 of the TPD, see SIP, Letter of 30 November 2022 to the European Commission, available in English here: <https://bit.ly/3TgHaEX>, 5.

²¹⁵⁸ See also ECRI, 'ECRI Report on Poland (sixth monitoring cycle)', 27 June 2023, available here: <https://bit.ly/4brWID6>, 27.

²¹⁵⁹ SIP, Letter to the Ministry of Internal Affairs and Administration, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 3-4. S. Jarosz and W. Klaus (eds), 'Polska szkoła pomagania', Konsorcjum Migracyjne, OBMF and CeBaM 2023, available in Polish here: <https://bit.ly/3pmsAB0>, 27.

vulnerable groups).²¹⁶⁰ Moreover, according to the amendment adopted in May 2024, payments for children benefiting from 800+ financial allowance are reduced to PLN 15 per day per person. Furthermore, in 2022, benefiting from the accommodation organised by Polish authorities was not dependent on obtaining the PESEL number, but since 1 March 2023, it is required to continue accommodation beyond 120 days.

As noticed by SIP in November 2023, '(t)hese new rules were criticised by the NGOs and Commissioner for Human Rights²¹⁶¹ since their inception. They are considered to be contrary to the TPD and unclear. In particular, it is vague who is to be considered not obliged to co-pay for the accommodation and how it is going to be assessed. In July, Ministry of Internal Affairs and Administration claimed that these rules are intentionally vague to allow flexibility of local authorities. It also prepared a recommendation for these authorities on how the situation (vulnerability) of a Ukrainian national should be assessed, but it has not been made public. In August 2023, the Migration Consortium published a report²¹⁶² concerning the access to accommodation for Ukrainian nationals upon the introduction of the co-payment obligation. The research conducted in 6 voivodeships has shown that there is no coherency in interpreting the law in question and applying this obligation in practice. Not enough information has been given by the government both to the concerned Ukrainian nationals (some of whom thus returned to Ukraine fearing homelessness in Poland) and to local authorities responsible for the accommodation centres. It is unknown how many persons have been exempted from the co-payment obligation. The Consortium stated that the observed practice raises concerns whether the situation of Ukrainian nationals is really scrutinised. Meanwhile, the access to other accommodation is increasingly limited. NGOs are forced to provide support to Ukrainian nationals, filling gaps created by the new law'.²¹⁶³ Moreover, if a person concerned is not paying for the stay in the centre – despite the co-payment obligation – in practice, they may be moved to a lower-standard centre.²¹⁶⁴ The introduction of the co-payment obligation forced temporary protection beneficiaries to look for the cheaper accommodation (e.g. to rent an apartment). Some families were also separated as a result of the co-payment obligation: those family members who were not obliged to pay stayed in the centre, while the others moved. Due to the accommodation problems, some temporary protection beneficiaries returned to Ukraine or sought protection elsewhere.²¹⁶⁵

Many Ukrainian nationals and their family members enjoying special temporary protection in Poland were accommodated privately. Some of them, especially at the beginning of the war, were offered free accommodation by Polish nationals and private companies. Until 1 July 2024, the Special Law provided for a financial allowance – PLN 40 per person per day - for persons who offered a free-of-charge accommodation *and* food to special temporary protection beneficiaries. This assistance was limited to 120 days; only in particularly justified circumstances, it could have been prolonged (see [Guarantees to vulnerable persons](#)). It was paid to a landlord, upon his/her motion.²¹⁶⁶ There was no possibility to appeal

²¹⁶⁰ Article 12(17a-f) of the Special Law. This catalogue was considered too narrow, see SIP, Letter to the Ministry of Internal Affairs and Administration, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 4.

²¹⁶¹ Human Rights Commissioner, 'MSWiA wyjaśnia zasady udziału uchodźców wojennych z Ukrainy w kosztach udzielanej im pomocy', 19 June and 1 August 2023, available in Polish here: <https://bit.ly/3UV17nt>.

²¹⁶² See the Migration Consortium report: S. Jarosz, W. Klaus (eds), 'W puknie wyjścia. Monitoring zbiorowego zakwaterowania uchodźczyń z Ukrainy w 2023 r. w świetle zmian ustawowych', August 2023, available in Polish here: <https://bit.ly/4dxiLF0>.

²¹⁶³ SIP, 'Input to the EUAA Asylum Report 2024', November 2023, available here: <https://bit.ly/3yaRYye>, 19. See also Bloch, Z. Szmyt, 'Nomadland. Miejsca zbiorowego zakwaterowania osób uchodźczych z Ukrainy w Wielkopolsce a procesy integracyjne', Raport CeBaM UAM 1/2024, available in Polish here: <https://bit.ly/3QEB69b>, 33-35.

²¹⁶⁴ SIP, 'Centra zbiorowego zakwaterowania. Poradnik dla osób przybyłych z Ukrainy', June 2023, available in Polish here: <https://bit.ly/3WyzNfS>, 13; S. Jarosz, W. Klaus (eds), 'W puknie wyjścia. Monitoring zbiorowego zakwaterowania uchodźczyń z Ukrainy w 2023 r. w świetle zmian ustawowych', August 2023, Migration Consortium, available in Polish here: <https://bit.ly/4dxiLF0>, 17, 20.

²¹⁶⁵ Bloch, Z. Szmyt, 'Nomadland. Miejsca zbiorowego zakwaterowania osób uchodźczych z Ukrainy w Wielkopolsce a procesy integracyjne', Raport CeBaM UAM 1/2024, available in Polish here: <https://bit.ly/3QEB69b>, 25-28.

²¹⁶⁶ Article 13 of the Special Law.

when the allowance was denied, but individuals could initiate civil proceedings against the municipality in such cases.²¹⁶⁷ Since 30 April 2022, having a PESEL number by a tenant was required.²¹⁶⁸ In 2022, 1,211,110 applications for this financial allowance were registered, in 2023 – over 560,000 applications were registered. The Ministry of Digital Affairs does not have data concerning decisions on those applications,²¹⁶⁹ however, some difficulties in obtaining this allowance were reported.²¹⁷⁰ According to the UMP's study, only one-third of respondents who hosted persons displaced from Ukraine applied for this assistance.²¹⁷¹ The amount of the financial allowance was also considered insufficient to cover the costs of accommodating and feeding Ukrainian nationals.²¹⁷² Moreover, abuses of the landlords receiving the above-mentioned allowance were also mentioned in some reports.²¹⁷³ In May 2024, the rules concerning this financial allowance were repealed.

According to the Amnesty International's study of May 2023, approx. 200,000 apartments might have been rented in Poland by special temporary protection beneficiaries. AI noticed that not all Ukrainian nationals managed to rent an apartment. Poles are often unwilling to rent their apartments fearing that, in case of any problems, they will not be able to evict Ukrainian tenants. Meanwhile, with regard to those Ukrainian nationals who managed to rent an apartment, abuses of the landlords were reported (e.g. a lack of written contracts, unexpected increase of the rent, threats, violations of privacy).²¹⁷⁴

The cases of homeless Ukrainian nationals persisted throughout 2023 as well.²¹⁷⁵

General temporary protection

Under the Act on Protection, temporary protection beneficiaries have access to accommodation and food in the reception centres for asylum seekers (for more about those centres, see [Reception](#)), upon their motion and provided that they receive a certificate for temporary protection beneficiaries first.²¹⁷⁶ However, if the Head of the Office for Foreigners has no possibility to offer this kind of accommodation, a financial allowance is paid instead. Then, a beneficiary must find accommodation on his/her own. A reception in private housing is not organised by Polish authorities.

In 2022, only 6 persons benefited from accommodation in the reception centres for asylum seekers (one family of four for almost one month in the centre in Dębak, next in Linin; one person for 3 months in Dębak, and one person for 10 days in Biała Podlaska).²¹⁷⁷ In 2023, 15 persons applied for the

²¹⁶⁷ Article 13(1b) of the Special Law. See also Provincial Administrative Court in Szczecin, decision of z dnia 20 October 2023, no. II SA/Sz 770/23.

²¹⁶⁸ Human Rights Commissioner stated that this change had deprived some landlords of a possibility to request an allowance for periods before 30 April 2022. Subsequently, the law was changed to enable seeking allowance for those periods. Human Rights Commissioner, 'Udzielali schronienia uchodźcom z Ukrainy - mogą nie dostać świadczenia od państwa. Interwencja Rzecznika', 16 May 2022, available in Polish here: <https://bit.ly/3MamWuN>.

²¹⁶⁹ Information provided by the Ministry of Digital Affairs, 1 March 2023 and 9 April 2024.

²¹⁷⁰ See e.g. SIP, *Input to the EUAA Asylum Report 2023*, February 2023, available in English here: <https://bit.ly/3B8qWFW>, 16; Human Rights Commissioner, 'Luki w przepisach specustawy o pomocy Ukraińcom dot. pieniędzy na zakwaterowanie i wyżywienie uchodźców. RPO pisze do MSWiA', 6 April 2022, available in Polish here: <https://bit.ly/3VKr73G>.

²¹⁷¹ T. Sobierajski, A. Sobestjańska, A. Sopińska and M. Kuszewska, 'Sąsiedzka pomoc', Unia Metropolii Polskich, August 2022, available in Polish here: <https://bit.ly/3HQ3JMk>, 16.

²¹⁷² M. Kosiel-Pająk, P. Sadowski, 'British and Polish Temporary Protection Schemes Addressing Displaced Persons from Ukraine', *Časopis pro právní vědu a praxi* nr 4/2023, <https://bit.ly/3WCs1Ik>, 909.

²¹⁷³ Nomada, DRC, 'Poland. Protection Monitoring Analysis. Lower Silesian Voivodeship', November 2023, available here: <https://bit.ly/3UUgYTa>.

²¹⁷⁴ Amnesty International Polska, "'Ukraińcom nie chcą wynajmować". Najnowsze badania Amnesty International', May 2023, available in Polish here: <https://bit.ly/3WTckSf>, 4-6. See also N. Bloch, Z. Szmyt, 'Nomadland. Miejsca zbiorowego zakwaterowania osób uchodźczych z Ukrainy w Wielkopolsce a procesy integracyjne', *Raport CeBaM UAM 1/2024*, available in Polish here: <https://bit.ly/3QEB69b>, 25-27.

²¹⁷⁵ Amnesty International Polska, "'Ukraińcom nie chcą wynajmować". Najnowsze badania Amnesty International', May 2023, available in Polish here: <https://bit.ly/3WTckSf>, 12.

²¹⁷⁶ Article 112 of the Act on Protection.

²¹⁷⁷ Information provided by the Office for Foreigners, 17 January 2023.

provision of food and accommodation in the reception centre. 10 persons were accommodated in these centres (9 persons in Bezwola for almost three months and 1 person in Podkowa Leśna-Dębak for approx. 4,5 months). Only one person remained there at the end of 2023.²¹⁷⁸

A financial allowance for temporary protection beneficiaries is the same as the one provided for asylum seekers. It amounts to PLN 25 (or less) per day, so at maximum PLN 750-775 per month per person. In practice, this allowance is not sufficient to finance all basic needs of a beneficiary, in particular to rent an apartment (for more see [Reception - Forms and levels of material reception conditions](#)). Thus, general temporary protection beneficiaries are not receiving sufficient 'means to obtain housing', against Article 13 of the TPD.²¹⁷⁹ However, unlike asylum seekers, temporary protection beneficiaries can work or run a business in Poland (see [Access to the labour market](#)); thus, they may have supplementary sources of income.

The assistance is provided for a period of minimum 2 months, but no longer than for the period of the validity of the certificate for temporary protection beneficiaries.²¹⁸⁰ This period is determined individually, in the Head of the Office for Foreigners's decision. According to the Office for Foreigners, if this period ends, a person concerned may apply for assistance to be granted again.²¹⁸¹ The assistance is dependent on the financial situation of the beneficiary, however, accommodation is granted irrespective of the income of the person concerned (see [Social welfare](#)).²¹⁸² Moreover, the assistance is not granted if a person concerned seeks asylum (then, they benefit from material reception conditions for asylum seekers).²¹⁸³

A temporary protection beneficiary accommodated in a reception centre for asylum seekers is entitled to some additional benefits (i.e. a financial allowance for cleaning and personal hygiene products, Polish language lessons, covering transport expenses).²¹⁸⁴

E. Employment and education

1. Access to the labour market

The differential access to labour market of special and general temporary protection beneficiaries was criticised and considered to be against the TPD.²¹⁸⁵

Special temporary protection

Since 24 February 2022, in addition to the previous rules concerning third-country nationals' labour in Poland,²¹⁸⁶ Ukrainian nationals are entitled to work in Poland, if:

- a. they enjoy special temporary protection in Poland, or
- b. they are staying legally in Poland,

and if an employer informs – online, within 14 days from the start of the work (7 days according to the amendment adopted in May 2024, in force since 1 July 2024) – a labour office about hiring a Ukrainian

²¹⁷⁸ Information provided by the Office for Foreigners, February 2024.

²¹⁷⁹ SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 5-6.

²¹⁸⁰ Article 112(1a) of the Act on Protection. This temporal limitation with regard to accommodation is in contradiction with Article 13 of the TPD, see SIP, *Letter of 30 November 2022 to the European Commission*, available in English here: <https://bit.ly/3TgHaEX>, 5.

²¹⁸¹ Information provided by the Office for Foreigners, 17 January 2023.

²¹⁸² Article 12(4-4f) of the Act on Protection.

²¹⁸³ Article 12(1b) of the Act on Protection.

²¹⁸⁴ Article 112(6-8) of the Act on Protection.

²¹⁸⁵ M. Górski, 'Wpływ specustawy ukraińskiej na sytuację prawną migrantów przymusowych z Ukrainy na polskim rynku pracy', CMR Working Papers 135/193, September 2023, available in Polish here: <https://bit.ly/3WD7DR6>.

²¹⁸⁶ Before 24 February 2022, Ukrainian nationals already had facilitated access to labour market in Poland.

national (a ‘notification procedure’). Work must be provided in accordance with the notice: it must be performed in no less time than indicated in the notice and paid no less than the remuneration indicated therein. The working time and remuneration can be proportionally increased.²¹⁸⁷ Since 1 July 2024, the remuneration should be no less than minimum wage and a change in the conditions of employment must be notified too. Having a PESEL number is not required to work in Poland under those new rules. The introduction of the notification obligation was seen as contrary to TPD by some authors.²¹⁸⁸

In 2022, 786,164 notifications have been registered concerning 558,719 third-country nationals.²¹⁸⁹ In 2023, the notification procedure was the most popular pathway for legalizing the work of Ukrainian nationals in Poland (85% of Ukrainian workers in 2023). From 15 March 2022 (the first notification in practice) to 31 December 2023, 1,866,000 notifications have been registered (however, some persons could have been covered by more than one notification). At the end of 2023, 358,000 Ukrainian nationals worked in Poland on the basis of notification.²¹⁹⁰

In practice, some employers did not notify that they employed Ukrainian nationals. For this reason, for two weeks in July 2022, employers, who had not informed labour offices about hiring Ukrainian nationals, or made some mistakes in this regard, were given another chance to fulfil this obligation.²¹⁹¹ If an employer does not fulfil the notification obligation, a Ukrainian national should not be fined (the exception from a general rule).²¹⁹² In 2024, the Border Guard confirmed that no Ukrainian national was fined for illegal work since the beginning of the war in Ukraine.²¹⁹³ However, it should be mentioned that working without a notification or against its conditions may be considered an illegal work, which may lead to issuing a return decision.²¹⁹⁴

In 2022-2024, some Ukrainian nationals were found to have been working illegally in Poland.²¹⁹⁵ It is also worth mentioning that in the CARE study of October 2023, almost half of the respondents (Ukrainian domestic workers who mostly came to Poland after the latest Russian invasion of Ukraine) admitted to having no contract with their employees.²¹⁹⁶ In November 2023, the study by DRC and Nomada, focussing on the Lower Silesian voivodeship, showed that employers are unwilling to legally employ Ukrainian nationals and pay them remuneration in full or at all. Ukrainian nationals are, however, unaware of how to report such violations or are afraid to do so.²¹⁹⁷

²¹⁸⁷ Article 22(1) of the Special Law.

²¹⁸⁸ I. Florczak, J.K. Adamski, ‘Mass influx of people from Ukraine: social entitlements and access to the labour market: Poland’, in: I. Florczak, J.K. Adamski (eds), *Mass influx of people from Ukraine: social entitlements and access to the labour market*, Università di Bologna 2024, available here: <https://bit.ly/4akZlAd>, 313.

²¹⁸⁹ Information from the Ministry of Family and Social Affairs, 16 January 2023.

²¹⁹⁰ Ministry of Family, Labour and Social Policy, ‘Informacja o zatrudnieniu cudzoziemców w Polsce’, January 2024, available in Polish here: <https://bit.ly/3UTlB8l>, 7, 12.

²¹⁹¹ Ministry of Family and Social Policy, ‘Umożliwienie pracodawcom złożenia zaległych lub błędnych powiadomień’, available in Polish here: <https://bit.ly/3HWryCm>.

²¹⁹² Article 22(5c) of the Special Law. However, in their communications the Border Guard claims differently, see e.g. Border Guard, ‘Pracowali nielegalnie w Polsce’, 11 March 2024, available in Polish here: <https://bit.ly/3WYDcva>.

²¹⁹³ SIP, ‘Ukrainian citizens may not be punished for employers’ mistakes’, 8 April 2024, available here: <https://bit.ly/4bf8XOy>.

²¹⁹⁴ SIP, *Letter to the Polish Parliament*, 9 December 2022, available in Polish here: <https://bit.ly/3HUXhnc>, 5-6.

²¹⁹⁵ See numerous posts published at the Border Guard’s website about the controls of the legality of employment in Polish companies and finding out that Ukrainian nationals were employed illegally, e.g. ‘Pracowali nielegalnie w Polsce’, 9 November 2022, available in Polish here: <https://bit.ly/42iHXJb> (73 Ukrainian nationals found to be working illegally); ‘Nielegalnie zatrudnieni w firmie budowlanej’, 15 November 2022, available in Polish here: <https://bit.ly/41nU4DH>, ‘Skontrolowano legalność zatrudnienia 760 cudzoziemców’, 21 November 2022, available in Polish here: <https://bit.ly/3pnkmJ5> (34 Ukrainian nationals); ‘Pracowali bez zezwolenia i na innych warunkach’, 7 November 2023, available in Polish here: <https://bit.ly/4dzPaKX>; ‘Pracowali nielegalnie w Polsce’, 11 March 2024, available in Polish here: <https://bit.ly/3WYDcva>.

²¹⁹⁶ CARE, ‘In the Shadows. Ukrainian Domestic Workers in Poland’, 25 October 2023, available [here](#), 31.

²¹⁹⁷ Nomada, DRC, ‘Poland. Protection Monitoring Analysis. Lower Silesian Voivodeship’, November 2023, available [here](#), 5-8.

Some facilitations were provided for in the Special Law with regard to Ukrainian:

- a. doctors and dentists (Articles 61-63),
- b. nurses and midwives (Article 64),
- c. psychologists (Article 64a, only until 24 August 2023, and again from 1 July 2024 to 30 September 2025, see more [Health care](#)),
- d. academic teachers and researchers (Article 46-49),
- e. school teachers' assistants if they know the Polish language (Article 57-57a²¹⁹⁸),
- f. miners (Article 23b),
- g. persons working in public offices (Article 23a),
- h. persons working in the foster care system (upon the consent of specified authorities, Article 27(9-16) of the Special Law);

Some of those facilitations apply to all Ukrainian nationals having particular qualifications, others apply only to special temporary protection beneficiaries or Ukrainian nationals legally staying in Poland.

Since 1 April 2023, special temporary protection beneficiaries can apply in a facilitated manner for a temporary residence permit related to their work.²¹⁹⁹ However, obtaining a temporary residence permit means losing temporary protection in Poland (Article 2(3)(1)(c) of the Special Law).

Ukrainian nationals who enjoy special temporary protection in Poland, or stay legally in Poland, can also register as unemployed persons in Poland.²²⁰⁰ In 2022 and 2023 respectively, 78,558 and 42,433 Ukrainian nationals were registered as unemployed persons. As of 31 December 2022 and 31 December 2023 respectively, 14,709 and 12,942 were registered as unemployed or looking for a job.²²⁰¹

The governmental and local portals have been created to facilitate contact between Ukrainian nationals seeking employment (having a PESEL number) and employers in Poland.²²⁰² As of 4 January 2023, 3,535 persons benefited from the governmental database.²²⁰³ IOM Poland also activated a special website - in Polish and Ukrainian language – concerning legal employment in Poland.²²⁰⁴ On many job-seeking websites, ads were published by Polish employers offering jobs to persons displaced from Ukraine.²²⁰⁵

Special temporary protection beneficiaries can run a business in Poland under the same rules as Polish citizens. Having a PESEL number is required.²²⁰⁶ Until 30 September 2025, Ukrainian nationals running a registered business in Poland can obtain a temporary residence permit without proving that they have a sufficient income, or without fulfilling other criteria normally required in these proceedings.²²⁰⁷ However, obtaining a temporary residence permit means losing temporary protection in Poland (Article 2(3)(1)(c) of the Special Law).

²¹⁹⁸ Article 57a of the Special Law, in force since 1 September 2024.

²¹⁹⁹ Article 42 (13-19) of the Special Law.

²²⁰⁰ Article 22(6-7) of the Special Law.

²²⁰¹ Information from the Ministry of Family and Social Affairs, 16 January 2023 and 12 February 2024

²²⁰² Article 22a-22h of the Special Law. See <https://bit.ly/41IMLw4> and e.g. A. Dąbrowska, 'Lublin Social Committee to Aid Ukraine. 90 days of assistance. Report', available in English here: <https://bit.ly/3HRtMmc>, 7-8.

²²⁰³ Information provided by the Ministry of Digital Affairs, 1 March 2023.

²²⁰⁴ See: <https://bit.ly/3pcF12b>.

²²⁰⁵ A. Chłoń-Domińczak i R. Pater, 'Labour market and the economy', in: M. Bukowski and M. Duszczyk (eds), *Hospitable Poland 2022+*, WiseEuropa 2022, available at: <https://bit.ly/3KvGpoJ>, 36.

²²⁰⁶ Article 23 of the Special Law.

²²⁰⁷ Article 42(12) and (12a) of the Special Law.

In the period of March-December 2022, 17,511 Ukrainian nationals (irrespective of their legal status) applied to register their businesses in Poland.²²⁰⁸ Data regarding the business activity of special temporary protection beneficiaries is not available.

While special temporary protection beneficiaries in particular, and Ukrainian nationals in general, face some difficulties in finding jobs in Poland (see below), their integration into the Polish labour market is considered overall good.²²⁰⁹ However, the data concerning Ukrainian nationals' active participation in the Polish labour market differ depending on the study. While some studies published in 2023 show that over 60% of Ukrainian nationals were employed in Poland, others state that it was over 80%.²²¹⁰

According to the report published in September 2022 by EWL and Warsaw University, over 430,000 Ukrainian nationals who fled from Ukraine after 24 February 2022, found jobs in Poland. 85% of the respondents sought temporary protection in Poland. 53% of respondents did not know the Polish language, but 68% of Ukrainian nationals working in Poland could communicate in the Ukrainian language at work.²²¹¹ According to the more recent report of EWL and Warsaw University, as of February 2023, approx. 900,000 Ukrainian nationals who fled from Ukraine after 24 February 2022, found jobs in Poland (82% of adults). 27% of the respondents who work in Poland found a job in the first three months upon arrival.²²¹²

According to another 2022 study, Ukrainian women who came to Poland after 24 February 2022 indicated that the biggest challenges in accessing the labour market, in particular running a business here, were mostly the lack of knowledge of the Polish language and the necessity to provide care for their children during the working hours. However, overall, they felt more supported by Polish authorities rather than facing difficulties.²²¹³ Another study conducted in 2022 identified several barriers to running a business in Poland that were recognised by Ukrainian nationals, including the lack of knowledge of Polish law and practices, overly complicated rules regarding staying and working in Poland, financial difficulties, and challenges in finding employees and suitable premises in Poland.²²¹⁴

In February 2023, NRC stated that: 'In Poland, the largest single share of respondents (49%) indicated that (adult) work has been their main source of income, followed by savings (34%) and humanitarian assistance (27%).'²²¹⁵

In June 2023, ECRI called on Polish authorities to facilitate the recognition of diplomas and other qualifications of Ukrainian workers. The procedure is currently too lengthy and costly.²²¹⁶

²²⁰⁸ Information from the Ministry of Economic Development and Technology, 11 January 2023. See also Dębowska, K., Kłosiewicz-Górecka, U., Szymańska, A., Wejt-Knyżewska, A., Zybortowicz, K., 'Ukraińskie firmy w Polsce po wybuchu wojny w 2022 r.', Polski Instytut Ekonomiczny, January 2023, available in Polish here: <https://bit.ly/42laNJc>, 10-14.

²²⁰⁹ P. Kaczmarczyk, 'How serious is the risk of deskilling of Ukrainian war refugees (and what we can do about it)', CMR Spotlight no. 9 (54), September 2023, available here: <https://bit.ly/3JSYz2K>, 3.

²²¹⁰ See also L. Lukianova, 'Ukraińscy migranci wojenni na polskim rynku pracy. Szanse i ograniczenia', Rynek Pracy 187(4), available in Polish here: <https://bit.ly/4b9skbF>, 66.

²²¹¹ EWL and Warsaw University, 'Uchodźcy z Ukrainy - aktywizacja zawodowa w Polsce i Niemczech', September 2022, available in Polish here: <https://bit.ly/42FWezK>.

²²¹² EWL and Warsaw University, 'Uchodźcy wojenni z Ukrainy. Rok w Polsce', February 2023, available in Polish here: <https://bit.ly/42j18CY>.

²²¹³ SWPS, 'Hello Entrepreneurship 2022. Czynniki hamujące oraz wspierające przedsiębiorczość migrantek z Ukrainy, które przyjechały do Polski po eskalacji wojny 24 lutego 2022 r.', available in Polish here: <https://bit.ly/3VPavaV>, 6-7, 19.

²²¹⁴ See also Dębowska, K., Kłosiewicz-Górecka, U., Szymańska, A., Wejt-Knyżewska, A., Zybortowicz, K., 'Ukraińskie firmy w Polsce po wybuchu wojny w 2022 r.', Polski Instytut Ekonomiczny, January 2023, available in Polish here: <https://bit.ly/42laNJc>, 25-31.

²²¹⁵ NRC, 'Hidden Hardship: 1 Year Living in Forced Displacement for Refugees from Ukraine', February 2023, available here: <https://bit.ly/3ybSDPZ>, 24.

²²¹⁶ ECRI, 'ECRI Report on Poland (sixth monitoring cycle)', 27 June 2023, available here: <https://bit.ly/4brWID6>, 28. See also Nomada, DRC, 'Poland. Protection Monitoring Analysis. Lower Silesian Voivodeship', November 2023, available here: -11.

The UNHCR's report of November 2023 shows that 61% of respondents – Ukrainian nationals of working age – worked in Poland and 32% of respondents declared difficulties in supporting themselves and finding a job. The main challenges included: a lack of knowledge of the Polish language, a lack of decent employment opportunities and a lack of employment opportunities suited to their skills.²²¹⁷ An earlier study stated: 'UNHCR Protection monitoring data shows a dramatic decrease in employment rate prior and after displacement for refugees between 19 and 59 years old, moving from 76% to 57% for refugees who have attained higher education. For the same group, unemployment rose from 4% to 22% after displacement, affecting equally men and women interviewed within this age group.'²²¹⁸

Other sources showed that some Ukrainian nationals did not access labour market due to the traumatic experiences in Ukraine and the following poor mental health, or the problems with the childcare.²²¹⁹

In December 2023, the Polish National Bank presented its own study on the economic situation of Ukrainian nationals who fled Russian invasion. 62% of respondents were employed; however, they tended to work in temporary, seasonal and part-time jobs more often than pre-war migrants from Ukraine. Additionally, a higher percentage of them were paid less than PLN 3.000 per month (48% compared to 21%).²²²⁰

Also in December 2023, the Polish Economic Institute informed that, according to their study, 65% of Ukrainian nationals who fled Russian invasion found a job in Poland. The study reiterated the abovementioned barriers to accessing the labour market while also highlighting the discrimination of Ukrainian workers in Poland.²²²¹

In March 2024, UNHCR and Deloitte published a study showing that employment of Ukrainian nationals who fled the Russian invasion positively affected the Polish economy.²²²²

General temporary protection

Third-country nationals enjoying temporary protection under the Act on Protection can work in Poland without any work permit or notification obligation. There are no limitations or additional obligations in this regard. They can also run a business under the rules on business activity applicable to non-Polish nationals.²²²³

2. Access to education

All children staying in Poland have a constitutional right to education. Education is provided to minor third-country nationals in regular schools and it is not limited by law. In general, temporary protection beneficiaries can benefit from education in public schools under the same conditions as Polish citizens

²²¹⁷ UNHCR, 'Multi-Sector Needs Assessment - Results Overview (MSNA Poland 2023)', November 2023, available here: <https://bit.ly/4b8YuUP>, 19, 24-25. See also P. Kaczmarczyk, 'How serious is the risk of deskilling of Ukrainian war refugees (and what we can do about it)', CMR Spotlight no. 9 (54), September 2023, available here: <https://bit.ly/3JSYz2K>, 3-4.

²²¹⁸ UNHCR, 'Poland: Joint Protection Analysis', October 2023, available here: <https://bit.ly/3JX197Y>, 15.

²²¹⁹ L. Lukianova, 'Ukraińscy migranci wojenni na polskim rynku pracy. Szanse i ograniczenia', Rynek Pracy 187(4), available in Polish here: <https://bit.ly/4b9skbF>, 66, 75.

²²²⁰ NBP, 'Sytuacja życiowa i ekonomiczna migrantów z Ukrainy w Polsce w 2023 roku. Raport z badania ankietowego', December 2023, available in Polish here: <https://bit.ly/4bzdQlk>, 20.

²²²¹ PIE, 'Uchodźcy z Ukrainy na polskim rynku pracy: możliwości i przeszkody', December 2023, available in Polish here: <https://bit.ly/3ymiK6y>.

²²²² UNHCR, Deloitte, 'Analysis of the impact of refugees from Ukraine on the economy of Poland', March 2024, available here: <https://bit.ly/3yb3Z6x>.

²²²³ Article 14 of the Act on Protection, Ustawa z dnia 6 marca 2018 r. o zasadach uczestnictwa przedsiębiorców zagranicznych i innych osób zagranicznych w obrocie gospodarczym na terytorium Rzeczypospolitej Polskiej, available in Polish here: <https://bit.ly/3prfy5q>.

until the age of 18 or the completion of higher school.²²²⁴ They can also benefit from additional free Polish language classes and compensatory classes, as well as be supported by a person who knows the language of their country of origin, who can be employed as a teacher's assistant by the director of the school.²²²⁵ Preparatory classes can be organised too. For more details about education of third-country nationals in Poland and the intertwined challenges, see [Reception, Access to education](#). The following section describes the specific laws and practices that apply solely to temporary protection beneficiaries.

Special temporary protection

Children not attending Polish schools

While education is mandatory in Poland to the age of 18, many Ukrainian pupils staying in Poland are not attending Polish schools (e.g. 52% of Ukrainian children staying in Warsaw at the beginning of 2023²²²⁶, 53% of Ukrainian children in Poland in October 2023²²²⁷). Instead, they can participate in online lessons organised by Ukrainian authorities. If that is the case, a parent or another guardian must inform Polish local authorities that a child is continuing education online within the Ukrainian education system.²²²⁸ However, not all parents fulfil this informative obligation.²²²⁹ Moreover, some children who were supposed to be attending Ukrainian school online are not going to any school in practice. According to the Ministry of Education and Science, there is no legal possibility to monitor whether children staying in Poland are really attending Ukrainian online schools.²²³⁰ Other children tried to attend both Polish in-person and Ukrainian online schools (estimated 30%).²²³¹

In 2022, almost 200,000 new Ukrainian pupils were attending Polish schools, while approx. 500,000 were learning online within the Ukrainian education system.²²³² In mid-2023, according to UNHCR and UNICEF, only half of Ukrainian refugee children (nearly 173,000) were enrolled in schools in Poland. Older pupils are less willing to participate in the Polish education system: only around 22% of

²²²⁴ Article 165 (1) and (2) of Law of 14 December 2016 on education.

²²²⁵ Article 165 (8) of the Law of 14 December 2016 on education.

²²²⁶ SIP, 'Protection of unaccompanied children from Ukraine in Poland – what should be improved', 6 March 2023, available at: <https://bit.ly/3NSA1tX>.

²²²⁷ CEO, NRC, 'Uczniowie uchodźczy z Ukrainy w polskim systemie edukacji', October 2023, available in Polish here: <https://bit.ly/3wkQvEZ>, 5.

²²²⁸ §15 of the Minister of Education and Science on organisation of education and care of children and youth from Ukraine (Rozporządzenie Ministra Edukacji i Nauki z dnia 21 marca 2022 r. w sprawie organizacji kształcenia, wychowania i opieki dzieci i młodzieży będących obywatelami Ukrainy), available in Polish here: <https://bit.ly/42nRi2K>.

²²²⁹ Care, IRC, Save the Children, Triangle, 'Out of School: Assessment on barriers to school enrolment for Ukrainian refugee adolescents in Poland', February 2024, available here: <https://bit.ly/4dAPauj>, 34-35.

²²³⁰ SIP, 'Protection of unaccompanied children from Ukraine in Poland – what should be improved', 6 March 2023, available at: <https://bit.ly/3NSA1tX>; Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish here: <https://bit.ly/3NUAiWg>, 2, 4; Human Rights Commissioner, 'Nierozwiązane problemy edukacji dzieci i młodzieży z Ukrainy. Min. Przemysław Czarnek odpowiada RPO', 31 March and 13 June 2023, available in Polish here: <https://bit.ly/4dAUoWR>; Amnesty International, 'Sytuacja uczniów z Ukrainy w Polsce – odpowiedź Ministerstwa Edukacji i Nauki na petycję Amnesty International', 5 June 2023, available in Polish here: <https://bit.ly/3QCUV0A>.

²²³¹ A. Krajewska, 'Dzieci-uchodźczy z Ukrainy w polskim systemie edukacji', in: M. Fuszara (ed), *Masowa pomoc w masowej ucieczce Społeczeństwo polskie wobec migracji wojennej z Ukrainy*, Warsaw University 2022, available in Polish here: <https://bit.ly/42lJmO3>, 87-88; UNHCR, 'Wspólny komunikat prasowy UNHCR i UNICEF: Ponad połowa ukraińskich dzieci uchodźców nie jest zapisana do szkół w Polsce', 10 July 2023, available in Polish and English here: <https://bit.ly/3JYc6Gc>; UNICEF, Plan International, Save the Children, "'It is cool here, no doubt about it... but home is home.'" Exploring the subjective wellbeing of children and adolescents living in Poland in the face of the war in Ukraine', November 2023, available here: <https://bit.ly/4agK9nK>, 6.

²²³² Human Rights Commissioner, 'Okrągły stół o oświacie – konsultacje w sprawie edukacji dzieci i młodzieży z Ukrainy w Biurze RPO', 3 June 2022, available in Polish here: <https://bit.ly/3nKKGw9>; Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish here: <https://bit.ly/3NUAiWg>, 4.

children at secondary school age attended a Polish school at the end of the 2022/2023 school year. In July 2023, UNHCR and UNICEF published a statement where they *encouraged parents to register Ukrainian children in Polish schools and warned that low levels of enrolment could lead to exclusion.*²²³³

In February 2024, Care, IRC, Save the Children and Triangle published a report titled: ‘Out of School: Assessment on barriers to school enrolment for Ukrainian refugee adolescents in Poland’.²²³⁴ The report identifies the main reasons for continuing education within the Ukrainian system and difficulties in accessing Polish education. That included: the hope to continue education in Ukraine, challenges associated with transferring Ukrainian diploma certifications for appropriate placements in the Polish education system, increased crowding in the Polish schools, complications related to the timing of arrival in Poland and enrolment applications per school year, difficulties with understanding of the enrolment procedures, cultural and language barriers, not sufficient support of cultural assistants, challenges in transferring the accreditation of Ukrainian educators to the Polish system, lacking psychosocial support, and high hidden costs of Polish education.

Another study mentioned that some Ukrainian children with disabilities were also excluded from the Polish education system.²²³⁵

In May 2024, the Special Law was amended: the rule that the 800+ financial allowance and the “Good Start” allowance are only available for children attending Polish schools or kindergartens was introduced. This change was seen as an introduction of mandatory education for Ukrainian children in Poland by the UNHCR²²³⁶ or as a measure leading to unequal treatment by SIP.²²³⁷

Children attending Polish schools

In July 2023, UNHCR and UNICEF informed that nearly 173,000, refugee children from Ukraine were at the time enrolled in the Polish school system. ‘In Poland, refugees from Ukraine constitute 4 per cent of all registered students. In more than 85,000 classes there is at least one refugee student’.²²³⁸ According to another study, in November 2023, 293,229 children with PESEL UKR number were attending Polish schools.²²³⁹

Facilitations and entitlements

Some special rules were adopted to facilitate coping with the unprecedented challenge of accepting thousands of new Ukrainian pupils to Polish schools, under the Special Law.

- ❖ The possibility to organise interschool preparatory classes, interschool additional Polish language lessons and lessons outside of schools was introduced in the Special Law for minor special temporary protection beneficiaries (Articles 51, 55 and 55b).

²²³³ UNHCR, ‘Wspólny komunikat prasowy UNHCR i UNICEF: Ponad połowa ukraińskich dzieci uchodźców nie jest zapisana do szkół w Polsce’, 10 July 2023, available in Polish and English here: <https://bit.ly/3JYc6Gc>.

²²³⁴ Care, IRC, Save the Children, Triangle, ‘Out of School: Assessment on barriers to school enrolment for Ukrainian refugee adolescents in Poland’, February 2024, available here: <https://bit.ly/4dAPauj>.

²²³⁵ Fundacja Dajemy Dzieciom Siłę, ‘Dzieci się liczą 2022’, 2022, available in Polish here: <https://bit.ly/3UDrIE0>, 359-360.

²²³⁶ UNHCR, ‘Draft law amending the Act on Assistance to Citizens of Ukraine in the Context of the Armed Conflict in Ukraine (“the Special Act”). UNHCR Comments and Observations’, April 2024, available here: <https://bit.ly/3QHs0x>, 6.

²²³⁷ SIP, ‘The Polish government is working on changes to the Special Act and we reported some comments related to it’, 19 April 2024, available here: <https://bit.ly/3UUn9GQ>.

²²³⁸ UNHCR, ‘Wspólny komunikat prasowy UNHCR i UNICEF: Ponad połowa ukraińskich dzieci uchodźców nie jest zapisana do szkół w Polsce’, 10 July 2023, available in Polish and English [here](#).

²²³⁹ Care, IRC, Save the Children, Triangle, ‘Out of School: Assessment on barriers to school enrolment for Ukrainian refugee adolescents in Poland’, February 2024, available [here](#), 22.

- ❖ Ukrainian children attending preparatory classes may not be subject to yearly or mid-term assessments.²²⁴⁰
- ❖ Polish language lessons for Ukrainian children are conducted individually or in groups of up to 15 children. The allowed maximum number of hours per week was abolished for Ukrainian pupils. They should participate in those lessons for no less than 6 hours/week.²²⁴¹ As of April 2023, only 50% of Ukrainian pupils attended additional Polish language lessons.²²⁴²
- ❖ The limit for the maximum number of children in a class was increased if Ukrainian children were attending the class.²²⁴³
- ❖ Some special rules concerning the participation of Ukrainian pupils in final exams and as regards ending school were established.²²⁴⁴
- ❖ In schools, where an additional class was established to provide education to Ukrainian pupils, teachers were given the possibility to work overtime (Article 56). The same applies to Polish language teachers in all schools (Article 56a).
- ❖ Non-Polish teachers' assistants have been allowed to perform their tasks in Polish schools if they know the Polish language (Article 57).
- ❖ Additional state funding for schools has been provided for in the Special Law, in Article 50. Since January 2023, local authorities can also receive additional funding for learning materials for Ukrainian children.²²⁴⁵
- ❖ Special temporary protection beneficiaries are entitled to the 'Good start' allowance, i.e. PLN 300 for every child at the beginning of the school year, as well as to the lower fee for a nursery or daycare.²²⁴⁶ A minor special temporary protection beneficiary may also receive social welfare for pupils (Article 53). In 2021/2022, the latter support was given to 6,784 Ukrainian pupils, in 2022/2023: to 7,742 Ukrainian pupils.²²⁴⁷
- ❖ A free-of-charge transport of minor special temporary protection beneficiaries to schools or other places where education or childcare is provided and may be organised by local authorities (Article 52).
- ❖ Some new rules have been established to facilitate the creation of nurseries by local authorities (Article 28).
- ❖ Since 1 September 2024, schools can additionally hire an intercultural assistant to support foreign pupils' contacts within the school environment and cooperate with their teachers and parents.²²⁴⁸

In April 2023 and February 2024, the validity of special temporary protection was in general prolonged first until 4 March 2024, next until 30 June 2024, but exceptionally to 30 August 2024, if a beneficiary attends kindergarten or school, and until 30 September 2024, if they pass the final exams in the secondary school. These longer periods of validity applied also to the pupils' parents and guardians.²²⁴⁹ Human Rights Commissioner raised doubts about whether these exceptional periods of validity are

²²⁴⁰ §6b of the Ordinance of the Minister of Education and Science on organisation of education and care of children and youth from Ukraine (Rozporządzenie Ministra Edukacji i Nauki z dnia 21 marca 2022 r. w sprawie organizacji kształcenia, wychowania i opieki dzieci i młodzieży będących obywatelami Ukrainy), available in Polish here: <https://bit.ly/42nRi2K>.

²²⁴¹ §11a *ibid*.

²²⁴² Ministry of Education and Science, Letter of 7 June 2023, available in Polish [here](#).

²²⁴³ §7-11 Ordinance of the Minister of Education and Science on organisation of education and care of children and youth from Ukraine.

²²⁴⁴ §2-§6 and §6c-§6d *ibid*; Articles 58b and 58c of the Special Law, in force since 1 July 2024. For problems in this regard, see Human Rights Commissioner, 'Co z egzaminami ósmoklasisty dla dzieci z Ukrainy – pytał RPO. MEiN: będą ułatwienia i dostosowania', 13 April and 18 May 2022, available in Polish here: <https://bit.ly/3B9WNG7>.

²²⁴⁵ Article 50b of the Special Law.

²²⁴⁶ Article 26(1)⁽³⁾ and ⁽⁵⁾ of the Special Law.

²²⁴⁷ Ministry of Education and Science, Letter of 7 June 2023, available in Polish [here](#).

²²⁴⁸ Article 165(8a) of the Law of 14 December 2016 on education, in force since 1 September 2024.

²²⁴⁹ Article 2(10-11) of the Special Law, in force since 27 June 2023. See also Office for Foreigners, 'Wydłużenie okresu legalnego pobytu obywateli Ukrainy objętych ochroną czasową', 14 June 2023, available in Polish [here](#).

capable of serving their purpose, i.e. to increase school attendance for Ukrainian pupils.²²⁵⁰ In May 2024, the Special Law was changed again: the legal stay of all special temporary protection beneficiaries was prolonged until 30 September 2025. However, access to some social welfare benefits was limited only to those beneficiaries whose children attend Polish schools (see [Social welfare](#)).

Challenges

The Polish educational system struggled with admitting such a great number of new foreign pupils. In 2022, the main problems included: the schools' overcrowding; not a sufficient number of schools and teachers; the lack of sufficient support for teachers in teaching the Polish language as a second language; the lack of adequate handbooks; difficulties in hiring Ukrainian teachers; the lack of means to support Ukrainian pupils in their online learning.²²⁵¹ Hate speech and violence towards Ukrainian pupils were also reported.²²⁵² Moreover, Ukrainian children often unexpectedly disappeared from the Polish education system, when they moved back to Ukraine or travelled to another state. Furthermore, teachers and schools were not sufficiently supported by the state.²²⁵³ The same problems continued in 2023 and at the beginning of 2024, as it is shown in more detail below.

In June 2022, the Polish Teachers' Union (PTU) called on the Polish Prime Minister to take actions needed for the proper functioning of the Polish education system which has been overburdened after the admission of new Ukrainian pupils. It alarmed that the system was already inefficient. Over 80% of Ukrainian children joined regular classes, not the preparatory ones. In some classes, 50% of pupils were Ukrainian, and 50% Polish; thus, the education was in practice bilingual, provided with the assistance of online translation tools. It was impossible to implement the curriculum in those circumstances, both for Polish and Ukrainian children. The PTU noticed also that teachers must work over their usual hours to be able to teach children not knowing the Polish language.²²⁵⁴

Despite the PTU's recommendation to create more preparatory classes, their number decreased in the school year 2022/2023 in comparison with the preceding year. In the year 2021/2022, there were 2,414 such classes organised in Poland that were benefited by 38,000 children. In the year 2022/2023, only 956 preparatory classes were organised for 15,000 Ukrainian nationals.²²⁵⁵ On the other hand, more teacher's assistants seem to be hired. For example, over 200 Ukrainian and Belarusian assistants were reported to work in Warsaw schools as of June 2022, which constitutes a major increase in comparison

²²⁵⁰ Human Rights Commissioner, 'Zróżnicowanie sytuacji osób przybyłych z Ukrainy. Uwagi RPO dla Senatu', 23 May 2023, available in Polish [here](#).

²²⁵¹ Human Rights Commissioner, 'Okrągły stół o oświacie – konsultacje w sprawie edukacji dzieci i młodzieży z Ukrainy w Biurze RPO', 3 June 2022, available in Polish [here](https://bit.ly/3nKKGw9): <https://bit.ly/3nKKGw9>; Ministry of Education and Science, Systemowe wsparcie obywateli Ukrainy – konferencja prasowa w KPRM z udziałem ministra Przemysław Czarnka, 24 May 2022, available in Polish [here](https://bit.ly/42lIdYg): <https://bit.ly/42lIdYg>.

²²⁵² A. Gmiterek-Zabłocka, "Coraz częściej słyszę o wyziskach i mowie nienawiści w szkołach". Pomóc mają specjaliści asystenci, Tok.fm, 7 June 2022, available [here](https://bit.ly/3pt5B7C) in Polish: <https://bit.ly/3pt5B7C>; HNLAC, 'Przemoc fizyczna i psychiczna wobec uczniów z Ukrainy: Poradnik dla uczniów, rodziców i nauczycieli', available in Polish [here](https://bit.ly/42Cujfd): <https://bit.ly/42Cujfd>; Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish [here](https://bit.ly/3NUAiWg): <https://bit.ly/3NUAiWg>, 14-15.

²²⁵³ A. Krajewska, 'Dzieci-uchodźcy z Ukrainy w polskim systemie edukacji', in: M. Fuszara (ed), *Masowa pomoc w masowej ucieczce Społeczeństwo polskie wobec migracji wojennej z Ukrainy*, Warsaw University 2022, available in Polish [here](https://bit.ly/42lJmO3): <https://bit.ly/42lJmO3>, 81, 91; Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish [here](https://bit.ly/3NUAiWg): <https://bit.ly/3NUAiWg>, 2.

²²⁵⁴ Polish Teachers' Union, 'Interwencja ZNP: Wniosek do premiera o wprowadzenie specjalnych rozwiązań dot. kształcenia uchodźców', 2 June 2022, available in Polish [here](https://bit.ly/44HtcBs): <https://bit.ly/44HtcBs>. See also: A. Krajewska, 'Dzieci-uchodźcy z Ukrainy w polskim systemie edukacji', in: M. Fuszara (ed), *Masowa pomoc w masowej ucieczce Społeczeństwo polskie wobec migracji wojennej z Ukrainy*, Warsaw University 2022, available in Polish [here](https://bit.ly/42lJmO3): <https://bit.ly/42lJmO3>, 85-87.

²²⁵⁵ Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish [here](https://bit.ly/3NUAiWg): <https://bit.ly/3NUAiWg>, 8.

to 2021.²²⁵⁶ In Lublin, 64 Ukrainian teachers started to work as teacher assistants in 41 schools.²²⁵⁷ However, the number of those assistants is still insufficient taking into account the great number of new Ukrainian pupils.²²⁵⁸ The abovementioned problems continued in 2023. In October 2023, only 288 preparatory classes were organised for 3,700 pupils. In some voivodeships, there were no preparatory classes organised.²²⁵⁹ Moreover, Care, IRC, Save the Children and Triangle noticed that: ‘While some schools are staffed with cultural assistants by the municipality, the majority of local education authorities do not have the budget to cover the costs of supporting the number of students needing cultural assistance and rely on external funding from INGOs — both of which result in staffing that is disproportionate to need. In some instances, Ukrainian teachers volunteer their time to support the students, without financial support’.²²⁶⁰

In March 2023, the Human Rights Commissioner intervened before the Ministry of Education and Science, asking for better support for Ukrainian pupils. He noticed, *inter alia*, that many children are not attending any school, there is an insufficient number of preparatory classes (only 8% of Ukrainian children enrolled in these classes, according to the Commissioner), schools are overcrowded, insufficient number of cultural assistants and psychosocial support, bullying and discrimination. According to the teachers, the biggest challenge they face is a language barrier and dealing with war-traumatised children.²²⁶¹

In October 2023, according to the Civic Education Centre’s study, only 53% of Ukrainian pupils who fled Russian invasion were enrolled at Polish schools. 4,500 Ukrainian pupils in the secondary school age did not continue learning in the next class: due to leaving Poland, lack of promotion or resigning from participating in the Polish education system. According to this study, only 3% of Ukrainian children who fled the Russian invasion are enrolled at preparatory classes. The report also confirmed the decreasing number of preparatory classes.²²⁶²

Peer violence, bullying, harassment and discrimination against Ukrainian pupils continued to be a problem in 2023 and 2024.²²⁶³ For example, Nomada and DRC reported in their study concerning the Lower Silesian Voivodeship that the cases of bullying were mentioned by the overwhelming majority of

²²⁵⁶ A. Gmiterek-Zabłocka, "Coraz częściej słyszę o wyziskach i mowie nienawiści w szkołach". Pomóc mają specjaliści asystenci, Tok.fm, 7 June 2022, available here in Polish: <https://bit.ly/3pt5B7C>; A. Mikulska, 'Lekcje polskiego to nie wszystko. Jak zadbać o integrację dzieci z Ukrainy?', OKO.PRESS, 21 March 2022, available in Polish here: <https://bit.ly/3HUKVeY>.

²²⁵⁷ A. Dąbrowska, 'Lublin Social Committee to Aid Ukraine. 90 days of assistance. Report', available in English here: <https://bit.ly/3HRtMmc>, 8.

²²⁵⁸ A. Krajewska, 'Dzieci-uchodźcy z Ukrainy w polskim systemie edukacji', in: M. Fuszara (ed), *Masowa pomoc w masowej ucieczce Społeczństwo polskie wobec migracji wojennej z Ukrainy*, Warsaw University 2022, available in Polish here: <https://bit.ly/42ljmO3>, 92; Amnesty International, 'Jesteśmy tutaj razem. Uczniowie i uczennice z Ukrainy w polskich szkołach', 24 January 2023, available in Polish here: <https://bit.ly/3NUAiwG>, 9-11.

²²⁵⁹ CEO, NRC, 'Uczniowie uchodźcy z Ukrainy w polskim systemie edukacji', October 2023, available in Polish [here](#), 5, 18, 21-24.

²²⁶⁰ Care, IRC, Save the Children, Triangle, 'Out of School: Assessment on barriers to school enrolment for Ukrainian refugee adolescents in Poland', February 2024, available [here](#), 36. See also L. Lukianova, 'Ukraińscy migranci wojenni na polskim rynku pracy. Szanse i ograniczenia', Rynek Pracy 187(4), available in Polish [here](#), 72.

²²⁶¹ Human Rights Commissioner, 'Nierozwiązane problemy edukacji dzieci i młodzieży z Ukrainy. Min. Przemysł Czarnek odpowiada RPO', 31 March and 13 June 2023, available in Polish [here](#).

²²⁶² CEO, NRC, 'Uczniowie uchodźcy z Ukrainy w polskim systemie edukacji', October 2023, available in Polish [here](#), 5, 18, 21-24.

²²⁶³ See e.g. *ibid.*, 37; PIE, 'Uchodźcy z Ukrainy na polskim rynku pracy: możliwości i przeszkody', December 2023, available in Polish [here](#), 22; UNICEF, Plan International, Save the Children, "It is cool here, no doubt about it... but home is home." Exploring the subjective wellbeing of children and adolescents living in Poland in the face of the war in Ukraine', November 2023, available [here](#), 6; IRC, 'Child Protection Monitoring Report (June - September 2023)', December 2023, available [here](#), 12-13.

the respondents. The teachers often did not react or themselves contributed to the hate speech at school.²²⁶⁴

Accessing public kindergartens was also hampered in 2022 and 2023 due to the lack of spaces.²²⁶⁵

Vulnerable pupils

In August 2022, the Human Rights Commissioner appreciated the Ministry of Education and Science's information for Ukrainian parents of children with special educational needs about their rights in Poland. However, he noticed that interpreters of the Ukrainian language are urgently needed to support the work of Polish psychologists, psychotherapists, speech therapists and other specialists working in schools.²²⁶⁶ Moreover, schools for deaf pupils were reported to be unable to cope with the challenge of accepting new children from Ukraine.²²⁶⁷

In 2024, Care, IRC, Save the Children and Triangle noticed a particularly problematic situation of unaccompanied minors from Ukrainian foster care who stayed in Poland in special accommodation centres (of whom some had disabilities). 'Education delivery in these centres varies widely, influenced by factors such as the specific needs and disability status of the children, the geographical location of the centres, and the availability of staff. Unfortunately, this variability often leads to situations where children have limited or no access to educational opportunities that are adequately tailored to their needs. This issue is particularly acute for children with high support needs or severe disabilities, who are frequently excluded from any learning opportunities. Furthermore, these children find themselves in a state of extreme isolation, caught between two child protection systems and unable to fully benefit from either. This predicament arises from the absence of a solid legal and political framework facilitating cooperation between the Polish and Ukrainian governments'.²²⁶⁸

Adults

Ukrainian doctors, dentists, nurses and midwives can have their Polish language lessons co-financed from a state budget (Article 22i of the Special Law).

Ukrainian students enjoying special temporary protection in Poland can apply for a social scholarship and student loan (Article 41(10-12) of the Special Law). Moreover, they can be admitted to study in Poland without proper documentation confirming their education progress in Ukraine, upon verification of their achieved learning outcomes (Article 45).

General temporary protection

Under the Act on Protection, temporary protection beneficiaries can benefit from Polish language lessons and materials, as well as didactic materials for children attending schools.²²⁶⁹ This is the only special rule as regards education provided in the law concerning general temporary protection beneficiaries.

²²⁶⁴ Nomada, DRC, 'Poland. Protection Monitoring Analysis. Lower Silesian Voivodeship', November 2023, available [here](#), 13.

²²⁶⁵ UNHCR, 'Poland: Joint Protection Analysis', October 2023, available [here](#), 13.

²²⁶⁶ Human Rights Commissioner, 'Ukraińscy uczniowie z niepełnosprawnościami wymagają wsparcia. RPO pisze do MEiN', 20 August 2022, available in Polish here: <https://bit.ly/3BbcN14>.

²²⁶⁷ Human Rights Commissioner, 'Telewizja bez barier i pomoc głuchym uchodźcom z Ukrainy - posiedzenie Komisji Ekspertów ds. Osób Głuchych', 21 April 2022, available in Polish here: <https://bit.ly/3VLZOWw>.

²²⁶⁸ Care, IRC, Save the Children, Triangle, 'Out of School: Assessment on barriers to school enrolment for Ukrainian refugee adolescents in Poland', February 2024, available [here](#), 36.

²²⁶⁹ Article 112(6)⁽²⁻³⁾ of the Act on Protection.

In 2022, 51 general temporary protection beneficiaries received assistance only in the form of Polish language lessons and materials (as of 31 December 2022, 17 persons).²²⁷⁰ The data for 2023 are not available, however, as of 31 December 2023, 24 temporary protection beneficiaries received assistance only in the form of Polish language lessons and materials.²²⁷¹

F. Social welfare

Special temporary protection

Entitlements

Until 1 July 2024, a special temporary protection beneficiary having a PESEL number was entitled to a one-time financial allowance – PLN 300.²²⁷² However, in May 2024, the Special Law was changed and such a benefit can now be only granted if a special ordinance is adopted in case of a mass influx to Poland of Ukrainian nationals (Article 31¹ of the Special Law, in force since 1 July 2024).

Moreover, special temporary protection beneficiaries, having a PESEL number and staying in Poland with children, are, *inter alia*, entitled to:²²⁷³

1. Family benefits, specified in the 2003 Law on family benefits,²²⁷⁴
2. 500+ financial allowance (since 1 January 2024: 800+) – for every Ukrainian child under 18 years old having a PESEL number: PLN 500 (800) per month. It may be applied for only online and is not available to Ukrainian parents of non-Ukrainian children.²²⁷⁵ In May 2024, the respective law was changed and since 1 July 2024 this benefit is available only if a child attends a Polish school or kindergarten.
3. ‘Good start’ allowance: PLN 300 at the beginning of the school year (for more on financial support for pupils, see [Access to education](#)). In May 2024, the respective law was changed and since 1 July 2024 this benefit is available only if a child attends a Polish school..

The general rules regarding those benefits apply to special temporary protection beneficiaries (the same as for Polish citizens), with some minor exceptions. For example, concerning the benefits that are dependent on the financial situation of the beneficiary (some of the above-mentioned allowances), the income of his/her family member who is not staying in Poland (e.g. because they stayed in Ukraine) is not taken into account.²²⁷⁶ Some of those benefits are also granted to temporary guardians.²²⁷⁷ Since 28 January 2023, the Special Law specifies that those benefits are suspended if a person concerned leaves Poland, but may be paid upon return to Poland.²²⁷⁸

Furthermore, special temporary protection beneficiaries, having a PESEL number, can access the general social welfare system and; thus, be granted financial and non-financial benefits following the 2004 Law on social assistance.²²⁷⁹ Accessing the general social welfare system is dependent on the financial situation of the person/family concerned. The general rules regarding those benefits apply to

²²⁷⁰ Information provided by the Office for Foreigners, 17 January 2023.

²²⁷¹ Information provided by the Office for Foreigners, February 2024.

²²⁷² Article 31 of the Special Law. For more information, see SIP, UNHCR, ‘Świadczenia dla obywateli i obywaterek Ukrainy przybyłych do Polski po 24 lutego 2022 r.’ (2023), available in Polish and Ukrainian here: <https://bit.ly/3LLYf6C>.

²²⁷³ Article 26 of the Special Law.

²²⁷⁴ Ustawa z dnia 28 listopada 2003 r. o świadczeniach rodzinnych, available in Polish here: <https://bit.ly/41kHwgm>.

²²⁷⁵ SIP, UNHCR, ‘Świadczenia dla obywateli i obywaterek Ukrainy przybyłych do Polski po 24 lutego 2022 r.’ (2023), available in Polish and Ukrainian here: <https://bit.ly/3LLYf6C>.

²²⁷⁶ Article 26(2) of the Special Law.

²²⁷⁷ Article 26(4-4f) of the Special Law.

²²⁷⁸ Article 26(3g-3h) of the Special Law.

²²⁷⁹ Article 29 of the Special Law, Ustawa z dnia 12 marca 2004 r. o pomocy społecznej, available in Polish here: <https://bit.ly/3M8MjNB>.

special temporary protection beneficiaries (the same as for Polish citizens), until 1 July 2024 - with some minor exceptions.

Special temporary protection beneficiaries can also benefit from food aid within the Fund for European Aid to the Most Deprived (since 1 July 2024, EU funds for food assistance).²²⁸⁰ Moreover, UNHCR, in cooperation with the Polish government, offered special financial support to persons fleeing Ukraine.²²⁸¹

In December 2023, the Polish National Bank presented its own study on the economic situation of Ukrainian nationals who fled Russian invasion. 53% of respondents declared benefitting from social welfare in Poland. 500+ allowance was the most popular with 44% of respondents reporting that they received it.²²⁸²

The social benefits available to Ukrainian nationals have been considered insufficient to cover their basic needs.²²⁸³

Hampered access

Ukrainian nationals and their family members have reported experiencing some difficulties in practice with regard to the aforementioned allowances. According to the Human Rights Commissioner, obtaining a PESEL number by Ukrainian nationals and members of their family in 2022 was sometimes possible only after a long waiting period. It hampered their possibility of accessing social welfare.²²⁸⁴

In 2023, the cases of denying access to the benefits provided for in the 2003 Law on family benefits to some adult temporary protection beneficiaries staying in Poland were reported due to the misleading formulation of Article 26(1)(1) of the Special Law. It states that Ukrainian nationals are entitled to family benefits if they stay in Poland with children. However, not all “family benefits” are intertwined with childcare. For example, some elderly temporary protection beneficiaries were refused a care allowance. The Human Rights Commissioner intervened, which led to the Ministry of Family and Social Policy’s statement that elderly Ukrainian nationals staying in Poland without children are not excluded from receiving this allowance.²²⁸⁵ This issue was also considered by the courts, who took the same approach to eligibility for a care allowance, e.g. with regard to adult persons with disabilities enjoying temporary protection in Poland, but not having any children.²²⁸⁶

Furthermore, as noticed by SIP, ‘(a)nother problem reported by the temporary protection beneficiaries is the lack of access to family benefits when a child has a Ukrainian nationality and accordingly the ‘PESEL UKR’ (so temporary protection based on the Special Law), but his/her parent is not a Ukrainian national and was granted temporary protection on the basis of the Act on Protection. The access to family benefits is regulated differently for these two groups of temporary protection beneficiaries. Thus, in the above circumstances, despite the fact that the real beneficiary of the family benefits is the child

²²⁸⁰ Article 33 of the Special Law.

²²⁸¹ UNHCR Polska, ‘UNHCR i Rząd RP łączą siły, żeby wesprzeć finansowo uchodźców z Ukrainy’, 11 March 2022, available in Polish here: <https://bit.ly/3LJ9aOi>. See also: <https://bit.ly/42EbPQ3>.

²²⁸² Narodowy Bank Polski, Sytuacja życiowa i ekonomiczna migrantów z Ukrainy w Polsce w 2023 roku. Raport z badania ankietowego, December 2023, available in Polish [here](#).

²²⁸³ A. Minkiewicz, P. Mirabelli, A. Nosowska and L. Pelham, ‘Equality versus equity: a case study from Poland’, FMR no. 72, September 2023, available [here](#), 22.

²²⁸⁴ Human Rights Commissioner, ‘Kolejki po PESEL przyczyną nierównego dostępu uchodźców do świadczeń. RPO pisze do minister Małag. Resort odpowiada’, 6 and 29 April 2022, available in Polish here: <https://bit.ly/44ECTR3>. SIP, *Submission to ECRI*, 15 June 2022, available in English here: <https://bit.ly/44Wfdle>, 7.

²²⁸⁵ Human Rights Commissioner, ‘Kłopoty obywateli Ukrainy z zasiłkiem pielęgnacyjnym. Skuteczna interwencja Biura RPO’, 23 October 2023, available in Polish [here](#).

²²⁸⁶ See e.g. Provincial Administrative Court in Gorzów Wielkopolski, judgment of 29 November 2023, no. II SA/Go 608/23.

itself, his/her parent is not entitled to ask for these benefits (e.g. Provincial Administrative Court in Gliwice, judgment of 24 August 2023, no. II SA/GI 869/23, not final)²²⁸⁷.

Moreover, as already mentioned above (see [Movement and mobility](#)), in 2022 and 2023, many persons had their temporary protection terminated due to the “30-day absence in Poland” rule – even when they never left Poland – at all or for more than 30 days.²²⁸⁸ In 2023, Border Guard informed the respective Polish authorities about the absence of a special temporary protection beneficiary in Poland for over 30 days in 694,562 cases.²²⁸⁹ Such information automatically leads to a withdrawal of the ‘PESEL UKR’; thus, also to losing access to social benefits.

According to the official data published in July 2023, “500+” allowance was ceased from 1 June 2022 to 31 May 2023 in case of approx. 140,000 Ukrainian nationals. Only in the first 14 days of June 2023, another 1,310 persons lost a right to receive this benefit.²²⁹⁰ In the period of 1 June and 25 October 2023, social benefits were ceased in 13,000 cases due to the lack of return to Poland within 30 days from the day of the departure.²²⁹¹ It is unknown how many of these people really left Poland for more than 30 days and how many of those decisions are based on the incorrect data in the special registry run by the Border Guard (see [Movement and mobility](#)).²²⁹² However, in 2023, NGOs were often informed about the instances of the social benefits’ refusals/cessations despite the lack of absence in Poland for more than 30 days.²²⁹³ ACAPS estimated in November 2023 that ‘several thousand refugees from Ukraine benefitting from temporary protection (TP) status in Poland have lost this status without meeting legal criteria for its revocation’.²²⁹⁴

Furthermore, as indicated by SIP,²²⁹⁵ ‘since the amendments of the law in January 2023, any departure from Poland of a temporary protection beneficiary or his/her child leads to the suspension of payment of social benefits. If that beneficiary or child returns to Poland, the benefits should be reinstated retroactively, unless a person concerned is no longer entitled to receive them.’²²⁹⁶ However, in practice, social benefits are often not reinstated. SIP provided legal assistance in a case where a Ukrainian national was absent from Poland for three hours and her social benefits were firstly suspended, then ceased (...). In fact, the introduction of the abovementioned rules led to thousands of suspensions of social benefits across Poland’. According to media reports, in 2023, the payments of the 500+ benefit were suspended in case of 18,000 Ukrainian nationals within a span of just over two months.²²⁹⁷ According to the Social Security Institution (ZUS), in the period of 1 June and 25 October 2023, social benefits were suspended in 35,000 cases, restored in 14,000 cases and ceased in 13,000 cases due to the lack of return to Poland in 30 days.²²⁹⁸

²²⁸⁷ SIP, ‘Input to the EUAA Asylum Report 2024’, November 2023, available [here](#), 19.

²²⁸⁸ See e.g. Human Rights Commissioner, ‘Uchodźcy z Ukrainy tracą status UKR, a wraz z nim - prawo do świadczeń wychowawczych. Wyjaśnienia ZUS’, 2 August, 26 October, 24 November 2023, available in Polish [here](#).

²²⁸⁹ Information from the Border Guard Headquarters, 12 February 2024.

²²⁹⁰ Ministry of Family and Social Affairs, ‘Odpowiedź na interpelację nr 40924 w sprawie problemów obywateli Ukrainy dotyczących nieuzasadnionej utraty świadczenia wychowawczego’, 7 July 2023, available in Polish [here](#).

²²⁹¹ Human Rights Commissioner, ‘Uchodźcy z Ukrainy tracą status UKR, a wraz z nim - prawo do świadczeń wychowawczych. Wyjaśnienia ZUS’, 2 August, 26 October, 24 November 2023, available in Polish [here](#).

²²⁹² SIP, ‘Input to the EUAA Asylum Report 2024’, November 2023, available [here](#), 18.

²²⁹³ See e.g. Ibid.; UNHCR, ‘Poland: Joint Protection Analysis’, October 2023, available [here](#), 9; HNLAC, ‘Instrukcja wznowienia świadczenia wychowawczego 500+ dla rodziców dzieci z Ukrainy’, 20 November 2023, available in Polish [here](#).

²²⁹⁴ ACAPS, ‘Poland: Loss of temporary protection status and social benefits for Ukrainian refugees’, 14 November 2023, available [here](#), 1, 7.

²²⁹⁵ SIP, ‘Input to the EUAA Asylum Report 2024’, November 2023, available [here](#), 18-19.

²²⁹⁶ Article 26 (3g-3i) of the Special Law.

²²⁹⁷ PAP, ‘ZUS wstrzymał kilkanaście tysięcy świadczeń dla uchodźców z Ukrainy, którzy wyjechali z Polski’, 22 August 2023, available in Polish [here](#).

²²⁹⁸ Human Rights Commissioner, ‘Uchodźcy z Ukrainy tracą status UKR, a wraz z nim - prawo do świadczeń wychowawczych. Wyjaśnienia ZUS’, 2 August, 26 October, 24 November 2023, available in Polish [here](#).

As explained by SIP, '(t)he Social Security Institution (ZUS) suspends and ceases social benefits on the basis of the information provided for in the special registry run by the Border Guard, which it seems to consider binding.²²⁹⁹ Other proofs – confirming absences shorter than 30 days – are often ignored by this institution. There is no coherent jurisprudence in this regard: some courts reproach ZUS for ignoring evidence (e.g. Provincial Administrative Court in Lublin, judgment of 2 February 2023, no. II SA/Lu 877/22), while others indicate that its actions were correct (e.g. Provincial Administrative Court in Gliwice, judgment of 26 May 2023, no. II SA/GI 90/23)'.²³⁰⁰

'The Ministry of Family and Social Affairs advised in July 2023 that in the situation of the suspension/cessation of social benefits based on the incorrect data in the special registry, a person concerned should apply to have PESEL UKR restored and to correct data in the registry by the Border Guard.²³⁰¹ However, in practice, persons concerned struggled with having their PESEL UKR restored (especially with a retroactive effect).²³⁰² While in May 2023, the government informed municipalities how the restoration should be done,²³⁰³ this instruction was not a law (only a guidance), it was much overdue and seemed to be unknown or not followed. Moreover, in practice, the Border Guard was not promptly nor willingly changing data in the special registry'.²³⁰⁴ Some requests to rectify data in this registry were denied. Moreover, in practice, the restoration of social benefits – after the restoration of the UKR status – often lasted for months, leaving beneficiaries without needed support.²³⁰⁵ In May 2024, the Special Law was amended in order to clarify the rules in this regard. Now, the law states directly that the date of restoration is the same as the day of withdrawal of the PESEL UKR. Thus, there should be no gap in the status and access to benefits upon successful restoration.

Furthermore, withdrawal of the 'PESEL UKR' is done automatically. Concerned persons are not informed about it and no decision is issued. In practice, they learn that they are no longer temporary protection beneficiaries, e.g. only when their social assistance is ceased or when they are denied access to medical assistance.²³⁰⁶ In practice, Border Guard inserts the information about over-30-days stays abroad (real and presumed) into a special registry with a delay (even of a couple of months). Some Ukrainian nationals and their family members, unaware that they lost their temporary protection status, received in this period social welfare, which was requested to be returned afterwards.²³⁰⁷ ACAPS estimated in November 2023 that this could have happened to approximately 3,000-4,000 temporary protection beneficiaries.²³⁰⁸

ACAPS also noticed other difficulties associated with receiving social benefits: 'Since late 2022, Poland's Social Insurance Institution (ZUS) has systematically requested that refugees from Ukraine confirm their residence in Poland. These requests are only made through a website, and refugees must

2299

Ibid.

2300

SIP, 'Input to the EUAA Asylum Report 2024', November 2023, available [here](#), 18.

2301

Ministry of Family and Social Affairs, 'Odpowiedź na interpelację nr 40924 w sprawie problemów obywateli Ukrainy dotyczących nieuzasadnionej utraty świadczenia wychowawczego', 7 July 2023, available in Polish [here](#). See also Human Rights Commissioner, 'Uchodźcy z Ukrainy tracą status UKR, a wraz z nim - prawo do świadczeń wychowawczych. Wyjaśnienia ZUS', 2 August, 26 October, 24 November 2023, available in Polish [here](#).

2302

Human Rights Commissioner, 'Uchodźcy z Ukrainy są błędnie pozbawiani statusu uprawniającego do opieki medycznej i pomocy. Ponowne pismo RPO', 16 March 2023 and 16 June 2023, available in Polish here: <https://bit.ly/3Kg37jl>; ACAPS, 'Poland: Loss of temporary protection status and social benefits for Ukrainian refugees', 14 November 2023, available [here](#), 7.

2303

Human Rights Commissioner, 'Kiedy obywatel Ukrainy nie straci statusu UKR. Wyjaśnienia MSWiA dla RPO (також українською)', 3 August 2023, available in Polish [here](#).

2304

SIP, 'Input to the EUAA Asylum Report 2024', November 2023, available [here](#), 19.

2305

UNHCR, 'Poland: Joint Protection Analysis', October 2023, available [here](#), 10; Human Rights Commissioner, 'Uchodźcy z Ukrainy tracą status UKR, a wraz z nim - prawo do świadczeń wychowawczych. Wyjaśnienia ZUS', 2 August, 26 October, 24 November 2023, available in Polish [here](#).

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UNHCR, 'Poland: Joint Protection Analysis', October 2023, available [here](#), 10.

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Human Rights Commissioner, 'Uchodźcy z Ukrainy są błędnie pozbawiani statusu uprawniającego do opieki medycznej i pomocy. Interwencja RPO', 16 March 2023, available in Polish here: <https://bit.ly/3Kg37jl>.

2308

ACAPS, 'Poland: Loss of temporary protection status and social benefits for Ukrainian refugees', 14 November 2023, available [here](#), 1, 8-9.

log in to see the request. Many refugees have been unable to comply because they do not receive other notifications and are unaware that a request has been made.²³⁰⁹

General temporary protection

Persons enjoying temporary protection under the Act on Protection do not have access to the general social welfare system. Beneficiaries who are unable to access accommodation and food organised by the Office for Foreigners may request a financial allowance, which may be provided at their motion.²³¹⁰

A financial allowance may be paid only upon obtaining a certificate for a person enjoying general temporary protection (see [Residence permit](#)). In 2022, 67 persons were denied medical assistance and financial allowance due to the lack of a certificate for a person enjoying temporary protection.²³¹¹ In 2023, the problem continued, but the statistical data are not available.²³¹²

The financial allowance is provided for a period of minimum 2 months,²³¹³ but no longer than for the period of the validity of the certificate for temporary protection beneficiaries. This period is determined individually, in the Head of the Office for Foreigners's decision. According to the Office for Foreigners, if this period ends, a person concerned may apply for the assistance to be granted again.²³¹⁴

Granting assistance in the form of accommodation and food, or a financial allowance, is dependent on the financial situation of the beneficiary.²³¹⁵ If a person concerned works or runs a business in Poland, his/her income is taken into account by the Office for Foreigners. If it is higher than the amount set in law for accessing the general social welfare system, the assistance may be granted only in the form of accommodation, Polish language lessons and materials, and didactic materials for children. In 2022, 35 decisions refusing access to full assistance on this account were issued. Data for 2023 were not made available.²³¹⁶ Moreover, the assistance is not granted if a person concerned seeks asylum (then, they benefit from material reception conditions for asylum seekers).²³¹⁷

A financial allowance for general temporary protection beneficiaries is the same as the one provided for asylum seekers. It amounts to PLN 25 (or less) per day, so at maximum PLN 750-775 per month per person. In practice, a financial allowance is not sufficient to finance all basic needs of a beneficiary, in particular to rent an apartment (for more see [Reception - Forms and levels of material reception conditions](#)). Thus, general temporary protection beneficiaries are not receiving sufficient 'means to obtain housing', against Article 13 of the TPD.²³¹⁸ However, contrary to asylum seekers, general temporary protection beneficiaries can work or run a business in Poland (see [Access to the labour market](#)); thus, they can have supplementary sources of income.

In 2022, 536 general temporary protection beneficiaries received a financial allowance and medical assistance (199 of them were benefiting from this assistance as of 31 December 2022); 25 persons were granted only a financial allowance under the Act on Protection (2 as of 31 December 2022). In 47 cases, the Office for Foreigners provided access to medical assistance but denied a financial

²³⁰⁹ Ibid., 1, 7-8.

²³¹⁰ Article 112 of the Act on Protection.

²³¹¹ Information provided by the Office for Foreigners, 17 January 2023.

²³¹² Information provided by the Office for Foreigners, February 2024.

²³¹³ The temporal limitation is in contradiction with Article 13 of the TPD, see SIP, Letter of 30 November 2022 to the European Commission, available in English here: <https://bit.ly/3TgHaEX>, 5.

²³¹⁴ Information provided by the Office for Foreigners, 17 January 2023.

²³¹⁵ Article 112(4-4f) of the Act on Protection.

²³¹⁶ Information provided by the Office for Foreigners, 17 January 2023.

²³¹⁷ Article 112(1b) of the Act on Protection.

²³¹⁸ SIP, Letter of 30 November 2022 to the European Commission, available in English here: <https://bit.ly/3TgHaEX>, 5-6.

allowance.²³¹⁹ Thus, 43% of the general temporary protection beneficiaries benefited from this allowance in 2022.

The total numbers for 2023 are not available. As of 30 June 2023, 194 general temporary protection beneficiaries received a financial allowance and medical assistance, 20 received assistance only in the form of Polish language lessons and materials, 11 persons were granted only medical assistance, and 5 persons received only the financial allowance. As of 31 December 2023, 169 general temporary protection beneficiaries received a financial allowance and medical assistance, 24 received assistance only in the form of Polish language lessons and materials, 6 persons were granted only medical assistance, 2 persons received only the financial allowance and 1 person was accommodated in the reception centre.²³²⁰

G. Health care

Special temporary protection

Entitlements

Ukrainian nationals and some of their family members enjoying temporary protection can access the general healthcare system in Poland (with some minor exceptions).²³²¹ Obtaining PESEL beforehand is not necessary, however, it may be useful: a person having 'PESEL UKR' is presumed to be entitled to medical assistance. In practice, temporary protection beneficiaries not having this number faced difficulties in accessing medical assistance.²³²²

Additionally, special temporary protection beneficiaries *may* be provided with free-of-charge psychological assistance. Providing this assistance is at the discretion of local authorities.²³²³ Psychological assistance is only guaranteed by law with regard to temporary guardians and unaccompanied minors under their care, who benefited from the Ukrainian foster care system.²³²⁴ The general discretion of authorities as regards the provision of psychological assistance and the gross limitation of the personal scope of this assistance, is considered to be against Article 13(4) of the TPD.²³²⁵

Polish authorities *may* assist special temporary protection beneficiaries with transport to medical establishments.²³²⁶ Until 1 March 2023, regional authorities (voivodes) were obliged to provide this assistance for at least 2 months starting with the entry to Poland by a person concerned. However, in January 2023, Article 12(17) of the Special Law was amended, and currently, there is no obligation of any Polish authorities to provide persons enjoying special temporary protection in Poland with means of transport to benefit from medical assistance. They only have the discretion to provide such assistance.

²³¹⁹ Information provided by the Office for Foreigners, 17 January 2023.

²³²⁰ Information provided by the Office for Foreigners, February 2024.

²³²¹ Article 37 of the Special Law.

²³²² Human Rights Commissioner, 'Problemy opieki zdrowotnej uchodźców z Ukrainy. Resort zdrowia informuje RPO o swych działaniach', 13 April 2022, 13 May 2022, available in Polish here: <https://bit.ly/41krFyu>.

²³²³ Article 32 of the Special Law.

²³²⁴ Article 25(3b) of the Special Law, until 30 June 2024. Since 1 July 2024, Article 25¹(6) of the Special Law with regard to children and persons from Ukrainian institutional foster care system.

²³²⁵ SIP, Letter to the Ministry of Internal Affairs and Administration, 28 October 2022, available in Polish here: <https://bit.ly/3VHuyrT>, 18-19.

²³²⁶ Article 12(1)₍₃₎ of the Special Law.

Ukrainian nationals who fled from Ukraine after 24 February 2022 are also eligible to receive funding for purchasing medicines. It is financed by state²³²⁷ and private donors.²³²⁸ In practice, some doubts were raised about whether children and the elderly are entitled to free-of-charge medicines. In September 2023, the Human Rights Commissioner asked the Ministry of Health to take a stand; no answer was provided or published.²³²⁹ It is unknown whether this letter was answered.

Access to a labour market for Ukrainian doctors, dentists, nurses and midwives has been facilitated (until 24 June 2024). According to one study, already by January 2023, some 5,000 Ukrainian doctors, and 2,000 Ukrainian nurses and midwives applied to benefit from the facilitated access to employment in Poland.²³³⁰ Ukrainian doctors, dentists, nurses and midwives can also have their Polish language lessons co-financed from a state budget.²³³¹ Some support to medical practitioners is also offered by private initiatives, e.g. the Polish-Ukrainian Economic Chamber (language courses, etc.).²³³²

Ukrainian psychologists could also provide psychological assistance to their compatriots, but only until 24 August 2023. It has been criticised that this possibility was not prolonged further, despite the fact that the limited availability of psychological assistance to Ukrainian nationals is considered to be one of the biggest concerns in Poland.²³³³ Over one hundred NGOs called for an immediate change in the law in this regard.²³³⁴ The Human Rights Commissioner intervened too.²³³⁵ The law was changed in May 2024: Ukrainian psychologists are again entitled to assist their compatriots from 1 July 2024 to 30 September 2025 (Article 64b of the Special Law).

In 2022-2023, the Polish Ombudsman for Children offered psychological and legal support to children in Ukrainian and Russian language (by phone and chat).²³³⁶

Hampered access

In the UNHCR's study of November 2023, 27% of respondents declared that they had limited access to healthcare in Poland.²³³⁷

Practical difficulties included a language barrier.²³³⁸ Polish authorities informed that it was not possible to finance translation costs from the National Health Fund. To counteract this difficulty, the special application LikarPL for doctors and patients was created, available in Polish, Ukrainian, Russian and English. Moreover, Ukrainian speakers were hired to provide medical assistance remotely.²³³⁹ Despite

²³²⁷ E.g. PFRON, 'Zaopatrzenie w wyroby medyczne - wsparcie dla uchodźców z Ukrainy', 1 April 2022, available in Polish here: <https://bit.ly/3LPbJyj>.

²³²⁸ See e.g.: <https://bit.ly/44Mz7Fc>.

²³²⁹ Human Rights Commissioner, 'Kwestia bezpłatnych leków dla uchodźców wojennych z Ukrainy w wieku do 18. oraz po 65. roku życia. Pismo do MZ', 26 September 2023, available in Polish [here](#).

²³³⁰ C. Katsiaficas, J. Segeš Frelak, G. Gúzelant, A. Piłat, 'Creative approaches to boosting the employment of displaced Ukrainians in Central and Eastern Europe', ICMPD, September 2023, available [here](#), 3.

²³³¹ Articles 61-64a and Article 22i of the Special Law.

²³³² See [here](#).

²³³³ UNHCR, 'Poland: Joint Protection Analysis', October 2023, available [here](#), 12.

²³³⁴ Mapuj Pomoc, 'Apel o interwencję w sprawie kryzysu w świadczeniu pomocy psychologicznej obywatelom Ukrainy (aktualizacja)', 11 August 2023, available in Polish [here](#).

²³³⁵ Human Rights Commissioner, 'Psychologowie z Ukrainy stracili prawo wykonywania zawodu w Polsce. RPO pisze do marszałek Senatu', 2 October and 20 November 2023, 24 January, 13 February and 19 February 2024, available in Polish [here](#).

²³³⁶ Rzecznik Praw Dziecka, 'Informacja o działalności Rzecznika Praw Dziecka w 2022 roku oraz uwagi o stanie przestrzegania praw dziecka w Polsce', 31 March 2023, available in Polish [here](#), 281.

²³³⁷ UNHCR, 'Multi-Sector Needs Assessment - Results Overview (MSNA Poland 2023)', November 2023, available [here](#).

²³³⁸ Ibid., 33; UNHCR, 'Poland: Joint Protection Analysis', October 2023, available [here](#), 12.

²³³⁹ Human Rights Commissioner, 'Problemy opieki zdrowotnej uchodźców z Ukrainy. Resort zdrowia informuje RPO o swych działaniach', 13 April 2022, 13 May 2022, available in Polish here: <https://bit.ly/41krFyu>.

that, the language barrier was prominently mentioned as a main difficulty in the reports published in 2023 concerning access to different services, including healthcare, in Poland.

Studies concerning access to healthcare for Ukrainian nationals in Poland indicated also that long waiting periods for appointments and too high costs of medical assistance were problematic issues in 2022 and 2023. However, these reports acknowledged that Polish nationals face the same problems. Moreover, some Ukrainian nationals showed the lack of trust in the Polish medical system. Some temporary protection beneficiaries temporarily returned to Ukraine to receive a medical treatment or medications they needed.²³⁴⁰ The lack of information how to seek medical and psychological assistance in Poland was also often listed as a reason for not accessing this support.²³⁴¹

In 2022 and 2023, Ukrainian nationals who have lost 'PESEL UKR' (due to their absence in Poland for more than 30 days, see [Movement and mobility](#)) lost also their access to public healthcare. They sometimes learned that they were no longer temporary protection beneficiaries after already being treated in hospitals and other medical establishments. In these circumstances, they were required to pay back the costs of the treatment (similarly as with the social allowances, see [Social welfare](#)).²³⁴²

Reports from 2022 also informed about Ukrainian women who struggled with accessing their reproductive rights, in particular an abortion after being raped in Ukraine.²³⁴³ The Federation for Women and Family Planning called on the international community to intervene in Poland to adequately address the sexual and reproductive health needs of women and girls affected by the war in Ukraine.²³⁴⁴

General temporary protection

Under the Act on Protection, temporary protection beneficiaries have access to medical assistance, upon their motion and if they receive a certificate for temporary protection beneficiaries first.²³⁴⁵ In 2022, 67 persons were denied medical assistance and financial allowance due to the lack of a certificate for a person enjoying temporary protection.²³⁴⁶ In 2023, the problem continued, but the statistical data are not available.²³⁴⁷

The medical assistance is provided for a period of minimum 2 months, but no longer than for the period of the validity of the certificate for temporary protection beneficiaries. This period is determined individually, in the Head of the Office for Foreigners' decision. According to the Office for Foreigners, if this period ends, a person concerned may apply for assistance to be granted again.²³⁴⁸

If a temporary protection beneficiary is entitled to access a general healthcare system due to their work or running a business in Poland, they are not covered by medical assistance organised by the Office

²³⁴⁰ Save the Children and IMPACT, 'Experiences, Needs and Aspirations of Children, Adolescents and Caregivers Displaced from Ukraine', available [here](#), 39-40. See also UNHCR, 'Poland: Joint Protection Analysis', October 2023, available [here](#), 11-12; L. Murray, J. Linke and R. Stoican, 'The protection needs identified by displaced Ukrainian children and adolescents', FMR no. 72, available [here](#), 35; UNHCR, 'Multi-Sector Needs Assessment - Results Overview (MSNA Poland 2023)', November 2023, available [here](#), 33.

²³⁴¹ See e.g. UNHCR, 'Multi-Sector Needs Assessment - Results Overview (MSNA Poland 2023)', November 2023, available [here](#), 34.

²³⁴² UNHCR, 'Poland: Joint Protection Analysis', October 2023, available [here](#), 10.

²³⁴³ Instytut Praw Migrantów, 'Jak radzą sobie uchodźczynie z Ukrainy, które przyjeżdżają do Polski w niechcianej ciąży? Gdzie szukają dostępu do aborcji?', 25 March 2023, available in Polish here: <https://bit.ly/41oFvjf>.

²³⁴⁴ See FEDERA, 'Stanowisko FEDERY dotyczące zwiększania się zagrożeń dla praw reprodukcyjnych i seksualnych w związku z kryzysem humanitarnym odczytane na sesji Rady Praw Człowieka ONZ', 22 March 2022, available in English here: <https://bit.ly/42G5B2k>.

²³⁴⁵ Article 112 of the Act on Protection.

²³⁴⁶ Information provided by the Office for Foreigners, 17 January 2023.

²³⁴⁷ Information provided by the Office for Foreigners, February 2024.

²³⁴⁸ Information provided by the Office for Foreigners, 17 January 2023.

for Foreigners.²³⁴⁹ Moreover, medical assistance for temporary protection beneficiaries is not granted if a person concerned seeks asylum (then, they benefit from material reception conditions for asylum seekers).²³⁵⁰

Health care for temporary protection beneficiaries is the same as for asylum seekers. Hence, all problems of asylum seekers in this respect apply now also to persons enjoying temporary protection under the Act on Protection (see [Reception: Health care](#)).

In 2022, 536 temporary protection beneficiaries received a financial allowance and medical assistance (199 of them were benefiting from this assistance as of 31 December 2022); 67 persons were granted only medical assistance under the Act on Protection (21 as of 31 December 2022). Additionally, six persons benefited from health care in reception centres for asylum seekers.²³⁵¹ Thus, 47% of the general temporary protection beneficiaries benefited from medical assistance organised by the Office for Foreigners in 2022.

Total numbers for 2023 are not available. As of 30 June 2023, 194 general temporary protection beneficiaries received a financial allowance and medical assistance and 11 persons were granted only medical assistance. As of 31 December 2023, 169 general temporary protection beneficiaries received a financial allowance and medical assistance and 6 persons were granted only medical assistance.²³⁵²

²³⁴⁹ Article 112(4d) of the Act on Protection.

²³⁵⁰ Article 112(1b) of the Act on Protection.

²³⁵¹ Information provided by the Office for Foreigners, 17 January 2023.

²³⁵² Information provided by the Office for Foreigners, February 2024.

Portugal

2023 Update



Temporary Protection Procedure

A. General

The Temporary Protection Directive (TPD)²³⁵³ has been transposed to the national legal order by Act no.67/2003, of 23 August 2003 (Temporary Protection Act).²³⁵⁴

Title (EN)	Original Title (PT)	Web Link
Act. no. 67/2003 of 23 August 2003 (Temporary Protection Act)	Act no.67/2003, of 23 August 2003, que transpõe para a ordem jurídica nacional a Directiva n.º 2001/55/CE, do Conselho, de 20 de Julho, relativa a normas mínimas em matéria de concessão de protecção temporária no caso de afluxo maciço de pessoas deslocadas e a medidas tendentes a assegurar uma repartição equilibrada do esforço assumido pelos Estados membros ao acolherem estas pessoas e suportarem as consequências decorrentes desse acolhimento	https://bit.ly/3JhiysX (PT)
<i>Amended by:</i> Decree-Law no. 41/2023, of 2 June 2023	<i>Alterada pelo:</i> Decreto-Lei n.º 41/2023, de 2 de junho	

According to national law, temporary protection can be activated following a decision of the Council of the EU, or by decision of the national Government, with due regard for the risks to displaced persons, the need and urgency of the provision of temporary protection, and the consequences for public order and national security.²³⁵⁵

When a mass influx of displaced persons is predictable, the Government must create an Interministerial Commission, presided by the Ministry of Home Affairs.²³⁵⁶ This Commission is responsible for, inter alia, assessing reception capacity, defining the reception conditions and their provision, and coordinating the application of temporary protection.²³⁵⁷

While the **personal scope of application** of temporary protection must be defined by decision of the Council of the EU/national Government, the Temporary Protection Act provides for the **exclusion** of certain persons.²³⁵⁸ According to the Temporary Protection Act the following persons are excluded from temporary protection in Portugal:

- ❖ Persons with regard to whom there are *strong reasons*²³⁵⁹ to consider that they:
 - Have committed a crime against peace, a war crime, or a crime against humanity, as defined in national legislation and in the relevant international law instruments to which Portugal is a party;²³⁶⁰

²³⁵³ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, available at: <https://bit.ly/3kl5SRz>.

²³⁵⁴ Available at: <https://bit.ly/3JhiysX>.

²³⁵⁵ Article 4(1) and (3) Temporary Protection Act.

²³⁵⁶ Article 4(2) Temporary Protection Act.

²³⁵⁷ Article 5 Temporary Protection Act. In 2022, such Commission was created by the Resolution of the Council of Ministers no.29-D/2022, of 11 March 2022, par.15.

²³⁵⁸ Article 6 Temporary Protection Act.

²³⁵⁹ The corresponding Directive provision (article 28(1)(a)) refers to “serious reasons” (in Portuguese, “fortes razões”/“razões sérias”).

²³⁶⁰ Article 6(1)(a)(i) Temporary Protection Act.

- Have committed a serious non-political crime²³⁶¹ outside the national territory before they could have been admitted in Portugal as beneficiaries of temporary protection.²³⁶² Within this context, the severity of the criminal procedure must be proportionate to the nature of the infraction. Particularly cruel or inhuman actions may be deemed as non-political crimes even if allegedly committed with a political purpose;²³⁶³
- Have committed acts contrary to the objectives and principles of the United Nations.²³⁶⁴
- ❖ Persons with regard to whom there are serious reasons to be considered dangerous to the national security, or that were sentenced by a final judgement for a serious non-political crime or are a *serious*²³⁶⁵ threat to the national community.²³⁶⁶

The application of the exclusion clauses must be based on the individual behaviour of the person and be proportionate.²³⁶⁷ Exclusion is applicable to both direct participants in the crimes and instigators.²³⁶⁸

The issuance of exclusion decisions is adopted by the Minister of Home Affairs/Minister in charge of migration, following a reasoned opinion by SEF/AIMA,²³⁶⁹ and may be appealed before the administrative courts.²³⁷⁰ In the absence of specific deadlines and procedures, the general rules on administrative appeals apply.²³⁷¹

Temporary protection had never been activated in Portugal before March 2022, neither by Council decision, nor by decision of the national government.

On 1 March 2022, the Council of Ministers approved a Resolution establishing the criteria for granting of temporary protection for displaced people from Ukraine.²³⁷² It has been subsequently amended on 11 March and 22 December 2022, mostly changing the personal scope of temporary protection (see: [Qualification](#)). The relevant Resolutions of the Council of Ministers also determined, inter alia, that:

- ❖ Applications for temporary protection could be made in person or digitally, inside or outside Portuguese territory;²³⁷³
- ❖ Applications for temporary protection are to be immediately referred to the relevant authorities for the issuance of national healthcare system number, tax number, and social security number;²³⁷⁴
- ❖ Employment registration with the relevant national authority is automatic;²³⁷⁵
- ❖ Accommodation and subsistence allowances are to be granted to beneficiaries that do not have sufficient financial resources;²³⁷⁶

²³⁶¹ Crime punishable with a prison term of more than 3 years (article 6(5) Temporary Protection Act). This criterion is not contained in the directive's text (article 28(1)(a)(ii)).

²³⁶² Article 6(1)(a)(ii) Temporary Protection Act.

²³⁶³ Article 6(3) Temporary Protection Act.

²³⁶⁴ Article 6(1)(a)(iii) Temporary Protection Act.

²³⁶⁵ The qualification of the threat to national community as serious, is not included in the Directive's corresponding provision.

²³⁶⁶ Article 6(1)(b) Temporary Protection Act.

²³⁶⁷ Article 6(2) Temporary Protection Act.

²³⁶⁸ Article 6(4) Temporary Protection Act.

²³⁶⁹ Article 6(6) Temporary Protection Act.

²³⁷⁰ Articles 6(7) and 28 Temporary Protection Act.

²³⁷¹ General rules provided in the Administrative Procedure Code – CPA - (available at: <https://bit.ly/3mV8Ymn>), and in the Code of Procedure in Administrative Courts – CPTA - (available at: <https://bit.ly/3ToXKmo>). Notably, article 58(1)(b) CPTA provides for a general deadline for appeal of 3 months.

²³⁷² Resolution of the Council of Ministers no.29-A/2022, of March 2022, available at: <https://bit.ly/3vRYoie>.

²³⁷³ Resolution of the Council of Ministers no.29-A/2022, of 1 March 2022, last amended by Resolution of the Council of Ministers no.135/2022, of 28 December 2022, par.7, available at: <https://bit.ly/3HWIUjU>.

²³⁷⁴ Ibid, par.8.

²³⁷⁵ Ibid, par.9.

²³⁷⁶ Ibid, par.12.

- ❖ Access to social security by beneficiaries of temporary protection is processed under the rules applicable to refugees.²³⁷⁷

The duration of temporary protection was extended twice by the Portuguese government in the course of 2023. In March 2023, the Government approved a Resolution extending the validity of temporary residence permits for 6 months (from 1 March 2023 to 1 September 2023).²³⁷⁸ In October, another Resolution was approved, extending the validity of such residence permits for 6 months (from 1 September 2023 to 1 March 2024).²³⁷⁹

In February 2024, the government approved a resolution that extended the validity of temporary protection residence permits until 31 December 2024. The resolution also transferred the competencies previously allocated to SEF to AIMA.²³⁸⁰

In addition to an online platform for registration for temporary protection (see: [Registration](#)),²³⁸¹ the national authorities created a website gathering information on the national response to displacement from Ukraine. The website allows people to request and offer help, and its contents are available in Portuguese, English, and Ukrainian.²³⁸²

According to the information provided by SEF regarding 2022, temporary protection cases were analysed by a total of 12 staff members of its regional directorates. AIMA did not provide information regarding the number of staff members analysing cases or further dealing with temporary protection.

According to the information provided by AIMA, since 2022, 59,361 persons requested registration for temporary protection to the Portuguese authorities.²³⁸³ Out of these, 8,284 were third country nationals that lived in Ukraine, mostly from Nigeria, Morocco, India, Russia, and Algeria.²³⁸⁴ Per AIMA's data, by the end of the year, there were 54,231 beneficiaries of temporary protection registered in the country.²³⁸⁵

AIMA did not provide information regarding the number of refusals and withdrawals of temporary protection. According to Eurostat's data, no withdrawals have occurred in Portugal since the beginning of the application of temporary protection.²³⁸⁶ According to media reports, around 4,000 beneficiaries of temporary protection left Portugal between April and May 2023.²³⁸⁷

²³⁷⁷ Ibid, par.13.

²³⁷⁸ Resolution of the Council of Ministers no.22-D/2023, of 13 March 2023, available at: <http://tinyurl.com/y54rua6r>.

²³⁷⁹ Resolution of the Council of Ministers no.120/2023, 9 October 2023, available at: <http://tinyurl.com/47bfmcmx>.

²³⁸⁰ Resolution of the Council of Ministers no. 29/2024, 29 February 2024, available at: <https://tinyurl.com/5b5x36u9>.

²³⁸¹ SEF for Ukraine: <https://bit.ly/3HRgzuf>.

²³⁸² Portugal for Ukraine: <https://bit.ly/3RwtZ27>.

²³⁸³ 23,776 Men, 35,585 Women; 14,457 Children (information on the number of unaccompanied children was not provided by AIMA). The overall figure seems to be incoherent with Eurostat's data on granting of temporary protection as the latter indicates that a total of 65,770 persons have been granted temporary protection since the activation of the mechanism, out of which 8,550 in 2023. Eurostat's data available at: <https://tinyurl.com/5c8h7xsa>.

²³⁸⁴ Information provided by SEF for the previous edition of this report indicated that, out of the 56,599 persons that requested registration for temporary protection in 2022, 12,075 were third country nationals that lived in Ukraine. The reasons for this discrepancy in the figures are unknown.

²³⁸⁵ However, Eurostat's data indicates that by the end of December 2023, there were 58,820 registered beneficiaries in Portugal. See: <https://tinyurl.com/27xhmv5k>.

²³⁸⁶ Eurostat, *Decisions withdrawing temporary protection by citizenship and reason - quarterly data*, available at: <https://tinyurl.com/mr23buv3>.

²³⁸⁷ Lusa, *Perto de 4.000 refugiados ucranianos já deixaram Portugal*, 5 June 2023, available at: <https://tinyurl.com/37m77w37>.

B. Qualification for temporary protection

The personal scope of temporary protection has evolved since March 2022. On 1 March 2022, the Council of Ministers approved a Resolution²³⁸⁸ that granted temporary protection, with automatic grant of a residence permit, for one year (extendable), to:

- ❖ Ukrainian nationals and their family members coming from Ukraine that could not return to the country due to the war;
- ❖ Non-Ukrainians that prove being related,²³⁸⁹ married or in a civil partnership to Ukrainian nationals coming from Ukraine that could not return to the country due to the war.

Said Resolution was amended on 11 March, widening the personal scope of application of the temporary protection regime, and bringing it in line with the subsequent Council decision.²³⁹⁰ The following persons became entitled to temporary protection:

- ❖ Ukrainian nationals and beneficiaries of international protection in Ukraine, coming from Ukraine, and that cannot return due to the war;
- ❖ Other third country nationals or stateless persons that are in the same conditions as those above and that can prove either that they are related to the persons referred to above, **or** that they were permanent residents in Ukraine/had a temporary residence permit in the country/had a long-term visa in order to obtain such a permit and whose durable return to their country of origin is not possible.

In December 2022, the personal scope of temporary protection in Portugal was once again redefined, this time restricting eligibility. Since then, the following persons are eligible for temporary protection:²³⁹¹

- ❖ Ukrainian nationals and beneficiaries of international protection in Ukraine, coming from Ukraine, and that cannot return due to the war;²³⁹²
- ❖ Third country nationals and stateless persons that prove being family members of those referred to above **or** that prove being permanent residents in Ukraine, and whose safe and lasting return to the country of nationality is not possible.²³⁹³

As such, at the time of writing, third country nationals and stateless persons who were not beneficiaries of international protection in Ukraine are only eligible for temporary protection if they are family members of a Ukrainian national/beneficiary of international protection in Ukraine, or if they were permanent residents in the country and cannot return to their country of origin in a safe and lasting manner.

According to the information provided by SEF to the AIDA 2022 Update, third country nationals/stateless persons that were granted temporary protection under the prior rules will continue to benefit from temporary protection. No further information is available in this regard.

²³⁸⁸ Resolution of the Council of Ministers no.29-A/2022, of 1 March 2022, available at: <https://bit.ly/3vRYoie>.

²³⁸⁹ It is unclear why the resolution refers to family members twice, given that, if such family members are Ukrainian, they would be already directly included in the personal scope of temporary protection.

²³⁹⁰ Resolution of the Council of Ministers no.29-D/2022, of 11 March 2022, available at: <https://bit.ly/3tlPx7b>. See also Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection, available at: <https://bit.ly/3X7rIB6>.

²³⁹¹ Resolution of the Council of Ministers no.135/2022, of 28 December 2022, available at: <https://bit.ly/3HTIWbf>. The fully amended text is available at: <https://bit.ly/3l9Xx9l>.

²³⁹² Ibid., par.1.

²³⁹³ Ibid, par.2.

The amended Resolution defines family members as:²³⁹⁴

- ❖ Spouses or unmarried partners in a sustainable relationship, i.e., at least 2 years of living together in conditions analogous to marriage;
- ❖ Children under 18 years old (of the Ukrainian national/beneficiary of international protection in Ukraine or of their spouse or partner);
- ❖ Other close relatives sharing a household, that are fully or significantly dependent on the Ukrainian national or beneficiary of international protection in Ukraine entitled to temporary protection.

According to the publicly available information, family links can be proved by any available means, including witnesses.²³⁹⁵

The personal scope of temporary protection was not amended in the course of 2023.

According to the information provided by SEF in the past, in practice, persons who have left Ukraine on or after 1 January 2022 were eligible for temporary protection. It is unclear what was the legal basis for this cut-off date, given the wording of the relevant legislation. It was not possible to confirm this information in any of the public source available at the time of writing, and AIMA did not provide information on this matter.

According to the information provided by AIMA, since 2022, 59,361 persons requested registration for temporary protection to the Portuguese authorities.²³⁹⁶ Out of these, 8,284 were third country nationals that lived in Ukraine, mostly from Nigeria, Morocco, India, Russia, and Algeria.²³⁹⁷ Per AIMA's data, by the end of the year, there were 54,231 beneficiaries of temporary protection registered in the country.²³⁹⁸

AIMA did not provide information regarding the number of refusals and withdrawals of temporary protection. According to Eurostat's data, no withdrawals have occurred in Portugal since the beginning of the application of temporary protection.²³⁹⁹ According to media reports, around 4,000 beneficiaries of temporary protection left Portugal between April and May 2023.²⁴⁰⁰

In 2023, SEF confirmed that persons whose registration for temporary protection was refused were not issued a written decision, nor informed of the right to appeal on a systematic basis. AIMA did not provide information on this matter.

According to the information provided by CSTAF, no appeals were filed in the Administrative Courts regarding refusals to grant temporary protection in 2023.

²³⁹⁴ Ibid, par.3.

²³⁹⁵ See, for instance: Justiça.Gov.Pt, *Reception and Integration of Ukrainian Citizens in Portugal*, available at: <https://bit.ly/3l8sFX3>.

²³⁹⁶ 23,776 Men, 35,585 Women; 14,457 Children (information on the number of unaccompanied children was not provided by AIMA). The overall figure seems to be incoherent with Eurostat's data on granting of temporary protection as the latter indicates that a total of 65,770 persons have been granted temporary protection since the activation of the mechanism, out of which 8,550 in 2023. Eurostat's data available at: <https://tinyurl.com/5c8h7xsa>.

²³⁹⁷ Information provided by SEF for the previous edition of this report indicated that, out of the 56,599 persons that requested registration for temporary protection in 2022, 12,075 were third country nationals that lived in Ukraine. The reasons for this discrepancy in the figures are unknown.

²³⁹⁸ However, Eurostat's data indicates that by the end of December 2023, there were 58,820 registered beneficiaries in Portugal. See: <https://tinyurl.com/27xhmv5k>.

²³⁹⁹ Eurostat, *Decisions withdrawing temporary protection by citizenship and reason - quarterly data*, available at: <https://tinyurl.com/mr23buv3>.

²⁴⁰⁰ Lusa, *Perto de 4.000 refugiados ucranianos já deixaram Portugal*, 5 June 2023, available at: <https://tinyurl.com/37m77w37>.

C. Access to temporary protection and registration

1. Admission to territory

CPR is not aware of instances of refusal of entry at the border of people fleeing Ukraine nor of difficulties impacting re-entry of people who have returned to Ukraine. AIMA reported that no such refusals took place in 2023.

Following the TPD, the Temporary Protection Act determines that, if needed, and taking into account the urgency of the situation, the issuance of visas may be fast-tracked and simplified. This is done namely by shortening the deadlines applicable to necessary actions, and by suppressing others.²⁴⁰¹ Such visas are to be issued free of charge.²⁴⁰²

On 25 February 2022, the Prime-Minister announced that Portuguese Embassies and Consulates had been given instructions to facilitate the issuance of visas to Ukrainian nationals.²⁴⁰³ It is unclear how this procedure worked in practice.

The *Portugal for Ukraine*²⁴⁰⁴ website contains information on leaving Ukraine. Accordingly, persons not holding a biometric passport, must contact a Portuguese Embassy in order to be issued a safe conduct to travel. The portal also directs people in need of transportation to fill in a form to facilitate regular and organised arrivals. It is unclear which type of support was/is provided to those who have completed this form. Information on leaving Ukraine was also provided by the Portuguese authorities through the Ministry of Foreign Affairs webpage.²⁴⁰⁵

2. Freedom of movement

The law does not provide for any restriction to the internal freedom of movement of persons entitled to and beneficiaries of temporary protection, and CPR is not aware of the application of any such restrictions in practice. CPR is also not aware of restrictions on the ability of persons entitled to and beneficiaries of international protection to move towards other EU countries.

The Temporary Protection Act regulates the transfer of residence of beneficiaries of temporary protection between EU Member States, broadly in line with article 26 of the Temporary Protection Directive.²⁴⁰⁶ In the past, SEF informed that there is no procedure in practice for such purpose. AIMA did not provide information on this matter for 2023.

Data on de-registrations and onward relocations of beneficiaries to other EU Member States was not provided by AIMA.

According to SEF, a total of 1,531 statuses were cancelled in 2022 (no information on the grounds). The report of the Observatory for Migration covering 2022 (and published in 2023) indicates that there were 1,529 cancellations of temporary protection status in 2022, all of which by request of the beneficiaries.²⁴⁰⁷

²⁴⁰¹ Article 10(3) Temporary Protection Act.

²⁴⁰² Article 10(4) Temporary Protection Act.

²⁴⁰³ Rádio Renascença, *Costa deu instruções para concessão de vistos imediatos para cidadãos ucranianos*, 25 February 2022, available (in Portuguese) at: <https://bit.ly/3JFv5GU>.

²⁴⁰⁴ *Portugal for Ukraine*: <https://bit.ly/3RwtZ27>.

²⁴⁰⁵ Available at: <https://bit.ly/3HW2yLC>.

²⁴⁰⁶ Article 26 Temporary Protection Act.

²⁴⁰⁷ Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2023*, p.128, July 2023. While the reports produced by the OM were previously available online, at the time of writing it was not possible to access them online, neither in the website of ACM, which was still online, nor in the website of AIMA.

3. Registration under temporary protection

The Resolution of the Council of Ministers approved on 1 March 2022, established that *applications* for temporary protection could be made in person or digitally, inside or outside Portuguese territory.²⁴⁰⁸ While according to the information gathered by CPR in early March 2022 the online registration platform²⁴⁰⁹ was not yet available, it became operational soon afterwards.²⁴¹⁰

Registration, both online and in-person, is performed by the Immigration and Borders Service (SEF)/Agency for Integration, Migration and Asylum (AIMA). According to the information provided by SEF for 2022, temporary protection cases were processed by a total of 12 staff members of its regional directorates. AIMA did not provide information regarding the number of staff members analysing cases or further dealing with temporary protection.

According to the available information, only persons over 18 years old can fully complete their registration online. For security reasons, the registration of children requires an in-person stage to be completed. Prior to the termination of SEF's activities this was done at SEF's offices.²⁴¹¹

While according to the legal framework registration can be performed before entry into national territory, CPR received reports that the online platform requires individuals to insert a date of arrival prior to registration. Nevertheless, in 2022, SEF confirmed that it is possible to register from abroad. AIMA did not provide information in this regard. As such, the situation remains unclear.

The law does not establish any time limits for registration, and CPR has no indication that such limitations exist in practice.

The law does not clearly establish how to prove eligibility for temporary protection. According to the available information, any document proving eligibility (such as a passport or ID) must be presented. The procedure adopted by the authorities regarding undocumented persons is unclear (according to the information provided by SEF in the past, any kind of proof was accepted).

Registered persons are issued a *Certificate of preliminary registration on the temporary protection application platform* (*Declaração comprovativa de registo prévio na Plataforma de pedido de protecção temporária*), proving that their *application* for temporary protection has been recorded. The document bears no reference to the rights attached to it or to its validity.

Beneficiaries of temporary protection are subsequently issued a certificate of temporary protection by SEF/AIMA (*certificado de concessão de autorização de residência ao abrigo do regime de protecção temporária*, See [Content of Temporary Protection](#)).

In the course of 2023, CPR became aware of cases of significant delays (up to one year) in the issuance of the certificates of temporary protection without any information being provided by the authorities to the persons concerned. This has particularly impacted non-Ukrainians.

²⁴⁰⁸ Resolution of the Council of Ministers no.29-A/2022, of 1 March 2022, last amended by Resolution of the Council of Ministers no.135/2022, of 28 December 2022, par.7, available at: <https://bit.ly/3HWIUjU>.

²⁴⁰⁹ On 18 March 2022, ACM and SEF organised a webinar to civil society and community-based organisations to provide information on the use of the online platform.

²⁴¹⁰ Available at: <https://bit.ly/3HVHTYe>.

²⁴¹¹ Information previously available at: *Portugal for Ukraine, Online temporary protection request – SEF – Borders and Immigration Service*, available at: <https://bit.ly/3X2hwEp>. At the time of writing, the website was unavailable. Similar information can be accessed at: *Justiça.gov.pt, Acolhimento e integração de cidadãos ucranianos em Portugal*, available at: <https://tinyurl.com/68jx7baa>. According to the information available in this website, registration of children must be concluded at SEF's offices or at ACM's National Centres. However, the information has not been updated since the termination of both SEF and ACM. It is unclear if, following the institutional change, registration of children can be performed at all AIMA's offices or not.

This problem has also been flagged by the Ombudsperson in the report to the Parliament covering 2022 (and published in 2023). According to the same report, SEF informed the Ombudsperson that such cases required a more detailed analysis, notably regarding security and documentary checks.²⁴¹²

AIMA did not provide information on the average time for effective registration of beneficiaries of temporary protection in 2023.

The Temporary Protection Act only provides for a right to appeal in case of exclusion or of refusal of a family reunification request.²⁴¹³

While any decision issued by national administrative authorities in practice can be challenged according to the general administrative rules, SEF confirmed that, in 2022, persons whose registration for temporary protection was refused were not issued a written decision, nor informed of the right to appeal on a systematic basis. AIMA did not provide information in this regard for 2023.

4. Legal assistance

The Temporary Protection Act does not contain provisions on access to legal assistance and legal aid by persons entitled to temporary protection.

According to CPR's experience, there is no widespread awareness of the advantages of legal assistance within the context of temporary protection eligibility, a fact that is likely related to the features of the regime. CPR provides legal information on access to temporary protection on a needs-basis. Furthermore, upon request, the organisation assists beneficiaries of temporary protection with regard to integration-related matters, such as the rights attached to their status, and access of children born in Portugal to Portuguese nationality.

General provisions on access to **legal aid**, establish that foreigners and stateless persons are entitled to free legal aid if they have a valid residence permit (in an EU Member State), and prove not to hold sufficient income.²⁴¹⁴ Foreigners not holding a residence permit are entitled to free legal aid if there is reciprocity in the legislation of their countries of nationality.²⁴¹⁵

The Immigration Act also provides for the right to free legal aid to foreigners not admitted into national territory,²⁴¹⁶ to victims of human trafficking/actions to facilitate illegal immigration,²⁴¹⁷ to long term residents with a judicial expulsion decision,²⁴¹⁸ and to persons intending to judicially challenge a coercive removal decision.²⁴¹⁹

In February 2022, the Lawyers' Bar announced the creation of lists of voluntary lawyers available to provide free legal assistance to displaced Ukrainians.²⁴²⁰

According to the information provided by CSTAF, no appeals were filed in the Administrative Courts regarding refusals to grant temporary protection in 2023.

²⁴¹² Ombudsman, Relatório à Assembleia da República 2022, pp.58-59, July 2022, available at: <https://tinyurl.com/4j5jexx6>.

²⁴¹³ Article 28 Temporary Protection Act.

²⁴¹⁴ Article 7(1) Access to Law and to Courts Act, available at: <https://bit.ly/3TsIFjB>.

²⁴¹⁵ Ibid, article 7(2).

²⁴¹⁶ Article 40(2) Immigration Act, available at: <https://bit.ly/3JJjVjl>.

²⁴¹⁷ Ibid, article 112(4).

²⁴¹⁸ Ibid, article 136(4).

²⁴¹⁹ Ibid, article 150(3).

²⁴²⁰ Ordem dos Advogados, *Apoio aos Cidadãos Ucranianos | Lista de Advogados Voluntários*, 28 February 2022, available at: <https://bit.ly/3LppmWj>.

5. Information provision and access to NGOs

According to the Temporary Protection Act, beneficiaries of temporary protection must be provided a document stating the rights and duties attached to their status. Such document is to be written in a language they understand.²⁴²¹ The Temporary Protection Act does not contain further provisions on access to information and to NGOs.

Within the context of displacement from Ukraine, the national authorities launched a website, available in Portuguese, English and Ukrainian, containing information on eligibility for temporary protection and relevant procedures, as well as the rights attached to the status.²⁴²²

The High Commissioner for Migration (*Alto Comissariado para as Migrações*, ACM) created a specific email address to provide information related to displacement from Ukraine.²⁴²³ ACM also listed a number of resources to persons displaced from Ukraine in its website.²⁴²⁴ The website was still available at the time of writing despite the termination of ACM's activities by the end of October 2023.

Following the beginning of the war in Ukraine, a vast mobilisation for support was observed in Portugal, both within civil society, municipalities and other groups, providing varied assistance. According to the information provided by UNHCR, in 2023, it organised an online workshop for exchange of practices concerning housing among municipalities.

D. Guarantees for vulnerable groups

While the Temporary Protection Act, explicitly refers to the need to provide medical and other assistance to beneficiaries of temporary protection with special needs, such as unaccompanied children, victims of torture, violations or other serious forms of moral, physical or sexual violence,²⁴²⁵ it does not provide for a mechanism for the identification of specific needs emerging from vulnerabilities.

As mentioned in [Asylum Procedure: Guarantees for vulnerable groups](#), such a mechanism is also not in place within the asylum system. According to the available information, there was no mechanism in place in practice to identify and address such needs within the context of temporary protection. Neither AIMA, nor ISS provided information regarding this matter for 2023.

With regards to particularly vulnerable groups, the Temporary Protection Act only refers to specific measures to adopt regarding unaccompanied children.²⁴²⁶ Accordingly, unaccompanied children:

- ❖ Must be provided with the necessary legal representation;
- ❖ Must be accommodated with adult family members, in foster families, in specialised reception centres or other appropriate locations, or with the person who took care of them during flight for the duration of the temporary protection.

While this provision is broadly in line with article 16 of the TPD, it failed to transpose into national law the last paragraph of the Directive's provision. As such, it does not refer to the agreement of the adult(s) concerned, and to the need to take into account the child's opinions, considering their age and development.

²⁴²¹ Article 11 Temporary Protection Act.

²⁴²² *Portugal for Ukraine* website, available at: <https://bit.ly/425MsYa>.

²⁴²³ sosucrania@acm.gov.pt

²⁴²⁴ Alto Comissariado para as Migrações, *SOS Ucrânia*, available at: <https://bit.ly/3l3xMI9>.

²⁴²⁵ Article 15(5) Temporary Protection Act.

²⁴²⁶ Article 18 Temporary Protection Act.

According to the available information, for security reasons, the registration of children must be completed in-person. This is done in order to perform security checks and to verify parental responsibilities.²⁴²⁷

An email address and telephone line were created for the identification of unaccompanied children and of availability for reception and transportation.

The government established a multidisciplinary group to monitor the protection of unaccompanied children reaching Portugal within this context (ChildCareUKR). The group was initially composed by representatives of the Ministry of Labour, Solidarity and Social Security, Ministry of Justice, SEF and ACM.²⁴²⁸ According to the information provided by SEF for 2022, this group aimed to facilitate communication between relevant state services and entities and has allowed the identification of appropriate and efficient responses for the integration of children. SEF has previously informed that the group met regularly, and shared a digital platform that facilitated communication between services and persons in need of specific assistance.²⁴²⁹ Neither AIMA, nor ISS provided information regarding this matter for 2023.

According to the information provided by SEF, a total of 752 applicants for temporary protection were identified as vulnerable in 2022, all of whom unaccompanied children. AIMA did not provide information for 2023.²⁴³⁰ Data on unaccompanied children was also not available at Eurostat at the time of writing.²⁴³¹

A specific guide on prevention of trafficking in human beings has been produced and is available in Portuguese, English and Ukrainian.²⁴³²

²⁴²⁷ Information previously available at: *Portugal for Ukraine, Online temporary protection request – SEF – Borders and Immigration Service*, available at: <https://bit.ly/3X2hwEp>. At the time of writing, the website was unavailable. Similar information can be accessed at: *Justiça.gov.pt, Acolhimento e integração de cidadãos ucranianos em Portugal*, available at: <https://tinyurl.com/68jx7baa>. According to the information available in this website, registration of children must be concluded at SEF's offices or at ACM's National Centres. However, the information has not been updated since the termination of both SEF and ACM. It is unclear if, following the institutional change, registration of children can be performed at all AIMA's offices or not.

²⁴²⁸ Portuguese Republic, *Governo cria plataforma de registo e proteção a crianças ucranianas*, available at: <https://tinyurl.com/4cd43znn>.

²⁴²⁹ See also: *Coordenação Nacional Garantia para a Infância, Plano de Acção 2022-2030*, pp. 29-30, *January 2023*, available at: <https://tinyurl.com/5tt85yj3>

²⁴³⁰ A report prepared by the Centre for Social Studies (CES) for the Fundamental Rights Agency (FRA) indicates that, until 30 April 2023, Portugal granted temporary protection to a total of 14,256 children, out of which 701 separated and 15 unaccompanied. This data is not in line with the information previously provided by SEF to the AIDA report. See: CES, *Fundamental rights of children displaced in the EU following the Russian war of aggression – Portugal*, pp.3-4, June 2023, available at: <https://tinyurl.com/2vc9b4zh>.

²⁴³¹ Eurostat, *Unaccompanied minors benefiting from temporary protection at the end of the month by citizenship, age and sex - monthly data*, available at: <https://tinyurl.com/4ddrc8ve>; Eurostat, *Decisions granting temporary protection to unaccompanied minors by citizenship, age and sex - annual aggregated data*, available at: <https://tinyurl.com/yr7xa2c9>.

²⁴³² Comissão para a Cidadania e a Igualdade de Género, *Know the signs for your safety and protection*, available at: <https://bit.ly/3Y14591>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | 1 year |
| 2. How many residence permits ²⁴³³ were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2023? | Not available ²⁴³⁴ |

Beneficiaries of temporary protection are entitled to a temporary protection residence permit to be issued free of charge.²⁴³⁵ According to the law, such temporary residence permits must be issued in the EU uniform format for residence permits.²⁴³⁶ The temporary protection residence permit is valid for one year, and can be renewed for the same period of time.²⁴³⁷

According to the publicly available information, following registration for temporary protection, SEF/AIMA performs the necessary checks, and shares the individual's data with the ISS, health and tax services so that the corresponding user numbers are issued. Beneficiaries of temporary protection are then issued a certificate of temporary protection by SEF/AIMA (*certificado de concessão de autorização de residência ao abrigo do regime de proteção temporária*). Following the collection of biometric data, the residence permit (card) should be issued.²⁴³⁸

Despite this information, according to CPR's experience beneficiaries of temporary protection have not been issued the residence permit (card), at least on a systematic basis. SEF confirmed that this is the case in 2022, and that the non-issuance of residence permits was determined by the Ministry of Home Affairs.²⁴³⁹ AIMA did not provide information on this matter for 2023. This is not only a doubtful practice but may also bear adverse consequences for beneficiaries of international protection. Notably, CPR has received reports according to which SEF and the Institute of Registries and Notary (*Instituto de Registos e Notariado*, IRN) deemed the certificate of temporary protection as insufficient to prove legal residence of parents for the purposes of children born in Portugal to acquire Portuguese nationality at birth, as they are supposed to according to the Nationality Act (see: [AIDA Country Report Content of Protection – Naturalisation](#)). It is unclear whether this practice evolved in the course of the year.

Furthermore, the certificate is not included in the List of Residence Permits issued by Member States published by the European Commission,²⁴⁴⁰ which may lead to issues regarding the recognition of the document across Member States and the crossing of external borders.

²⁴³³ See infra.

²⁴³⁴ AIMA did not provide information on the number of residence permits issued to beneficiaries of temporary protection. According to the data provided by the Agency, a total of 54,231 persons were registered as beneficiaries at the end of 2023.

²⁴³⁵ Article 10(1) and (4) Temporary Protection Act.

²⁴³⁶ Ministerial Order no.1432/2008, of 10 December, amended by Ministerial Order no.105-A/2022, of 1 March 2022.

²⁴³⁷ See, for instance: [Justiça.Gov.Pt, Acolhimento e integração de cidadãos ucranianos em Portugal](https://bit.ly/3k9b7cC), available at: <https://bit.ly/3k9b7cC>.

²⁴³⁸ [Justiça.Gov.Pt, Acolhimento e integração de cidadãos ucranianos em Portugal](https://bit.ly/3k9b7cC), available at: <https://bit.ly/3k9b7cC>. The website continued to refer to SEF at the time of writing despite the termination of activities of the organisation by the end of October 2023. As per the legal amendments enacted within this context, it seems logical to assume that all administrative competencies in this regard were transferred to AIMA.

²⁴³⁹ It was not possible to request further information on this aspect to the Ministry of Home Affairs before the publication of this report.

²⁴⁴⁰ Available at: <https://bit.ly/3JGfqXj>.

According to SEF, a total of 47,782 certificates of temporary protection were issued in 2022. Data on withdrawal was not available. AIMA did not provide information regarding permits issued and withdrawn in 2023. According to Eurostat's data, no withdrawals have occurred in Portugal since the beginning of the application of temporary protection.²⁴⁴¹ According to media reports, around 4,000 beneficiaries of temporary protection left Portugal between April and May 2023.²⁴⁴²

According to the information provided by the authorities in the past, access to the full array of rights attached to temporary protection only occurs following the issuance of the certificate of temporary protection. Neither AIMA nor ISS confirmed if this was still the case in 2023. While in the past ISS informed that those waiting may have their socioeconomic situation assessed and receive occasional financial support, information was not provided for 2023.

AIMA did not provide information on the average time for effective registration of beneficiaries of temporary protection in 2023.

In the course of 2023, CPR became aware of cases of significant delays (up to one year) in the issuance of the certificates of temporary protection without any information being provided by the authorities to the persons concerned.²⁴⁴³ This has particularly impacted non-Ukrainians. This problem has also been flagged by the Ombudsperson in the report to the Parliament covering 2022 (and published in 2023). According to the same report, SEF informed the Ombudsperson that such cases required a more detailed analysis, notably regarding security and documentary checks.²⁴⁴⁴

2. Access to asylum

Article 3 of the Temporary Protection Act explicitly states that the application of the temporary protection regime is without prejudice to the recognition of refugee status according to the Refugee Convention.²⁴⁴⁵ Access to the asylum procedure is specifically addressed in articles 19-21 of the Temporary Protection Act.

Beneficiaries of temporary protection can apply for asylum.²⁴⁴⁶ If the analysis of the asylum application is not concluded before the end of the temporary protection, it must be completed afterwards.²⁴⁴⁷ The law further determines that beneficiaries of temporary protection remain as such until their asylum application is accepted, and that the refusal of such application does not affect access to or continuation of temporary protection.²⁴⁴⁸

In practice, according to the information available to CPR, the number of asylum applications filled by Ukrainian citizens since the activation of the temporary protection is very low. It is unclear whether this is due to lack of interest/need, lack of information or other obstacles in accessing asylum.

The information available to CPR also indicates that at least a significant number of asylum applications filed by Ukrainians after 24 February 2022 but before the activation of the temporary protection regime were, according to information provided by SEF in the past, "transposed to temporary protection". It is

²⁴⁴¹ Eurostat, *Decisions withdrawing temporary protection by citizenship and reason - quarterly data*, available at: <https://tinyurl.com/mr23buv3>.

²⁴⁴² Lusa, *Perto de 4.000 refugiados ucranianos já deixaram Portugal*, 5 June 2023, available at: <https://tinyurl.com/37m77w37>.

²⁴⁴³ UNICEF has also reported receiving accounts of persons unable to access certain services (e.g. health care, employment, and entering into housing rental contracts) due to the non-issuance of documentation following the request for registration for temporary protection, which may be connected with this issue.

²⁴⁴⁴ Ombudsman, *Relatório à Assembleia da República 2022*, pp.58-59, July 2022, available at: <https://tinyurl.com/4j5jexx6>.

²⁴⁴⁵ Article 3 Temporary Protection Act.

²⁴⁴⁶ Article 19(1) Temporary Protection Act.

²⁴⁴⁷ Article 19(2) Temporary Protection Act.

²⁴⁴⁸ Article 21 Temporary Protection Act.

unclear whether this amounted to a withdrawal of the asylum applications by the persons concerned, and what was the content of information provided in such cases (namely regarding the possible co-existence of asylum procedures and temporary protection).

According to the information provided by SEF to the 2022 AIDA update, Ukrainian nationals may apply to both regimes. However, the entity also confirmed that persons registering/registered for temporary protection were not systematically informed of their right to apply for international protection. According to SEF, in the course of 2022, 9 Ukrainian nationals decided to apply for international protection instead of temporary protection. Furthermore, SEF stated that the national authorities did not suspend the analysis of asylum applications made by Ukrainian nationals. AIMA did not provide information on any of these matters for 2023.

B. Family reunification

The Temporary Protection Act establishes a specific family reunification regime for persons whose separation was connected to the massive influx of persons in need of protection. Within this context, the following persons are deemed as family members:²⁴⁴⁹

- ❖ Spouse;²⁴⁵⁰
- ❖ Unmarried children under 18 years old (of the beneficiary of temporary protection or of their spouse);
- ❖ Other close relatives sharing a household, that were fully or significantly dependent on the beneficiary when the facts leading to the massive influx occurred.

Spouses and unmarried children who are beneficiaries of temporary protection in another EU Member State are to be reunified, with due regard to their wishes.²⁴⁵¹ If such family members are not yet in EU territory, they may otherwise be reunified if they are in need of protection.²⁴⁵²

Reunification of other close relatives listed in the law may occur, following an individual analysis of the challenges that may arise due to the separation.²⁴⁵³

Decisions on family reunification under this regime are adopted by the Minister of Home Affairs/Minister in charge of migration, based on a proposal of the Inter-ministerial Commission (see: [General](#)).²⁴⁵⁴ Refusals may be appealed before the administrative courts.²⁴⁵⁵

Temporary protection residence permits are issued to family members.²⁴⁵⁶

C. Movement and mobility

The law does not provide for any restriction to the internal freedom of movement of persons entitled to and beneficiaries of temporary protection, and CPR is not aware of the application of any such restrictions in practice. CPR is also not aware of restrictions on the ability of persons entitled to and

²⁴⁴⁹ Article 17(1) Temporary Protection Act.

²⁴⁵⁰ Neither the Temporary Protection Act, nor the list of family members eligible for reunification under the general regime of the Immigration Act refer to unmarried partners. However, article 100 Immigration Act determines that, under the general regime, family reunification may be granted to a partner in a proved unmarried partnership.

²⁴⁵¹ Article 17(2) Temporary Protection Act.

²⁴⁵² Article 17(3) Temporary Protection Act.

²⁴⁵³ Article 17(4) Temporary Protection Act.

²⁴⁵⁴ Article 17(6) Temporary Protection Act.

²⁴⁵⁵ Article 28 Temporary Protection Act.

²⁴⁵⁶ Article 17(7) Temporary Protection Act.

beneficiaries of international protection to move towards other EU countries or of difficulties in re-entering Portugal following a return to Ukraine.

Nevertheless, as mentioned in [Residence Permit](#), according to CPR’s experience beneficiaries of temporary protection are not issued an actual residence permit (card). The certificate of temporary protection issued to beneficiaries by the Portuguese authorities is not included in the List of Residence Permits issued by Member States published by the European Commission.²⁴⁵⁷ This may lead to issues regarding the recognition of the document across Member States and the crossing of external borders.

D. Housing

Indicators: Housing

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

According to the Temporary Protection Act, adequate housing must be provided to beneficiaries of temporary protection.²⁴⁵⁸ The Temporary Protection Act does not provide further elements on the needs assessment or on what constitutes *adequate* housing, nor which entity is responsible for ensuring the provision of housing to beneficiaries of temporary protection. The Temporary Protection Act does not contain provisions on the withdrawal of housing.

Specific legislative measures were enacted in order to facilitate access to the national programme on urgent housing by beneficiaries of temporary protection (e.g., simplification of bureaucratic requirements, and exemption of verification of availability of financial resources for eligibility for assistance).²⁴⁵⁹

Beneficiaries of this support receive a financial allowance for housing expenses. The support has a duration of 18 months and can be extended up to 36 months.²⁴⁶⁰

According to the information publicly available, assistance can be requested either online or in-person to the High Commissioner for Migration (ACM).²⁴⁶¹ Publicly available information does not seem to have been updated since the termination of ACM’s operations. According to information previously available

²⁴⁵⁷ Available at: <https://bit.ly/3JGfqXj>.

²⁴⁵⁸ Article 15(1) Temporary Protection Act.

²⁴⁵⁹ Article 5 Decree-Law no.24-B/2022, of 11 March 2022, available at: <https://bit.ly/3la6RL1>. See also Decree-Law no.29/2018, of 4 May 2018, available at: <https://bit.ly/3ZCQky5>.

²⁴⁶⁰ Article 14 Decree-Law no.29/2018, of 4 May 2018, available at: <https://bit.ly/3ZCQky5>; relevant information was previously available at *Portugal for Ukraine, Alojamento*, available at: <https://bit.ly/3LmcNuP> (in Portuguese). At the time of writing, the website was unavailable.

²⁴⁶¹ ePortugal.gov.pt, *Ukraine: Information and support available in Portugal*, available at: <https://tinyurl.com/3utueup6>.

at the *Portugal for Ukraine* portal, in order to benefit from this support, the following documents must be presented:²⁴⁶²

- ❖ Identification of the family/declaration of temporary protection;
- ❖ Lease contract and building registration or identification of the accommodation facility and invoice.

While it is unclear whether these measures resulted in easier access in practice, a newspaper article from August 2022 reported challenges for beneficiaries of temporary protection in accessing the housing support programme. According to the article, while, by the end of July 2022, 95 municipalities had joined the programme, there were no figures concerning the number of beneficiaries of temporary protection covered.²⁴⁶³

According to the report published by the Observatory for Migration in 2023, by the end of 2022, 109 municipalities had joined the programme and a total of 93 agreements had been finalised, resulting in the provision of housing to 683 persons under this scheme.²⁴⁶⁴ The report also details that ACM, jointly with partners, provided accommodation to 3,671 beneficiaries of temporary protection in the course of 2022.²⁴⁶⁵

According to ISS, the entity structured a network of collective accommodation facilities to assist those in need (with 222 places by the end of 2023). This is a temporary response, applied until an intervention plan is designed. According to the same source, in order to access this response, beneficiaries of temporary protection must contact the district branches of ISS. ISS reported that, by the end of 2022, 222 persons were accommodated in such facilities.

Since the beginning of the response to the displacement from Ukraine, private citizens could flag availability to host displaced persons.²⁴⁶⁶ It is unclear what kind of verification and supervision the public authorities conduct in the case of private offers of housing. By mid-2022, reports of abuse of Ukrainian citizens hosted by private citizens emerged in the press. According to the response provided by ACM in the case of one woman, the housing provision was not framed by an institutional agreement/referral.²⁴⁶⁷

Throughout the year, a number of civil society organisations, such as CPR, were also involved in the provision of housing to beneficiaries of temporary protection.

Research conducted by NOVA Asylum Lab, an academic research initiative, in 2023, identified housing as the most challenging issue within the context of temporary protection. This has also been highlighted by the Association of Ukrainians in Portugal as per media reports.²⁴⁶⁸ The research conducted by NOVA

²⁴⁶² *Portugal for Ukraine, Alojamento*, available at: <https://bit.ly/3LmcNuP> (in Portuguese). *Portugal for Ukraine, Alojamento*, available at: <https://bit.ly/3LmcNuP> (in Portuguese). At the time of writing, the website was unavailable.

²⁴⁶³ Público, *Refugiados da Ucrânia esperam entrada em casas prometidas há meses por programa de apoio*, 1 August 2022, available at: <https://bit.ly/3mSukAZ> (in Portuguese; access to the article is restricted by a paywall).

²⁴⁶⁴ Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2023*, p.216, July 2023. While the reports produced by the OM were previously available online, at the time of writing it was not possible to access them online, neither in the website of ACM, which was still online, nor in the website of AIMA.

²⁴⁶⁵ *Idem*, pp.216-217.

²⁴⁶⁶ The online form asks questions such as: name, telephone, email address, type of housing (room, apartment, house); is the housing shared; duration of the availability; location; further information (open answer without specific requirements).

²⁴⁶⁷ See, for instance: RTP, *Prova dos Factos. Ucraniana alvo de abusos na família que a acolheu em Portugal*, 6 May 2022, available at: <https://bit.ly/3YK6Db5>.

²⁴⁶⁸ See, for instance: RTP, *Habitação é o principal problema dos refugiados ucranianos em Portugal*, 7 February 2023, available at: <https://tinyurl.com/5n7zmjzu>.

Asylum Policy Lab further detailed that housing-related problems are more significant among persons displaced from Ukraine who are of Asian or African origin.²⁴⁶⁹

UNICEF reported receiving accounts of challenges of persons displaced from Ukraine in accessing dignified and stable housing that allows for their integration in Portugal.²⁴⁷⁰

Neither AIMA, nor ISS provided information regarding housing for beneficiaries of temporary protection in 2023, notably regarding procedures to access assistance and mechanisms to prevent and monitor accommodation provided by private entities.

E. Employment and education

1. Access to the labour market

The Temporary Protection Act establishes that beneficiaries of temporary protection have the right to work.²⁴⁷¹ The law further determines that access to work by beneficiaries of temporary protection cannot be to detriment to that of EU nationals and nationals from associated States and that of foreign residents receiving unemployment benefits.²⁴⁷²

In principle, the only restriction on employment enshrined in the law impacting beneficiaries of temporary protection consists in limiting access to certain categories of the public sector for all third-country nationals.²⁴⁷³ Furthermore, beneficiaries of temporary protection benefit from the same conditions of employment as nationals, including regarding salaries and working hours.²⁴⁷⁴ The law provides, however, for specific formalities in the case of employment contracts of third-country nationals such as the need for a written contract and its (online) registration with the Authority for Labour Conditions (*Autoridade para as Condições do Trabalho*, ACT).²⁴⁷⁵

In her report to the Parliament covering 2022 (and published in 2023), the Ombudsperson noted that during the year complaints had been received regarding delays in the issuance of Social Security Numbers (NISS) and Tax Identification Numbers (NIF). Both are necessary to have, among others, effective access to the labour market. According to the same source, following contacts with relevant actors such as SEF and the Tax Services, the delays were mostly related to technological challenges that were being solved.²⁴⁷⁶

Following the activation of the temporary protection regime, a number of legislative provisions were enacted regarding the recognition of qualifications and competencies of beneficiaries of temporary protection.²⁴⁷⁷ Accordingly, such requests have priority and are exempted from a number of bureaucratic requirements such as certification of documents issued by foreign entities, certification of copies, and recognition of translations. Applicants are also exempted from the payment of fees.

²⁴⁶⁹ NOVA Asylum Policy Lab, *Policy Brief – The reception of displaced persons from Ukraine in Portugal*, January 2023, available at: <https://tinyurl.com/ymcxup8f>.

²⁴⁷⁰ Information provided by UNICEF to the AIDA 2023 Update.

²⁴⁷¹ Article 14(1) Temporary Protection Act.

²⁴⁷² Article 14(2) Temporary Protection Act. It is unclear if this limitation is being applied in practice and how.

²⁴⁷³ Article 15(2) Constitution and Article 17(1)(a) and (2) Act 35/2014.

²⁴⁷⁴ Article 4 Labour Code.

²⁴⁷⁵ Article 5 Labour Code.

²⁴⁷⁶ Ombudsman, *Relatório à Assembleia da República 2022*, pp.58-59, July 2022, available at: <https://tinyurl.com/4j5jexx6>.

²⁴⁷⁷ Article 6 Decree-Law no.24-B/2022, 11 March 2022, available at: <https://bit.ly/3la6RL1>.

A subsequent Decree-Law,²⁴⁷⁸ further regulated the recognition of professional qualifications of beneficiaries of temporary protection, establishing, inter alia, procedures for situations of insufficient documentation due to the war.²⁴⁷⁹

Specific measures were also adopted regarding recognition and exchange of driving licences and professional driver's certifications.²⁴⁸⁰

According to the publicly available information available, beneficiaries of temporary protection who wish to receive employment-related support must register in the Employment and Vocational Training Institute (*Instituto do Emprego e Formação Profissional*, IEFP), either in person or online.²⁴⁸¹

Registration in IEFP also enables beneficiaries of temporary protection to certified Portuguese courses.²⁴⁸² Data on the number of beneficiaries of temporary protection that had access to such courses was not available at the time of writing.

According to the report published by the Observatory for Migration in 2023, data provided by IEFP, indicated that, by the end of 2022, 14,205 beneficiaries of temporary protection were registered with the service. IEFP also reported being aware of the conclusion of 7,121 employment contracts by beneficiaries of temporary protection.²⁴⁸³

Data on the number of beneficiaries of temporary protection registered in IEFP or employed by the end of the year was not available at the time of writing. According to information provided by ISS, 12,500 Ukrainian citizens accessed the labour market in 2023.

2. Access to education

According to the Temporary Protection Act, child beneficiaries of temporary protection are entitled to access public education under the same conditions as nationals.²⁴⁸⁴

A Ministerial Order of the Ministry of Work, Solidarity and Social Security issued in April 2022, established special measures for the integration of children displaced from Ukraine in kindergarten and other leisure facilities, determining, inter alia, that the regular capacity of facilities may be exceptionally extended to ensure integration, and that such children are entitled to attend kindergarten free of charge.²⁴⁸⁵

DGE also reported that informal settings to promote the integration of children not attending other national services are also being developed. The so-called *Learn, Play, Grow Groups* are aimed at children up to 4 years old, accompanied by a caregiver, and may be implemented by entities such as municipalities and civil society organisations with the support of DGE.²⁴⁸⁶

In March 2022, the Directorate General for Education (*Direção-Geral de Educação*, DGE), adopted a circular-letter clarifying a number of aspects related to the swift integration of children displaced from

²⁴⁷⁸ Decree-Law no.28-B/2022, of 25 March 2022, available at: <https://bit.ly/400F6mE>.

²⁴⁷⁹ Ibid, article 4.

²⁴⁸⁰ Article 4 Decree-Law no.24-B/2022, 11 March 2022, available at: <https://bit.ly/3la6RL1>.

²⁴⁸¹ [Justiça.gov.pt, Acolhimento e integração de cidadãos ucranianos em Portugal](https://tinyurl.com/68jx7baa), available at: <https://tinyurl.com/68jx7baa> (section on Employment).

²⁴⁸² Further information on identification of relevant courses and opportunities is available at: [Justiça.gov.pt, Acolhimento e integração de cidadãos ucranianos em Portugal](https://tinyurl.com/68jx7baa), available at: <https://tinyurl.com/68jx7baa> (Learning Portuguese section).

²⁴⁸³ Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2023*, pp.217 et seq, July 2023. While the reports produced by the OM were previously available online, at the time of writing it was not possible to access them online, neither in the website of ACM, which was still online, nor in the website of AIMA.

²⁴⁸⁴ Article 16 Temporary Protection Act.

²⁴⁸⁵ Ministerial Order no. 138/2022, of 8 April 2022, available at: <https://bit.ly/3Jiou34>.

²⁴⁸⁶ For more information, see: <https://bit.ly/41UnOZD>.

Ukraine in the national education system.²⁴⁸⁷ Notably, with regard to equivalences and school placement, it was determined that ensuring access and immediate integration is the priority, and that the rules established for asylum seekers are applicable. Additionally, the conversion tables of Ukrainian school system to the Portuguese school system apply. The circular-letter also reinforced that schools may adopt specific measures in order to support children whose first language is not Portuguese, also in line with what is established for applicants for international protection (see: [AIDA Country Report, Reception Conditions – Access to Education](#)). This circular-letter was complemented by two other issued in 2023, notably regarding access to online schooling provided by the Ukrainian authorities by child beneficiaries of temporary protection in Portugal.²⁴⁸⁸

DGE published guides on integration of Ukrainian children in pre-school education and in subsequent school levels.²⁴⁸⁹ With regards to integration in the school system, the guidance establishes, inter alia, that:

- ❖ Regarding students whose parents/legal representative choose to follow Ukrainian remote learning
 - No equivalences or certification is granted;
 - Students must be present in a Portuguese school during the online activities provided by Ukrainian schools;
 - Students must attend the Portuguese as second language subject, as defined by the relevant school;
 - Students are provided with the necessary resources such as IT equipment and work space;
 - The specificities of the implementation are defined by schools.
- ❖ Regarding students fully integrated in the Portuguese education system;
 - As mentioned above, the rules established for access to education by asylum seeking children are applicable to this group;
 - Their activities may be complemented by resources provided by the Ukrainian National Online School.

Neither DGE nor DGEstE were able to provide the number of child beneficiaries of international protection enrolled in the national education system by the end of 2023.

According to a report by the Centre for Social Studies (CES) for the Fundamental Rights Agency (FRA), the Ministry of Education informed that by February 2023, 4,488 child beneficiaries of temporary protection were enrolled in the national education system (from pre-school to secondary education levels). Of the number of child beneficiaries of temporary protection, CES estimated that 9,620 child beneficiaries of temporary protection were not included in the national education system.²⁴⁹⁰ This may be connected to the parents opting for their children to continue following teaching provided by Ukrainian schools.

According to the same report, there is no evidence of differential treatment between Ukrainian and non-Ukrainian children displaced by the conflict in access to education or other services.²⁴⁹¹

²⁴⁸⁷ DGE, *Ofício-Circular 10976/2022/DGE-DSDC-ECE*, 16 March 2022, available at: <https://bit.ly/3mlqxpw>.

²⁴⁸⁸ DGE, *Ofício-Circular 662/2023/DGE-DSDC-DEPEB*, 9 January 2023, available at: <https://tinyurl.com/3d3d9eky>; DGE, *Ofício-Circular 30172/2023/DGE-DSDC-DEPEB*, 14 June 2023, available at: <https://tinyurl.com/bdtk6adx>.

²⁴⁸⁹ DGE, *Integração de crianças refugiadas na educação pré-escolar*, 15 March 2023 (guidance for pre-school integration), available at: <https://bit.ly/3ZOabua> (in Portuguese); DGE, *Orientações para o acolhimento, a integração e a inclusão de crianças e jovens ucranianos*, April 2023 (guidance for subsequent education levels), available at: <https://bit.ly/4067mV3>.

²⁴⁹⁰ Centre for Social Studies, *Country research – Fundamental rights of children displaced in the EU following the Russian war of aggression – Portugal*, June 2023, p.11, available at: <http://tinyurl.com/2vc9b4zh>.

²⁴⁹¹ Centre for Social Studies, *Country research – Fundamental rights of children displaced in the EU following the Russian war of aggression – Portugal*, June 2023, p.12, available at: <http://tinyurl.com/2vc9b4zh>.

The report of the Observatory for Migration covering 2022 (and published in 2023) indicates that, according to official data, a total of 4,907 child beneficiaries of temporary protection were enrolled in the national school system, which amounted to 35% of the child beneficiaries of international protection at the time.²⁴⁹² According to the same source, information regarding the remaining children was not available.²⁴⁹³

UNICEF has also flagged concerns regarding the low number of child beneficiaries of temporary protection enrolled in the national education system, noting that factors such as the feeling that the displacement will be temporary, as well as social and housing instability may increase non-enrolment.²⁴⁹⁴

UNICEF has also noted that issues such as reconciling the distance learning provided by the Ukrainian authorities with integration in the Portuguese system, and the impact of forced displacement in the well-being of children and their families may have had an impact in access to education in Portugal by child beneficiaries of temporary protection.²⁴⁹⁵

The implementation of the specific measures related to Education is monitored by a group composed of different bodies of the Ministry for Education, ACM, and others.²⁴⁹⁶ It is unclear whether this has been impacted by the termination of ACM's operations.

DGE also reported that language resources on Portuguese language for non-native speakers were made available through the public radio and television.²⁴⁹⁷

At the time of writing, no evaluation of the adopted measures was publicly available.

With regard to higher education, Decree-Law no.24-B/2022, of 11 March 2022,²⁴⁹⁸ established that beneficiaries of temporary protection may request the application of the “student in an emergency situation for humanitarian reasons” status (see [General Report - Access to Education](#)).²⁴⁹⁹ Access to such status was clarified by Decree-Law no.28-A/2022, of 25 March,²⁵⁰⁰ establishing inter alia, that:

- ❖ Requests may be presented at any time to the relevant higher education institutions;
- ❖ Students in this situation may require registration in a higher education institution/degree congeneric to the one previously attended (same academic level and equivalent training);
- ❖ The integration of student beneficiaries of temporary protection is not limited by *numerus clausus* regularly applicable, and may occur in all levels of higher education, including in the field of Medicine;

²⁴⁹² Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2023*, pp. 210-211, July 2023. While the reports produced by the OM were previously available online, at the time of writing it was not possible to access them online, neither in the website of ACM, which was still online, nor in the website of AIMA.

²⁴⁹³ Ibid. See also: NOVA Asylum Policy Lab, *Policy Brief – The reception of displaced persons from Ukraine in Portugal*, pp. 20 et seq. January 2023, available at: <https://tinyurl.com/ymcxup8f>.

²⁴⁹⁴ Information provided by UNICEF to the 2023 AIDA Update. In 2023, UNICEF prepared an awareness-raising vídeo in this regard. Available at: <https://tinyurl.com/ysvxfpkh>

²⁴⁹⁵ Information provided by UNICEF to the 2023 AIDA Update.

²⁴⁹⁶ Information previously available at: *Portugal for Ukraine, Educação*, available at: <https://bit.ly/3Fpa1kK> (in Portuguese). At the time of writing, the website was unavailable.

²⁴⁹⁷ RTP Ensina, *Português para Ucrânianos*, available at: <https://tinyurl.com/2cjp7wbd>.

²⁴⁹⁸ Article 3.

²⁴⁹⁹ Article 8-A Decree-Law no.36/2014, of 10 March 2014, added by Decree-Law no. 62/2018, of 6 August 2018, available at: <https://bit.ly/3FoqvcT>.

²⁵⁰⁰ Article 2.

- ❖ If documentary evidence of the qualifications is not available, the higher education institutions may resort to alternative verification methods;²⁵⁰¹
- ❖ Student beneficiaries of temporary protection that were already enrolled in higher education may also request the “student in an emergency situation for humanitarian reasons” status.

The same Decree-Law also establishes that beneficiaries of temporary protection holding foreign certificates or diplomas that are not sufficient for recognition in Portugal must be ensured access to a higher education institution granting a degree in the same field, upon request, as well as the rules applicable to such procedures.²⁵⁰²

The Directorate-General for Higher Education (*Direção-Geral do Ensino Superior*, DGES), and the national ERASMUS+ Agency, both published resources with information on access to higher education in Portugal, social support in higher education, and recognition of academic degrees and diplomas, both in Portuguese and Ukrainian.²⁵⁰³

Requests for “student in an emergency situation for humanitarian reasons” status, must be filled with proof that the applicant is a beneficiary of temporary protection.²⁵⁰⁴ Admission to higher education institutions may be granted with exemption from some of the regular admission requirements, such as knowledge of the teaching language, and specific academic qualifications.²⁵⁰⁵

Students with this status may also request financial support to attend higher education, with exceptional conditions applying, such as a simpler process to determine eligibility.²⁵⁰⁶

The report of the Observatory for Migration covering 2022 (and published in 2023) indicates that in the 2022/2023 school year, a total of 366 students displaced from Ukraine had this status.²⁵⁰⁷

As mentioned in [Access to the Labour Market](#),²⁵⁰⁸ requests for the recognition of qualifications of beneficiaries of temporary protection have priority, and are exempted from a number of bureaucratic requirements such as legalisation of documents issued by foreign entities, certification of copies, and recognition of translations. Applicants are also exempted from the payment of fees.

In June 2022, it was reported in media outlets that Medical Schools were granting differentiated treatment to Ukrainian and non-Ukrainian beneficiaries of temporary protection. According to the reports, while Ukrainian beneficiaries were integrated in the institutions, non-Ukrainian beneficiaries were not given swift answers and the institutions claimed that the situation of those two groups was not similar, and that there were capacity limitations to consider. According to the same article, the ministry of Higher Education claimed that it did not consider that the legal framework allowed such a differential treatment.²⁵⁰⁹ It is unclear whether similar cases occurred in 2023.

At the time of writing, no evaluation of the adopted measures was publicly available.

²⁵⁰¹ Such as interviews and tests while the national authorities finalize accession to the European Qualifications Passport for Refugees. See Agência Nacional ERASMUS+, *Nota Estudantes em situação de emergência humanitária*, p.2, available at: <https://bit.ly/3ZDYnL3>.

²⁵⁰² Article 3 Decree-Law no.28-A/2022, of 25 March 2022, available at: <https://bit.ly/3Fn4F9V>.

²⁵⁰³ Available at: <https://bit.ly/3FnosFX> and <https://bit.ly/3ZDYnL3>, respectively.

²⁵⁰⁴ Request for registration for temporary protection is not sufficient. See: Agência Nacional ERASMUS+, *Nota Estudantes em situação de emergência humanitária*, p.2, available at: <https://bit.ly/3ZDYnL3>.

²⁵⁰⁵ Ibidem.

²⁵⁰⁶ Ibid, p.4.

²⁵⁰⁷ Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2023*, p.213, July 2023. While the reports produced by the OM were previously available online, at the time of writing it was not possible to access them online, neither in the website of ACM, which was still online, nor in the website of AIMA.

²⁵⁰⁸ Article 6 Decree-Law no.24-B/2022, 11 March 2022, available at: <https://bit.ly/3la6RL1>.

²⁵⁰⁹ Público, *Há escolas de Medicina que só estão a aceitar alunos ucranianos e excluem outros refugiados*, 19 June 2022, available at: <https://bit.ly/3TgboLi> (in Portuguese; access to the article is restricted by a paywall).

According to DGES, until September 2022, a total of around 330 requests for recognition of academic degrees were filed by Ukrainian citizens, of which around 100 belonged to beneficiaries of temporary protection.²⁵¹⁰ Information for 2023 was not available at the time of writing.

F. Social welfare

The Temporary Protection Act provides for the right of beneficiaries of temporary protection to access social welfare benefits and means of subsistence in the absence of personal resources.²⁵¹¹

The Council of Ministers determined that such benefits are to be granted to beneficiaries of temporary protection that do not have sufficient resources, and that beneficiaries of temporary protection must receive treatment equal to that granted to refugees in accessing non-contributory social welfare benefits.²⁵¹²

In particular, beneficiaries of temporary protection with insufficient resources may access the Social Reinsertion Revenue (*Rendimento Social de Inserção*, RSI) and child-related allowances (see [AIDA Country Report, Content of Protection – Social Welfare](#)). Requests for such allowances must be filled in the Social Security Institute (*Instituto de Segurança Social*, ISS).

Additionally, an extraordinary support allowance for particularly vulnerable families was created in March 2022.²⁵¹³ According to the law, this allowance was meant to support families that were particularly exposed to the increase of food prices.²⁵¹⁴ Beneficiaries of temporary protection were able to access this support if they fulfilled the relevant criteria. In 2022, it consisted of a one-time allowance of € 60 per family unit, paid in April 2022.²⁵¹⁵ It was automatically granted by ISS based on the information available to the entity.²⁵¹⁶ In 2023, the amount of the extraordinary allowance (reframed as a measure to mitigate the impacts of inflation) was of € 30 per family unit per trimester.²⁵¹⁷

Beneficiaries of temporary protection may also access support provided by a social worker, and may resort to the Social Emergency Hotline²⁵¹⁸ in case of need.²⁵¹⁹

According to the information provided by ISS, by the beginning of January 2024, a total of 58,381 social security identification numbers (NISS) had been granted to beneficiaries of temporary protection. ISS also reported that 24,552 beneficiaries had been approved for some measure of social welfare assistance (general system), with 23,076 already receiving/having received them at the time. ISS further reported that, in 2023, 8,399 beneficiaries had been granted an extraordinary allowance for vulnerable families, and 10,682 beneficiaries had been granted an extraordinary allowance for persons whose income relied on social welfare allowances.

According to the information provided by ISS, occasional delays in accessing social benefits are related to technological challenges.

²⁵¹⁰ RTP Madeira, *Portugal já reconheceu qualificações académicas de 100 refugiados ucranianos*, 25 November 2022, available at: <https://bit.ly/42g2Fds>.

²⁵¹¹ Article 15(2) Temporary Protection Act.

²⁵¹² Resolution of the Council of Ministers no.29-A/2022, of 1 March 2022, last amended by Resolution of the Council of Ministers no.135/2022, of 28 December 2022, par.12 and 13, available at: <https://bit.ly/3HWIUjU>.

²⁵¹³ Articles 4–8 Decree-Law no.28-A/2022, of 25 March 2022, available at: <https://bit.ly/3Fn4F9V>.

²⁵¹⁴ Ibid, article 4.

²⁵¹⁵ Ibid, article 6.

²⁵¹⁶ Ibid, article 7.

²⁵¹⁷ Article 2(2) Decree-Law no.21-A/2023, of 28 March, available at: <https://tinyurl.com/49pa7ake>. The Decree-Law also established an additional allowance for children (article 3).

²⁵¹⁸ A 24h/day line, reachable by dialling 144.

²⁵¹⁹ *Portugal for Ukraine, Apoio Social*, available at: <https://bit.ly/3TfrbXY> (in Portuguese).

G. Health care

The Temporary Protection Act provides for the right of beneficiaries of temporary protection to medical assistance, comprising emergency care and primary health care.²⁵²⁰ It further determines the provision of assistance (medical and other) to beneficiaries of temporary protection with special needs such as unaccompanied children, victims of torture, violations or other forms of moral, physical or sexual violence.²⁵²¹

The Resolution of the Council of Ministers concerning temporary protection determines that the grant of protection is communicated to the national health services *ex officio* by SEF, and a National Healthcare System number is automatically granted to each beneficiary.²⁵²² According to the information publicly available, the issuance of the user number entitles beneficiaries of temporary protection to access all the services provided by the National Healthcare System (which is public and mainly free).²⁵²³

In order to have a family doctor assigned, beneficiaries of temporary protection must then register in the health care unit of their area of residence.²⁵²⁴ According to the information previously available at the Portugal for Ukraine website, a specific medical service for children coming from Ukraine was set up, with referrals made by phone. According to the same source, these appointments were supported by an interpreter and allowed doctors to make the necessary referrals to specialist services.²⁵²⁵

Regarding vaccination, in March 2022, the Directorate-General for Health (*Direção-Geral de Saúde*, DGS), published a technical note on vaccination of persons within the context of displacement from Ukraine. It reinforces the right of all persons present in Portugal to access vaccination in line with the National Plan, establishes technical criteria for administration of vaccines and defines priorities considering the epidemiologic situation in the country of origin.²⁵²⁶

²⁵²⁰ Article 15(4) Temporary Protection Act.

²⁵²¹ Article 15(5) Temporary Protection Act.

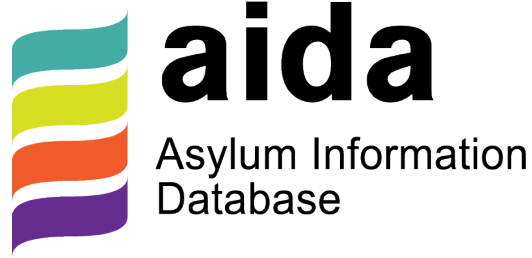
²⁵²² Resolution of the Council of Ministers no.29-A/2022, of 1 March 2022, last amended by Resolution of the Council of Ministers no.135/2022, of 28 December 2022, par.8, available at: <https://bit.ly/3HWIUjU>.

²⁵²³ [Justiça.gov.pt](https://tinyurl.com/68jx7baa), *Acolhimento e integração de cidadãos ucranianos em Portugal*, available at: <https://tinyurl.com/68jx7baa> (section on Health). Basic fees apply based on the social and economic situation of each person, with a number of exemptions provided in the law. For more information on applicable fares and exemptions see: Serviço Nacional de Saúde, *Guia do Utente*, available at: <https://tinyurl.com/ykc2fs9x>

²⁵²⁴ *Ibidem*.

²⁵²⁵ The *Portugal for Ukraine* portal was unavailable at the time of writing.

²⁵²⁶ DGS, *Norma n.º 003/2022*, 19 March 2022, available at: <https://bit.ly/3YIBdlq> (in Portuguese).



Romania

2023 Update



Temporary Protection Procedure

A. General

The Romanian Asylum Act provides that temporary protection is granted in case the Council of the European Union establishes the existence of a massive flow of displaced persons.²⁵²⁷ Romania may propose the issuance of a decision stating the existence of a massive flow of displaced persons to the Council of the European Union. The proposal should include a description of the specific groups of persons to whom the temporary protection will apply, the date on which the temporary protection would take effect and an estimate of the scale of movements of the displaced persons.²⁵²⁸

In case temporary protection is granted by a decision of the Council of the European Union, the Romanian Government, at the proposal of the IGI, issues a decision with the concrete conditions for ensuring the temporary protection of displaced persons on its territory will be provided, as well as the source of financing the expenses to provide temporary protection.²⁵²⁹

Soon after the outbreak of the conflict in Ukraine, a taskforce was set up at government level to monitor the situation and coordinate measures. After meetings on 26 and 27 February 2022, it was concluded that amendments to the existing legal framework were necessary in order to ensure the capacity to respond to the situation on the ground. Consequently, on 27 February 2022 the Government adopted the Emergency Ordinance 15/2022, which was amended by Government Ordinance 20/2022.

On 18 March 2022, according to the provision of the Asylum Act, based on Council Decision (EU) 2022/382, the Romanian Government issued Government Decision No. 367/2022 regarding the establishment of conditions for ensuring temporary protection, as well as for the amendments of some normative acts in the field of foreigners.

On the most essential applicable laws in force concerning temporary protection in Romania, see the following table:

Title (EN)	Original Title (RO)	Web Link
Act No. 122 of 4 May 2006 on Asylum in Romania <i>Last updated: 3 September 2016</i>	Legea nr. 122 din 4 mai 2006 privind azilul în România Formă actualizată: 3 septembrie 2016	http://bit.ly/2g3FTjf (RO)
Government Emergency Ordinance No. 15/2022 regarding the mechanisms of support and humanitarian assistance by the Romanian state to foreign citizens or stateless persons in special situations, coming from Ukraine 27 February 2022	ORDONANȚĂ DE URGENȚĂ nr. 15 din privind acordarea de sprijin și asistență umanitară de către statul român cetățenilor străini sau apatrizilor aflați în situații deosebite, proveniți din zona conflictului armat din Ucraina 27 februarie 2022	https://bit.ly/3BMIEjL (RO)

²⁵²⁷ Art. 131 para. 1 Asylum Act

²⁵²⁸ Art. 131 para. 2 Asylum Act

²⁵²⁹ Art. 131 para. 4 Asylum Act

<p>Government Decision No 368 from 26 April 2023 for establishing the amounts, conditions and mechanism for granting financial aid as set up by Government Emergency Ordinance No. 15/2022</p>	<p>Hotărârea nr. 368 din 26 aprilie 2023 pentru stabilirea cuantumului, condițiilor și a mecanismului de acordare a sumelor forfetare potrivit Ordonanței de urgență a Guvernului nr. 15/2022 privind acordarea de sprijin și asistență umanitară de către statul român cetățenilor străini sau apatrizilor aflați în situații deosebite, proveniți din zona conflictului armat din Ucraina.</p>	<p>https://bit.ly/3KuQ6TL (RO)</p>
<p>Government Ordinance No. 20/2022 regarding the support and humanitarian assistance to children, adults, people with disabilities, and all Ukrainians who come to Romania 8 March 2022</p>	<p>ORDONANȚĂ DE URGENȚĂ nr. 20 privind modificarea și completarea unor acte normative, precum și pentru stabilirea unor măsuri de sprijin și asistență umanitară 8 Martie 2022</p>	<p>https://bit.ly/3lwLQ5F (RO)</p>
<p>Government Decision No. 367/2022 on Temporary Protection <i>TP Decree</i> 18 March 2022 Last modified: 2 September 2022 by Decision no. 1.077/2022</p>	<p>HOTĂRÂRE nr. 367 din 18 martie 2022 privind stabilirea unor condiții de asigurare a protecției temporare, precum și pentru modificarea și completarea unor acte normative în domeniul străinilor HOTĂRÂRE nr. 1.077 din 31 august 2022 pentru modificarea și completarea Hotărârii Guvernului nr. 367/2022 privind stabilirea unor condiții de asigurare a protecției temporare, precum și pentru modificarea și completarea unor acte normative în domeniul străinilor</p>	<p>https://bit.ly/3ICAjIn (RO)</p>
<p>Government Decision no. 336/2022 for establishing the mechanism by which natural persons, who host Ukrainian refugees, benefit from the reimbursement of food expenses 11 March 2022</p>	<p>HOTĂRÂRE nr. 336 din 11 martie 2022 privind stabilirea mecanismului de decontare din bugetul inspectoratelor județene pentru situații de urgență / Inspectoratului pentru Situații de Urgență București-Ilfov a cheltuielilor cu hrana cetățenilor străini sau apatrizilor aflați în situații deosebite, proveniți din zona conflictului armat din Ucraina, găzduiți de persoane fizice, precum și pentru alocarea unei sume din Fondul de rezervă bugetară la dispoziția Guvernului, prevăzut în bugetul de stat pe anul 2022, pentru suplimentarea bugetului Ministerului Afacerilor Interne 11 Martie 2022</p>	<p>https://bit.ly/3OzGTg0 (RO)</p>

<p>Government Decision no. 337/2022 on the granting of gratuities and facilities for the transport of foreign nationals or stateless persons in special situations from the area of armed conflict in Ukraine 12 March 2022</p>	<p>Hotararea 337/2022 privind acordarea de gratuități și facilități pentru transportul cetățenilor străini sau apatrizilor aflați în situații deosebite, proveniți din zona conflictului armat din Ucraina 12 martie 2022</p>	<p>https://bit.ly/3ICBbGF (RO)</p>
<p>Ministry of Education Order no. 3325/2022 on the recognition and award of transferable study credits for Ukrainian students with no documents that prove their studies 3 March 2022</p>	<p>ORDIN nr. 3.325 din 2 martie 2022 privind completarea anexei la Ordinul ministrului educației nr. 5.140/2019 pentru aprobarea Metodologiei privind mobilitatea academică a studenților 3 martie 2022</p>	<p>https://bit.ly/3BRH2UH (RO)</p>
<p>Government Emergency Ordinance no. 100 regarding the approval and implementation of the National Plan of Measures regarding the protection and inclusion of displaced persons from Ukraine, beneficiaries of temporary protection in Romania 29 June 2022</p>	<p>ORDONANȚĂ DE URGENȚĂ nr. 100 din 29 iunie 2022 privind aprobarea și implementarea Planului național de măsuri cu privire la protecția și incluziunea persoanelor strămutate din Ucraina, beneficiare de protecție temporară în România, precum și pentru modificarea și completarea unor acte normative</p>	<p>https://bit.ly/3MuemWO (RO)</p>

According to UNHCR, in 2023 there was no significant number of non-Ukrainians who were displaced directly or indirectly by the conflict. IGI-DAI reported that 428 other nationalities (non-Ukrainians) registered for temporary protection in Romania throughout the year.

According to UNHCR's Operational Data Portal, the top 5 nationalities of third-country nationals who became beneficiaries of temporary protection are: Russian Federation - 112, Republic of Moldova - 103, Iraq - 34, Israel - 18, Azerbaijan - 15.

In 2023, the Border Police recorded 2,467,487 entries into Romania from Ukraine and Moldova, out of which 300,808 were third-country nationals and the rest Ukrainians. The authorities also registered a total of 1,872,099 exits from Romania to Ukraine, although it is admitted that this number might also include a share of pendular movement.

According to UNHCR, in 2023 51,984 Ukrainians obtained temporary protection in Romania. This brings the total number of Ukrainians who received temporary protection in Romania to 148,409, according to data centralised on 15 February 2024. According to the data aggregated on 10 December 2023, there were 83,675 refugees from Ukraine present in Romania.²⁵³⁰

IGI implements the temporary protection procedure in Romania. They reported that a large number of employees was involved in registering beneficiaries of temporary protection, a situation that carried over in 2023. Employees were assigned to this task, including through changes to their job description. Furthermore, the number of responsible staff was dependent on the number of beneficiaries who wanted to register, so an exact number of staff involved in this procedure cannot be provided.

²⁵³⁰ UNHCR, Romania Annual 2023 Overview: Ukraine Refugee Situation Update, 31 December 2023, available at: <https://bit.ly/3Vrlitn>.

IGI-DAI underlined that in the case of temporary protection, persons are considered beneficiaries of this type of protection based on Council Decision 382/2022 and not based on any request lodged.

As of 10 December 2023, the total number of individuals registered for temporary protection in the country was 149,493, according to the data provided by the Government of Romania. Women and children made up 73% of this refugee cohort.²⁵³¹

B. Qualification for temporary protection

Until 2 September 2022, in line with the Council Implementing Decision, the Temporary Protection Decree²⁵³² provided that the following persons may apply for temporary protection:

- (a) Ukrainian nationals residing in the territory of Ukraine before 24 February 2022;
- (b) stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection (for example, having a refugee status) or equivalent national protection in Ukraine before 24 February 2022;
- (c) family members of the persons referred to in points (a) and (b)
- (d) stateless persons, and nationals of third countries other than Ukraine, who can prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit issued in accordance with Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin.
- (e) other close relatives who lived together as part of the family unit at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent on a person referred to in point (a) or (b) at the time.

The following persons shall be considered as family members: spouses, minor children who have not reached the age of 18, unmarried, without distinction as to whether they were born in or out wedlock or adopted. Close relatives, in the sense of point c), are the ascendants and descendants up to the second degree, respectively collateral relatives up to the third degree.

As of 2 September 2022, when the Temporary Protection Decree was amended by the Decision 1077/2022, the scope of temporary protection was broadened as follows:

- (a) Ukrainian citizens, regardless of the time of arrival in Romania, and their family members;
- (b) third-country nationals non-Ukrainians or stateless persons who benefited in Ukraine before 24.02.2022 from international protection or an equivalent national form of protection, regardless of the time of arrival in Romania, and their family members;
- (c) third-country nationals non-Ukrainians or stateless persons who left Ukraine on or after 24.02.2022 and who prove that they have legal residence in Ukraine, based on a permanent residence permit issued in accordance with Ukrainian legislation, and who are unable to return in safe and durable conditions to their country or region of origin and their family members - if the sponsor is recognised by the Romanian authorities as a beneficiary of temporary protection.²⁵³³

²⁵³¹ UNHCR Operational Data Portal, 2023 Romania Refugee Response Plan, available at: <https://bit.ly/3XsnK4r>.

²⁵³² Art. 1 para 2 a), b) and c) and para. 2[^]1 and para. 2[^]2 TP Decree.

²⁵³³ IGI, Information on the new legislative provisions regarding the expansion of the categories of persons, refugees from Ukraine, who can be granted temporary protection, available in Romanian at: <https://bit.ly/430M7Gg>.

Family members of the persons referred to in letter a) and b) are, regardless of their nationality:

- ❖ spouses (legally married);
- ❖ unmarried minor children of the beneficiaries or of the spouse, whether they were born in or out wedlock or adopted;
- ❖ other close relatives who lived together, as part of the family, when the events that led to the massive influx of displaced persons took place and who were at that time totally or mainly dependent on the person provided for in a) or b) who benefit from temporary protection;
- ❖ Other close relatives who lived together, as part of the family, when the events that led to the massive influx of displaced persons took place and on whom the person provided for in a) or b) was at that time totally or mainly dependent, and who cannot return, under safe and stable conditions, to their country or region of origin. In this situation, kinship in the direct line up to the second degree (parents, grandparents, children, grandchildren) is considered, respectively kinship in the collateral line up to the third degree (brothers, sisters, uncles, aunts, nephews of brothers).²⁵³⁴

People fleeing Ukraine who do not fall under the scope of the temporary protection regime may make an asylum application.

Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a massive influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC and having the effect of introducing temporary protection was extended until 4 March 2024. Permits issued to beneficiaries of temporary protection in Romania are valid for the entire period of application of the EU Decision, thus they will be automatically extended, no request in this regard being necessary.

Third-country nationals who left Ukraine after 24 February 2022 due to Russia's aggression and who requested temporary protection from the Romanian state, were also allowed to enter the country, even if they were not in possession of a valid travel document pursuant to Council Implementing Decision (EU) 2022/382.

428 other nationalities (non-Ukrainians) registered for temporary protection in Romania, throughout 2023.²⁵³⁵

C. Access to temporary protection and registration

1. Admission to territory

There are no reports or testimonies in 2023 suggesting that anyone fleeing Ukraine was refused entry at the Ukrainian-Romanian border crossing points during the year. The Border Police reported that the highest influx of third-country nationals who arrived (directly or indirectly through the territory of the Republic of Moldova) from the conflict zone was recorded in the first month after the beginning of the war in Ukraine, and they were allowed to enter the country, without requiring an entry visa, regardless of the type of document held, for humanitarian reasons, in accordance with the provisions of Article 6(5) of Regulation (EU) 2016/399. This situation was also applicable to those in transit.

Third-country nationals, who left Ukraine after 24 February 2022, due to Russia's aggression, and who requested temporary protection from the Romanian state, were also allowed to enter the country, even if they were not in possession of a valid travel document pursuant to Council Implementing Decision (EU) 2022/382. Thus, the Border Police ensured access to asylum/temporary protection procedures for

²⁵³⁴

Ibid.

²⁵³⁵

UNHCR Operational Data Portal, 2023 Romania Refugee Response Plan, available at: <https://bit.ly/3XsnK4r>.

all persons who requested it (at border crossing points or in the border area/green border - in the case of persons who fraudulently crossed the state border) as a form of protection from the Romanian state. In addition, the Border Police emphasised that, in the context of Russia's aggression against Ukraine, the application of the Agreement between the European Union and Ukraine on readmission has been suspended, which means that there were no return procedures carried out for any persons detected by the border police, in connection with the unauthorised crossing of the state border from Ukraine in Romania.

2. Freedom of movement

There are no reports that individuals entitled to temporary protection not holding a biometric passport or biometric travel document experienced any issue in moving within the country territory or while attempting to continue their journey towards other European countries.

3. Registration under temporary protection

The authority responsible for registering the temporary protection application in Romania is IGI. At the time of presenting themselves to the authorities, the following steps will be undertaken:

- ❖ signing a consent form regarding the processing of personal data;
- ❖ the personal documents they present are photocopied;
- ❖ the personal documents are verified;
- ❖ the person is photographed;
- ❖ the following personal data are recorded: surname and first name, date of birth, citizenship, sex, identity, civil status, family situation, family ties, address in Romania (if known);
- ❖ the persons receives a residence permit in Romania with a personal numerical code (*'cod numeric personal / CNP'* in Romanian).

There is no need to present a proof of the address where the person lives in Romania, if this is not possible.

Each person wishing to be registered needs to be physically present, in order to be photographed. Children must be present in order to be identified, photographed and registered.

Persons are considered beneficiaries of temporary protection under Council Decision 382/2022 and not based on a request that is further assessed like an asylum request. However, there are two exceptions, when temporary protection is assessed, namely: for an assessment of return to the country of origin for some categories of non-Ukrainian citizens and in cases of exclusion from temporary protection, when a decision may be appealed against. No such cases were reported for 2023.

IGI-DAI reported that all beneficiaries registered are communicated to the EU Platform.

At the beginning of the conflict, Ukrainian citizens did not express the intention to apply for temporary protection, because they believed that within 90 days the conflict would end and there would be no need to register. During this period, IGI-DAI provided information on temporary protection to persons accommodated in public owned spaces, such as schools. NGOs also provided them with information on this. Persons living in cities with no IGI-DAI centre to register temporary protection, were provided with transport by the government to register.

Ukrainian citizens and third-country nationals fleeing Ukraine, who entered Romania with any kind of documents, can remain legally in Romania for up to 90 days, even if they do not register as beneficiaries of temporary protection. They may register as a beneficiary of temporary protection in Romania throughout the period of validity of the temporary protection.

The relevant documents for registration as a beneficiary of temporary protection are, depending on the situation, the following:

- ❖ identity documents (identity card, driving licence, travel document or any other authentic document with a photograph);
- ❖ documents which prove the status of the person in Ukraine (for example, permanent residence permit, document issued to beneficiaries of international protection, etc.);
- ❖ documents which prove the family ties (for example, family card, birth / marriage certificate, etc.).

Upon registration the person receives a residence permit in Romania with a personal numerical code (*'cod numeric personal / CNP'* in Romanian).

No problems were reported with registration. Registration was done swiftly, no delays reported.

Individuals who have been excluded from the granting of temporary protection or family reunification can appeal against the rejection decision issued by the IGI-DAI. The decision may be challenged within 10 days from the communication. The court renders a definitive decision within 30 days.²⁵³⁶ No such cases were reported.

In 2023, 25,484 women and 26,928 men applied for temporary protection in Romania. Out of these, 14,120 were minors, including 611 unaccompanied and separated children. 428 of those who obtained temporary protection were of other nationalities (non-Ukrainian).²⁵³⁷

4. Legal assistance

In order to ensure the most complete information about the legal regime of refugees in Ukraine, the National Union of Romanian Bars (UNBR) and the bars in the country provide a bilingual Romanian-Ukrainian Guide, a hotline dedicated exclusively to Ukrainian citizens for legal information and a list (continuously updated) of lawyers who can provide free legal assistance, speaking English, French, Italian, Spanish, Hungarian, Russian and Ukrainian.

The Equality and Human Rights Action Centre (ACTEDO), a human rights organisation from Romania stands in solidarity with Ukraine and the Ukrainian people and provides pro bono legal assistance to people affected by the war started by Russia, joining the campaign "Lawyers for refugees" of the National Union of Romanian Bar Associations.

Out of the 34 implementing partners gathered under the Regional Refugee Response Plan (RRP), UNHCR lists 19 carrying out protection-related activities. These organisations reported combined activities of "legal counselling and assistance" that reached 78,471 persons in 2023. Besides that, there were 19,908 persons that received counselling support through helplines and 54,937 persons who had their cases referred to specialised services. Other protection-related activities include capacity-building for practitioners and volunteers, awareness-raising (on the availability of services and on the dangers of sexual exploitation, abuse and harassment), psychological support, cash assistance (partly) and promotion of social cohesion. Legal assistance activities are undertaken throughout the country and with a stronger emphasis on the north-eastern part of the country (along the border with Ukraine) and in large urban areas. More than half of the people targeted under protection activities were women (52.59%), followed by men (19.75%), girls (14.96%) and boys (12.69%).

Specifically on the topic of legal assistance, the RRP has the following organisations providing assistance: CNRR, FONSS, IOM, Migrant Integration Centre Brasov, NRC, PATRIR, Sensiblu. Their

²⁵³⁶ Art. 142 Asylum Act.

²⁵³⁷ UNHCR Operational Data Portal, 2023 Romania Refugee Response Plan, available at: <https://bit.ly/3XsnK4r>.

activity in 2023 was mainly focused in the areas along the RO-UKR border (North and Eastern part of the country) and in areas in the centre of the country (such as Brasov).²⁵³⁸

5. Information provision and access to NGOs

The Asylum Act provides the right for beneficiaries to be informed, in writing, in a language they are expected to understand, of the provisions relating to temporary protection.²⁵³⁹

To facilitate refugees' access to response services, one-stop centres, such as Blue Dots and the integrated support hub at RomExpo in Bucharest have been established and provide a comprehensive set of services and support, from registration to material items to information and counselling. Help lines and information websites were also launched.²⁵⁴⁰

UNHCR reported that in 2023, through the RRP, 88 accommodation sites and facilities were supported. These were mainly located in the North-Eastern part of the country, in areas along the border with Ukraine. In addition to this, 13 Blue Dot spaces operated throughout the year (also close to border areas).²⁵⁴¹

Dopomoha (Help) is a web support and information platform for migrants fleeing the war in Ukraine, where they may find up to date information in Romanian, Ukrainian English and Russian on entry requirements, education, labour and other useful information. The website was created by Code for Romania in partnership with the Department for Emergency Situations (DSU), UNHCR, IOM and CNRR ING Bank.

The government also established an information website in Romanian and Ukrainian with detailed information upon arrival in Romania, education, health, labour, legal assistance and others.²⁵⁴²

IGI-DAI also published useful information for people fleeing from Ukraine on their website.²⁵⁴³

A call centre supported by IOM, UNHCR, UNICEF and WHO, was also established. It is available on weekdays (Mon-Fri, 8:00 – 16:00) and provides information on rights and services in the following areas: health, education, social protection and labour.²⁵⁴⁴

With the support of UNHCR, AIDRom implements a project providing support to Ukrainian refugees who are settled in the Western part of the country (Timisoara, Arad and Oradea). The main activities were centred around access to information, legal advice and referral to social services for a target of at least one thousand Ukrainian nationals.

According to the Border Police after the completion of the border formalities, depending on the support needed, persons fleeing Ukraine were referred to representatives of the local authorities, county council, NGOs and volunteers present in the vicinity of the crossing points.²⁵⁴⁵

²⁵³⁸ UNHCR Operational Data Portal, 2023 Romania Refugee Response Plan, available at: <https://bit.ly/3XsnK4r>.

²⁵³⁹ Art.133 para. (1) b) Asylum Act.

²⁵⁴⁰ UNHCR, Regional Refugee Response Plan - 2023 Romania Chapter, 28 February 2023, available at: <https://bit.ly/45BX9Dr>.

²⁵⁴¹ UNHCR Operational Data Portal, 2023 Romania Refugee Response Plan, available at: <https://bit.ly/3XsnK4r>.

²⁵⁴² Romanian Government, Department for accountability social community and vulnerable groups, available at: <https://bit.ly/3lQ1Nns>.

²⁵⁴³ See in Romanian: <https://bit.ly/3NeP4O5>.

²⁵⁴⁴ UNHCR, Inter-Agency Operational Update, March 2023.

²⁵⁴⁵ Border Police, 'Summary of Border Police activities carried out in 2022', available in Romanian at: <https://bit.ly/3WGQQKl>.

Under the Regional Refugee Response Plan, the 30+ partners provided specialised activities for informing refugees coming from Ukraine on several topics. These were listed under the specific working groups/ clusters overseen by UNHCR. For the entire 2023, UNHCR reported the following centralised numbers: awareness raising on services and refugee rights (91,792 persons), awareness raising on GBV-related issues (52,900 persons), information provision on trafficking (21,394 persons), awareness raising on sexual exploitation, abuse and harassment (96,129 persons), information on access to health services (28,344 persons). This was done at the national level, in numerous sites where activities take place, on individual basis, as well as in Blue Dot spaces (13 were reported to be operational during 2023), child-friendly spaces and community spaces²⁵⁴⁶.

D. Guarantees for vulnerable groups

According to UNHCR, reporting mechanisms have been in place since the early days of the refugee influx to identify and refer vulnerable refugees at the border points, including unaccompanied and separated children, persons with disabilities and persons with serious medical needs, to specialised NGOs and services.²⁵⁴⁷

Based on UNHCR reporting unaccompanied and separated children were referred to the government family tracing and reunification services, received appropriate support family and community alternative care arrangements, and legal counselling on access to relevant services and guardianship procedures.²⁵⁴⁸

There was also an open-source software, Primero, helping outreach workers identify and register refugee children, including unaccompanied and separated children, and to refer them to specialised services as needed. By the end of January 2023, the National Authority for the Protection of Child Rights and Adoption (NAPCRA) reported that 18,782 children had been registered. This is now seen as a good practice in the region with potential for developing cross-border case management and referral mechanisms.²⁵⁴⁹

Mental health and psychosocial support services are provided by several NGOs, such as IOM Romania, Terre des Hommes, Save the Children, World Vision and also WHO.²⁵⁵⁰ IOM Romania provides mental health and psychosocial support in several cities across Romania, including Bucharest, Brasov, Cluj-Napoca and Iasi, through a team of psychologists, caseworkers, and other specialised personnel from IOM and Implementing partners (IPs). In December, IOM organised individual counselling sessions for adults and children, group sessions, family counselling, formal and non-formal activities. The Migrant Integration Center, with support of the Danish Refugee Council, developed a mobile team to assist communities outside of the City of Brasov.

In the RRP, 11 partners work on health-related issues. Throughout the year, 8,115 people were reached through counselling consultation (in all the implementation sites of the partners). In addition to this, continuous high-volume activities were carried out for children; mental health and psychological support (including recreational services and group activities) reached 92,097 children.

²⁵⁴⁶ UNHCR Operational Data Portal, 2023 Romania Refugee Response Plan, available at: <https://bit.ly/3XsnK4r>.

²⁵⁴⁷ UNHCR, *Regional Refugee Response Plan - 2023 Romania Chapter*, 28 February 2023, available at: <https://bit.ly/45BX9Dr>.

²⁵⁴⁸ Ibid.

²⁵⁴⁹ Ibid.

²⁵⁵⁰ UNHCR, Inter-Agency Operational Update, March 2023.

In 2023, there were 51 984 Ukrainian nationals who obtained temporary protection in Romania. Out of these, 51.38% were male and 48.62% female. The population included a total of 14,120 children (7,461 boys and 6,659 girls).²⁵⁵¹

²⁵⁵¹ UNHCR Operational Data Portal, 2023 Romania Refugee Response Plan, available at: <https://bit.ly/3XsnK4r>.

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | Until 4 th March 2025 |
| 2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 3 February 2024? | 148,409 |

The General Inspectorate for Immigration issues the beneficiaries of temporary protection with a residence permit on the territory of Romania and assigns a personal identification number (*cod numeric personal / CNP* in Romanian). The residence permit and the personal numerical code are used in the interaction with the Romanian authorities in order to enjoy the specific rights attached to temporary protection.

Permits issued to beneficiaries of temporary protection in Romania are valid for the entire period of the application of the EU Decision, so they will be extended automatically, without the need for a request in this regard.

IGI-DAI reported that based on the guidelines of the EU Commission, beneficiaries of temporary protection enjoy freedom of movement, if they meet the legal travel conditions. Therefore, they have the

possibility to register in more than one Member State, nonetheless they may only benefit from the afforded rights in one country. A beneficiary of temporary protection may not relinquish his/her status, only the related rights afforded in a Member State.

There are two possibilities for renouncing the related rights:

1. Relinquishment or renunciation may be the result of an express request from the beneficiary made at one of the IGI structures. In this case he/she will be issued a document attesting this.
2. If the person is not physically present in Romania, such a request may be lodged at the Romanian Embassy or Consulate where he/she is present. After the administrative procedure the Embassy or Consulate will issue the above-mentioned document.

IGI-DAI mentioned that relinquishment of related rights does not imply a de-registration of the respective person. There have been no re-registrations of temporary protection status following return from Ukraine to Romania.

51,484 residence permits were issued to beneficiaries of temporary protection in 2023. No temporary protection permits were withdrawn.²⁵⁵²

2. Access to asylum

Beneficiaries of temporary protection can lodge an application for asylum at any time and have their application processed. If a person fleeing Ukraine makes an asylum request and, at the end of the asylum procedure, he/she is not granted a form of international protection (refugee status or subsidiary protection), he/she will continue to enjoy temporary protection until the expiry of the period for which it was granted.

60 Ukrainians made an asylum claim in Romania in 2023.

²⁵⁵² UNHCR, Ukraine Situation: Romania, Overview of Temporary Protection Directive, available at: <https://bit.ly/3Kr8sVP>.

B. Family reunification

The Asylum Act prescribes that in cases where families were already formed in the country of origin and were separated due to the circumstances during the mass flow, the following persons will be considered family members of the beneficiary of temporary protection:

- (a) wife/husband;
- (b) the unmarried minor of the beneficiary or of his/her spouse, without distinguishing whether he/she is born out of wedlock or adopted.

When one or some of the family members of the beneficiary of temporary protection are not yet in Romania, family reunification will be carried out if it is found that they need protection and are not in one of the cases provided for exclusion from temporary protection.²⁵⁵³

The national legislation does not include material requirements on accommodation, income or health insurance.

Family members are issued documents granting them permission to stay on the territory of Romania. The same residence permit as the beneficiary of temporary protection.

C. Movement and mobility

IGI-DAI reported that based on the guidelines of the EU Commission, beneficiaries of temporary protection enjoy freedom of movement, if they meet the legal travel conditions. Therefore, they have the possibility to register in more than one Member State, nonetheless they may only benefit from the afforded rights in one country. A beneficiary of temporary protection may not relinquish his/her status, only the related rights afforded in a Member State.

IGI-DAI reported that based on the guidelines of the EU Commission, beneficiaries of temporary protection enjoy freedom of movement, and can travel towards other EU MS once they are registered if they meet the legal travel conditions.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?
Not available
2. Number of persons fleeing Ukraine staying in collective centres as of 12/23
No longer applicable
3. Number of beneficiaries staying in private accommodation as of 12/2023 Not available

The majority of Ukrainian refugees in Romania live in urban and peri-urban areas, primarily in private accommodation within the host communities. Since 1 May 2023, the support program for housing dedicated to Ukrainian refugees in Romania was changed. This was based on decision no. 368 adopted by the Government on 26 April 2023, which established new amounts, conditions and mechanisms for granting lump-sum amounts for humanitarian assistance of Ukrainians. This decision firstly extended the period for providing assistance to refugees from Ukraine to 31 March 2024 (from the previous end-date of 31 December 2023). The amounts awarded were also changed: from the 50 RON/ day for

²⁵⁵³ Art. 135 Asylum Act.

accommodation and 20 RON/ day for food and subsistence, it was changed to 2000 RON/ month per family (750 RON/month for single persons) for accommodation and 600 RON/month, per person for food and subsistence. This aid is given for the first four months and starting with the fifth, the food and subsistence aid is suspended. In terms of legal requirements, the new procedure stipulates that:

- ❖ aid in the first month is given to those that were granted temporary protection and are registered with a local authority (city hall).
- ❖ in months 2-4, beneficiaries need to provide an employment contract or register with the local employment agency (exceptions are provided for students, persons living with disabilities, people older than 65 years, people with children under 2 years, respectively under 3 years if the child is disabled), have their kids enrolled in school or participating in educational activities run by NGOs.
- ❖ starting from month 5, in order to benefit from financial aid, refugees need to provide one of the following: proof of income in Romania or proof of enrolment in higher education; exceptions are made for persons living with disabilities, those caring for small children (under 2 years or age, respectively under 3 years if the child is disabled) and elderly persons (older than 65 years).²⁵⁵⁴

In addition to the larger national scheme in place, UNHCR reported that through the Regional Refugee Response Plan, in 2023, 3,090 persons were assisted to access collective accommodation, 140 were helped in finding private accommodation and 22 received cash assistance for renting a private accommodation.

People fleeing the war in Ukraine have been provided with housing in collective sites - public buildings such as schools, community services, where assistance, services and protection are available.

UNHCR reported that in 2023, through the RRP, 88 accommodation sites and facilities were supported. These were mainly located in the North-Eastern part of the country, in areas along the border with Ukraine. In addition to this, 13 Blue Dot spaces operated throughout the year (also close to border areas)²⁵⁵⁵.

IGI-DAI has no responsibilities for accommodation for beneficiaries of temporary protection.

E. Employment and education

1. Access to the labour market

Ukrainian citizens who do not have documents proving their professional qualification or experience wishing to work in Romania do not require a work permit for a period of 12 months, with the possibility of extension, by periods of 6 months, for a maximum of one year. They have to provide an affidavit of their professional qualification and experience and that they do not have a criminal record that is incompatible with the activity they carry out or are going to carry out in Romania.²⁵⁵⁶ They have to register with the territorial agencies for employment and have the right to be employed under the same conditions as Romanian citizens.

The provision mentioned before does not apply to Ukrainian citizens, who wish to access or practice in Romania, independently or as an employee, the professions of doctor, dentist, pharmacist, general medical assistant, midwife, doctor veterinarian and architect.²⁵⁵⁷

²⁵⁵⁴ Dopomoha.ro, available at: <https://bit.ly/4aO3Tzp>.

²⁵⁵⁵ UNHCR Operational Data Portal, 2023 Romania Refugee Response Plan, available at: <https://bit.ly/3XsnK4r>.

²⁵⁵⁶ Art. VI para. (3) GEO 20/2022.

²⁵⁵⁷ Art. VI para. (6) GEO 20/2022

Based on temporary protection, they are issued a residence permit for a period of 12 months, with the possibility of extension, which also allows them to work. Ukrainian citizens who want to work in Romania do not need a work permit or visa.

Access to the labour market is guaranteed under the conditions provided by law for Romanian citizens, although temporary protection beneficiaries cannot be employed in jobs that require Romanian citizenship or of an EU Member State or in public institutions with attributions and responsibilities in national security sector.

In 2023, a lower number of people registered with the regional state employment agencies (544 persons, compared to over 20,000 in the previous year). It is expected that this number will increase as the condition to continue receiving financial aid was linked to registration with one of the employment agencies (modification adopted in mid-2023). According to the Romanian Government, the highest number of active employment contracts recorded are in Bucharest (2,764), Timiș (355), Maramureș (362), Bistrița-Năsăud (322), Arad (269), Cluj (280), Constanța (263), Brașov (249), Ilfov (205), and Sibiu (202). The fields of activity with the highest number of registered employment contracts are: manufacturing industry (1,312), construction (1,146), trade (738), hotels and restaurants (735), information and communications (496), administrative services and support services (459).²⁵⁵⁸

2. Access to education

The Asylum Act prescribes that beneficiaries of temporary protection have the right to have access to the state education system under the conditions provided by law for Romanian citizens, in the case of beneficiaries of temporary protection who have not reached the age of 18.²⁵⁵⁹

GEO 15/2022 further expands on the right to education providing that minor children fleeing Ukraine have the right to education in educational institutions in Romania under the same conditions and with funding from the same budgets as for Romanian pre-schoolers and school aged children.

They have the right to free accommodation in boarding schools, food allowance, the right to receive school supplies, clothing, footwear, textbooks.²⁵⁶⁰

According to the Romanian Government, at the end of 2023 out of the total 46,812 Ukrainian children with temporary protection, 78% were enrolled in the education system, as auditors²⁵⁶¹ or pupils. At the preschool level, out of 14,290 children, 11,242 were auditing and 3,048 attended as pupils; at the primary school level, out of 10,620 children, 7,315 were auditing and 3,307 attended as pupils; at the secondary school level, out of 13,662 children, 8,915 were auditing and 4,747 attended as pupils.

UNHCR reported that under the Education cluster, 11 implementing partners provided services in various areas of Romania. In 2023, extracurricular and after-school activities (non-formal) were provided for 46,273 children and 38,830 children were enrolled in schools, with the support of the schemes put in place by the mentioned 11 organisations.²⁵⁶²

UNHCR reported that, as part of the RRP, in 2023 1,566 children benefited from Romanian language classes and another 551 from English language classes.²⁵⁶³

²⁵⁵⁸ Romanian Government, Report on the Integration of Ukrainian Refugees in Romania (covering February 2022 - December 2023), available at: <https://bit.ly/4aKkFiR>.

²⁵⁵⁹ Art.133 para. 1 g) Asylum Act

²⁵⁶⁰ Art.10 para. (1) a) and b) GEO 15/2022.

²⁵⁶¹ "Auditors" may attend classed, but are not officially enrolled in the class and they do not receive grades.

²⁵⁶² Romanian Government, Report on the Integration of Ukrainian Refugees in Romania (covering February 2022 - December 2023), available at: <https://bit.ly/4aKkFiR>.

²⁵⁶³ UNHCR Operational Data Portal, 2023 Romania Refugee Response Plan, available at: <https://bit.ly/3XsnK4r>.

Before enrolment, the state of health of children is examined in the educational facility and they are issued a medical document. If they are not vaccinated, they can benefit from the vaccination scheme according to the National Vaccination Program carried out by the Ministry of Health.

The GEO 15/2022 provides that after acquiring the status of observers, children with mobility impairments have the right to education or with chronic diseases in complex medical assistance units.²⁵⁶⁴

Beneficiaries of temporary protection may participate in free vocational training courses²⁵⁶⁵ organised by the National Employment Agency (ANOFM), if they are registered with one of the territorial employment agencies. Registration at the county employment agencies is done on the basis of the identity card, passport or any other document that certifies their identity.²⁵⁶⁶

For students or PhD candidates who cannot prove they have completed their studies with documents issued by the higher education institution he/she previously attended in Ukraine, the Romanian higher education institution evaluates their level based on its own criteria and respecting the best international practices, learning outcomes, competencies and skills and decides on the recognition and award of transferable study credits. The student or PHD candidate has to provide their diplomas before he/she finalises their studies in Romania.²⁵⁶⁷

In the academic years 2022-2023 and 2023-2024, Ukrainian nationals may benefit from funding from the state budget or other sources, through the Ministry of Education and, respectively, higher education institutions.²⁵⁶⁸

This was based on Order no. 3.325/2022 issued by the Ministry of Education, in place until 8 May 2024 when the new Order 4.262,²⁵⁶⁹ also issued by the Ministry of Education, repealed the previous one.

F. Social welfare

Access to free of charge social welfare is ensured for persons with disabilities accompanied or unaccompanied, elderly persons who come from the area of the armed conflict in Ukraine. The persons accompanying them also benefit from social services under the same conditions.²⁵⁷⁰

Local public administration authorities may hire, without competition, social workers or other specialised personnel, as appropriate, within the public social assistance services at local and county level and within the social services in which there are beneficiaries who come from the armed conflict area of Ukraine, depending on their needs, for a specific period of not more than 3 years.²⁵⁷¹

Public providers of social services, accredited under the law, can set up day care and public and private residential centres for adults with disabilities coming from Ukraine, depending on their needs, for a determined period, but not more than 3 years. These social services may be established in an urgent manner.²⁵⁷²

The authority responsible for granting social assistance is DGASPC- Directorate-General for Social Assistance and Child Protection.

²⁵⁶⁴ Art. 11 para. (6) b) GEO 15/2022.

²⁵⁶⁵ Art 133 para. (1) c) Asylum Act.

²⁵⁶⁶ Romanian Government, Work in Romania, available in Romanian and Ukrainian at: <https://bit.ly/3IJLA3q>.

²⁵⁶⁷ Art. 3 paras (2) and (3) of the Minister of Education Order no. 3325/2022.

²⁵⁶⁸ Art. 10 para. 4 of the Minister of Education Order no. 3325/2022.

²⁵⁶⁹ Order 4.262, available at: <https://bit.ly/45a8zhP>.

²⁵⁷⁰ Art. 2[^]1 paras (1) and (2) and art. 2[^]3 of the Government Emergency Ordinance 15/2022.

²⁵⁷¹ Art. 2[^]5 of the Government Emergency Ordinance 15/2022.

²⁵⁷² Art. 2[^]7 paras (1) and (2) of the Government Emergency Ordinance 15/2022.

According to a JRS representative, the state child allowance is not granted to Ukrainian children because the Temporary Protection document issued does not include their area of residency. As for other social welfare they have to prove that they are not receiving the respective benefits in the country of origin.

In June 2023, a group of MPs put forward a suggestion to modify the Asylum Act in order to allow beneficiaries of temporary protection to receive the state child allowance under the same conditions and up to the same amount as Romanian nationals.²⁵⁷³ Although the draft amendment was discussed in the Economic and Social Council of the Parliament, it did not lead to a change of the Asylum Act.

Based on a survey with refugees from Ukraine conducted by IOM Romania between March 2022 and February 2023 the main challenges encountered when accessing basic benefits were the language barrier mentioned by 62% of those interviewed, while 61% consider that the benefits provided were not enough to cover their needs. In addition, a lack of information regarding the benefits they were entitled to, such as the complexity of the system, or having no knowledge on how to apply were also issues mentioned by temporary protection beneficiaries.²⁵⁷⁴

According to an Inter-Agency Operational report, one of the most pressing gaps is the limited availability of services for refugee children with disabilities and special needs. Children with disabilities have been further referred by government authorities to third party social services providers (NGOs) due to limited capacity of state authorities, mainly DGASPC.²⁵⁷⁵

UNHCR quotes difficulties in measuring services awarded to refugees from Ukraine because the Temporary Protection document in the country does not include refugees' area of residency. Noting the following: 'this also hinders the state from being able to carry out proper social welfare monitoring and assessments to ensure vulnerable refugees (e.g., older persons and persons with disabilities) are included in these schemes. Documents issued by authorities to confirm residence are not always accepted by service deliverers at local level.'²⁵⁷⁶

G. Health care

Foreign nationals or stateless persons coming from the area of armed conflict in Ukraine benefit from medical services, medical supplies, medicines, medical devices and medical services included in the national curative health programmes, like Romanian citizens who are insured, without paying contributions to the social health insurance system, the personal contribution for the medicines granted in the outpatient treatment and with exemption from co-payment. Medical services in specialised outpatient healthcare are provided without the need to present a referral from the doctor (a form used in the social health insurance system).²⁵⁷⁷

According to the UNHCR, Inter-Agency Operational Update, access to primary health care services is difficult for Ukrainian children and caregivers, due to language, information, financial and administrative barriers. A study done by WHO, among refugees shows that access to information and the language barrier remain the two biggest issues. However, efforts are made to promote the employment of medical interpreters.²⁵⁷⁸

²⁵⁷³ Adevarul, Alocații de stat pentru copiii ucraineni din România. Cățibanivorprimi DOCUMENT, 11 June 2023, available at: <https://bit.ly/3Kx3RRK>.

²⁵⁷⁴ IOM, Ukraine Reponse, 2022-2023, Romania – Survey with refugees from Ukraine, available at: <https://bit.ly/45BCPSH>.

²⁵⁷⁵ UNHCR, Regional Refugee Response for the Ukraine Situation, Inter-Agency Operational Update, March 2023.

²⁵⁷⁶ UNHCR, 2022 Final Report Regional Refugee Response Plan for the Ukraine Situation (March – December 2022), 28 March 2023, available at: <https://bit.ly/43Bslv8>.

²⁵⁷⁷ Article 1 para.(1) d) and article 1 para. (4) Decree 15/2022, see: <https://bit.ly/3OOMTBY>.

²⁵⁷⁸ UNHCR, Inter-Agency Operational Update, March 2023.

It was also reported that access to the Romanian healthcare system through registration with a family doctor is still a need. Family doctors are unable to get reimbursed by National Health Insurance House for all the services they have provided to children and adults and those who had previously agreed to take on refugee patients have started to report overwhelming amounts of work, which has made them gradually refuse new registrations.²⁵⁷⁹

Another issue that may hinder access to family doctors is the fact that the Temporary Protection document in the country does not include beneficiaries' area of residency, which causes delays and challenges. This precludes state authorities to conduct proper social welfare monitoring to ensure that vulnerable temporary protection beneficiaries are included in these schemes. It was also noted that documents issued by authorities to confirm residence are not always accepted by service deliverers at local level.²⁵⁸⁰

²⁵⁷⁹

ibid.

²⁵⁸⁰

UNHCR, *2022 Final Report Regional Refugee Response Plan for the Ukraine Situation (March – December 2022)*, 28 March 2023, available at: <https://bit.ly/43Bslv8>.



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2023 Update



Temporary Protection Procedure

A. General

Main legislative acts relevant to temporary protection

Title in English	Original Title (SE)	Abbreviation	Web Link
Aliens Act, 2005:716	Utlänningslag (2005:716)	UtIL	https://bit.ly/2Hzrris (SE)
Law on Reception of Asylum Seekers and Others, 1994:137	Lag (1994:137) om mottagande av asylsökande	LMA	https://bit.ly/2ES88Ne (SE)
Act concerning Special Controls of Certain Aliens, 2022:700	Lag (2022:700) om särskild kontroll av vissa utlänningar		http://bitly.ws/z8C8 (SE, EN)

Main implementing decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions, detention and content of protection

Title in English	Original Title (SE)	Abbreviation	Web Link
Aliens Act Ordinance, 2006:97	Utlänningsförordningen, 2006:97	UtIF	https://bit.ly/2HM9fkP (SE)
Ordinance on the Act on Reception of Asylum Seekers,	Förordning (1994:361) om lagen om mottagande av asylsökande,		https://bit.ly/2jMHsV9 (SE)
Ordinance with Instructions for the Migration Agency, 2019:502	Förordning (2019:502) med instruktion för Migrationsverket		https://bit.ly/2L7YbPr (SE)

The Temporary Protection Directive²⁵⁸¹ was implemented in the Swedish Aliens Act on 1 January 2003. The legislative process of implementation of the TPD mainly consisted of the Governmental Bill 2001/02:185 Residence Permit with temporary protection at mass flight.²⁵⁸² In 2006 the Aliens Act underwent substantial changes, and the relevant provisions for temporary protection were moved to a separate chapter. Chapter 21 of the Aliens Act refers to the TPD stating that temporary protection according to the Directive is regulated in that chapter. The provisions in chapter 21 state that those within the personal scope of a decision on temporary protection shall be granted a temporary residence permit. The Government may extend the personal scope of temporary protection to others that have fled for the same reasons. Family members to a person who has been granted temporary protection may also be granted temporary residence (see [Qualification for temporary protection](#)). An application for refugee status must be assessed at the latest as soon as possible after the temporary protection permit has elapsed. The temporary residence permit shall be combined with a work permit. On 1 January 2003 the Act on reception of asylum-seekers was adjusted to include persons with temporary protection within the personal scope of the law.²⁵⁸³

National legislation on temporary protection was in place when the European Union adopted its decision to implement the Temporary Protection Directive for displaced persons from Ukraine on 4 March 2022

²⁵⁸¹ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof [2001] OJ L 212/12, available at: <http://bit.ly/409uJhu>.

²⁵⁸² Government Bill 2001/02:185 (Proposition 2001/02:185 Uppehållstillstånd med tillfälligt skydd vid massflykt, 21 May 2002), available in Swedish at: <https://bit.ly/3ncp5Mm>.

²⁵⁸³ Law on Reception of Asylum seekers and others Section 1 (Lag (1994:137) om mottagande av asylsökande m.fl.), available in Swedish at: <http://bit.ly/3ncmdz5>.

(Council implementing decision).²⁵⁸⁴ However, during 2022 and 2023 a few amendments to the relevant national legislation were made.

In April the Government decided to extend the personal scope of temporary protection to include persons who had travelled to and stayed in Sweden during the period 30 October 2021 – 23 February 2022, if they belong to the categories of persons mentioned in article 2.1 and 2.2 of the Council implementing decision.²⁵⁸⁵

On 1 July 2022, the Act on Reception of asylum-seekers and others was adjusted so that those who had applied for temporary protection (not only those granted temporary protection) should be included in the personal scope of the law. In December 2023, the Government decided to extend the personal scope of temporary protection to include all persons legally staying in Sweden before 22 December 2023, if they belong to the categories of persons mentioned in article 2.1 of the Council implementing decision. Thereby, Ukrainian nationals who has applied for asylum prior to 30 October 2021 and thereafter been staying legally in Sweden are also included in the personal scope.²⁵⁸⁶

In 2023, the SMA (Swedish Migration Agency) registered 11,401 first time applications for temporary protection. In comparison, SMA registered 50,357 applications in 2022. Out of the applications made in 2023, 11,302 were from Ukrainian nationals. The remaining applications came from third country nationals from more than 20 different countries, the second largest nationality being Russian with 18 applicants.

SMA took decisions in 11,864 first time applications, and of those examined on the merits 10,851 (99%) were granted a residence permit. 80 applications were rejected, 684 were dismissed, and 102 were annulled due to double registration. In comparison, in 2022 SMA took decisions in 49,266 first time applications, and of those examined on the merits 47,310 (i.e., 100%) were granted a residence permit. 167 applications were rejected, 1,546 applications were dismissed, 242 applications were annulled due to double registrations. In addition to the applications registered for temporary protection, the SMA registered 524 applications for asylum from Ukrainian nationals, and 318 for Russian nationals. 2 applications for asylum from Ukrainian nationals were granted, while most applications were dismissed (see [Access to Asylum](#)). In comparison, in 2022 the SMA registered 1,976 applications for asylum from Ukrainian nationals, and 746 for Russian nationals.²⁵⁸⁷

B. Qualification for temporary protection

According to its article 2.1 the Council implementing decision applies to the following categories of persons displaced from Ukraine on or after 24 February 2022, as a result of the military invasion by Russian armed forces that began on that date:

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

According to article 2.2. Member States shall apply either the Temporary Protection Directive or adequate protection under their national law, in respect of stateless persons, and nationals of third countries other than Ukraine, who can prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit, and who are unable to return in safe and durable conditions to their country of origin.

²⁵⁸⁴ Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection [2022] OJ L 71/1, available at: <https://bit.ly/3EztVsR>.

²⁵⁸⁵ Aliens Act Ordinance, (2006:97) Chapter 4 Section 19 h.

²⁵⁸⁶ Aliens Act Ordinance, (2006:97) Chapter 4 Section 19 h

²⁵⁸⁷ SMA monthly statistical report December 2022 and December 2023

The persons included in article 2.1 of the Council decision were immediately included in the personal scope for temporary protection in Sweden. However, the SMA did not include persons referred to in article 2.2., but registered their applications as asylum applications.²⁵⁸⁸

On 7 April 2022 the Government decided to widen the application of temporary protection to include persons who had travelled to and stayed in Sweden during the period 30 October 2021 – 23 February 2022, and if they belong to the categories of persons mentioned in article 2.1 and 2.2 of the implementation directive. It could also be noted that this provision excludes persons that left Ukraine shortly before 24 February but entered Sweden on or after 24 February. However, it did also refer to persons included in article 2.2 of the Council decision.

In November 2022, the SMA provided new guidance saying that also persons included in article 2.2 of the Council decision shall be included in the personal scope of temporary protection in Sweden (nationals of other third countries with permanent residency in Ukraine who resided in Ukraine before 24 February 2022 and who are unable to return in safe and durable conditions to their country of origin). The new guidance also stated that children who are born in Sweden and whose parents are Ukrainian citizens with temporary protection shall also be granted temporary protection. Further, the new guidance stated that all those within the personal scope of article 2.1 and 2.2 who had entered Sweden on 30 October 2021 or later should be entitled to temporary protection. However, for persons mentioned in article 2.2, the SMA must examine in each case if the applicant is unable to return in safe and durable conditions to their country of origin. This means that their applications will be assessed within the framework of the ordinary asylum procedure.²⁵⁸⁹

Initial residence permits due to temporary protection were valid until 4 March 2023, one year after the Council Implementation Decision. They then had to be renewed (see [Residence Permit](#)).

On 24 February 2022 the SMA decided to halt all deportations to Ukraine due to the security situation in the country. On the same date the SMA decided to halt decision-making in ordinary asylum cases concerning applications for protection in relation to Ukraine, due to the difficulties to assess the situation in Ukraine and the protection needs. In April 2022, the SMA adjusted its legal position so that in cases where it is clear that protection should be granted, and the applicant could face a legal loss should the decision be postponed, a positive decision may be made. This position applied until 22 December 2023.²⁵⁹⁰ (see [Access to Asylum](#)). On 22 December 2023, SMA published a new legal position to restart decision-making in ordinary asylum cases relating to Ukraine.²⁵⁹¹

Family members are those set out in the Council Implementing decision 2022/382, article 2.4:

For the purposes of paragraph 1, point (c), the following persons shall be considered to be part of a family, in so far as the family was already present and residing in Ukraine before 24 February 2022:

- ❖ the spouse of a person referred to in paragraph 1, point (a) or (b), or the unmarried partner in a stable relationship, where the legislation or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its national law relating to aliens;
- ❖ the minor unmarried children of a person referred to in paragraph 1, point (a) or (b), or of his or her spouse, without distinction as to whether they were born in or out wedlock or adopted;
- ❖ other close relatives who lived together as part of the family unit at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent on a person referred to in paragraph 1, point (a) or (b) at the time.

²⁵⁸⁸ SMA, *Legal Position RS 004/2022 version 1.0*, April 2022, no longer available online.

²⁵⁸⁹ SMA, *Legal Position RS 004/2022 version 2.0*, November 2022, no longer available online.

²⁵⁹⁰ SMA, *Legal Position RS 004/2022 version 2.0*, November 2022, no longer available online.

²⁵⁹¹ SMA Legal Position on the assessment of protection needs for ukrainian nationals RS 009/2023 (Rättsligt ställningstagande. Prövning av skyddsbehov för medborgare från Ukraina – RS 009/2023), 22 December 2023, available in Swedish at: <https://tinyurl.com/4sfvbrjj>.

The Governmental Bill Residence Permit with temporary protection at mass flight made it clear that unmarried partners and registered partners (former national legislation on same-sex marriage) should be treated on an equal basis with married couples in the Aliens Act. Therefore, unmarried partners are also included in the personal scope of family members mentioned in article 2.1.²⁵⁹²

There are no additional requirements such as income or accommodation if the applicant would qualify for temporary protection according to article 2.1. c of the Council decision.

Family members to those granted temporary protection due to the nationally extended personal scope have the same right to temporary protection as those whose family member is included in the personal scope of the Council decision.

The Aliens Act states that certain family members may be granted temporary protection permits. The relevant provision does not exclude family members that may fall outside the definition on the Council decision. The family members explicitly mentioned in the provision include: married or unmarried partner, unmarried children to the person with temporary protection status or his/her partner, other closer relatives if there is a particular dependency.²⁵⁹³

The SMA has stated that children who are born in Sweden with a parent who has temporary protection should be considered as a family member and be granted temporary protection according to the national provision, even if the child and parent had not lived together in Ukraine before 24 February 2022.²⁵⁹⁴

In December 2023, the Government decided to extend the personal scope of temporary protection to include all persons legally staying in Sweden before 22 December 2023, if they belong to the categories of persons mentioned in article 2.1 of the Council implementing decision. Thereby, Ukrainian nationals who has applied for asylum prior to 30 October 2021 and thereafter been staying legally in Sweden are also included in the personal scope.

It should be noted that the provisions on temporary protection are given priority to other grounds for residence permit. This means that a person who would have the right to residence permit due to family ties (to a person residing in Sweden without temporary protection) would not be granted residence permit on grounds for family reunification but instead a temporary protection permit, should they qualify for temporary protection.²⁵⁹⁵ The content of temporary protection in terms of social rights and validity time of the permit could be seen as less beneficial than a permit due to family reunification.

C. Access to temporary protection and registration

1. Admission to territory

The Government on 23 March 2022 decided to implement expanded identity checks for certain ferry travels to Sweden. For passenger ferry travels surpassing 20 nautical miles, the transport company are legally obliged to control that all passengers have valid identity cards with a photo. A person without such identity card shall not be allowed to board the ferry. Children who travel with a parent who can show an identity card are exempted from the obligation to provide an identity card. The changes were introduced on 28 March and initially valid until 1 September 2022, then extended until 31 December

²⁵⁹² Aliens Act Chapter 21, Section 4, and Governmental Bill 2001/02:185 Residence Permit with temporary protection at mass flight, available in Swedish at: <https://bit.ly/3LU7mUI>, 46.

²⁵⁹³ Aliens Act Chapter 21 Section 4.

²⁵⁹⁴ SMA, *Legal Position RS 004/2022 version 2,0*, November 2022, no longer available online.

²⁵⁹⁵ SMA Legal Position on the assessment of protection needs for ukrainian nationals RS 009/2023 (Rättsligt ställningstagande. Prövning av skyddsbehov för medborgare från Ukraina – RS 009/2023), 22 December 2023, available in Swedish at: <https://tinyurl.com/4sfvbrjj>.

2022, then again extended until 31 December 2023. A transport company that does not perform this control is subject to a fine.²⁵⁹⁶ However, there were no cases of such fines reported in 2022 or 2023. Both the European Commission and UNHCR have recommended that states do not introduce penalties for transport companies that accepts persons without proper travel documents, who need protection.

Sweden continues to have temporary internal border controls since November 2015. The Government extended the temporary controls in May and November 2023, which currently run until 11 May 2024. The reason being that the Government assess that there is a serious threat against public order and security in Sweden.²⁵⁹⁷ The Swedish Police is responsible for deciding at what place and time these controls should be conducted.

There are no reports that people fleeing from Ukraine have been refused entry at the border to Sweden. There are also no reports of difficulties to re-enter in Sweden for persons who returned to Ukraine.

2. Freedom of movement

It has not been reported that movement in general has been a problem for persons without a biometric passport or biometric travel document. However, during 2022 some travel companies offered free travels for Ukrainian passport holders, which therefore excluded those entitled to temporary protection without a Ukrainian passport to benefit from this offer.²⁵⁹⁸

3. Registration under temporary protection

The SMA is responsible for registering applications for temporary protection. Applications may be submitted in person at SMA offices,²⁵⁹⁹ or using an online application form.²⁶⁰⁰ There are no specific time-limits for applying for temporary protection, other than the fact that Ukrainian nationals may only stay in Sweden legally during 90 days, following which they need a legal basis to remain.

The SMA started to register applications for temporary protection immediately after the Council decision to activate the Temporary Protection Directive. Asylum applications that had been previously registered by persons who are included in the personal scope of the temporary protection were processed as applications for temporary protection.

On 16 March 2022 the Swedish Public Radio reported that there were long queues outside the Migration Agencies offices with persons who were waiting to register their applications for temporary protection. It was reported that some persons were standing in line for a full day without getting the opportunity to hand in their application. Within a week thereafter the online application system was launched, and since then there has not been any reported difficulties to register applications.²⁶⁰¹

On 22 March 2022, the SMA opened up the possibility to apply for temporary protection using an online application form. Only Ukrainian nationals with a valid passport or other identity documents may apply

²⁵⁹⁶ Ministry of Rural Affairs and Infrastructure, 'Obligatorisk identitetskontroll vid resa med passagerarfartyg', 15 July 2022, available in Swedish at: <https://bit.ly/3msSvFV>. See also, the Swedish Transport Agency for more information, available at: <https://bit.ly/3IOSBzo>.

²⁵⁹⁷ Ministry of Justice, 'Reintroduced temporary internal border controls', 9 November 2023, available at: <https://bit.ly/3HYURDL>

²⁵⁹⁸ Svt Nyheter, 'Flyktingar från Ukraina får resa gratis med Västtrafik', 9 March 2022, available in Swedish at: <http://bit.ly/3nnjqmY>; Storstockholms Lokaltrafik, 'Ukrainian passport or ID = a valid ticket for public transport in Stockholm', no longer available online.

²⁵⁹⁹ To apply for protection under TPD for the first time, persons can go to the offices in Boden, Göteborg, Malmö, Norrköping, Stockholm and Sundsvall. See details at: <https://bit.ly/3RBU8hz>.

²⁶⁰⁰ Migrationsverket, 'Apply for protection under the Temporary Protection Directive for the first time', available at: <https://bit.ly/3wj97Vt>.

²⁶⁰¹ SverigesRadio, 'Långa köer för att komma in till Migrationsverket', 16 March 2022, available in Swedish at: <http://bit.ly/3moT1Vf>.

online. A copy of passport or id-cards should be attached to the application. Applications can still also be submitted in person before the SMA in certain cities.²⁶⁰² Unaccompanied children must apply in person.

From 1 February until 4 March 2023, it was possible to apply for an extension of the residence permit for temporary protection status holders, using an e-service application form. It was not necessary to attach passport copies or other documents. After having registered the application for extension, applicants were given an appointment at an SMA office to provide fingerprints and be photographed. There were no reports on problems to register applications for extensions.

If an applicant for temporary protection is considered to be outside the personal scope of the temporary protection, the person is advised to seek asylum and the application will be handled as an ordinary asylum application by the SMA. If the SMA takes a decision to deny residence permit and/or on deportation, that decision can be appealed. On 24 February 2022, SMA decided to halt decision-making in ordinary asylum cases concerning applications for protection in relation to Ukraine. This position continued to apply until 22 December 2023, when SMA published a legal position announcing a decision to restart decision-making in asylum cases.

4. Legal assistance

Persons who are entitled to temporary protection are not assigned a legal representative by the SMA. There is no general free legal assistance available, but several NGOs and lawyers have provided legal assistance to temporary protection status holders. The processing time at the SMA from registration to decision has been short, on average 27 days.²⁶⁰³

The Swedish Bar Association coordinated free legal advice by certain lawyers to Ukrainian nationals.²⁶⁰⁴ In 2022, the Government decided on a budget of SEK 68,8 million on grants to civil society organisations working with support (support in general, not only legal support) to persons from Ukraine seeking protection in Sweden. Grants were awarded by the Swedish Agency for youth and society. Among the organisations who received such grants were Sweden City missions, Swedish Red Cross, and Swedish Refugee Law Center.²⁶⁰⁵ These grants to civil society organisation did not continue in 2023, but several NGO's, including the above mentioned, have continued to provide free legal support during the year.

5. Information provision and access to NGOs

The 1994 Ordinance on the Reception of Asylum Seekers states that the SMA must inform the applicants of organisations that provide services to asylum seekers.²⁶⁰⁶ There is no specific national legislation on information to temporary protection applicants or beneficiaries.

SMA has information on its website on how to apply for temporary protection status, how to apply for financial support and assistance with accommodation, and information on the right to work, attend school and access health care. The information is available in English, Ukrainian, and Russian. The information is available in writing and audio for all three languages.²⁶⁰⁷

²⁶⁰² The following cities: Boden – Service Centre, Gothenburg/Källered – Arrival Unit, Malmö, Norrköping – Service Centre, Stockholm - Solna, Sundsvall – Service Centre.

²⁶⁰³ SMA, monthly statistical report December 2023.

²⁶⁰⁴ The Swedish Bar Association, 'Swedish Lawyers' Aid for Ukraine', available at: <http://bit.ly/42KbV9S>.

²⁶⁰⁵ MUCF, 'Insatser för människor från Ukraina som söker skydd i Sverige', available in Swedish at: <http://bit.ly/3YqTEuX>.

²⁶⁰⁶ Ordinance on the reception of asylum seekers, Section 2a

²⁶⁰⁷ SMA, 'Apply for protection under the Temporary Protection Directive for the first time', available at: <http://bit.ly/3F4jeij>.

There is no restriction in access to NGOs, although some accommodations are located in remote areas which could make it more difficult to physically access NGO services.

D. Guarantees for vulnerable groups

In 2023, 147 applications for temporary protection were registered for unaccompanied minors. In comparison, in 2022, 771 applications for temporary protection were registered for unaccompanied minors.²⁶⁰⁸ The online application form was not available to unaccompanied minors, who instead needed to apply in person at SMA offices. Housing for unaccompanied minors is under the responsibility of a municipality designated by the SMA. The municipality will appoint a guardian for an unaccompanied minor (see [General Report on Sweden, Legal representation of unaccompanied minors](#)).

Swedish civil society organisations have expressed concern that screening of vulnerability of children, to identify special needs and support is not carried out for children falling under the Temporary Protection Directive. According to a report from UNICEF Sweden, many children who arrive in Sweden from Ukraine need some form of trauma treatment. As psychiatric care in Sweden was already under great pressure, the organisations behind the report are concerned that children fleeing the war in Ukraine are not getting the psychiatric treatment they need in time.²⁶⁰⁹

The Swedish Gender Equality Agency has launched a portal dedicated to those fleeing Ukraine with information about human trafficking in English and in Ukrainian.²⁶¹⁰

²⁶⁰⁸ Migration Agency, monthly statistical report December 2022 and December 2023.

²⁶⁰⁹ UNICEF Sweden, Appendix 2, Report on reception of refugees from Ukraine, 2022, available at: <https://bit.ly/3YoPJyw>.

²⁶¹⁰ Swedish Gender Equality Agency, 'To you fleeing Ukraine', available at: <http://bit.ly/3FMO8w7>.

Content of Temporary Protection

A report by Swedish Refugee Law Center published in June 2022 analysed a number of issues regarding the implementation of the Temporary Protection Directive.²⁶¹¹

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | | |
|----|-------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| 3. | What is the duration of residence permits granted to beneficiaries of temporary protection? | Until 4 March 2023, renewals and applications thereafter until 4 March 2024. |
| 4. | How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2023? | 58,223 ²⁶¹² |

Procedure and renewal

The SMA is the authority responsible for registering, assessing, and granting applications for temporary protection. The SMA started to register these applications immediately after the EU Council decision to activate the Temporary Protection Directive in 2022. Asylum applications that had previously been registered by persons who are included in the personal scope of the temporary protection were processed as applications for temporary protection.

On 22 March 2022, SMA opened the possibility to apply for temporary protection using an online application form. Applications can still also be submitted in person before SMA in certain cities.

Initially, the temporary residence permit was issued until 4 March 2023, and beneficiaries were issued a residence card valid until that date.

From 1 February until 4 March 2023, it was possible to apply for extension of residence permit for temporary protection beneficiaries, using an e-service application form. It was not necessary to attach passport copies or other documents. After having registered the application for extension, applicants were given an appointment at the Migration Agency to provide fingerprints and be photographed.²⁶¹³

In 2023, SMA registered 33,641 applications for renewal of residence permit for temporary protection beneficiaries, out of which 32,767 were granted, 100% of those applications examined on the merits were granted.²⁶¹⁴

Rights associated with the residence permit

Persons over 16 years old with temporary protection status have the right work once they receive their residence permit decision. It is necessary to register with the Swedish Tax Agency if you find work. This can be done by individuals or employers. Beneficiaries of temporary protection who are employed are eligible for social security related to employment, such as loss of income due to sickness or accident

²⁶¹¹ Swedish Refugee Law Center, 'Massflyktsdirektivet aktiveras – Tillfälligt skydd i Sverige', 2022, available in Swedish at: <https://bit.ly/3Zhfq4F>.

²⁶¹² According to information provided by the SMA, in 2023, 10,913 residence permits were granted to first time applicants.

²⁶¹³ SMA, information at website 'Extending a residence permit under the Temporary Protection Directive', available at: <http://bit.ly/3z7juK7>.

²⁶¹⁴ SMA monthly statistical report December 2023

Beneficiaries of temporary protection only have access to emergency health care and necessary dental care. However, children are entitled to every type of health and dental care.²⁶¹⁵

Persons who are granted temporary protection have right to a daily allowance in accordance with the same legal provisions as asylum-seekers.²⁶¹⁶ A single adult will receive SEK 24 or 71 (EUR 2.09 or 6.19), depending on whether food is also provided with accommodation. A couple is entitled to SEK 61 (EUR 5.32) per day and children SEK 12 (EUR 1.04) per day.

Beneficiaries of temporary protection have the right to accommodation.²⁶¹⁷ SMA is initially responsible but may assign the responsibility regarding accommodation for a person with temporary protection to a municipality.²⁶¹⁸

TP in another EU Member State

Regarding persons with temporary protection that might seek temporary protection in another EU member, the SMA states on its website that all EU countries share information about people receiving protection under the Temporary Protection Directive in a common database. If a person is granted a residence permit under the Temporary Protection Directive in another EU country, the Swedish Migration Agency will receive information about this, and will then stop providing accommodation and financial support. However, the temporary residence permit in Sweden will not be revoked should the permit holder leave Sweden and get a residence permit in another EU country.

A person who already has been granted temporary protection in another EU Member State may apply and be granted temporary protection in Sweden as long as they fall within the personal scope applied in Sweden. It is not required that the temporary protection permit in the other EU Member State has been renounced.²⁶¹⁹

2. Access to asylum

According to the Aliens Act (Chapter 21 Section 5) an application for residence permit as a refugee may be examined even if the applicant has been granted temporary protection. This applies also concerning application for refugee status and travel document. Such application may be postponed if there are particular reasons for this, but must be examined, by the latest, as soon as possible after the temporary protection has ceased.

Persons that are eligible for temporary protection in Sweden are granted residence permits due to temporary protection. Applications for asylum from these persons will be treated as an application for international protection status. On 24 February 2022 the SMA decided to halt all deportations to Ukraine due to the security situation in the country. This position continued to apply until 22 December 2023.²⁶²⁰ On the same date, the SMA decided to halt decision-making in ordinary asylum cases concerning applications for protection in relation to Ukraine. In April 2022, the SMA adjusted its legal position so that in cases where it is clear that protection should be granted, and the applicant could face a legal loss should the decision be postponed, a positive decision may be issued. This position continued to apply until 22 December 2023.²⁶²¹ On 22 December 2023, SMA published a new legal position to re-

²⁶¹⁵ Act on health care of asylum-seekers and others (2008:344), Section 4, 5, and 6

²⁶¹⁶ Act on the Reception of Asylum Seekers and others.

²⁶¹⁷ Act on the Reception of Asylum Seekers and others.

²⁶¹⁸ Migrationsverket, 'Anvisning och ordnat boende i kommun', available at: <https://bit.ly/3SEWBqH>.

²⁶¹⁹ SMA, 'Frequently asked questions about the Temporary Protection Directive for you from Ukraine', available at: <http://bit.ly/3nlHwyo>.

²⁶²⁰ SMA, Legal Position RS 004/2022 version 2,0, November 2022, no longer available online

²⁶²¹ SMA, Legal Position RS 004/2022 version 2,0, November 2022, no longer available online .

start decision-making in ordinary asylum cases relating to Ukraine.²⁶²² According to SMA, there were about 1,000 Ukrainian nationals who had not been granted temporary protection and with a pending asylum application in December 2023.²⁶²³ At the time of writing, SMA had not yet issued decisions in any such case.

B. Family reunification

1. Family reunification as provided under the Temporary Protection Directive

Family members of temporary protection beneficiaries will in general fall within the personal scope of article 2.1. c of the Council implementing decision and would therefore qualify for temporary protection themselves. Thus, family members are referred to the possibility to apply for temporary protection (see [Qualification for temporary protection](#)). However, it is only possible to apply for temporary protection for persons in Sweden. There are no additional requirements such as income or accommodation if the applicant would qualify for temporary protection according to article 2.1. c of the Council decision.

2. Family reunification beyond the Temporary Protection Directive

Temporary protection beneficiaries are not considered as residents in Sweden. For this group it is not possible to apply for family reunification referring to the provisions in place for residents and persons with other international protection statuses.

A temporary protection beneficiary with residence permit in Sweden may not be granted a residence permit due to family reunification with a Swedish resident. The ground for temporary protection is assessed prior to other grounds for residence permit, and a new residence permit cannot be granted when the applicant already has a valid permit.

C. Movement and mobility

There are no restrictions of movement within Sweden and beneficiaries may leave Sweden. There are also no reports of difficulties to re-enter in Sweden for persons who returned to Ukraine.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres? ²⁶²⁴	1 month
2. Number of beneficiaries staying in reception centres as of 12/2023	766 ²⁶²⁵
3. Number of beneficiaries staying in private accommodation in 12/2023	22,333 ²⁶²⁶

²⁶²² SMA, Legal position on the assessment of protection needs for ukrainian nationals RS 009/2023 (Rättsligt ställningstagande. Prövning av skyddsbehov för medborgare från Ukraina – RS/009/2023), 22 December 2023, available in Swedish at <https://tinyurl.com/4sfvbrjj>.

²⁶²³ Information at SMA website at Möjligt fatta beslut i ukrainska asylärenden och fler kan få skydd enligt massflyktsdirektivet – Migrationsverket, available in Swedish at: <https://tinyurl.com/5cbay2ue>.

²⁶²⁴ 1 month following the designation of a municipality as a reception municipality by the SMA.

²⁶²⁵ Information provided in e-mail from SMA in January 2024.

²⁶²⁶ Information provided in e-mail by SMA in January 2024.

Temporary protection beneficiaries are included in the personal scope of the Act on reception of asylum-seekers and others.²⁶²⁷ According to this law, the SMA is responsible for providing accommodation for these persons. Housing for unaccompanied minors is under the responsibility of a municipality designated by the SMA. At the time of implementation of the Temporary Protection Directive in March 2022, persons who had applied for temporary protection but not yet been granted protection were not covered by the law on reception of asylum-seekers. The SMA notified on its website in May 2022 that applicants for temporary protection could nevertheless get assistance with accommodation. On 1 July 2022, the Act on Reception of asylum-seekers and others was amended so that applicants for temporary protection are covered explicitly by the law.

Those in need of accommodation can contact the Migration Agency for support at any time; also if they had previously chosen to find an accommodation on their own. Those who decide to arrange their accommodation on their own might not be entitled to financial support if they live in residential areas with social and economic challenges (see [Social welfare](#)). Persons who are covered by the law on reception of asylum-seekers are not entitled to general assistance according to the Social Service Act.

The amendments in the law on reception of asylum-seekers on 1 July 2022 also included a provision that the SMA may assign a municipality to be responsible for providing accommodation for those in need of temporary protection.²⁶²⁸ After this date the SMA started to assign responsibility to municipalities according to a defined list of numbers of protection beneficiaries to be received per municipality. Most beneficiaries could stay in the municipality they lived in at that time, of those relocated most could move to a nearby municipality.²⁶²⁹

Regarding the different forms of housing, the SMA offers short term reception accommodation with staff employed, and long-term accommodation, usually in the form of apartments which are shared with other asylum-seekers. Housing provided by the SMA or a municipality is also organised through public procurement, where private property owners – companies not private individuals – provide the accommodation. In December 2023, 15,641 temporary protection beneficiaries were living in housing provided by municipalities.²⁶³⁰

There has not been any State organised or subsidised private accommodation. Nevertheless, private individuals and organisations have arranged accommodation for persons fleeing from Ukraine. The Swedish City missions and Save the Children Sweden are among those organisations who implemented initiatives to ensure that private accommodation is safe, for example by introducing mandatory background checks and training for hosts.²⁶³¹ The SMA did not at any time state that they did not have any accommodation to offer those seeking temporary protection who requested accommodation. In March and April 2022, short term accommodation solutions were jointly organised by the SMA, County Administrative Boards, and Municipalities.

The support will be reduced or not granted/withdrawn depending on the level of income or financial resources the applicant has. A temporary protection permit holder who leaves Sweden are not entitled to support while outside of Sweden.²⁶³²

²⁶²⁷ Act on Reception of Asylum-seekers and others, Section 1

²⁶²⁸ Regulation (2022:1008) Förordningen om anvisning av en kommun som ska ordna boende för vissa utlänningar.

²⁶²⁹ Information from SMA in 2022, no longer available online.

²⁶³⁰ Information provided by SMA by e-mail January 2024.

²⁶³¹ Information from Swedish City mission website, En trygg start i Sverige - Sveriges stadsmissioner; available in Swedish at: <https://bit.ly/3Vw5tSu>.

²⁶³² Information at SMA website at: Frequently asked questions about the Temporary Protection Directive for you from Ukraine - Migrationsverket, available in English, Ukrainian and Russian at: <https://tinyurl.com/p5szmur7>.

E. Employment and education

1. Access to the labour market

A person who is granted temporary protection permit will also be granted a work permit.²⁶³³ In general, all persons over 16 years have the right to work if they have fulfilled their mandatory education, but particular restrictions regarding working hours applies for those under 18 years.²⁶³⁴ It is necessary to register with the Swedish Tax agency before starting to work. This can be done by individuals or employers.

Temporary protection beneficiaries must be assigned a coordination number at the Swedish Tax Agency. A coordination number is needed in order to pay taxes in Sweden, and it could also be a condition for opening a bank account. In April 2022, the Tax Agency stated that processing time for applications for tax registry was up to 16 weeks.²⁶³⁵ Individuals may apply for coordination number themselves, and in August 2022, the SMA started to systematically apply for coordination numbers for temporary protection beneficiaries to facilitate and speed up the process.²⁶³⁶ In 2023 it has not reported any problems regarding processing time for coordination numbers.

Those beneficiaries of temporary protection who are employed are eligible for social security related to employment (such as loss of income due to sickness or accident).²⁶³⁷

Temporary Protection beneficiaries may register at the Public Employment Agency (Arbetsförmedlingen), and may benefit from the existing forms of subsidised employment contract. However, no particular labour market integration measures have been designed for temporary protection beneficiaries from Ukraine in Sweden.²⁶³⁸ According to a report in April 2023 from the Public Employment Agency, out of 30,000 adult beneficiaries of temporary protection, only 5,600 had registered and taken part in the support programs.²⁶³⁹ There are no official complete statistics on the number of temporary protection beneficiaries who are employed in Sweden. According to a survey made by the private organisation Ukrainian Professional Support Center in January 2024, 50 % of the respondents (out of 1,607 adult respondents) were active in the Swedish labour market.²⁶⁴⁰

The private adult education organisation Folkuniversitetet conducted a free programme, 'Work for Ukrainians', in several places across the country. The programme ended in September 2023 and was co-funded by the European Social Fund. The programme included individual coaching, skills mapping, language training, skills development and validation, as well as matching with employers.²⁶⁴¹

The Swedish Council for Higher Education evaluates foreign qualifications in order to provide support for people looking for work in Sweden, people who wish to continue studying, or for employers who wish to employ someone with foreign qualification.²⁶⁴²

²⁶³³ Aliens Act, Chapter 21 section 7.

²⁶³⁴ Work Environment Act, Chapter 5 Section 2.

²⁶³⁵ Information from the Tax Agency website on 28 April 2022, see Swedish Refugee Law Center, *Massflyktsdirektivet aktiveras – Tillfälligt skydd i Sverige*, 2022, available in Swedish at: <https://bit.ly/3Zhfq4F>.

²⁶³⁶ Information at SMA website, no longer available online.

²⁶³⁷ Governmental Bill 2001/02:185 Residence Permit with temporary protection at mass flight, available in Swedish at: <https://bit.ly/3LU7mUI>, 80.

²⁶³⁸ Also see Nordic Council of Ministers, *Implementation of temporary protection for refugees from Ukraine – A systematic review of the Nordic countries*, available at: <http://bit.ly/40vi4oi>.

²⁶³⁹ Public Employment Agency, *Omvärldsrapport 2023*, 13 April 2023, available in Swedish at: <https://bit.ly/3wZ6kBf>.

²⁶⁴⁰ Ukrainian Professional Support Center, 'Beredskapslyftet. Survey results January 2024', Survey available in English at: <https://bit.ly/3vgmyFD>.

²⁶⁴¹ Folkuniversitetet, 'Work for Ukrainians', available at: <http://bit.ly/3JMSMLM>.

²⁶⁴² For further information, see their website: <http://bit.ly/42xFF9I>.

For work that requires certified skills, it is necessary to apply for and get a qualification recognition from the relevant Swedish Agency to work in this profession in Sweden.²⁶⁴³

2. Access to education

Children who are granted temporary protection have a right, but – contrary to children with other international protection status – not an obligation, to attend school. Thus, they have the same right to education as asylum-seeking children.²⁶⁴⁴ Children also have the right to lessons in their own mother tongue on a regular basis, if there are more than 5 pupils with the same language in the area. Itinerant mother tongue teachers are employed for that purpose.²⁶⁴⁵

Children between 16 and 18 years have the right to secondary education or vocational education. However, they may first have to attend a preparatory course to improve their Swedish language skills. Persons who are over 18 upon arrival in Sweden have no right to access secondary education.

Adults and persons over 16 years have no right to attend the introduction courses in Swedish for immigrants (SFI), which are offered to new immigrants residing in a municipality.

A community education course is available online and offered by the SMA ‘Swedish from day one’, which is run by folk high schools and adult education organisations, such as ABF and Folkuniversitetet. Other courses designed for asylum-seekers by municipalities are also available for refugees from Ukraine. However, these courses are limited in time and are not available everywhere across the country.²⁶⁴⁶ Folkuniversitetet organise courses in Swedish language for temporary protection beneficiaries.²⁶⁴⁷

In 2023, the Government decided to give municipalities the possibility to arrange the introduction courses in Swedish for immigrants (SFI) also to beneficiaries of temporary protection who are 18 years or older. The legislative changes started to apply 1 June 2023. The Government announced that municipalities may seek financial support from the Government to this end.²⁶⁴⁸ Municipalities have however criticised that the available financial support was not enough to cover the costs.²⁶⁴⁹

Adults may apply for higher education and be accepted if they fulfil the criteria for the particular course or program. Persons with residence permit on other grounds than study permit are not obliged to pay study fees to universities.²⁶⁵⁰

The Swedish National Agency for Education conducted a survey asking all municipalities to provide information about the number of children aged 6–17, that have fled Ukraine, that are enrolled in or have applied for a place in school by the beginning of September 2022. According to the municipalities close to 6,800 children aged 6–17 that have fled Ukraine, had by the beginning of September 2022 enrolled in or had applied for a place in preschool class, compulsory school, compulsory school for pupils with

²⁶⁴³ Swedish Council for Higher Education, ‘Reglerade yrken - Universitets- och högskoleråde’, available in Swedish at: <https://bit.ly/43vAGau>.

²⁶⁴⁴ Swedish Education Act (skollag (2010:800)), Chapter 7 Section 2, Chapter 8 Section 3

²⁶⁴⁵ Swedish Education Act Chapter 10 Section 7, Chapter 11 Section 10, Chapter 12 Section 7 (skollag (2010:800)). Education Ordinance Act (Skolförordning (2011:185) Chapter 5 Section 10.

²⁶⁴⁶ Nordic Council of Ministers, *Implementation of temporary protection for refugees from Ukraine – A systematic review of the Nordic countries*, available at: <http://bit.ly/40vi4oi>.

²⁶⁴⁷ Folkuniversitetet, ‘SFI for Ukrainians’, available at: <http://bit.ly/3z2VgRj>.

²⁶⁴⁸ The Swedish government, ‘Personer från Ukraina kan få tillgång till mer utbildning i svenska språket’, 27 July 2023, available in Swedish at: <https://tinyurl.com/56x52t3c> and ‘Regeringen föreslår 100 miljoner kronor för sfi för ukrainska medborgare’, 27 July 2023, available in Swedish at: <https://bit.ly/3TzRwAq>.

²⁶⁴⁹ The Swedish Association of Local Authorities and Regions (SALAR), ‘Statsbidrag för sfi för ukrainare räcker inte för alla | SKR’, 10 November 2023, available in Swedish at: <https://tinyurl.com/yprv4kd2>.

²⁶⁵⁰ Ordinance 2010:543 (Förordning om anmälningsavgift och studieavgift vid universitet och högskolor), Section 2 and 5 of available in Swedish at: <http://bit.ly/3ZerPpP>.

learning disabilities, upper secondary education, or upper secondary school for pupils with learning disabilities. In conclusion four out of five children from Ukrainian refugee families attend or have applied for a place in schools in Sweden. About half of the municipalities responded that overall, they have access to teachers or other personnel with knowledge in Ukrainian, Russian, or other relevant language in pre-school and compulsory school.²⁶⁵¹ In 2023, no similar survey has been presented.

In a report published by UNICEF Sweden in 2022, prepared by several civil society organisations, concerns were raised over information that many children from Ukraine had not started school within one month or longer after their arrival.²⁶⁵²

It has been reported to be common that children with temporary protection who attend Swedish school also continue to attend Ukrainian school classes online. The curricula between Sweden and Ukraine elementary school differs which is reported to affect the learning process adversely.²⁶⁵³

F. Social welfare

Persons who are granted temporary protection are covered by the Act on reception of asylum-seekers and others. They have a right to daily allowance in accordance with the same legislation as asylum-seekers.²⁶⁵⁴ Temporary protection beneficiaries are not entitled to financial or other assistance according to the Social Service Act which covers persons residing in Sweden.

The level of daily allowance is considerably lower than the financial support granted to Swedish residents in accordance with the Social Services' Act. The level of daily allowance has not been adjusted since 1994. A single adult will receive SEK 24 or SEK 71 (SEK 2,130 / EUR 186 per month), depending on whether food is also provided with accommodation. A couple is entitled to SEK 61 per day and children SEK 12 per day. Persons who can support themselves are not entitled to daily allowances. The allowance will be reduced or not granted/withdrawn depending on the level of income or financial resources the applicant has. Those who decide to arrange their accommodation on their own might not be entitled to financial support if they live in residential areas with social and economic challenges.²⁶⁵⁵ Both SMA and Social service in municipalities may take decisions to grant daily allowances in accordance with the Act on Reception of asylum-seekers.²⁶⁵⁶

At the time of implementation of the Temporary Protection Directive on 4 March 2022, persons who had applied for temporary protection but not yet been granted protection were not covered by the law on reception of asylum-seekers. The Government decided on 24 May 2022 that those who apply for protection under the Temporary Protection Directive and have no money of their own can apply for financial support from the SMA while a decision is being issued on their residence permit. The aid would be granted at the earliest from the day the application is submitted. On 1 July 2022, the Act on Reception of asylum-seekers and others was amended so that applicants for temporary protection are covered explicitly by the law.

²⁶⁵¹ The Swedish National Agency for Education, *Children from Ukraine in Swedish compulsory and upper secondary school, the situation as of early September 2022*, 2022, short summary in English available at: <http://bit.ly/3FVq8H5>.

²⁶⁵² UNICEF Sweden, Appendix 2, *Report on reception of refugees from Ukraine, 2022*, available at: <https://bit.ly/3YoPJyw>.

²⁶⁵³ UNHCR presentation at the seminar Temporary protection for refugees from Ukraine in the Nordic countries – From emergency reception to longer-term sustainable response on 8 December 2022.

²⁶⁵⁴ Act on Reception of asylum-seekers and others.

²⁶⁵⁵ For further information, see *AIDA Country Report Sweden – 2023 Update*, April 2024, available at: <https://bit.ly/3vZgVfc>.

²⁶⁵⁶ Information in Swedish on the website of The Swedish Association of Local Authorities and Regions (SALAR), see <http://bit.ly/42DJGJV>.

Persons who are covered by the Act on reception of asylum-seekers are not entitled to assistance according to the Social Service Act. Temporary protection beneficiaries are not registered as residents in Sweden and are therefore not entitled to financial support that are based on residency, such as a child benefit and housing allowance.

The low level of financial support for asylum-seekers in general has been criticised by Save the Children²⁶⁵⁷ and the UN Committee of the rights of the child rights.²⁶⁵⁸ According to Save the Children the level of available support is not sufficient to ensure basic needs like food, winter clothing and hygiene products, nor to cover transport costs to work, school. In 2023, beneficiaries of temporary protection, NGOs and some politicians have continued to criticise the low level of financial support, pointing out that it leads to dependence on material assistance from NGO's or private individuals.²⁶⁵⁹

G. Health care

Persons who are granted temporary protection have the same right to health care as asylum seekers. This means that children should be offered full health and dental care at the same level as Swedish residents. Adults are only offered such health care, including dental care, that cannot wait, maternal health care and care in case of abortion.²⁶⁶⁰ This means their access to healthcare is dependent on the discretion of individual medical providers. Temporary protection beneficiaries are offered health examination at Public Health Clinics.²⁶⁶¹

According to a report from UNICEF Sweden, many children who arrive in Sweden from Ukraine need some form of trauma treatment. As psychiatric care in Sweden was already under great pressure, the organisations behind the report are concerned that children fleeing the war in Ukraine are not getting the psychiatric treatment they need in time.²⁶⁶²

The restrictions on the right to health care for asylum-seeking adults in general have been criticised from NGOs, The Swedish Medical Association, and the National Board of Health and Welfare.²⁶⁶³ In practice, access to health care may vary since it is ultimately the caregiver who determines if the care intervention may or may not wait.

²⁶⁵⁷ Save the Children, *Rädda Barnens yttrande över utkast till lagrådsremiss "Åtgärder för en jämnare fördelning av boende för vissa skyddsbehövande"*, 29 April 2022, available in Swedish at: <http://bit.ly/40xPv9M>.

²⁶⁵⁸ Committee on the Rights of the Child, *Concluding observations on the fifth periodic report of Sweden*, 6 March 2016, available at: <https://bit.ly/3JNfofd>, s. 10-11.

²⁶⁵⁹ Sveriges riksdag, *Rättigheter för ukrainska flyktingar i Sverige (Interpellation 2022/23:394 av Annika Hirvonen (MP))*, 22 August 2023, available in Swedish at: <https://bit.ly/3xbS8F2> and SVT Nyheter, 'Ukrainska flyktingar har inte råd med mat för dagen | r', 21 February 2023, available in Swedish at: <https://tinyurl.com/3usjvenb>.

²⁶⁶⁰ Act on health care of asylum-seekers and others (2008:344), Section 4

²⁶⁶¹ Act on health care of asylum-seekers and others (2008:344), Section 7 §

²⁶⁶² UNICEF Sweden, *Appendix 2, Report on reception of refugees from Ukraine*, 2022, available at: <https://bit.ly/3YoPJyw>.

²⁶⁶³ Medecins Sans Frontieres, 'Ge asylsökande och papperslösa vård på lika villkor', 28 January 2018, available at: <http://bit.ly/3TLjcSH>; Socialstyrelsen, *Vård för papperslösa. Vård som inte kan anstå, dokumentation och identifiering vid vård till personer som vistas i landet utan tillstånd*, 2014, available in Swedish at: <https://bit.ly/40gKmU3>, 27.

Slovenia

2023 Update



Temporary Protection Procedure

A. General

On 4 March 2022, the Council of the European Union adopted the Council Implementing Decision (EU) 2022/382²⁶⁶⁴ (hereinafter: Council Decision) to activate the Council Directive 2001/55/EC (hereinafter: Temporary Protection Directive or TPD),²⁶⁶⁵ providing immediate and temporary protection to persons displaced from Ukraine on or after 24 February 2022 due to the military invasion of the Russian armed forces. On 9 March 2022, the Government of the Republic of Slovenia adopted the Decision establishing temporary protection for persons displaced from Ukraine (hereinafter: Government Decision),²⁶⁶⁶ which entered into force on 10 March 2022. The Government decision allowed for the activation of the Temporary Protection of Displaced Persons Act,²⁶⁶⁷ which was adopted in 2005 to transpose the TPD. The Act regulates the introduction, duration and termination of the temporary protection of displaced persons (hereinafter: temporary protection or TP), the conditions and procedures for obtaining temporary protection and the termination thereof, and the rights and obligations of persons enjoying temporary protection. In accordance with the Government Decision, temporary protection was introduced from the date of entry into force of the decision and for a period of one year,²⁶⁶⁸ with the possibility of extension for a maximum of two times for a period of six months each.²⁶⁶⁹ At the time of writing this report, no changes have yet been made to the Slovenian legislation regulating temporary protection, apart from amending the Decision establishing temporary protection for displaced persons from Ukraine to extend temporary protection in the Republic of Slovenia until 4 March 2025,²⁶⁷⁰ in accordance with the Council Implementing Decision (EU) 2023/2409 of 19 October 2023 extending temporary protection.²⁶⁷¹

Once the temporary protection's period of validity expires, the provisions of the Foreigners Act apply and regulate the modalities of the person's departure from the Republic of Slovenia.²⁶⁷²

²⁶⁶⁴ Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection, OJ L 71/1, available at: <http://bit.ly/3EHe8lw>.

²⁶⁶⁵ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof [2001] OJ L 212/12, available at: <http://bit.ly/409uJhu>.

²⁶⁶⁶ Decision establishing temporary protection for persons displaced from Ukraine, Official Gazette of RS, No. 32/22.

²⁶⁶⁷ Temporary Protection of Displaced Persons Act, Official Gazette of RS, No. 16/17.

²⁶⁶⁸ Article 11 of the Temporary Protection of Displaced Persons Act vaguely stipulates that the duration of temporary protection shall be one year and may be extended no more than twice, each time for a period of six months. Further, duration of temporary protection was determined in the Government Decision, which states it is introduced for one year from the date of entry into force of the decision, which could be misinterpreted as lasting until 10 March 2023, considering the date when the Decision entered into force. It is expected that greater clarity in this regard will be ensured *de lege ferenda* (as already included in some proposed amendments to the Act) with a reference to the enforcement of the Council Decision and by clarifying that the duration of temporary protection is tied to the enforcement of the Council Decision and not to the enforcement of the Government Decision from Article 10 of the Temporary Protection of Displaced Persons Act in line with the Commission Communication on operational guidelines for the implementation of Council Implementing Decision (EU) 2022/382 of 4 March 2022 (Official Journal of the EU, No. C 126 I/01). In any case, individual decisions on granting temporary protection, issued by administrative units since 10 March 2022, have been granting temporary protection in accordance with the duration of TP in line with Council Decision.

²⁶⁶⁹ Article 2 Government Decision.

²⁶⁷⁰ Decision amending the Decision establishing temporary protection for displaced persons from Ukraine, Official Gazette of RS, No.4/24.

²⁶⁷¹ Council Implementing Decision (EU) 2023/2409 of 19 October 2023 extending temporary protection as introduced by Implementing Decision (EU) 2022/382, OJ L 2023/2409, available at: <http://bit.ly/3u92Zy9>.

²⁶⁷² Foreigners Act, Official Gazette of RS, No. 91/21 and subsequent amendments.

Main legislative acts on temporary protection

Title (EN)	Original Title (HU)	Abbreviation	Web Link
Temporary Protection of Displaced Persons Act, Official Gazette of RS, no. 16/17	Zakon o začasni zaščiti razseljenih oseb, Uradni list RS, št. 16/17		https://bit.ly/3ac7w8T (SI)

Main implementing decrees, guidelines and regulations on temporary protection

Title (EN)	Original Title (HU)	Abbreviation	Web Link
Decision establishing temporary protection for persons displaced from Ukraine, Official Gazette of RS, No. 32/22 and No.4/24.	Sklep o uvedbi začasne zaščite za razseljene osebe iz Ukrajine, Uradni list RS, št. 32/22 in 4/24.	Government Decision	http://bit.ly/3jDcuQQ (SI)
Decree on the methods for ensuring rights of persons enjoying temporary protection, Official Gazette of RS, No. 42/22 and 151/22	Uredba o načinu zagotavljanja pravic osebam z začasno zaščito, Uradni list RS, št. 42/22 in 151/22		https://bit.ly/3Mt2UcH (SI)
Rules on the application for granting temporary protection and on the identity card of persons enjoying temporary protection, Official Gazette of RS, No. 43/22	Pravilnik o vlogi za začasno zaščito in izkaznici osebe z začasno zaščito, Uradni list RS, št. 43/22		http://bit.ly/3jxNMRR (SI)
Decision determining the allowance for private accommodation, Official Gazette of RS, No. 41/14	Sklep o določitvi denarnega nadomestila za zasebno nastanitev, Uradni list RS, št. 41/14		http://bit.ly/3GpCDeU (SI)
Rules on the procedure concerning transferal of persons enjoying temporary protection, Official Gazette of RS, No. 110/05	Pravilnik o postopku premestitve oseb z začasno zaščito, Uradni list RS, št. 110/05		http://bit.ly/3WPiOCO (SI)
Instructions on the procedure and method of dealing with persons illegally entering the Republic of Slovenia during the period when covered by temporary protection, Official Gazette of RS, No 34/06 and 58/22.	Navodilo o postopku in načinu ravnanja z osebami, ki v času trajanja začasne zaščite nezakonito vstopijo v Republiko Slovenijo, Uradni list RS, št. 34/06 in 58/22.		http://bit.ly/3vmILOy (SI)

Article 10 of the Temporary Protection of Displaced Persons Act, which regulates the introduction of temporary protection in Slovenia, provides that when the Council of the EU determines that a situation threatening people, such as war, has arisen in a third country or region, the Government shall adopt a resolution introducing temporary protection specifying in particular the number of persons to be granted temporary protection by the Republic of Slovenia, the conditions in which this quota of persons may be exceeded, particularly when it comes to exercising the right to family reunification or when vulnerable groups of people are involved, the date of the introduction and duration of temporary protection and the time limit by which persons enjoying temporary protection shall be required to leave the Republic of Slovenia after temporary protection has come to an end. The Government shall also inform the Council of the EU of the accommodation capacities of the Republic of Slovenia available for the reception of displaced persons.

The Government Decision introducing temporary protection in the Republic of Slovenia sets the categories of persons to whom the temporary protection is granted, the duration of temporary protection and the rules applicable to the persons concerned after termination of temporary protection. However, the Decision lacks an essential provision in accordance with the aforementioned Article 10 of the Temporary Protection of Displaced Persons Act: *i.e.*, the number of people to whom Slovenia will offer temporary protection. On 10 March 2022, the Government explained that such number was not included because it was impossible to estimate the number of persons to whom the Republic of Slovenia would provide temporary protection and to assess the reception facilities at the time of adopting the Decision.²⁶⁷³ The Government also noted that the vast majority of displaced persons from Ukraine was, at that time, housed at private addresses, which was expected to change in the following days, causing reception capacities to be increased accordingly. Further explanation was that the exact number of persons is also not specified in the implementing decision of the Council of the EU, even though the directive requires, under the third paragraph of Article 5, that the decision also include, *inter alia*, data received from the Member States on their reception capacities. According to the Minister of the Interior at the time, Slovenia could provide a temporary home to approximately 180,000 to 200,000 refugees from Ukraine altogether at the time of the said statement.²⁶⁷⁴ Even with the extension of TP until 4 March 2024, no further information on the estimated number of persons to whom the Republic of Slovenia would provide temporary protection was announced by the government and there has been no update in this regard yet at the beginning of 2024.

Further, on 24 March 2022, the Decree on the methods for ensuring the rights of persons enjoying temporary protection was adopted and entered into force on 25 March 2022.²⁶⁷⁵ It specifies how to ensure the rights of persons with temporary protection and applicants for temporary protection in more detail.

The Temporary Protection of Displaced Persons Act was adopted in 2005 and has so far been amended only once, in 2017, to regulate the separation of powers between the Government Office for the Support and Integration of Migrants (hereinafter: UOIM) and the Ministry of the Interior (hereinafter: Ministry). Since its first activation in 2022, several issues regarding TP have arisen in practice, demonstrating the need for legislative amendments in this regard, as further addressed in this report. One of the main issues with the Act is that it is outdated and deficient in some pressing areas, particularly with respect to providing a clearer regulation of the relationship between temporary protection and international protection and the transition between the statuses as well as transition to any other legal ground for residing in Slovenia after the cessation of temporary protection by obtaining a residence permit for other purposes (such as for the purpose of employment, self-employment, studies etc.). Considering that, over time, there have been certain legal developments of international protection, while no such significant amendments were made in relation to temporary protection, it is also necessary to modernise the system of temporary protection and to bring it closer to the system of international protection *mutatis mutandis*, considering that the two institutes are essentially comparable in rationale. The Temporary Protection of Displaced Persons Act also inadequately transposed the Temporary Protection Directive. For these reasons, as also explained in the proposed acts, there were several attempts to amend the Act with the following proposed legislation:

- ❖ the Act on Intervention Measures for Comprehensive Regulation of the Situation of Displaced Persons from Ukraine and for Assistance to the Economy of the Republic of Slovenia Due to the Consequences of the Ukrainian Crisis,²⁶⁷⁶ proposed by the Government in May 2022, which was not adopted,

²⁶⁷³ 24ur.com, *Število oseb, ki jim bo Slovenija nudila začasno zaščito, trenutno ni omejeno*, 10 March 2022, available in Slovenian at: <https://bit.ly/3juGgYg>.

²⁶⁷⁴ MMC RTV Slovenija, *Hojs: Slovenija je pripravljena sprejeti do 200.000 beguncev iz Ukrajine*, 27 February 2022, available in Slovenian at: <https://bit.ly/3Yi0t23>.

²⁶⁷⁵ Decree on the methods for ensuring rights of persons enjoying temporary protection, Official Gazette of RS, No. 42/22 and 151/22.

²⁶⁷⁶ The proposed act is available in Slovenian at: <https://bit.ly/3HrtMIU>.

- ❖ the Act on Intervention Measures for Comprehensive Regulation of the Situation of Displaced Persons from Ukraine and for Assistance to the Economy of the Republic of Slovenia Due to the Consequences of the Ukrainian Crisis,²⁶⁷⁷ proposed by a group of members of the National Assembly (Parliament) in September 2022, which was not adopted,
- ❖ a new Temporary Protection of Displaced Persons Act (ZZZRO-1), proposed by the Ministry of the Interior,²⁶⁷⁸ the last available information at the time of writing this report is from 12 June 2023, stating that the proposed act has been submitted for discussion in the governmental procedure.

As can be seen from the chronologically listed proposed legislative changes, the identified deficiencies were first proposed to be addressed with an intervention law, which would intervene in some problematic areas of the current legal regulation of temporary protection. However, as changes are needed in more than half of the articles of the current Act on Temporary Protection of Displaced Persons, it became apparent that regulation through sectoral law would be more appropriate in order to eliminate the shortcomings in a comprehensive and thorough manner, as explained in the reasoning behind the proposed new Act on Temporary Protection of Displaced Persons (ZZZRO-1).²⁶⁷⁹ Nonetheless, as aforementioned, the Act has not yet been adopted, which is causing further issues and is keeping TP beneficiaries uncertain about their rights and situation in the future.

Statistics

According to official statistics provided by the General Police Directorate, in 2023, a total of 1,568 applications for temporary protection were submitted to the Police in comparison with the 7,556 applications submitted in 2022. 1,540 were lodged by Ukrainian citizens, 10 by Russian citizens, and the rest were of other nationalities (e.g., citizens of Moldova). There was also a large number of people who were displaced – directly or indirectly – by the conflict present in the country but beyond the scope of TPD. According to the findings of the General Police Directorate, for example, since Russian president Putin declared partial mobilisation on 21 September 2022, many Russian citizens have also sought protection in the Republic of Slovenia. In 2023, 3,637 Russian citizens expressed their intention to apply for international protection at the Police.²⁶⁸⁰

However, not all applicants apply for temporary protection at the Police, as they may also apply directly at the territorially competent administrative units, which are the authority deciding on granting temporary protection. According to the statistics of the Ministry of the Interior provided to PIC in February 2024, a total of 1,761 persons applied for temporary protection in the Republic of Slovenia in 2023. 1,714 were Ukrainian citizens, 14 were Russian citizens and others were of other nationalities. In the same period, Ukraine citizens submitted 92 applications for international protection. In 2023, temporary protection was granted to 1,671 persons, of which 1,638 were Ukrainian citizens. In the same period, 31 applications for temporary protection were dismissed, 10 were rejected and 59 procedures were stopped.²⁶⁸¹

B. Qualification for temporary protection

The general definition of the specific groups of displaced persons to whom temporary protection applies in the national context is foreseen in Article 3 of the Temporary Protection of Displaced Persons Act, which refers to third-country nationals or stateless persons who have had to leave their country or region of origin or have been evacuated, in particular in response to an appeal by international organisations,

²⁶⁷⁷ The proposed act is available in Slovenian at: <https://bit.ly/3wRjFNg>.

²⁶⁷⁸ The proposed act is available in Slovenian at: <http://bit.ly/3jwlkie>.

²⁶⁷⁹ *Ibid.*

²⁶⁸⁰ Official statistics provided by the General Police Directorate, February 2023 and February 2024.

²⁶⁸¹ Official statistics provided by the Ministry of the Interior, February 2024.

and are unable to undertake a safe and durable return due to the situation prevailing in that country or region, who may fall within the scope of the Convention Relating to the Status of Refugees or other regulations giving international protection, in particular:

- ❖ persons who have fled areas of armed conflict or endemic violence;
- ❖ persons at serious risk of, or who have been the victims of, systematic or generalised violations of their human rights.

As per the Government Decision introducing temporary protection in the Republic of Slovenia for persons displaced from Ukraine on or after 24 February 2022 due to the military invasion by the Russian Armed Forces,²⁶⁸² the following categories of persons residing in Ukraine before 24 February 2022 are eligible for temporary protection²⁶⁸³:

- ❖ citizens of Ukraine,
- ❖ stateless persons and third-country nationals who are not citizens of Ukraine and who were granted international protection or other equivalent national protection in Ukraine,
- ❖ family members of the persons referred to in the first and second indents of this paragraph, as defined in Article 36 of the Temporary Protection of Displaced Persons Act, *i.e.*,:
 - a spouse or a person who had lived with the person who was granted temporary protection before their arrival in the Republic of Slovenia, for at least one year, in a domestic community that is equal in legal consequences to a marriage pursuant to the Family Code;²⁶⁸⁴
 - the children of the person granted temporary protection, as long as the person is obliged to support them;²⁶⁸⁵
 - stepchildren if they support their stepfather or stepmother, and a stepmother or stepfather if they support their stepchildren;²⁶⁸⁶
 - grandchildren and nephews of the person granted temporary protection, in so far as that person is supporting the grandchildren or nephews who are without parents;
 - other close relatives of the person granted temporary protection, if they had lived together as a family before their arrival in the Republic of Slovenia and were supported by the person who has obtained temporary protection,
- ❖ stateless persons and third-country nationals who are not citizens of Ukraine and who resided in Ukraine on the basis of a valid permanent residence permit and who are unable to return to their country or region of origin in a safe and sustainable or lasting manner.

The Council Decision allows Member States to extend temporary protection to additional categories of displaced persons beyond those to whom the Decision applies,²⁶⁸⁷ including those persons who fled Ukraine not long before 24 February 2022 as tensions increased or who found themselves in the territory of the EU just before that date and who, as a result of the armed conflict, cannot return to Ukraine. Despite this possibility, in the Republic of Slovenia only persons fulfilling the condition of leaving Ukraine on or after 24 February 2022 are considered eligible for temporary protection. Persons that are not eligible for temporary protection can however apply for international protection.²⁶⁸⁸

In practice PIC observed that the definition of persons to whom temporary protection applies in accordance with the Government Decision has been interpreted very narrowly by the competent authorities in Slovenia. Therefore, individuals who otherwise fall into one of the listed categories but

²⁶⁸² Article 1(1) Government Decision.

²⁶⁸³ Article 1(2) Government Decision.

²⁶⁸⁴ Family Code, Official Gazette of the Republic of Slovenia, no. 15/17 and subsequent amendments.

²⁶⁸⁵ The notion of 'obligation to support' in family relations is regulated in the Family Code, which stipulates that parents are obliged to support their minor children, *i.e.*, until they reach the age of 18, or until the age of 26, as long as they are enrolled into school as regular students.

²⁶⁸⁶ *Ibid.*

²⁶⁸⁷ Where those persons are displaced for the same reasons and from the same country or region of origin as referred to in the Decision.

²⁶⁸⁸ Information provided by the Ministry of the Interior, February 2024.

were not physically located on the territory of Ukraine at the time of the outbreak of the war on 24 February 2022, despite residing in Ukraine before the date, are not entitled to temporary protection. Strictly conditioning eligibility for temporary protection on the date a person left Ukraine has shown to be problematic, despite such persons being able to apply for international protection as an alternative.²⁶⁸⁹ Namely, per PIC's staff direct practical experience, multiple Ukrainians that were not eligible for temporary protection had certain reservations regarding applying for international protection, mainly due to not being able to visit Ukraine to maintain properties, visit family members and to assess the current situation, while under international protection, as in accordance with the International Protection Act,²⁶⁹⁰ a person's voluntary return to the home country is one of the grounds for cessation of their international protection status, while visiting Ukraine does not affect temporary protection status. Nevertheless, in 2023 we observed that in practice there was less hesitation in this regard than in 2022, as it became apparent that the war in Ukraine would last longer than initially anticipated and no post-TPD plan for persons who fled Ukraine and are residing in Slovenia has been announced by the Government yet.

Third country nationals and stateless persons

As stipulated in the Government Decision, besides citizens of Ukraine, stateless persons and third-country nationals who were granted international protection or other equivalent national protection in Ukraine, and stateless persons and third-country nationals who resided in Ukraine on the basis of a valid permanent residence permit and who are unable to return to their country or region of origin in a safe and sustainable or lasting manner, are entitled to temporary protection. Another category of third country nationals and stateless persons that are eligible for temporary protection are family members as defined in the Government Decision with reference to Article 36 of the Temporary Protection of Displaced Persons Act, where the families were already residing in Ukraine before 24 February 2022 and provided they have themselves been displaced on or after 24 February 2022. When presenting themselves to the competent authorities in the Republic of Slovenia, family members of an Ukrainian national or of a stateless person or third-country national who was granted international protection or other equivalent national protection in Ukraine, need to prove that they were displaced on or after 24 February 2022 and provide documentary evidence attesting family relationship or family unity and that the family was present and residing in Ukraine before 24 February 2022.

In accordance with the TPD, Member States may also extend temporary protection to all other stateless persons or nationals of third countries other than Ukraine residing legally in Ukraine who are unable to return in safe and durable conditions to their country or region of origin, which could include third-country nationals who were studying or working in Ukraine on a short-term basis at the time of the events leading to the mass influx of displaced persons. However, in Slovenia this option has so far not been exercised and is not reflected in the Government Decision. Third country nationals and stateless persons who are eligible per the Government Decision need to be able to prove that they fulfil the eligibility criteria by presenting the relevant documents to the competent authorities (*i.e.*, either to the Police, who then submit the application for temporary protection and supporting documents to the competent administrative unit, or to the latter authority directly). Other groups, such as students who

²⁶⁸⁹ See for example: N1info, *Ukrajinski kolesarji v Kočevju: raje turistični vizum kot pridobivanje azila*, 2 April 2022, available in Slovenian at: <http://bit.ly/31FUcHg>, regarding Ukrainian cyclists, members of the youth Ukrainian mountain biking team, who intended to apply for temporary protection in Slovenia, however they were considered ineligible as they left Ukraine in January, *i.e.*, before the start of the war, to compete abroad. They estimated that obtaining international protection would have some disadvantages for them, especially as applicants for international protection are not allowed to leave the municipality in which they have an address of temporary residence while waiting for their application to be approved (except in certain cases decided by an authorised official). Applicants for temporary protection, on the other hand, can move freely around Slovenia and it is also, in principle, not prohibited by law for them to leave the country. As reported, this would have been a problem for the members of the Ukrainian national mountain biking team, as they had competitions abroad.

²⁶⁹⁰ Article 67(1) International Protection Act, Official Gazette of RS, No. 16/17 and subsequent amendments.

were staying in Ukraine on a short-term basis and who do not have a permanent residence permit, are therefore not included under this scope.

In accordance with the Temporary Protection of Displaced Persons Act, temporary protection is also granted to a new-born whose parent or parents enjoy temporary protection.²⁶⁹¹

People fleeing Ukraine, who do not fall under the scope of the temporary protection regime, including family members that are not eligible for temporary protection in view of the criteria of having been displaced on or after 24 February 2022 and of providing documentary evidence of family relationship, can apply for international protection in line with the International Protection Act (IPA). As PIC observed, in practice, this has caused certain issues to nationals of Ukraine and their family members who are not included under the scope of persons eligible for temporary protection, as they have to apply in separate procedures for different types of protection, *i.e.*, temporary and international protection, in order to be able to legally stay in Slovenia, which also entails certain differences in their rights and being subject to restrictions or not. Illustratively, applicants for international protection are in general not allowed to leave the municipality in which they have an address of temporary residence while waiting for their application to be approved. Furthermore, as soon as the positive decision on their asylum applications becomes enforceable,²⁶⁹² *i.e.*, within 15 days of being granted status, international protection holders are also obliged to leave the accommodation centres.²⁶⁹³ Meanwhile, in line with the current legislation, no such limitation with respect to accommodation in accommodation centres is in force for TP holders. The procedure for international protection is generally also much longer than the procedure for temporary protection, which consequently leads to family members that are entitled to TP enjoying the related rights (such as financial aid, the right to work etc.) much sooner than those that apply for and are granted international protection.

Extension of TPD

In accordance with the Government Decision establishing temporary protection, the duration of temporary protection, activated in March 2022, was initially determined to be for one year, until 4 March 2023, reflecting the Council Implementing Decision (EU) 2022/382, with the possibility of being extended for a maximum of two times for periods of six months each.

On 4 March 2023, temporary protection for displaced persons from Ukraine in Slovenia was automatically extended until 4 March 2024 in accordance with the decision of the European Commission. Further, temporary protection was extended until 4 March 2025 following the Council Implementing Decision (EU) 2023/2409 of 19 October 2023. To allow for extension of temporary protection in Slovenia for an additional year, on 18 January 2024 the Decision establishing temporary protection for displaced persons from Ukraine was amended.²⁶⁹⁴

The same way as for the first extension of temporary protection in 2023, in the case of persons who have already been granted temporary protection, the administrative units will *ex officio* issue a new identity card valid until 4 March 2025, which will replace their current identity card valid until 4 March 2024. In all procedures for the granting of temporary protection in which a decision has not yet been made, in the event of a positive decision, the administrative units will issue a temporary protection identity card valid until 4 March 2025.²⁶⁹⁵

²⁶⁹¹ Article 19(4) Temporary Protection of Displaced Persons Act.

²⁶⁹² Article 78(2) IPA.

²⁶⁹³ Article 70 (1) IPA.

²⁶⁹⁴ Government of the Republic of Slovenia, *Podaljšanje začasne zaščite za razseljene osebe iz Ukrajine še za eno leto*, 19 January 2024, available at: <https://bit.ly/48PhRkm>.

²⁶⁹⁵ *Ibid.*

C. Access to temporary protection and registration

1. Admission to territory

No reports by NGOs, media or testimonies collected by PIC or any other organisation on people fleeing Ukraine that would be refused entry at the border were made public.

It was also reported to PIC by the General Police Directorate in February 2024 that no displaced persons from Ukraine were refused entry at the border in 2023 due to the exceptions to the entry requirements for such persons.

Further, there have been no officially reported cases or any evidence of issues for people who returned to Ukraine and sought to re-enter Slovenia in 2023. In comparison to 2022, there have also been fewer mentions made to PIC lawyers of temporary protection holders who had issues at the Hungarian and other borders when travelling abroad and returning to Slovenia.

For citizens of Ukraine, entry into Slovenia is lawful on several bases. Firstly, based on Regulation (EU) 2018/1806 of the European Parliament and Council that established which third country nationals must be in possession of a visa when crossing the external borders of the EU and which are exempt from that requirement, Ukraine is one of the third countries whose nationals are exempt from the requirement to be in possession of a visa when crossing the external borders of the member states for stays of no more than 90 days in any 180-day period. The exemption from the visa requirement is limited to the holders of biometric passports issued by Ukraine.²⁶⁹⁶ In line with this, Ukrainian nationals do not require a visa to enter Slovenia and are legally able to stay in the country for up to 90 days in any period of 180 days, the same as for any other foreigners who, on the basis of the legal system of the European Union or an international treaty or a decision of the Government of the Republic of Slovenia, does not need a visa to enter and stay in the Republic of Slovenia.²⁶⁹⁷

After the expiration of the allowed short-term residence, their stay in the country is illegal unless they obtain another basis for residence in Slovenia.²⁶⁹⁸

Some flexibility on entry conditions was established on humanitarian grounds according to information from the Government of the Republic of Slovenia.²⁶⁹⁹ Illustratively, according to the latter, if residents of Ukraine enter the Republic of Slovenia without proper documents, e.g., only with internal documents (Ukrainian passports) that are not biometric and without a visa, the Police will take into account the individual circumstances and the situation in Ukraine, and merely issue a warning to the individual without a fine. In other circumstances, such entry into the territory would be considered an offense under the Foreigners Act. Regardless, such persons then do have to promptly obtain a legal basis for residence in Slovenia.

People fleeing from Ukraine can also apply for temporary or international protection in Slovenia after their other legal basis for residence in Slovenia (e.g., short-term visa-free stay) expires or immediately when crossing the border. A person who expresses their intention to seek temporary protection in the Republic of Slovenia should be treated as an applicant under the Temporary Protection of Displaced Persons Act and shall therefore be permitted to enter the country.²⁷⁰⁰ As aforementioned, persons

²⁶⁹⁶ Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (codification), OJ L 303/39, available at: <http://bit.ly/47GkvYI>.

²⁶⁹⁷ Article 14(2) Foreigners Act.

²⁶⁹⁸ Article 60 Foreigners Act.

²⁶⁹⁹ The official Government website: Republic of Slovenia, *Support for Ukrainian Nationals in Slovenia*, available at: <https://bit.ly/3HvxxNh>.

²⁷⁰⁰ Article 16(1) Temporary Protection of Displaced Persons Act.

fleeing from Ukraine also have the option to express an intention to apply for international protection in which case, they cannot be deported from the country from the moment they have expressed the intention, in accordance with the IPA.²⁷⁰¹

In accordance with Article 7 of the Temporary Protection of Displaced Persons Act, a displaced person as referred to in the Act who, during the period of temporary protection and until the quota determined by the Government has been filled, illegally enters the territory may seek temporary protection from the competent authority as long as they do so within three days. A displaced person who enters the Republic of Slovenia outside a border crossing point and who seeks temporary protection from the competent authority within the mentioned time limit in accordance with the Article 7 shall not be deemed to have committed a minor offence pursuant to the Act governing state border control.²⁷⁰²

Moreover, with regard to the waiving of customs duties and measures to facilitate the entry of pet animals travelling with their owners from Ukraine, the Providing operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders, published by the Slovenian Administration for Food Safety, Veterinary Sector and Plant Protection (AFSVSPP) on 28 February 2022 foresees the provisional authorisation of entry for pet animals on the basis of a completed application and under the conditions set out in the application to ensure that the entry of these animals into the EU does not pose a risk of rabies introduction/transmission.²⁷⁰³ A contact point has been established at the headquarters of AFSVSPP to accept applications. However, as of 1 March 2023, based on Article 32 of Regulation (EU) 576/2013 on the non-commercial movement of pet animals, the AFSVSPP no longer allows the entry of pet animals from Ukraine under the simplified procedure, which means that dogs, cats and ferrets must comply with the conditions set in the Regulation.²⁷⁰⁴

2. Freedom of movement

Persons entitled to temporary protection who do not hold a biometric travel document do not experience any particular issues with Slovenian authorities, when moving within the territory of Slovenia or while attempting to continue their journey towards other European countries. However, persons not entitled to temporary protection will be restricted in their movements if they apply for international protection (see [General Report – Freedom of movement](#)), which may also impact persons entitled to temporary protection of the same family unit.

Entry into the national territory and moving within the country was also facilitated for persons fleeing Ukraine. Moreover, vehicles with a maximum permissible weight of up to 3.5 tonnes (most passenger cars and light combination vehicles) with Ukrainian number plates are, until further notice, exempt from tolls on toll roads (purchasing the e-vignette), but only for the purpose of entering or crossing the Republic of Slovenia in transit. If the drivers of these vehicles stay in the Republic of Slovenia and use toll roads during their stay in the country, they must obtain an appropriate e-vignette for their vehicles.²⁷⁰⁵

3. Registration under temporary protection

In Slovenia registration occurs when the application is submitted to the competent authority.

²⁷⁰¹ Article 36(1) IPA.

²⁷⁰² State Border Control Act, Official Gazette of RS, no. 35/10 and subsequent changes.

²⁷⁰³ Government of the Republic of Slovenia, *Derogation for non-commercial movements of pets due to the exceptional situation in Ukraine*, available at: <https://bit.ly/3l7SJI6>.

²⁷⁰⁴ Government of the Republic of Slovenia, *Termination of simplified procedure for non-commercial movements of pets due to the exceptional situation in Ukraine*, available at: <https://bit.ly/3FKrMv9>.

²⁷⁰⁵ DARS, *Obrazec za oprostitvev cestnine zaradi humanitarne pomoči*, 3 March 2022, available in Slovenian at: <https://bit.ly/48lmU63>.

As stipulated in Article 16 of the Temporary Protection of Displaced Persons Act,²⁷⁰⁶ upon entry into the Republic of Slovenia, an applicant shall complete an application for temporary protection with the authority responsible for border crossing control, *i.e.*, the Police, and shall present all the evidence at their disposal which is relevant for the decision on granting temporary protection. The Police shall then immediately submit the application and supporting documents to the competent authority for processing and deciding on granting temporary protection, which is the administrative unit in the territory where the applicant is staying.

Displaced persons illegally entering into the Republic of Slovenia and those already present in the territory shall, without delay and within three days at the latest, complete an application for temporary protection and submit it to the local police office located in the area where the person in question is staying or to the administrative unit in the area where the person is staying together with all documents held by them that are relevant to deciding on the granting of temporary protection.²⁷⁰⁷ If in these two cases the application is submitted to the Police, the Police shall forward it without delay to the administrative unit where an applicant for temporary protection is staying.

Administrative units then process and decide on whether an applicant fulfils the conditions to be granted temporary protection determined by this Act in a summary fact-finding procedure²⁷⁰⁸ and must therefore issue and serve the decision as soon as possible or at the latest within one month from the day of receiving a complete application for initiating an administrative procedure in accordance with Article 222, paragraph 1, of the General Administrative Procedure Act.²⁷⁰⁹ If the administrative unit fails to issue a decision and serve it to the applicant in due time, the applicant has the right to appeal it as if their claim had been refused in accordance with the General Administrative Procedure Act.²⁷¹⁰

An appeal may be filed against a decision of an administrative unit deciding on the granting of temporary protection within 15 days of the date of service. An appeal stays the execution of the decision and is decided on by the Ministry.²⁷¹¹

In case of a positive decision, the applicant receives an identity card, which also serves as a permit for temporary residence in the Republic of Slovenia.²⁷¹² In case of a decision dismissing or withdrawing temporary protection or rejection order rejecting the application, the applicant receives a written decision which indicates the time limit by which they must have left the country. A person failing to leave the Republic of Slovenia by the determined time limit is subject to the provisions on the removal of foreigners of the Foreigners Act.²⁷¹³

With the proposed legislative changes in 2022, which were not yet adopted at the time of writing the report, the procedure for applying for temporary protection would be simplified by referring only to the administrative units as the responsible authority to accept an application for temporary protection and no longer also the Police.²⁷¹⁴ There may be an issue with such provision in practice, as in most cases the first authority that persons entering Slovenia come in contact with is the Police, and from this point of view it is easiest and most reasonable to file an application for temporary protection, together with any supporting documents, with the Police, which the latter then forward to the competent administrative unit. It is also important to point out that persons who have just entered the Republic of Slovenia are not familiar with its state bodies and their powers (*e.g.*, the concept of administrative units), they lack

²⁷⁰⁶ Article 16(3)-(4) Temporary Protection of Displaced Persons Act.

²⁷⁰⁷ Article 16(5) Temporary Protection of Displaced Persons Act.

²⁷⁰⁸ Article 19(2) Temporary Protection of Displaced Persons Act.

²⁷⁰⁹ General Administrative Procedure Act Official Gazette of RS, No. 24/06 and subsequent amendments.

²⁷¹⁰ Article 222(4) General Administrative Procedure Act.

²⁷¹¹ Article 20(1)-(2) Temporary Protection of Displaced Persons Act.

²⁷¹² Article 19(1)-(3) Temporary Protection of Displaced Persons Act.

²⁷¹³ Article 19(5) Temporary Protection of Displaced Persons Act.

²⁷¹⁴ Article 18(2) of the proposed Temporary Protection of Displaced Persons Act (ZZZRO-1), 12 June 2023, available in Slovenian at: <http://bit.ly/3jwllkie>.

information, as seen in practice by PIC and, as a result, the implementation of such a provision may lead to uncertainties.

Time limit for application

As aforementioned, in accordance with the Article 16 of Temporary Protection of Displaced Persons Act, applicants illegally entering into the Republic of Slovenia and applicants already present in Slovenia shall, without delay and within three days at the latest, complete an application for temporary protection. The law on temporary protection does not however stipulate any consequence for exceeding the determined time limit and no consequences have been detected by PIC in practice so far.

A time limit that also needs to be considered is that of the allowed short-term stay (visa-free regime) for citizens of Ukraine. Under this regime, Ukrainian citizens may reside in Slovenia for up to 90 days within a 180-day period, after which they need to obtain another legal basis for residence in Slovenia.²⁷¹⁵

Evidence

When applying for temporary protection, applicants are required to provide evidence at their disposal in order to prove they fall under the scope of this protection regime.²⁷¹⁶ However, the law regulating temporary protection does not further define said evidence. Based on the experience of temporary protection beneficiaries shared with PIC, it was noted that, in general, the relevant documentation in the procedure for the granting of temporary protection is considered to include documentary evidence that can help establish the identity, residence of the person and the moment at which the person left Ukraine, which are determining factors for being eligible for temporary protection, and documentation attesting family relationship or family unity and dependency with close relatives when relevant.

The authority that receives the application and supporting documents issues a written acknowledgement of receipt of application to the applicant.²⁷¹⁷

Issues in registration for TPD

In 2022, in the context of PIC's project of providing information and legal counselling to refugees, supported by the United Nations High Commissioner for Refugees (UNHCR), a Mobile Blue Dot, consisting of lawyers and an interpreter, was activated specifically to provide information and counselling to Temporary Protection seekers/holders.²⁷¹⁸ The Mobile Blue Dot, operated by PIC and still running in 2024 through regular visits to reception/accommodation centres and individual counselling,²⁷¹⁹ was initially (in the first few months of TP activation in 2022) informed by applicants and beneficiaries of temporary protection that some had been waiting for the decision on granting temporary protection to be issued by the administrative units well over the determined time limit for issuing and serving a decision. This issue has since then improved and the average number of days from the receipt of an application to the issuance of a decision in most administrative units in 2023 was reported to be less than 30 days, while in certain administrative units the legislative time limit was still exceeded (with the longest time in administrative unit Škofja Loka, which was on average 147,94 days, while the shortest time of just 3 days on average has been documented in Ormož).²⁷²⁰

The reasons for the backlogs can mostly be attributed to administrative units being overloaded with applications that they were not able to process in time as they were not fully prepared from an organisational standpoint, especially in the first few months of activating temporary protection in

²⁷¹⁵ Article 14(2) Foreigners Act.

²⁷¹⁶ Article 16(3) Temporary Protection of Displaced Persons Act.

²⁷¹⁷ Article 16(8) Temporary Protection of Displaced Persons Act.

²⁷¹⁸ UNHCR, *Slovenia fact sheet: February 2023*, available at: <https://bit.ly/3vPOnV4>.

²⁷¹⁹ For individual legal counselling, one can apply for an appointment through e-mail or by filling out an online form provided on PIC's website: <https://bit.ly/4b8INON>.

²⁷²⁰ Official statistics provided by the Ministry of the Interior, February 2024.

Slovenia, as observed by PIC. Administrative units are also unequal both in terms of size and workload, which can affect how long applicants are waiting to be granted temporary protection depending on which administrative unit is processing their applications, and consequently their ability to enjoy the rights as temporary protection beneficiaries, including the right to work, financial assistance, etc.

The duration of the procedures for obtaining temporary protection (and thus related rights) in certain administrative units was expressed as concerning also by the Human Rights Ombudsman of the Republic of Slovenia in his latest available annual report (for 2022), the reason for which the Ombudsman attributed to staff shortage based on collected information and his observations.²⁷²¹ However, in 2023 there were fewer such reports made to PIC and some of them were also found to be related to incomplete applications.

Another issue observed by PIC was that, until June 2022, written administrative decisions were issued instead of identity cards, which caused some beneficiaries of temporary protection to have issues at foreign borders when traveling to Ukraine and back to Slovenia. The authorities responsible for border crossing control reportedly did not recognise the document, *i.e.*, the written administrative decision, as it was not in the form of an identity card, despite the decision granting the person the status of temporary protection in Slovenia and all the related rights and obligations. However, the procedure is simpler and faster since identity cards are being issued instead of the written administrative decisions, which also facilitated travelling to other countries and returning to Slovenia. Nonetheless, some issues with regard to the temporary protection identity cards being recognised by the foreign border crossing control were still mentioned in 2023, reportedly mainly relating to the material used for the TP cards issued in Slovenia, as they are simply laminated,²⁷²² instead of being made with a more secure and durable material.

4. Legal assistance

In accordance with Article 37 of the Temporary Protection of Displaced Persons Act, persons *enjoying temporary protection* enjoy the right to free legal aid in accordance with the act governing free legal aid.

As free legal aid is foreseen only for persons that have already been granted temporary protection, the law does not provide free legal aid for applicants for temporary protection (neither in first nor in second instance procedures, for example to appeal a decision on granting temporary protection) that would be funded through the State budget. Free legal aid is however provided by non-governmental organisations, such as PIC, which in 2024 continues to provide legal assistance to applicants as well as to persons granted temporary protection, which includes familiarising applicants for temporary protection with their rights and obligations in Slovenia, representing applicants at application submissions, providing relevant information and offering legal advice, all within the project funded by the UNHCR-Counselling and representing asylum applicants in Slovenia. Legal assistance by PIC is provided through regular visits to reception/accommodation centres, organised with a permission from the UOIM, according to a set schedule (for example every two weeks in **Logatec**, once a month in **Debela Rtič**, *etc.*, with the frequency adjusted based on the needs and the approximate number of inquiries). In 2023, PIC lawyers provided legal counselling in large part through individual legal counselling in person at PIC's office and online.

The Faculty of Law of the University of Ljubljana has also been offering free legal assistance to Ukrainian citizens who apply for protection in Slovenia. Legal information is provided within the Legal Clinic for Refugees and Foreigners, in which students of the Faculty of Law participate, sometimes

²⁷²¹ Human Rights Ombudsman of the Republic of Slovenia, *The 28th Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2022*, available in Slovenian at: <https://bit.ly/3TXu4Pf>, 483-484.

²⁷²² Article 4(2) Rules on the application for granting temporary protection and on the identity card of persons enjoying temporary protection.

consulting with other individuals and institutions involved in the provision of assistance to refugees. Consulting is mainly provided via e-mail.²⁷²³

As for persons enjoying temporary protection, free legal aid is available in accordance with the Legal Aid Act, as aforementioned.²⁷²⁴ It can be granted for legal advice, legal representation and other legal services specified by law, for all forms of legal protection before all courts of general jurisdiction and specialised courts in the Republic of Slovenia, before the Constitutional Court of the Republic of Slovenia and before all authorities, institutions or persons in the Republic of Slovenia, which are responsible for the out-of-court settlement of disputes and as an exemption from paying the costs of court proceedings. Free legal aid is also granted for proceedings before international courts or arbitrations, if the right to free legal aid is not regulated by the rules of the international court or arbitration, or if the individual is not entitled to it according to the rules on free legal aid.

A person is entitled to free legal aid if, given their material situation and the material situation of their family, they would not be able to afford the costs of court proceedings or the costs of obtaining legal aid without jeopardising their social situation and that of their family.²⁷²⁵

As PIC observed, one of the issues for persons entitled to temporary protection to accessing free legal assistance continues to be the lack of information on how to do so, *i.e.*, to fill out the form at the competent court. For PIC's legal assistance, one practical obstacle has been reaching applicants and beneficiaries of temporary protection that have settled in private accommodations since entering Slovenia, meanwhile legal information and counselling sessions for persons in reception/accommodation centres and other state facilities has not been an issue, as all the needed information was provided by the UOIM and the frequent, regular visits are still arranged in cooperation with said accommodations.

5. Information provision and access to NGOs

Article 15 of the Temporary Protection of Displaced Persons Act, which foresees procedural rights, stipulates that an applicant for temporary protection shall be provided all information concerning the procedure for the granting of temporary protection in a language that they understand and shall have the right to follow the procedure and participate therein in a language that they understand. An applicant may, at any time, contact non-governmental, international and other organisations assisting refugees. By law, the UOIM shall provide applicants this information through information booklets and by establishing an information service.²⁷²⁶

The right to be informed is regulated in Article 38 of the Temporary Protection of Displaced Persons Act, stipulating that persons enjoying temporary protection must be informed of the rights and obligations arising from this Act in a language they understand. The UOIM shall provide them the necessary information, in particular regarding accommodation, claiming financial assistance, health care, education and employment, in a language they understand. Moreover, the Decree on the methods for ensuring the rights of persons enjoying temporary protection stipulates in Article 2, paragraph 3, that the UOIM shall provide information to applicants for temporary protection by issuing informative brochures in electronic and printed form and by organising an information service. Article 24 provides that UOIM shall organise the briefing of persons with temporary protection on their rights and duties, as determined by law, in electronic and printed form or in another appropriate way.

²⁷²³ University of Ljubljana, *Brezplačni pravni nasveti in pomoč ukrajinskim državljanom*, available in Slovenian at: <https://bit.ly/3Um6ydg>.

²⁷²⁴ Legal Aid Act, Official Gazette of RS, No. 96/04 and subsequent amendments.

²⁷²⁵ Article 13(1) Legal Aid Act.

²⁷²⁶ Article 15(1)-(3) Temporary Protection of Displaced Persons Act.

In practice, this has been realised by the UOIM setting up a government call centre, through which information is provided about the assistance that Slovenia provides to displaced persons from Ukraine, about entry and residence in Slovenia, about the procedure for recognising temporary protection and information on how individuals or organisations can provide financial or material assistance, in a language they understand. The call centre works every day of the week from 8 a.m. to 4 p.m. The UOIM has also established a special email address for any inquiries. Current information and contact numbers are also published on the official website in Slovenian and Ukrainian language and are being duly updated.²⁷²⁷ As pointed out to PIC by users of the website, some had issues finding the needed information, especially the forms that need to be filled out to apply for financial support. On the UOIM's website, a brochure in Ukrainian language, containing information on temporary protection, has also been available since 2022. Per the latest information by the General Police Directorate,²⁷²⁸ physical brochures are also being distributed by the Police (without further clarification on whether the brochures are provided and funded by the State) to potential applicants for temporary protection in order to familiarize them with their rights, however, as PIC was informed by the UOIM,²⁷²⁹ no such physical information booklets/brochures were issued by the UOIM so far and the only version remains in electronic form. Consequently, some have reported to PIC lawyers that they were not sufficiently informed especially about the difference between different forms of protection, *i.e.*, temporary and international protection (which led some to regret submitting applications for international protection or to submit applications for both forms of protection at the same time at the Police). The main issue with the lack of information was also that, as some reported to PIC, the Police already indicated to persons entering Slovenia to which form of protection they are supposedly entitled and directed them to applying for that form of protection without providing full information. This is despite the fact that there is no limitation set by law based on which the persons fleeing Ukraine would be able to apply only for temporary protection and not for international protection and it is therefore within the rights of a person announcing they are in need of protection to decide which procedure to start in this regard and for the competent authority to then decide on the eligibility of the person on the basis of the provided relevant documentation.

Persons that are accommodated in accommodation centres can also turn to social workers for help with basic information regarding their rights and for some practical questions (*e.g.*, how to obtain a tax number).

A significant part of providing important information was taken upon by several non-governmental organisations, such as PIC. In 2023, PIC continued to provide key information related to the temporary protection in Slovenia, as well as with regard to further integration into Slovenian society, including more detailed information on the Slovenian healthcare system, working in Slovenia (different types of contracts under which a person can work, workers' rights in Slovenian labour law etc.), on legal bases for residing in Slovenia after temporary protection ceases (*e.g.*, how to obtain a single residence and work permit and family reunification), acquisition of citizenship and return to the country of origin. It was noted by PIC that, in 2023, the vast majority of inquires related to the uncertainty regarding the options for transitioning from temporary protection to other legal statuses once TPD ceases to apply, mostly on the basis of employment or studies, as under the current law such transition is not possible. Concerns were expressed by TP holders also in relation to the current lack of legal basis for obtaining residence permit in Slovenia specifically for persons with health issues and the elderly that would not be able to return to Ukraine, while they would also not be able to obtain work or other type of permit as provided in the Foreigners Act.

In 2023, several programmes were carried out in accommodation centres, namely UNHCR-funded programmes in the field of legal consultancy and general informing (as provided by PIC) and in the field

²⁷²⁷ The official Government website: Republic of Slovenia, *Support for Ukrainian Nationals in Slovenia*, available at: <https://bit.ly/3HvxxNh>.

²⁷²⁸ Information provided by the General Police Directorate, February 2024.

²⁷²⁹ Information provided by the UOIM, February 2024.

of informing on human trafficking (with the aim to inform applicants for international and temporary protection about the pitfalls of human trafficking, gender-based violence, and to offer possible forms of support within the existing system of assistance to potential and actual victims of human trafficking and victims of various forms of violence in Slovenia),²⁷³⁰ with the latter provided by [Society Ključ – Centre for Fight against Trafficking in Human Beings](#). Moreover, in March 2023, on the basis of public procurement, a contract was concluded with the contractor [Projekt Ambient](#), namely on the implementation of basic integration support for displaced persons from Ukraine with temporary protection in the Republic of Slovenia. The subject of the contract was the implementation of assistance to persons with the status of temporary protection within the framework of the project of the Norway Grants and EEA Grants - psychosocial assistance to people from Ukraine. The project ended on June 30, 2023.²⁷³¹

Within the project implemented by PIC, in 2023, 1,044 displaced persons from Ukraine were assisted (those staying in accommodation centres and those in private accommodation altogether). Other non-governmental organisations have also been providing information in several fields, among them for example [Slovene Philanthropy](#), which has been offering key information and certain legal help, related to the stay in the Republic of Slovenia and regarding other rights under temporary protection.²⁷³² In 2022, assistance by Slovene Philanthropy included also providing information on the rights and duties of persons with temporary protection and a 12-hour orientation program, which took place online and in person, namely under a project financed from the Fund for Bilateral Relations, which lasted until the end of December 2022.²⁷³³ Information has also been provided by Slovene Philanthropy in the form of informative videos with Ukrainian subtitles to help persons with temporary protection familiarize themselves with their rights and obligations, which are still accessible.²⁷³⁴ According to public information, Slovene Philanthropy was also chosen to carry out part of the project for basic integration support for displaced persons from Ukraine in Slovenia in 2023, financed by the Fund for Bilateral Relations, which would include providing informing after the adoption of the amendment to the Temporary Protection of Displaced Persons Act. However, since no amendments to the aforementioned law were adopted during the duration of the project, this part of the project was thus not implemented.²⁷³⁵ In 2023, [Slovenian Red Cross](#) also continued to provide useful information to people fleeing Ukraine and carried out various activities for applicants for international protection and persons with temporary protection in asylum centres and accommodation centres, while also offering interpretation in Ukrainian language in order to facilitate access to services for people fleeing Ukraine, as well as providing humanitarian aid.²⁷³⁶ In 2023, psycho-social counselling and support was provided by [Institute EMMA](#).²⁷³⁷

Moreover, in December 2022 the European Union Agency for Asylum (EUAA) has signed an Operational Plan with the Republic of Slovenia for the provision of technical and operational assistance by EUAA to Slovenia. The Operational Plan, with the implementation period from the date of signing by the last of parties until 30 June 2023, came at the request of the Slovenian Ministry of Interior with the aim to support the national authorities in achieving three main objectives, including: implementing quality preliminary and asylum procedures, enhancing national capacity to provide adequate reception conditions and implementing Temporary Protection Directive, by helping with the provision of agreed-

²⁷³⁰ Society Ključ, *PATS*, available in Slovenian at: <https://bit.ly/4ap1kUW>.

²⁷³¹ Information provided by the UOIM, March 2024.

²⁷³² Slovene Philanthropy, *REFUGEES FROM UKRAINE*, available at: <https://bit.ly/3Y7hkox>.

²⁷³³ UOIM, *Osnovna podpora pri integraciji za razseljene osebe iz Ukrajine z začasno zaščito v Sloveniji*, available in Slovenian at: <https://bit.ly/3jEXn9J>.

²⁷³⁴ Slovene Philanthropy, *POMEMBNE INFORMACIJE ZA TISTE, KI NUDITE POMOČ BEGUNCEM IZ UKRAJINE*, available at: <https://bit.ly/3IM0XYI>.

²⁷³⁵ UOIM, *Osnovna podpora pri integraciji za razseljene osebe iz Ukrajine z začasno zaščito v Sloveniji*, available at: <https://bit.ly/3jEXn9J>.

²⁷³⁶ Slovenian Red Cross, *Pomoč Ukrajini in informacije za begunce ter njihove svojce*, available in Slovenian at: <https://bit.ly/3FU0YZu>.

²⁷³⁷ Information provided by the UOIM, February 2024.

upon information to people fleeing Ukraine, as well as helping to manage the reception facilities where Temporary Protection beneficiaries reside.²⁷³⁸

Risks of exploitation and human trafficking

The Government has placed a special emphasis on persons fleeing the war in Ukraine being at risk of becoming victims of trafficking or other forms of exploitation. The authorities warn that many people are offering to help Ukrainian nationals, including with offering private accommodation, work and transportation to other countries but some of these may in fact be traps in which persons can fall victims to traffickers. It is also emphasized that women and children are a particularly vulnerable group in terms of human trafficking and anybody that detects any suspicious circumstances or believes they could be a victim of trafficking, is encouraged to call the police, or get in touch with anti-trafficking non-governmental or humanitarian organisations at the listed contact telephone numbers or e-mail addresses ([Caritas Slovenia](#), [Society Ključ – Centre for Fight against Trafficking in Human Beings](#), [Slovene Philanthropy](#), which also provide some information regarding risks for displaced persons from Ukraine).²⁷³⁹ Some NGOs also participate in the Interdepartmental Working Group for the fight against human trafficking, which brings together ministries and government departments as well as non-governmental organisations.²⁷⁴⁰

Upon the arrival of refugees from Ukraine, the National Working Group on Combating Trafficking in Human Beings warned about the risks posed by the crisis in Ukraine in relation to human trafficking.²⁷⁴¹ As published on the Government website in 2022, in the accommodation facilities in **Logatec** and **Debeli Rtič**, cases were detected where individuals were looking for or attempting to establish contacts with women refugees from Ukraine, offering marriage arrangements and accommodation in private apartments in exchange for providing sexual services and performing various household chores. A suspicious ad for a job in the fashion industry was also detected.²⁷⁴²

This issue was also addressed by the Human Rights Ombudsman of the Republic of Slovenia, who in relation to the risks of human trafficking inquired the UOIM, Ministry of the Interior and Ministry of Labour, Family, Social Affairs and Equal Opportunities about any taken action in this respect. In response, in November 2022, the Ministry informed the Ombudsman that the Police had detected and dealt with five cases in which suspicions of a criminal offence of human trafficking in which citizens of Ukraine were allegedly exploited as victims.²⁷⁴³

Further, the US department of State also mentioned in its 2023 Trafficking in Persons Report on Slovenia, that Slovenian authorities reported sex traffickers targeted Ukrainian refugee women at a government-run accommodation facility. It was also reported that Slovenes as well as foreign workers and undocumented migrants are vulnerable to labour trafficking, including forced begging or domestic servitude in a variety of sectors including construction, transportation, hospitality, and domestic service. Specifically Ukrainian refugees, predominantly women and children, fleeing Russia's full-scale invasion of Ukraine, are pointed out as vulnerable to trafficking.²⁷⁴⁴

²⁷³⁸ European Union Agency for Asylum, *EUAA deploys to Slovenia to support with asylum and reception, as the number of applications in Europe rise*, 20 December 2022, available at: <https://bit.ly/444qDK0>.

²⁷³⁹ Government of the Republic of Slovenia, *Combating trafficking in human beings*, available at: <https://bit.ly/3x1tzHC>.

²⁷⁴⁰ Government of the Republic of Slovenia, *The National Working Group for Combating Trafficking in Human Beings*, available at: <https://bit.ly/3Hyevq1>.

²⁷⁴¹ Government of the Republic of Slovenia, *Combating trafficking in human beings*, available at: <https://bit.ly/3x1tzHC>.

²⁷⁴² See for example articles explaining several examples of potential abuses people fleeing Ukraine are exposed to: N1, "Na mejo po novo ženo": vojna odpira prostor za izkoriščanje ljudi v stiski, 15 March 2022, available in Slovenian at: <https://bit.ly/3XjHAe5> and N1, *Zloraba begunk? Oglas v Logatcu v ruščini ponuja manekensko delo*, 12 April 2022, available in Slovenian at: <https://bit.ly/3RJuaar>.

²⁷⁴³ Human Rights Ombudsman of the Republic of Slovenia, *The 28th Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2022*, available in Slovenian at: <https://bit.ly/3TXu4Pf>, 484.

²⁷⁴⁴ U.S. Department of State, *2023 Trafficking in Persons Report: Slovenia*, available at: <https://bit.ly/3TluWHc>.

Moreover, it was also stated in the report that the Government of Slovenia in September 2022 participated in a joint operation with 19 countries to target criminal networks using online platforms to recruit victims for sexual exploitation and trafficking, with particular emphasis on refugees from Ukraine, which resulted in 45 potential victims identified, 25 of whom were Ukrainian. The government thus also increased prevention efforts, with the Ministry of Interior's (MOI) national coordinator for counter trafficking in persons continuing to head the Interdepartmental Working Group (IWG), which included NGO, police, and MOI representatives. IWG met seven times during the reporting period to organize and coordinate awareness efforts, including two extraordinary sessions to strengthen public information campaigns and coordination in response to the influx of Ukrainian refugees. The government also adopted a new anti-trafficking NAP for 2023-2024 focused on trainings, awareness activities, safe accommodation, and assistance, while continuing to issue warnings to refugees fleeing Ukraine regarding their vulnerability to human trafficking; increasing public awareness campaigns, in coordination with NGOs; publishing materials in Ukrainian; and strengthening its police presence in the field.²⁷⁴⁵

In 2023 no new such cases have been detected by the UOIM.²⁷⁴⁶

Information provision at the border

The Police, as the authority responsible for border crossing control, orally provide information on the procedure for temporary protection (basic information on the process and the rights and obligations of applicants and beneficiaries). Individuals can directly fill out an application for temporary protection and submit the relevant documents to the Police upon entry into the Republic of Slovenia. In practice, in 2023 PIC has continued to notice that many applicants were lacking basic information regarding the continuation of the temporary protection procedure (e.g., deadline for issuing a decision) and relating to their rights as temporary protection beneficiaries or applicants. We have, however, detected that in general, persons that were younger and more digitally savvy were more familiar with the relevant information, considering it is provided on the Government's website, while especially those who are older had certain issues.

D. Guarantees for vulnerable groups

Categories of people considered to be vulnerable are defined in the Temporary Protection of Displaced Persons Act as persons with special needs, in particular unaccompanied minors, persons with disabilities, elderly persons, pregnant women, unaccompanied women, single parents with minor children, victims of sexual abuse and victims of torture or organised violence.²⁷⁴⁷

Concerning any implemented procedure for conducting a vulnerability assessment of applicants for temporary protection, General Police Directorate explained that all applicants for temporary protection are treated individually with regard to their potential vulnerability.²⁷⁴⁸ The types of vulnerabilities that the Police systematically identify include especially unaccompanied minors, women, disabled people, elderly people, pregnant women, single parents, a person exposed to psychological, physical or sexual violence, a person with a confirmed infection with a contagious disease or a person in need of medical assistance and a stateless person. In any case, minors are inherently considered a vulnerable category of persons and special attention is paid to them. The mentioned vulnerabilities are not exclusive and other categories of persons who need special care or special assistance that go beyond basic migrant care can also be included. The procedures for vulnerability assessment are not specified as such, since

²⁷⁴⁵ *Ibid.*

²⁷⁴⁶ Official statistics provided by the UOIM, February 2024.

²⁷⁴⁷ Article 3 Temporary Protection of Displaced Persons Act.

²⁷⁴⁸ Information provided by the General Police Directorate, February 2024.

the aim is to ensure the personal integrity and care case-by-case, meaning dealing with each case on its own merits. No statistical data concerning applicants for temporary protection and TP beneficiaries was collected by the General Police Directorate and provided to PIC in this regard. However, as stated by the Ministry of the Interior, vulnerability assessment is in fact not carried out as part of the application process for temporary protection, as the competent authority for identifying vulnerabilities in the context of ensuring the rights and adequate care of applicants for temporary protection is the UOIM.²⁷⁴⁹

Further, as described by the UOIM,²⁷⁵⁰ help and support in case of vulnerability is available to all applicants, regardless of whether they are applying for temporary or international protection. Throughout the entire process, it is possible to evaluate or detect/recognise potential vulnerability. The first option is a medical examination at the reception centre; another possibility is when persons apply for a temporary protection or international protection, and they have a conversation/interview with an official during the process of obtaining the protection. In addition, it is possible to confide in social workers who are available in the accommodation centres and branches. Psychosocial support (psychologist and psychotherapist) is available for vulnerable people, a psychiatrist also regularly comes to the Asylum Home. As observed by PIC, the same remained throughout 2023. Additionally, concerning vulnerability assessment, the UOIM explained,²⁷⁵¹ that the social service within accommodation centres regularly monitored each person from the first day of placement and in certain cases Social Work Centre also got involved. No statistical data of such persons has been provided for 2023.

It is especially worth mentioning that in 2022 the vast majority of people fleeing Ukraine and applying for temporary protection in Slovenia were women with children, as in the period from 10 March 2022 until 31 December 2022, a total of 8,445 persons applied for temporary protection in the Republic of Slovenia, of which 5,615 were women,²⁷⁵² who are very vulnerable to potential abuses. In 2023, the difference in numbers based on gender was less significant, as 765 men and 996 women applied for temporary protection.²⁷⁵³

Therefore, effective informing, systematic vulnerability assessment and an accessible and effective system of assistance that would prevent them from becoming victims of various forms of abuse is necessary.

In practice, there has been a difference between persons residing in accommodation centres and those in private accommodations, as the former can turn to social workers who are available in the centres and who then liaise with the competent authorities or organisations.

Unaccompanied minors

The procedure for treating unaccompanied minors, as one of the categories of vulnerable persons, is regulated in Article 22 of the Temporary Protection of Displaced Persons Act, which provides that an unaccompanied minor shall be appointed a legal statutory representative prior to the initiation of a procedure for obtaining temporary protection. In a procedure involving an unaccompanied minor, the competent authority shall take into consideration the minor's opinion, in accordance with their age and degree of maturity. Applications for temporary protection lodged by unaccompanied minors shall be examined as a matter of priority.

²⁷⁴⁹ Information provided by the Ministry of the Interior, February 2024.

²⁷⁵⁰ Information provided by the UOIM, February 2023.

²⁷⁵¹ Information provided by the UOIM, February 2024.

²⁷⁵² Official statistics provided by the Ministry of the Interior, March 2023.

²⁷⁵³ Official statistics provided by the Ministry of the Interior, February 2024.

Further, Article 41 specifies that a minor person shall be appointed a guardian in accordance with the regulations governing guardianship by a Social Work Centre. During the period of temporary protection, unaccompanied minors shall normally be placed:

- ❖ with adult relatives;
- ❖ with a foster family;
- ❖ in accommodation centres or other lodging facilities suitable for minors;
- ❖ with a person who looked after the child upon arrival in the Republic of Slovenia.

The Social Work Centre with territorial jurisdiction shall be the centre located in the area where the unaccompanied minor is accommodated. When accommodating an unaccompanied minor, the competent Social Work Centre shall take into consideration the minor's opinion, in accordance with their age and degree of maturity.²⁷⁵⁴

No special measures have been implemented so far that would be adapted specifically to the needs of non-accompanied minors who are entitled to temporary protection.²⁷⁵⁵

Persons suffering from mental health problems

Concerning the needs of applicants for temporary protection and TP beneficiaries suffering from mental health problems, including torture survivors and other traumatised persons, the UOIM explained that in 2023 such persons were entitled to psychiatric examinations and assistance provided at the headquarters of the UOIM. The aforementioned Projekt Ambient also addressed such problems through their programme.²⁷⁵⁶

As observed by PIC, some psychosocial support has also been available in accommodation centres based on the recognised need of accommodated persons by the social workers.

²⁷⁵⁴ Article 41(3) Temporary Protection of Displaced Persons Act.

²⁷⁵⁵ Information provided by the UOIM, February 2024.

²⁷⁵⁶ *Ibid.*

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of temporary protection?
Same as duration of the temporary protection, i.e., initially one year and then as extended.
2. How many residence permits were issued to beneficiaries from the activation of the Temporary Protection Directive until 31 December 2023?
9,337 (1,671 in 2023)

A person enjoying temporary protection is issued an identity card by the competent administrative unit that also serves as a permit for temporary residence in the Republic of Slovenia and which is valid for the period of the temporary protection.²⁷⁵⁷ The decision/identity card must be issued within one month at the latest from the day of receiving a complete application for initiating the procedure in accordance with the Article 222, paragraph 1, of the General Administrative Procedure Act.

The duration of temporary residence permits is the same as that of temporary protection, i.e., initially one year and then as extended.²⁷⁵⁸ The permit is automatically prolonged, and beneficiaries are issued new identity cards by the administrative units ex officio.²⁷⁵⁹

Regarding difficulties see [Registration under temporary protection](#).

The residence permit granted to temporary protection beneficiaries is a *temporary* residence permit. In general, in accordance with the Foreigners Act, after five years of uninterrupted legal stay in Slovenia on the basis of a temporary residence permit, foreigners may obtain a permanent residence permit. However, the law provides that the period of residence of a foreigner in the Republic of Slovenia as a person with temporary protection cannot be counted towards the required five-year period for issuing a permanent residence permit, which is important for the persons that would decide to stay in Slovenia on a different basis (such as, e.g., single residence permit and work permit) after temporary protection ceases and would plan on eventually obtaining permanent residence permit.²⁷⁶⁰

A person who decides to renounce temporary protection because they wish to return to Ukraine or move to another country must unequivocally notify, in any way, including by e-mail, the competent administrative unit which granted them temporary protection. If a person has already been issued the abovementioned identity card, they must return it to the administrative unit that issued it (which can also be done by post). The administrative unit issues a decision on termination of temporary protection, which also specifies the deadline by which the person must leave the country.²⁷⁶¹ As explained by the Ministry of the Interior,²⁷⁶² in accordance with the guidelines of the European Commission a person already enjoying temporary protection in one of the member states has the right to travel to another member state for 90 days in a 180-day period, however if such a person moves to another member state (in this case to Slovenia), where they receive a second temporary protection residence permit, the

²⁷⁵⁷ Article 42(2) Temporary Protection of Displaced Persons Act.

²⁷⁵⁸ Article 42(3) Temporary Protection of Displaced Persons Act.

²⁷⁵⁹ Government of the Republic of Slovenia, *Podaljšanje začasne zaščite za razseljene osebe iz Ukrajine še za eno leto*, 19 January 2024, available in Slovenian at: <https://bit.ly/48PhRkm>.

²⁷⁶⁰ Article 52(1) Foreigners Act.

²⁷⁶¹ The official Government website: Republic of Slovenia, *Support for Ukrainian Nationals in Slovenia*, available at: <https://bit.ly/3HvxxNh>.

²⁷⁶² Information provided by the Ministry of the Interior, February 2024.

member state that issued the first temporary protection residence permit must revoke it, and the rights derived from temporary protection in said member state cease.

To date, Slovenia still does not have legal basis for data exchange and therefore cannot participate in the EU platform for registration in view of personal data protection,²⁷⁶³ therefore it is advisable for persons that were enjoying temporary protection in another member state themselves submit proof of said renouncement to Slovenian authorities.

So far PIC has not detected any cases where a person that has renounced temporary protection in Slovenia and moved to another member state or returned to Ukraine would be prevented from applying for temporary protection again upon returning to Slovenia.

2. Access to asylum

Persons enjoying temporary protection may seek asylum during the period of temporary protection or after the termination thereof. In case the examination of an asylum application is not processed before the end of temporary protection, it shall be completed after the protection ends. Until a final decision on the asylum application is reached, such persons are subject to the regulations governing asylum.²⁷⁶⁴ However, temporary protection beneficiaries that apply for international protection when temporary protection is still active continue to enjoy the rights under temporary protection until a positive decision on international protection has been issued.²⁷⁶⁵

Being able to apply for asylum is not conditioned on whether a person eligible to temporary protection has first started the registration process for temporary protection and the asylum application is examined the same as other applications in accordance with the International Protection Act.

However, as reported to PIC in several cases, Police immediately directed persons to apply either for temporary or for international protection based on their evaluation of the person's circumstances with respect to eligibility for being granted temporary or international protection, even though the Police is not the competent authority in the decision-making process on eligibility for either protection. Such example was detected in 2023 by PIC in the case of a person born in Crimea and with a Crimean permanent residence permit, that was, the same as the majority of other Ukrainian residents of Crimea, given Russian citizenship after the illegal annexation of the Crimean Peninsula in March 2014 and was therefore in possession only of a Russian international passport. Based on the person's identity documents, Police insisted the person was a Russian citizen, coming from a Russian territory and thus not eligible for Temporary Protection, deterring them from applying for temporary protection, with complete disregard for the international community's position and Slovenia's foreign policy of not recognising the Russian annexation of Crimea and regarding the act as a violation of international law. Therefore, as by law third-country nationals who are not citizens of Ukraine and who resided in Ukraine on the basis of a valid permanent residence permit and who are unable to return to their country or region of origin in a safe and sustainable or lasting manner are also eligible for temporary protection in Slovenia, the person decided to apply for temporary protection, once fully informed, and was in fact granted the status.

B. Family reunification

Article 36 of the Temporary Protection of Displaced Persons Act, which deals with the right to family reunification, provides that the right to temporary protection shall also be enjoyed by members of the

²⁷⁶³ *Ibid.*

²⁷⁶⁴ Article 8(1)-(2) Temporary Protection of Displaced Persons Act.

²⁷⁶⁵ Information provided by the Ministry of the Interior, February 2024.

immediate family of a person granted temporary protection. The following are deemed as immediate family members under the Act:

- ❖ a spouse or a person who had lived with the person who was granted temporary protection before their arrival in the Republic of Slovenia, for at least one year, in a domestic community that is equal in legal consequences to a marriage pursuant to the Family Code;²⁷⁶⁶
- ❖ the children of the person granted temporary protection, as long as the person is obliged to support them;²⁷⁶⁷
- ❖ stepchildren if they support their stepfather or stepmother, and a stepmother or stepfather if they support their stepchildren;²⁷⁶⁸
- ❖ grandchildren and nephews of the person granted temporary protection, in so far as that person is supporting the grandchildren or nephews who are without parents;
- ❖ other close relatives of the person granted temporary protection, if they had lived together as a family before their arrival in the Republic of Slovenia and were supported by the person who has obtained temporary protection.

The Temporary Protection of Displaced Persons Act therefore does provide ground for family reunification, however further regulation of the subject, i.e., Article 23 of the Decree on the methods for ensuring the rights of persons enjoying temporary protection stipulates that in the process of exercising the right to family reunification, provisions of the Rules on the procedure concerning the transfer of persons enjoying temporary protection shall be applied *mutatis mutandis*.²⁷⁶⁹

In accordance with the Rules, which regulate the procedure of transferring a person with temporary protection from one EUMS to another as provided with provision of the Article 26 of Temporary Protection Directive, family reunification can therefore be applied only through the system of relocation, which begins on the basis of a case-by-case agreement between Slovenia and another EUMS. In the process of transfer from another Member State to Slovenia, the Ministry, based on data provided by the competent authority of the other Member State, determines whether a person enjoying temporary protection in another Member State has any of the reasons for ineligibility to temporary protection in accordance with Article 5 of the Temporary Protection of Displaced Persons Act (*i.e.*, there are reasonable grounds for suspecting that the person has committed a criminal offence against humanity and international law as determined by the Criminal Code; has committed a serious non-political criminal offence elsewhere than in the Republic of Slovenia before they were admitted to the country as an applicant for temporary protection; has committed a criminal offence contrary to the purposes and principles of the United Nations and other binding international treaties implementing these purposes and principles; poses a threat to the constitutional order of the Republic of Slovenia or has been convicted by final decision of a criminal offence in the Republic of Slovenia and imposed an unsuspended sentence of imprisonment longer than one year and whose conviction has not been expunged), and thus cannot obtain temporary protection in Slovenia.²⁷⁷⁰

The understanding of the author is that in this sense the TPD is transposed through the possibility provided for by Article 15 (2) of the TPD, which allows family reunification in cases where the separate family members enjoy temporary protection in different Member States.

However, as the general system of relocation has not been put in place thus far, the right to family reunification for temporary protection beneficiaries is *de facto* not exercised and they cannot benefit

²⁷⁶⁶ Family Code, Official Gazette of the Republic of Slovenia, no. 15/17 and subsequent amendments.

²⁷⁶⁷ The notion of 'obligation to support' in family relations is regulated in the Family Code, which stipulates that parents are obliged to support their minor children, i.e., until they reach the age of 18, or until the age of 26, as long as they are enrolled into school as regular students.

²⁷⁶⁸ *Ibid.*

²⁷⁶⁹ Rules on the procedure concerning transfer of persons enjoying temporary protection, Official Gazette of RS, No. 110/05.

²⁷⁷⁰ Articles 2(1) and 7(1) Rules on the procedure concerning transfer of persons enjoying temporary protection.

from the rules on family reunification applicable to beneficiaries of international protection (see [General Report – Family Reunification](#)). Furthermore, no procedure has been put in place for persons to request family reunification through the TPD.

C. Movement and mobility

Restriction of movement of applicants for temporary protection may only be applied to those whose identity is not known or if there is doubt as to their identity. In such case, applicants may be required to stay, for a limited period of time, within an accommodation centre. Such restriction of movement shall be decided on by the Ministry by a procedural decision. The restriction may last for as long as the reasons exist, but for no longer than one month. If the reasons for the restriction persist thereafter, the restriction may be extended by another month. An appeal may be filed against a procedural decision restricting an applicant's movement before the Administrative Court of the Republic of Slovenia within three days of its service; the court shall decide on the case within three days of a preliminary oral hearing.²⁷⁷¹

Other than the mentioned restriction, beneficiaries of temporary protection have freedom of movement within the State and are not subjected to territorial restrictions.

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

The main issue experienced by beneficiaries of temporary protection who wished to temporarily return to Ukraine, as mentioned to PIC lawyers, was that some reportedly faced difficulties, mostly at the Hungarian border, when trying to return to Slovenia, however, other than that, no restrictions have been implemented and people can re-enter the country when returning from Ukraine. The only practical issue can be that the decision on temporary protection needs to be served on the applicant directly once issued and there is a time limit of 15 days from the date of service in order to file an appeal against the decision. Persons may also be asked to supplement the application and if they do not send the supplement in time, the decision is made on the basis of the evidence received.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?	Unlimited
2. Number of beneficiaries staying in State provided accommodation as of 12/2023	467
3. Number of beneficiaries staying in private accommodation as of 12/2023	Not available

In accordance with the Temporary Protection of Displaced Persons Act, the Government Office for the Support and Integration of Migrants (Urad za oskrbo in integracijo migrantov, UOIM) is responsible for ensuring that persons with temporary protection are properly accommodated. The UOIM is obliged to organise the transfer of applicants to the nearest reception centre, where identification, collection of information relevant to the granting of temporary protection and a medical examination take place. Applicants may be placed in accommodation centres pending the final decision on their application. The centres are established by the Government and managed by the UOIM.²⁷⁷² Further, the Decree on the methods for ensuring the rights of persons enjoying temporary protection provides in Article 2 that

²⁷⁷¹ Article 21 Temporary Protection of Displaced Persons Act.

²⁷⁷² Article 17(1)-(3) Temporary Protection of Displaced Persons Act.

until the final decision on an application for temporary protection is made, the applicant for temporary protection may stay in accommodation centres where they are provided with adequate food. The UOIM organises transport of the applicant for temporary protection to the nearest reception centre, but if they have their own transportation or are provided with transportation in another way, the applicant for temporary protection can take themselves to the nearest reception centre.

Moreover, the law also provides that persons have the right to be provided accommodation and meals at accommodation centres after being granted temporary protection.²⁷⁷³

In line with the Decree, vulnerable groups of persons as referred to in the act governing temporary protection are accommodated in accommodation centres separately from other persons with temporary protection, where their special needs are taken into account based on an individual assessment.²⁷⁷⁴

In practice, the reception of applicants for temporary protection is carried out in the Asylum Home Branch Facility in **Logatec**, which serves also as an accommodation centre for asylum seekers, applicants for temporary protection and temporary protection holders, with an accommodation capacity of 400 persons.²⁷⁷⁵ However, later on, usually only after receiving temporary protection, they are accommodated in other available accommodation centres or other State-provided accommodations. As also described in the Human Rights Ombudsman of the Republic of Slovenia's latest available annual report (for 2022), in the accommodation centre in **Logatec**, all categories of Ukrainian citizens - both families and single women as well as single men - are accommodated, while among the seekers of international protection, only families, couples, single women and unaccompanied minors are accommodated in the centre. As reported, the persons are accommodated in three buildings and in living containers, in which up to six single persons or up to eight family members are accommodated.²⁷⁷⁶ Based on PIC's observation individuals can freely move on the premises of the centre and are allowed to leave the premises after informing the social workers. Where they are accommodated in **Logatec**, in buildings or in containers, and where and when they are moved next is decided by the social workers based on the individual circumstances (e.g., family, unaccompanied minor, single woman, other detected vulnerabilities *etc.*) as well as depending on the status of the person (temporary or international protection) and availability. Special attention is afforded to individuals assessed as vulnerable, for example women with children are put in separate rooms from men and the containers host mostly single men.

Applicants and beneficiaries of temporary protection are also housed in the accommodation centres in **Debeli Rtič** and in **Postojna**.²⁷⁷⁷ Additionally, due to the lack of capacity in accommodation centres, the UOIM also began accommodating persons into student dormitories (e.g., in **Kranj**, **Nova Gorica**, **Radenci**) and other suitable state-owned and other facilities (such as apartments of the Ministry of Defence, apartments of the Public Housing Fund, Integration Houses, accommodations obtained through a public call, that met the necessary conditions, *etc.*). In the future, the UOIM is also planning to use the facilities in **Jelšane**, **Gornja Radgona** and **Velenje**.²⁷⁷⁸ Orphans, aged one to seven years, that were relocated from the Luhansk orphanage in Ukraine in 2022, were placed in the village of Slavina near Postojna in a house that is owned by the municipality of Postojna.²⁷⁷⁹ In 2023, Deputy Ombudsman visited the orphans accommodated in the Postojna student dormitory and in the accommodation facility in Slavina to examine the social and living conditions and assessed that the

²⁷⁷³ Article 25(1) Temporary Protection of Displaced Persons Act.

²⁷⁷⁴ Article 4 Decree on the methods for ensuring rights of persons enjoying temporary protection.

²⁷⁷⁵ Official statistics provided by the UOIM, March 2024.

²⁷⁷⁶ Human Rights Ombudsman of the Republic of Slovenia, *The 28th Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2022*, available in Slovenian at: <https://bit.ly/3TXu4Pf>.

²⁷⁷⁷ Republic of Slovenia, *Z nastanitvenim centrom v Postojni pridobili 120 novih namestitev*, 8 July 2022, available in Slovenian at: <https://bit.ly/3lnSwDL>.

²⁷⁷⁸ Republic of Slovenia, *Support for Ukrainian Nationals in Slovenia*, available at: <https://bit.ly/3HvxxNh>.

²⁷⁷⁹ Republic of Slovenia, *Otroci iz ukrajinske sirotišnice Lugansk so prispeli v Slavino pri Postojni*, 3 May 2022, available in Slovenian at: <https://bit.ly/42urpzb>.

children have adequate care.²⁷⁸⁰ However, Ukrainian orphans who found shelter from the war almost two years ago in the village of Slavina will apparently soon return to their homeland, as decided by the authorities in Ukraine who have been calling on all Ukrainians displaced in Europe to return. The coordinator of their accommodation expressed concerns in this respect, stating it is not in the children's interest to be moved to such a turbulent environment.²⁷⁸¹

With regard to housing, applicants for temporary protection and temporary protection holders are entitled to accommodation and meals in accommodation centres and, after being granted TP, a person is also entitled to monthly allowance (see [Social Welfare](#)) or, if they do not reside in accommodation centres, financial assistance for private accommodation, that are granted only to those beneficiaries that are not receiving any income or cash benefits and who are unable to rely on a person who is obligated to and capable of supporting them in accordance with the regulations of the Republic of Slovenia.²⁷⁸²

So far, applicants and TP holders have been able to stay in accommodation centres free of charge (and are provided food), regardless of whether they have their own means of subsistence or another source of livelihood and any income only affects their right to receive the allowance or financial assistance for private accommodation.

In comparison with the International Protection Act, which clearly provides that asylum seekers have the right to the following material reception conditions: accommodation in the Asylum Home or its branch facilities; material support (food, clothing, footwear and hygiene supplies); emergency medical care (and full medical care in case of children); access to education; access to the labour market; humanitarian aid and an allowance,²⁷⁸³ material reception conditions as such are not explicitly defined for applicants for temporary protection and TP beneficiaries by law. Thus, the law also does not specify any procedure for such rights to be reduced or withdrawn.

Nonetheless, PIC has observed that material support has been available to applicants for temporary protection and to TP holders, accommodated in accommodation centres, considering their needs, despite TP holders receiving an allowance that should supposedly cover such costs.

There is also no specific provision on how long beneficiaries of temporary protection are entitled to stay in reception centres. In general, they stay in the reception/accommodation centre in **Logatec** for a shorter period and are then moved to other accommodation centres and state facilities if they do not decide to reside in a private accommodation. Though, if a person is absent from the reception/accommodation centre for a longer period of time (for example in case of a visit to Ukraine), it is not guaranteed that they will be able to return to the same accommodation as previously, as this depends on free capacities.²⁷⁸⁴

In 2023, there were 830 available places in State-provided accommodations for applicants for temporary protection and beneficiaries of temporary protection in total and as of 31 December 2023, 467 TP applicants and holders were residing in reception/accommodation centres and other facilities, as follows: 83 persons in student dormitories, 69 in accommodation centre Postojna, 85 in accommodation centre Debeli Rtič, 47 in Asylum Home Branch Facility in Logatec, 5 in Integration House Maribor, 40 in apartments of the Public Housing Fund of the Republic of Slovenia and of City of Ljubljana's Public Housing Fund and 138 in facilities provided by the Ministries and through private individuals that concluded a contract with the UOIM.²⁷⁸⁵

²⁷⁸⁰ MMC RTV Slovenija (G.K.), *Varuh: Za ukrajinske sirote je v Postojni dobro poskrbljeno*, 16 June 2023, available in Slovenian at: <https://bit.ly/3TQdgtc>.

²⁷⁸¹ 24ur.com (Tjaša Dugulin), *Ukrajinske sirote se vračajo v domovino: 'Selitev v nemirno okolje ni v korist otrok'*, 2 March 2024, available in Slovenian at: <https://bit.ly/498mtBG>.

²⁷⁸² Article 23 and Article 35(1) Temporary Protection of Displaced Persons Act.

²⁷⁸³ Article 78(1) and 79 IPA.

²⁷⁸⁴ Information provided by the UOIM, February 2023.

²⁷⁸⁵ Official statistics provided by the UOIM, February 2024.

Applicants for temporary protection and temporary protection holders can also reside in private accommodation without requesting the authorisation to do so from the competent authority as the law on temporary protection does not provide for such requirement as is needed for applicants for international protection in line with the International Protection Act.²⁷⁸⁶ Applicants can secure private accommodation by themselves or with help from non-governmental and humanitarian organisations (Slovene Philanthropy, Red Cross/Caritas and some others), as well as with assistance of some local communities. Since the beginning of the war, applications from private individuals as well as companies offering accommodation to persons fleeing the war in Ukraine have also been collected at the UOIM, which then matched them with applicants for temporary protection and temporary protection holders looking for private accommodation, considering any specific needs. However, as reported to PIC, the conditions in the offered private accommodations had not been personally checked by the UOIM and the only safeguard has been largely based solely on the assessment of the employees at the UOIM (in communication through the telephone or via an e-mail) as to whether the offered accommodations were inappropriate or could possibly pose even a risk, having in mind vulnerability of the refugees. Another issue with private accommodation that has eventually become apparent is also that initially there was a lot of interest to help accommodate Ukrainian refugees, which gradually subsided and it has become quite challenging for them to be able to find an appropriate private accommodation, especially long-term (for a year or more). In cases of free of charge hosting by private individuals, no financial compensation or financial support for private households housing persons fleeing Ukraine has been introduced by the State. Financial aid is only provided to TP beneficiaries. However, financial assistance for private accommodation, which is granted for paying rent and/or utility costs (when there is a signed rental agreement or agreement on the use of the real estate property) can also be submitted directly to the account of the landlord with a written consent by both, the landlord and the TP beneficiary as a tenant. In this respect, some issues with landlords were also reported to PIC regarding temporary protection beneficiaries not being able to immediately pay the rent, as they were waiting for the financial assistance for private accommodation that is provided by the UOIM (sometimes past the time limit for issuing a decision on granting financial aid due to limited capacities for processing a large number of applications). Many temporary protection beneficiaries have also found accommodation with their friends or relatives. Slovenia did not collect statistics on the use of accommodation in private households in 2023.

So far PIC did not detect any issues with temporary protection beneficiaries being able to access reception conditions provided by the State. However, in general, in 2022 the main challenges in relation to housing and accommodation were uncertainty in case of private hosting (when referring to charitable support from private individuals, free of charge) as they were mostly provided for a short period of time and the persons had to move to a reception/accommodation centre when the accommodation became unavailable. In 2023 there were even less cases of private (free of charge) hosting, as detected by PIC, and shortage of affordable private accommodations and their temporary nature, meeting the specific needs of vulnerable groups and the risk of exploitation in private accommodation continued to be an issue in 2023 as well. In 2023, the UOIM helped only a few people to find private accommodation. In all these cases, the UOIM spoke with providers of private accommodation (landlords) and reminded them of their legal obligations related to renting. No special safeguards have been put in place in relation to private housing to prevent risks such as inappropriate conditions or exploitation risk.²⁷⁸⁷

The Slovenian Ombudsman visited accommodation centre in Logatec in 2022 due to reports of overcrowding and poor living conditions. During the visit, asylum seekers, TP holders and people waiting to lodge an application were accommodated in rooms and containers. Regarding the rooms in the built facilities, the Ombudsman noted that they are in line with the accommodation standards set in EASO/EUAA guidelines. People had a lot of outdoor activities; the rooms could be locked and the whole centre was properly cleaned. However, the Ombudsman concluded that accommodation conditions in

²⁷⁸⁶ Article 83(1) IPA.

²⁷⁸⁷ Information provided by the UOIM, February 2024.

the containers do not reach the minimal standards set out by the EASO/EUAA guidelines when overcrowded. The area of the container is 14.4 m² (6 x 2.4 m²) and up to six single persons or up to eight family members are accommodated in one container. If more than three people live in the container, they are therefore guaranteed less than 4 m² of personal space. The Ombudsman also noted that the situation is especially concerning regarding the right to personal dignity, the right to privacy and the right to personal security. In the opinion of the Ombudsman, the conditions to a certain extent contributed to the high absconding rate. Therefore, the conditions also violated the right to asylum enshrined in Article 18 of the Charter. The Ombudsman concluded that the conditions were the consequence of lack of capacity. He recommended that additional capacity be guaranteed together with additional staff. The Ombudsman also recommended that the containers should not be used.²⁷⁸⁸

The Ombudsman also visited accommodation centres in 2023, namely accommodation centre in Debeli Rtič and in Logatec. During the visit in Debeli Rtič, the ombudsman inspected the living conditions and discussed the challenges in finding new capacities for refugees and the cooperation of the Municipality of Ankarani with the director of the UOIM, as an example of good practice.²⁷⁸⁹ In April 2023, the Ombudsman also visited the accommodation centre in Logatec, with the purpose of inspecting the centre and living conditions and to talk to the management of the UOIM about the challenges they face in their work. During the visit, the Ombudsman also pointed out the recent recommendations that the institution of the Ombudsman gave to the UOIM upon the last unannounced visit to the centre in Logatec in September 2022, emphasizing that it is the state's obligation to ensure adequate reception conditions for refugees by providing them with an adequate standard of living and guaranteeing their existence and protecting their physical and mental health. He also reminded of the proposals of the institution of the Ombudsman from 2022 for the state to provide adequate additional spatial resources for the accommodation of people seeking protection as soon as possible, thus eliminating the use of living containers.²⁷⁹⁰

E. Employment and education

1. Access to the labour market

Persons enjoying temporary protection enjoy the right to work to the same degree as refugees, in accordance with the regulations governing the employment and work of foreigners (see [General Report – Access to the labour market](#)). Persons enjoying temporary protection may participate in training programmes or enter into a traineeship in accordance with regulations. Costs incurred as a result of exercising these rights are borne by the employer. Persons enjoying temporary protection may exercise said rights only during the period of temporary protection.²⁷⁹¹

Displaced persons from Ukraine who have been granted temporary protection have free access to the labour market, which means that they are employed in Slovenia under the same conditions as Slovenian nationals and their employers are not required to obtain work permits in order to be able to employ them. When entering the labour market, Ukrainian nationals and other TP beneficiaries are entitled to the same range of statutory employment rights and obligations as other active job seekers and employees. It is important to point out that, because of their lack of knowledge of Slovenian language and of familiarity with the system itself and their rights under labour law and other relevant legislation, foreigners are a particularly vulnerable group in and around the labour market. The Employment Service

²⁷⁸⁸ Human Rights Ombudsman of the Republic of Slovenia, *The 28th Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2022*, available in Slovenian at: <https://bit.ly/3TXu4Pf>, 225-226.

²⁷⁸⁹ UOIM, *Varuh človekovih pravic obiskal nastanitveni center na Debelem rtiču*, available at: <https://bit.ly/4csJAth>.

²⁷⁹⁰ Human Rights Ombudsman, *Human Rights Ombudsman Visits the Accommodation Centre in Logatec*, 4 June 2023, available at: <https://bit.ly/4as2Cyu>.

²⁷⁹¹ Article 28(1)-(4) Temporary Protection of Displaced Persons Act.

of the Republic of Slovenia provides foreigners with tailored career counselling and programmes to speed up their labour market integration. TP beneficiaries are encouraged to register with the Employment Service, as each unemployed person is assigned a career counsellor with whom they draw up an employment plan and plan how to take further steps to speed up their labour market integration. The Employment Service also provides assistance to the unemployed by enrolling them in active employment policy programmes which may help them acquire the necessary knowledge, skills and competences to improve their employment opportunities. Foreigners who do not speak Slovenian and have no experience with the Slovenian labour market are provided with special tailor-made programmes organised by the Employment Service. In addition to Slovenian language courses, these programmes include on-the-job trainings for beneficiaries of international and temporary protection and foreigners, as well as workshops on "Labour market integration" and "Supporting vulnerable groups in the labour market". Another benefit of registering is that the Employment Service is responsible for monitoring and verifying employers whose job vacancies have been publicly advertised.²⁷⁹²

To the best of the knowledge of the author, no exemptions from qualification recognition regarding specific professions that would be specifically related to facilitated employment of persons with temporary protection have been implemented in 2023 despite serious shortage of staff in certain professions, such as healthcare workers.²⁷⁹³

In 2023, on average around 638 citizens of Ukraine were registered in the registry of unemployed persons at the Employment Service of Slovenia (ESS), meaning they were actively seeking and were willing to take up employment.²⁷⁹⁴

2. Access to education

In accordance with the Temporary Protection of Displaced Persons Act,²⁷⁹⁵ persons under the age of 18 enjoying temporary protection are entitled to enjoy the same rights under the same terms as citizens of the Republic of Slovenia as regards:

- ❖ admission to and completion of primary education and
- ❖ admission to and completion of short-term and secondary vocational and secondary technical and general education for the acquisition of state-approved education in public and private schools financed through public sources if, upon enrolment, they are below the age of 18 and meet the admissions requirements.

The costs of education for TP beneficiaries under the age of 18 are to be covered by the ministry responsible for education, to the same degree and under the same terms as applicable to citizens of the Republic of Slovenia,²⁷⁹⁶ which means that their education is free of charge.

Persons enjoying temporary protection who are older than 18 years of age may participate in education as described for persons under the age of 18 under the same conditions that apply to participants in adult education, in terms of tuition fees; they may also take part in higher vocational and higher or

²⁷⁹² Republic of Slovenia, *Employment of Ukrainian nationals living in Slovenia*, available at: <https://bit.ly/3Yz1dAa>.

²⁷⁹³ However, even though this is not relevant to temporary protection beneficiaries, as they already enjoy free access to the labor market, it is worth mentioning the Employment, Self-employment and Work of Foreigners Act (Official Gazette of RS, No. 91/21 and 42/23) was amended in 2023 in order to simplify employment of foreigners. With the amendment, foreign nationals who are employed in the public sector, where there is a serious shortage of suitable staff, especially in health and social services (such as health centres, nursing homes etc.), will no longer be subject to the provisions of the amended law. Therefore, foreign nationals who will be employed in the public sector do not need to be granted consent for such employment from the Employment Service of Slovenia (ESS) anymore, making the process faster, as ESS needs to determine the education, language skills and qualifications of foreign nationals before granting consent.

²⁷⁹⁴ Official statistics provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities, February 2024.

²⁷⁹⁵ Article 29(1) Temporary Protection of Displaced Persons Act.

²⁷⁹⁶ Article 29(3) Temporary Protection of Displaced Persons Act.

university-level education in accordance with the regulations governing these education programmes.²⁷⁹⁷

The inclusion of persons enjoying temporary protection in education programs is arranged by the UOIM in cooperation with the Ministry of Education.²⁷⁹⁸

The National Education Institute Slovenia (ZRSSŠ) has prepared Guidelines for the integration of children and adolescents with temporary protection in educational institutions,²⁷⁹⁹ which are intended for those working in kindergartens, primary and secondary schools and serve to support the integration and work with children and adolescents, who come from war zones and need help to integrate, and to create an inclusive environment in which children and young people learn to respect diversity.²⁸⁰⁰

Kindergartens are open to children from the age of 11 months until they start primary school,²⁸⁰¹ however, before enrolling their child into kindergarten, parents must provide a certificate issued by a paediatrician stating that the child has been vaccinated against measles, mumps and rubella, otherwise the inclusion is refused.²⁸⁰² This may represent issues to some, who did not bring the necessary documentation with them when fleeing Ukraine to be able to prove whether the child has had all the necessary vaccinations.

In Slovenia, in accordance with the Basic School Act, primary education lasts nine years and is compulsory.²⁸⁰³ No information provided by the competent authority (the Ministry of Education) indicates an obligation for those attending online Ukrainian school to also attend Slovenian school and PIC did not observe any issues related to the children with temporary protection that are fulfilling their obligation to attend elementary education only through continuing to attend Ukrainian school online. The Ministry of Education has, however, explained that at the end of 2023, the Ministry forwarded to all primary and secondary schools a circular with a letter from the Ukrainian Ministry responsible for education addressed to parents and legal representatives of Ukrainian children, recommending that children attending Slovenian schools follow the Slovenian education system. Despite the war, education in Ukraine is still available as well as the option of a combined system with online education provided by the Ukrainian authorities. Students who are already enrolled in primary school education in the Republic of Slovenia are obliged by law to attend classes in all subjects according to the compulsory programme of primary school. Those students who decide for parallel education according to the Ukrainian programme are able to attend online education after daily scheduled programme of the Slovenian primary school. Schools and children's parents report that it is challenging for students to coordinate attending a Slovenian primary school and the Ukrainian distance education model simultaneously.²⁸⁰⁴

In accordance with the regulations on the basic education programme, children are usually enrolled in the school located in the school district where they reside. The first days of primary school are dedicated to getting to know the school environment and learning Slovenian. Pupils benefiting from temporary protection can also take part in the extended curriculum and in the extra-curricular activities provided by the school. Moreover, pupils with temporary protection are entitled to have extra Slovenian language lessons. As the language barrier is one of the main issues, in the first year of their schooling, the emphasis is placed on language empowerment and a condensed approach to beginner Slovenian language lessons. Pupils shall also be offered various forms of support, including supplementary

²⁷⁹⁷ Article 29(2) Temporary Protection of Displaced Persons Act.

²⁷⁹⁸ Article 29(5) Temporary Protection of Displaced Persons Act.

²⁷⁹⁹ National Education Institute Slovenia, Smernice za vključevanje otrok in mladostnikov z začasno zaščito v vzgojno-izobraževalne zavode, available at: <https://bit.ly/3JuGUOC>.

²⁸⁰⁰ Information provided by the Ministry of Education, March 2024.

²⁸⁰¹ Article 20(2) Kindergartens Act, Official Gazette of RS, No. 100/05 and subsequent amendments.

²⁸⁰² Article 51.a Communicable Diseases Act, Official Gazette of RS, No. 33/06 and subsequent amendments.

²⁸⁰³ Article 3 Basic School Act, Official Gazette of RS, No. 23/05.

²⁸⁰⁴ Information provided by the Ministry of Education, March 2024.

teaching, individual and group assistance, adaptations to teaching methods and approaches, and they are entitled to have the option of adjusting their assessment during the school year.²⁸⁰⁵

In order to enrol in elementary school and upper secondary schools (general education, vocational education, and technical education), candidates must meet the entry requirements, which together with the enrolment process, are the same as the for candidates who have previously studied abroad, *i.e.*, through a process of recognising foreign education with a view to continue their studies. Applicants must submit appropriate documentation of their studies abroad. Completion of primary school is the basic entry requirement for enrolment in the initial year of secondary school, while admission to higher secondary-school year(s) is decided by the selected secondary school after reviewing the candidate's previous certificates and comparing the subject curricula of both countries.²⁸⁰⁶ The selected school decides on the enrolment of a person with temporary protection who is unable to prove their previous education by submitting appropriate documents or certificates, following the guidelines of the National Education Institute Slovenia, which set out the elements of the initial interview that is to be carried out at the school as well as possible ways of assessing prior knowledge. Due to the enrolment of persons with temporary protection who apply for programmes with enrolment restrictions, additional places may be provided.²⁸⁰⁷

If the child beneficiary has special needs, these are addressed, and appropriate arrangements are available as for the nationals.

In comparison with beneficiaries of international protection for which it is provided in the International Protection Act that they are entitled to state scholarships,²⁸⁰⁸ in the act regulating temporary protection no provision determines entitlement to state scholarships for persons with temporary protection, therefore the Scholarship Act²⁸⁰⁹ alone applies in this regard. This act, that defines several forms of scholarships that are awarded in the Republic of Slovenia besides state scholarships, foresees in Article 12 that, in principle, a scholarship is awarded to citizens of the Republic of Slovenia, to third-country nationals who have acquired long-term resident status or to those with another relevant status under this article. As not being entitled to state scholarships represents an issue to many TP beneficiaries, there was also a public call in 2022 by the School Student Organisation of Slovenia and Slovenian Student Union for the Public Scholarship, Development, Disability and Maintenance Fund of the Republic of Slovenia to hold an extraordinary tender for pupils and students from Ukraine, the costs of which would be covered by the competent ministry,²⁸¹⁰ however, no action has been made in this direction so far.

While in general tuition fees for studies according to officially recognised study programmes are charged to foreigners (citizens of non-EU countries) in accordance with the Regulations on tuition fees and accommodation in public students' dormitories for Slovene nationals without Slovene citizenship and foreigners in the Republic of Slovenia, the Regulations were amended on 31 March 2022 (in force since 23 April 2022) to include persons with temporary protection under the categories of foreigners that do not need to pay tuition fees at public higher education institutions, or they pay the same amount as is determined for citizens of the Republic of Slovenia.²⁸¹¹ As the new law on temporary protection has not

²⁸⁰⁵ Republic of Slovenia, *Providing education to Ukrainian children living in Slovenia*, available at: <https://bit.ly/3Xi1rup>.

²⁸⁰⁶ Republic of Slovenia, *Providing education to Ukrainian children living in Slovenia*, available at: <https://bit.ly/3Xi1rup>.

²⁸⁰⁷ Article 17(1)-(2) and (4) Decree on the methods for ensuring rights of persons enjoying temporary protection.

²⁸⁰⁸ Article 101(2) International Protection Act.

²⁸⁰⁹ Scholarship Act, Official Gazette of RS, No. 56/13 and subsequent amendments.

²⁸¹⁰ Študentska organizacija Slovenije, Javni poziv k zagotovitvi sredstev in izvedbi izrednega razpisa za štipendije dijakom in študentom, prizadetih zaradi ukrajinske krize, 24 March 2022, available at: <https://bit.ly/3L8BDOy>.

²⁸¹¹ Article 4(1) Regulations on tuition fees and accommodation in public students' dormitories for Slovene nationals without Slovene citizenship and foreigners in the Republic of Slovenia, Official Gazette of RS, No. 77/16 and subsequent amendments.

been adopted yet, gaps of this kind that have arisen in practice (e.g. the issue of tuition fees for TP holders) due to the lack of a legal basis are thus corrected by sectoral laws and regulations. The Ministry of Education²⁸¹² has, however, pointed out that a provision, which would explicitly allow access to post-secondary and higher education under the conditions that apply to citizens of the Republic of Slovenia, is included in the proposal of the new Temporary Protection of Displaced Persons Act (ZZZRO-1).²⁸¹³

The right to accommodation in student dormitories for students with temporary protection is also not regulated in the Temporary Protection of Displaced Persons Act, however, the Rules on Subsidized Student Accommodation stipulate that the subsidy for accommodation in student dormitories is also awarded to students who have the status of a person with international protection or the status of a person with temporary protection and who fulfil the general conditions set in the Rules.²⁸¹⁴ To cover the cost, they can also apply for financial assistance for private accommodation.

As of 2 October 2023,²⁸¹⁵ a total of 227 children were enrolled in 92 kindergartens, 862 in 220 elementary schools; 5 in elementary schools with an adapted programme; 4 in institutions for education of children and youth with special needs and 126 Ukrainian students with temporary protection were enrolled in 45 secondary schools.²⁸¹⁶ As for Ukrainian students that were enrolled in higher education, in academic year 2022/2023 there were 225 students with Ukrainian citizenship (this data is collected based on citizenship and not based on status such as temporary protection) and 241 students in academic year 2023/2024.²⁸¹⁷

The main obstacles detected by PIC with regard to access to education for temporary protection beneficiaries have been the language barrier, the difference in education systems in comparison to Ukraine and lack of free spaces during the year for the TP beneficiaries to be included as soon as possible.

F. Social welfare

The law provides for access to social welfare for temporary protection beneficiaries in various forms, *i.e.*,

monthly allowances in the amount of 30 percent of the basic minimum monthly income for TP holders that are staying in accommodation centres.²⁸¹⁸ In 2023, the monthly allowance was in amount of EUR 126,57 until increase of the basic minimum monthly income from 1 April 2023 to the amount of EUR 465,34, when allowance was increased accordingly to EUR 139.60 per month.²⁸¹⁹ Allowance is provided based on a person's signed statement that they are without their own means of subsistence.²⁸²⁰

Those who stay in places other than accommodation centres and who do not receive any income or cash benefits and who are unable to rely on a person who is obligated to and capable of supporting them in accordance with the regulations of the Republic of Slovenia can obtain two forms of financial aid, *i.e.* financial assistance (for everyday expenses) and financial assistance for private accommodation (as payment for rent and/or utility costs). Applications for financial assistance and financial assistance for private accommodation must be sent by post or submitted in person during

²⁸¹² Information provided by the Ministry of Education, March 2024.

²⁸¹³ The proposed act is available in Slovenian at: <http://bit.ly/3jwlkie>.

²⁸¹⁴ Article 12 (6) Rules on Subsidized Student Accommodation, Official Gazette of RS, No. 22/01 and subsequent amendments.

²⁸¹⁵ As explained to PIC by the Ministry of Education, data is collected on several dates and is based on the information provided by the individual institutes; information from 2 October is the most recent from 2023.

²⁸¹⁶ Official statistics provided by the Ministry of Education, March 2024.

²⁸¹⁷ Official statistics provided by the Ministry of Higher Education, Science and Innovation, February 2024.

²⁸¹⁸ Article 35(2) Temporary Protection of Displaced Persons Act.

²⁸¹⁹ The official Government website, *Denarna socialna pomoč*, available at: <https://bit.ly/3TPoaze>.

²⁸²⁰ Article 22(1) Decree on the methods for ensuring rights of persons enjoying temporary protection.

office hours at the UOIM, using the prescribed form. The amount of financial assistance and financial assistance for private accommodation depends on the number of family members and their incomes and is calculated in relation to the basic amount of the minimum income, which is determined by the regulations governing social assistance payments. In 2023, the same as in 2022, these benefits were financed by the Government Office for the Support and Integration of Migrants (UOIM). Other potential forms of social assistance, including subsidies and reduced payments, can be claimed at local Social Work Centres, such as first social aid, personal social aid, child benefit, kindergarten subsidy,²⁸²¹ parental allowance, childbirth grant, allowance for a large family, partial payment for lost income.

The amount of financial assistance is determined in relation to the basic amount of the minimum income according to the following criteria: for the first adult person or claimant 100% of the basic amount of the minimum income, 70% for every additional adult person in the family; 30% for every child under the age of 18; 100% for an unaccompanied minor and for minors staying in the Republic of Slovenia with only one parent, the financial assistance is increased by 30% of the basic amount of the minimum income.²⁸²² In 2023, the basic amount of the minimum income was EUR 421.89, until it was increased to EUR 465,34 from 1 April 2023.²⁸²³

As for the financial assistance for private accommodation, the amount is determined according to the number of family members of the person with temporary protection, as follows: for one person 100%, for two people 130%, three people 160%, *etc.*²⁸²⁴ The amount was increased to EUR 465,34 (100%) from 1 April 2023 based on increase of the basic amount of minimum income. If a lower amount of rent and utility costs altogether is specified in the rental agreement, the contractual amount is considered instead of the stated amounts.²⁸²⁵ The decision to grant financial assistance for private accommodation was first issued for a period of three months which was extended to six months with the amendment (in force since 3 December 2022) to the Decree on the methods for ensuring rights of persons enjoying temporary protection.²⁸²⁶ Financial assistance is also provided for six months.²⁸²⁷ If beneficiaries want to continue to receive funds, they must submit a new request before the expiry of the valid decision.²⁸²⁸

The main difference in access to social welfare for temporary protection beneficiaries in comparison to nationals is the competent authority for granting social assistance, however the conditions that need to be fulfilled in order to be entitled different forms are the same as for nationals, *i.e.*, as regulated with general legislation governing social assistance. With the most recent legislative proposal, authority to grant financial assistance would be transferred from the UOIM to the Centre for Social Work (as locally competent), which is the main authority for granting social assistance under the national social security system. There are also some differences in the percentages for financial assistance that TP beneficiaries are entitled to in comparison with financial social assistance (social assistance benefit) for the nationals. For a person enjoying temporary protection, the amount of financial assistance is determined in amounts as stated above, while financial social assistance for the nationals is determined in relation to the basic amount of the minimum income as follows: 100% for the first adult person or claimant; 57% for every additional adult person in the family; 59% for every child under the age of 18; 18% increase for each child in a single-parent family.²⁸²⁹

Other forms of social assistance, subsidies and reduced payments are claimed at the local Social Work Centre, the same as for Slovenian citizens.

²⁸²¹ Kindergarten is free of charge for TP beneficiaries who are receiving the allowance or financial assistance, while employed persons can apply for the kindergarten subsidy, as provided with Article 16(1-2) Decree on the methods for ensuring rights of persons enjoying temporary protection.

²⁸²² Article 32 Temporary Protection of Displaced Persons Act.

²⁸²³ The official Government website, *Denarna socialna pomoč*, available at: <https://bit.ly/3TPoaze>.

²⁸²⁴ Article 9(1) Decree on the methods for ensuring rights of persons enjoying temporary protection

²⁸²⁵ Article 10 Decree on the methods for ensuring rights of persons enjoying temporary protection.

²⁸²⁶ Article 5(5) Decree on the methods for ensuring rights of persons enjoying temporary protection.

²⁸²⁷ Article 34(2) Temporary Protection of Displaced Persons Act.

²⁸²⁸ Article 5(4) Decree on the methods for ensuring rights of persons enjoying temporary protection.

²⁸²⁹ Article 26 Social Assistance Payments Act, Official Gazette of RS, No. 61/10 and subsequent amendments.

Temporary protection beneficiaries are given a *temporary* residence permit. The type of residence (temporary or permanent) is important in order to obtain rights to social security; for example, dependence allowance, allowance for foreign care and help, home care assistant, funeral payment and death grant etc. are connected to permanent residence. Moreover, in case a person does not meet the conditions to be included in compulsory (health, pension and disability) insurance, *i.e.*, when they are unemployed and are therefore not registered in compulsory social security by an employer, they can only be included in insurance voluntarily (paying contributions themselves) in accordance with the Health Care and Health Insurance Act²⁸³⁰ and Pension and Disability Insurance Act²⁸³¹ under the condition that they have a permanent residence in Slovenia.²⁸³²

The provision of social welfare is not specifically tied to a requirement to reside in a specific place or region.

As explained by the Ministry of Labour, Family, Social Affairs and Equal Opportunities, the right to family benefits and allowances is based on permanent or temporary residence in the Republic of Slovenia and actual residence in the Republic of Slovenia, therefore the statuses of beneficiaries (legal basis for their residence) are not monitored in the Social Work Centres' records. Recipients of child benefits are monitored according to citizenship, while for recipients of parental allowance, childbirth grant, allowance for a large family, childcare allowance, the record does not include citizenship. Based on the number of citizens of Ukraine who have temporary or permanent residence, conclusions can be drawn about the number of persons with temporary protection, who are recipients of child benefits.²⁸³³ In 2023, on average, 1595 children with Ukrainian citizenship were entitled to child benefits.

As observed by PIC, the main obstacles that TP beneficiaries face in accessing social assistance in practice is mainly the language barrier and, especially in the first few months of activating temporary protection, long waiting periods until the decision on granting certain forms of social welfare was issued and the payment was executed, as the UOIM and the local Social Work Centres were overloaded with requests, while there was an apparent lack of staff.

G. Health care

The Temporary Protection of Displaced Persons Act provides that persons enjoying temporary protection have the right to:

- ❖ emergency medical care and emergency transport and the right to emergency dental care;
- ❖ emergency treatment upon a decision of the attending physician,
- ❖ specialist and clinical health care emergencies;
- ❖ health care for women encompassing contraception; abortion and health care during pregnancy and while giving birth;
- ❖ compulsory medical examinations before inclusion in education and during the period of education while attending primary or secondary school, to the same degree as citizens of the Republic of Slovenia.²⁸³⁴

In addition to the above, a medical committee appointed by the Head of the Government Office for the Support and Integration of Migrants (UOIM) may, in justified cases, approve a larger scope of health

²⁸³⁰ Health Care and Health Insurance Act, Official Gazette of RS, No. 72/06 and subsequent amendments.

²⁸³¹ Pension and Disability Insurance Act, Official Gazette of RS, No. 48/22.

²⁸³² European Commission, *Employment, Social Affairs & Inclusion: Slovenia - Habitual residence*, available at: <https://bit.ly/3LX2eNP>.

²⁸³³ Information provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities, February 2023.

²⁸³⁴ Article 27(1) Temporary Protection of Displaced Persons Act.

services based on an application from the TP beneficiary,²⁸³⁵ along with any supporting documents required. In 2023, a total of 120 requests for a larger scope of health services were considered, of which 117 requests were granted and 1 was granted only partially.²⁸³⁶

Healthcare costs are covered by the UOIM.²⁸³⁷

If the persons are employed in the Republic of Slovenia, they have all the rights arising from compulsory and (if paid) complementary health insurance the same way Slovenian nationals do. This includes the right to have a personal doctor, gynaecologist and dentist, which TP beneficiaries without compulsory health insurance do not have.

Minors from Ukraine enjoy the same full medical care as children that are Slovenian citizens as approved by the Health Commission for children, in accordance with the Decree on the methods for ensuring rights of persons enjoying temporary protection.²⁸³⁸

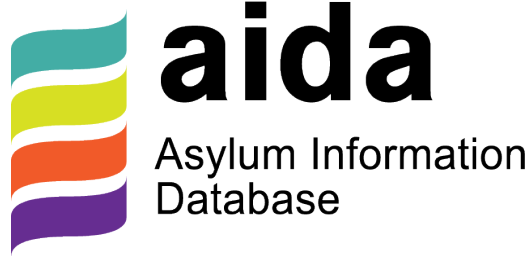
In practice, the main problems that beneficiaries faced with regard to effective access to health care have been language barrier, the lack of information among providers of medical care regarding the scope of health care for TP beneficiaries, especially children as they have the same full medical care as Slovenian citizens, lacking medical documentation from Ukraine or having to provide an official translation of the documentation, which incurs costs and takes time. A significant issue has also been the number of available medical staff as there is in general a major shortage of health workers and there is consequently a long waiting period for any health care that is not considered emergency medical care. TP beneficiaries also cannot have a personal doctor, unless they are employed and are in this case covered under the compulsory health insurance (in which they can also include their family members), as the condition for an unemployed person to be able to pay for the compulsory health insurance is having permanent residence in Slovenia.

²⁸³⁵ Article 27(2) Temporary Protection of Displaced Persons Act.

²⁸³⁶ Official statistics provided by the UOIM, February 2024.

²⁸³⁷ Article 27(3) Temporary Protection of Displaced Persons Act.

²⁸³⁸ Article 13(5) Decree on the methods for ensuring rights of persons enjoying temporary protection.



United Kingdom

2023 Update



Response to the displacement of Ukrainian nationals

A. General

Following the full scale invasion of Ukraine in February 2022, the UK introduced a variety of visa schemes to allow people fleeing to enter and settle in the country.

Main legislative acts relevant to Ukraine visa schemes

There are no legislative acts directly relevant to the Ukraine visa schemes.

Main implementing administrative guidelines and regulations relevant to temporary protection

Title (EN)	Web Link
Immigration rules: HC 395	https://tinyurl.com/4c9ecn34
Statement of changes to the immigration rules: HC 1220, 29 March 2022 ----- <i>This inserted Appendix Ukraine to the rules, which contained the details of the three available schemes.</i>	https://tinyurl.com/yv9cuaey
Statement of changes to the immigration rules: HC 17, 11 May 2022 ----- <i>Immigration Rules (made some amendments to Appendix Ukraine)</i>	https://tinyurl.com/4wdtfvh3
Statement of changes to the immigration rules: HC 511, 20 July 2022 ----- <i>Extension of Ukraine sponsor scheme to unaccompanied children</i>	https://tinyurl.com/4at5jdtk
Statement of changes to the immigration rules: HC 719, 18 October 2022 ----- <i>Amended eligibility for the Ukraine extension scheme</i>	https://tinyurl.com/yuyh39c9
Statement of changes to the immigration rules: HC 1160, 9 March 2023 ----- <i>Definition of grandparent and partner for the purposes of Appendix Ukraine was amended</i>	https://tinyurl.com/3aja6a4m
Statement of changes to the immigration rules: HC 1496, 17 July 2023 ----- <i>Extension of deadlines to apply to Ukraine scheme</i>	https://tinyurl.com/27utbk4w
Statement of changes to the immigration rules: HC 1780, 7 September 2023 ----- <i>Introduced validity requirements to applications for the Ukraine scheme</i>	https://tinyurl.com/365nwffr
Statement of changes to the immigration rules: HC 556, 19 February 2024 -----	https://tinyurl.com/yc8973dm

<i>Immediate closure of the Ukraine Family Scheme, halving length of leave granted and restricting eligibility for Homes for Ukraine</i>	
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The United Kingdom's Ukraine visa schemes available to support persons displaced were as follows:

❖ Ukraine Family Scheme

This scheme is for Ukrainians and their family members seeking to join someone in the UK to whom they are related (including extended family members and their spouse/partner). The UK based member must be a UK citizen, settled, EEA pre-settled status or a beneficiary of refugee status/Humanitarian Protection. It was launched on 4 March 2022. No financial support is provided to host family members. Those arriving in Northern Ireland are entitled to a one off cash payment of £ 200 (EUR 233).²⁸³⁹ There is a three-year visa for those coming to the UK with access to all public funds. There is no fee for the visa, applications can only be made from outside of the UK. Applicants must have been residing in Ukraine on or immediately before 1 January 2022.

❖ Sponsorship Scheme (Homes for Ukraine)

The four nations of the UK all fundamentally have the same system with some differences but the same eligibility for visa/checking of hosts/eligibility for the main public services. Again a three-year visa is provided. Those arriving in the UK receive a £ 200 (EUR 233) payment to fill the gap until welfare benefits/work are available. Hosts receive £ 350 per week (EUR 408) as a 'thank you' payment for the first 12 months, this is increased to £ 500 (EUR 582) after the first year. Payments are available for the length of the leave granted to the person, usually three years.²⁸⁴⁰ The local authority is required to check and approve accommodation with further checks if a child is being hosted. Local authorities receive £ 10,500 (EUR 12,231) for each person who arrived before 1 January 2023 and £ 5,900 (EUR 6,893) for each person who arrived after 1 January 2023,²⁸⁴¹ out of which they pay the initial £ 200 (EUR 233) but not the £ 350 (EUR 408) weekly payment (this is reimbursed by central government).²⁸⁴² In December 2022, an additional £ 150 million (close to EUR 175 million) of funding was announced for local authorities across the UK to support Ukrainians where the current hosting arrangement could not continue. A further £ 500 million (over EUR 582 million) was announced for local authorities in England to obtain housing across all protection schemes.²⁸⁴³

There is no fee for the visa, applications can only be made from outside of the UK. Applicants must have been residing in Ukraine on or immediately before 1 January 2022.

❖ Ukraine Extension Scheme

This is for Ukrainians and/or family members of Ukrainians who arrived in the UK with permission to enter (or stay) in the UK from 18 March 2022 to 16 November 2023. The exceptions are if they were in the UK with permission immediately before 1 January 2022 and that permission has since expired, or if they are a child born in the UK to parents who qualify. Applications to the scheme must be made

²⁸³⁹ NI Direct, 'Ukrainian cash support scheme', <https://tinyurl.com/ju7ryc5y>.

²⁸⁴⁰ Department for Levelling Up, Housing and Communities, 'Paying sponsors: Homes for Ukraine', 19 February 2024, available at: <https://tinyurl.com/y66mwth7>.

²⁸⁴¹ Department for Levelling Up, Housing and Communities, 'Funding for councils: Homes for Ukraine', last updated 19 February 2024, available at: <https://tinyurl.com/yjjnfe77>.

²⁸⁴² Home Office, 'Homes for Ukraine: council guides', last updated 3 April 2023, available at: <https://bit.ly/45OjZrN>.

²⁸⁴³ Department for Levelling Up, Housing and Communities, 'New over £650 million support package for Ukrainians sees increased 'thank you' payments for longer-term hosts', 14 December 2022, available at: <https://bit.ly/3WC1T84>.

before 16 May 2024.²⁸⁴⁴ Those in Northern Ireland are entitled to a one-off cash payment of £ 200 (EUR 233).²⁸⁴⁵

❖ Any other support made available since September 2022

None of the Ukraine visa support schemes provide a pathway for permanent settlement status. In February 2024 the government announced that in early 2025 people with existing leave under the three schemes would be able to make a free application to extend their leave for an additional 18 months.²⁸⁴⁶

There is no cap on numbers for any of the schemes. ‘Super sponsor’ schemes established by the Welsh and Scottish governments, which required no individual to apply to sponsor/host were both closed to new applications in June and July 2023 respectively.

Visas granted

Protection under the visa support schemes generally extends to immediate family members who were part of the family before 1 January 2022 or born after that date.

The schemes are only open to Ukrainian nationals although their family members do not need to be nationals themselves.

Ukraine schemes						
Scheme	Applications		Grants		Arrivals	
	2022	2023	2022	2023	2022	2023
Ukraine Family Scheme	80,172	26,784	62,338	9,672	44,300	12,000
Ukraine Sponsorship Scheme	176,162	44,124	147,368	32,095	110,500	30,300

Source: Home Office, ‘National statistics – Safe and legal (humanitarian) routes to the UK’, 29 February 2024, available at: <https://tinyurl.com/mu2pbcss>.

In addition to the above, 31,182 extensions have been granted since the scheme began.²⁸⁴⁷

²⁸⁴⁴ Home Office, ‘Immigration Rules Appendix Ukraine Scheme’, last updated 11 March 2024, available at: <https://bit.ly/3WG13XV>.

²⁸⁴⁵ NI Direct, ‘Ukrainian cash support scheme’, <https://tinyurl.com/ju7ryc5y>.

²⁸⁴⁶ Home Office, ‘Ukraine Permission Extension scheme information, last updated 28 February 2024, available at: <https://tinyurl.com/kp4dr8aw>.

²⁸⁴⁷ Home Office, ‘National statistics – Safe and legal (humanitarian) routes to the UK’, 29 February 2024, available at: <https://tinyurl.com/mu2pbcss>.

In addition, in 2022 and 2023, the following visas were granted to Ukrainians:

Visa Type	2022	2023
Other (excluding Ukraine Visa schemes), Family and Dependents Joining or Accompanying	603	526
Study	697	601
Visitor	19,696	33,457
Work	8,751 (of which 7,798 were temporary workers)	3,537 (of which 2,040 were temporary workers)

Source: Home Office, 'National statistics – Statistics on Ukrainians in the UK', 29 February 2024, available at: <https://tinyurl.com/3u7nj58>.

There are no significant numbers of Russians arriving in the UK after the conflict started, with 72,897 Russian nationals being granted visas to come to the UK in routes including visitor, student, worker and family, as well as under the European Union Settlement Scheme since the period April to June 2022 to the end of December 2023. From Moldova there have been 9,335 nationals, and from Belarus 12,032 who have been granted a visa to come to the UK.²⁸⁴⁸

B. Qualification for Ukraine Family Scheme visa

This scheme closed on 19 February 2024, prior to this the requirements were set out at Appendix Ukraine Scheme of the immigration rules.²⁸⁴⁹ This route was for Ukrainians and their family members seeking to join someone in the UK to whom they are related (including extended family members and their spouse/partner). Thus:

- ❖ The main applicant must have been coming to join a family member in the UK (see below);
- ❖ The main applicant must be Ukrainian (family members accompanying the main applicant do not need to be) and have been living in Ukraine on or immediately before 1 January 2022.
- ❖ Applications could be made from outside of Ukraine but could also be made after arriving in the UK as long as other eligibility requirements are met.

The UK based family member had to be a UK citizen, settled, EEA pre-settled status or a beneficiary of refugee status/Humanitarian Protection. The 'UK family member' had to be a:

- ❖ spouse or civil partner
- ❖ unmarried partner (who must have been living together in a relationship for at least 2 years)
- ❖ child who is under 18
- ❖ parent (if applicant is under 18)
- ❖ fiancé(e) or proposed civil partner

²⁸⁴⁸ Home Office, 'Entry clearance visa applications and outcomes detailed datasets, year ending December 2023', 29 February 2024, available at: <https://tinyurl.com/bdhnwfr>.

²⁸⁴⁹ Immigration rules in force at 18 February 2024 (archived), available at: <https://tinyurl.com/3y4sp23v>.

Applicants may have also been joining a ‘UK extended family members’, who included a:

- ❖ parent (if the applicant is over 18)
- ❖ child who is over 18
- ❖ grandparent
- ❖ grandchild or your partner’s grandchild
- ❖ brother or sister
- ❖ aunt or uncle
- ❖ niece or nephew
- ❖ cousin
- ❖ mother-in-law or father-in-law
- ❖ grandparent-in-law
- ❖ or brother-in-law or sister-in-law

Non-Ukrainian nationals residing in Ukraine and displaced by the war could only benefit from the visa scheme if they are immediate family members of an applicant who is Ukrainian, and not extended family members.

In support of their application, applicants had to provide evidence of nationality – either a passport (applicants with a valid passport did not have to separately provide biometrics before arriving in the UK) or other evidence such as a Ukrainian national identity card, a combination of official documents – for example, a photo driving licence and birth certificate or an emergency certificate issued by a Ukrainian authority since March 2022. Such documents were not mandatory but applicants were informed that it will assist the application to have them.²⁸⁵⁰

Applicants are entitled to remain in the United Kingdom for three years as part of the Ukraine Family Scheme and have access to all public funds. No financial support is provided to host family members..

For the Family visa scheme, 26,784 applications were made, with 9,672 grants and 12,000 arrivals in 2023.²⁸⁵¹

C. Qualification for Ukraine Sponsorship Scheme visa (Homes for Ukraine)

The details of the scheme are set out at Appendix Ukraine Scheme in the immigration rules.²⁸⁵² The purpose of this scheme is to match people fleeing Ukraine and seeking to enter the UK with UK households willing to act as sponsors. It can allow people fleeing Ukraine with no family in the UK to benefit from a visa.²⁸⁵³

Applicants must be Ukrainian, or the immediate family member of a Ukrainian national who has been granted permission under, or is applying to and qualifies for, the Homes for Ukraine Sponsorship Scheme. Moreover, they must:

- ❖ have been residing in Ukraine on or immediately before 1 January 2022 (including those who have now left Ukraine);
- ❖ be outside of the UK;
- ❖ have an eligible UK-based sponsor; alternatively, applicants can choose the Scottish or Welsh Government as their sponsor.²⁸⁵⁴

²⁸⁵⁰ UK Visas and Immigration and Home Office, ‘Apply for a Ukraine Family Scheme visa’, last updated 31 January 2023, available at: <https://bit.ly/3qk1quY>.

²⁸⁵¹ Home Office, ‘National statistics – Safe and legal (humanitarian) routes to the UK’, 29 February 2024, available at: <https://tinyurl.com/mu2pbcss>.

²⁸⁵² Home Office, ‘Immigration Rules Appendix Ukraine Scheme’, last updated 11 March 2024, available at: <https://bit.ly/3WG13XV>.

²⁸⁵³ UK Government, ‘Apply for a visa under the Ukraine Sponsorship Scheme (Homes for Ukraine)’, last updated 13 April 2023, available at: <https://bit.ly/3R4LOAp>.

²⁸⁵⁴ UK Government, ‘Apply for a visa under the Ukraine Sponsorship Scheme (Homes for Ukraine)’, last updated 13 April 2023, available at: <https://bit.ly/3R4LOAp>.

Sponsors must be British citizens or be settled (have permanent residence). They must not have a criminal record. Sponsors are asked to make the accommodation available for six months, although in practice some agreements have ended before this time period.²⁸⁵⁵

The accommodation offered must be approved by the local authority. Local authorities must approve the arrangement.²⁸⁵⁶

For individual sponsor arrangements the rules are the same in England, Wales, Scotland and Northern Ireland.

In addition, Wales and Scotland announced their plans on 13 March 2022²⁸⁵⁷ to open ‘super sponsor’ schemes which meant an individual fleeing Ukraine could apply to be sponsored and the governments of those countries would match them to accommodation. However, the schemes were both paused within the same year; in June (in Wales)²⁸⁵⁸ and July (in Scotland).²⁸⁵⁹

In support of this application, the evidence required includes evidence of eligibility on nationality and recent residence in Ukraine if not arriving directly. For children travelling alone, consent of parents/guardians (notarised by officials of guardianship service or Ukraine consulate) is required.

If the people being sponsored are to share the accommodation with the host, the local authority must conduct safeguarding checks as part of the approval process. For all households to which this applies, the local authority will facilitate a basic check by the Disclosure and Barring Service (DBS) of all members of the household aged 16 or over.²⁸⁶⁰

- ❖ If the guests include children, an enhanced DBS check (including a check of the children’s barred list, which is a list of people who are prohibited from working with children) will be undertaken, for all those who are 16 or over in the sponsor household who are not related to the guest.
- ❖ If the sponsor is applying to host a child who is not travelling with or joining their parents/legal guardian, enhanced DBS checks will be carried out before their arrival into the UK.
- ❖ If the local authority decides, while undertaking other checks, that an adult guest requires additional support due to age, disability or illness then the local authority may ask for an enhanced DBS check (including a check of the adults’ barred list) to be undertaken on any such members of this household.

As with other programmes the visa for the Ukraine sponsorship scheme was valid for three years, however on 19 February 2024 this was reduced to 18 months.

144,124 applications were made to the Ukraine sponsorship scheme in 2023, with 32,095 grants and 30,300 arrivals.²⁸⁶¹

²⁸⁵⁵ Department for Levelling Up, Housing and Communities, ‘Eligibility, safeguarding, DBS and accommodation checks: Homes for Ukraine’, last updated 19 February 2024, available at: <https://tinyurl.com/5dypn4ej>.

²⁸⁵⁶ Department for Levelling Up, Housing and Communities, ‘Eligibility, safeguarding, DBS and accommodation checks: Homes for Ukraine’, last updated 19 February 2024, available at: <https://tinyurl.com/5dypn4ej>.

²⁸⁵⁷ Scottish Government, ‘Ukraine refugee sponsorship’, 13 March 2022, available at: <https://bit.ly/3IH1cEL>.

²⁸⁵⁸ Welsh Government, ‘Super Sponsor’, available at: <https://tinyurl.com/yja2s4j5>.

²⁸⁵⁹ Scottish Government, ‘Visa sponsorship for Ukrainians coming to Scotland’ last updated 29 February 2024, available at: <https://tinyurl.com/5t4dzucn>.

²⁸⁶⁰²⁸⁶⁰ Department for Levelling Up, Housing and Communities, ‘Disclosure and Barring Service (DBS) checks: Homes for Ukraine’, 13 September 2023, available at: <https://tinyurl.com/bdxx3tt9>.

²⁸⁶¹ Home Office, ‘National statistics – Safe and legal (humanitarian) routes to the UK’, 29 February 2024, available at: <https://tinyurl.com/mu2pbcss>.

D. Qualification for Ukraine Extension Scheme visa

The details of the scheme are set out at Appendix Ukraine Scheme in the immigration rules.²⁸⁶² Those eligible for the Ukraine Extension Scheme include:

- ❖ Ukrainians who previously held permission to be in the UK and that permission expired on or after 1 January 2022 or who held permission to be in the UK on or between 18 March 2022 and 16 November 2023 – the permission does not need to cover the whole period;
- ❖ Non-Ukrainians who are immediate family members of a Ukrainian national are the only third country nationals eligible.

There are no other specific visa options aimed at Ukrainians available to displaced persons who otherwise do not qualify for the Ukraine Extension Scheme. Applications must be made before 16 May 2024.

Evidence of the previously held visa is required in support of the application.

If applying as an immediate family member (spouse, civil partner, partner, child) evidence of relationship with the Ukrainian national is required.

31,182 extensions have been granted since the scheme began.²⁸⁶³

It should be noted that Ukrainians holding seasonal worker or temporary HGV/pork butcher worker visas automatically had their visas extended to the end December 2022 therefore did not need to apply to the extension scheme immediately.²⁸⁶⁴

As with the other two schemes, leave is granted for three years.

E. Access to visa support schemes

1. Admission to territory and practical challenges

There are no reports of people fleeing from Ukraine being refused entry at the United Kingdom border although admissions tables show that in the first quarter of 2022, 337 Ukrainian nationals were stopped at the border and subsequently left the UK (72 at juxtaposed controls and 19 at UK ports). In the last quarter of 2023 there were 119 such refusals.²⁸⁶⁵ There were reports of people waiting long periods for visas to be issued, including people in France.²⁸⁶⁶ Border officials have the power to grant leave to enter into the UK when travelling across the border but there are no statistics indicating the numbers of Ukrainians who have benefitted from this.

Initially the rules required all applicants to register their biometrics at a visa application centre outside of the UK. This requirement was dropped (from 15 March 2022)²⁸⁶⁷ for holders of Ukrainian passports.

²⁸⁶² Home Office, 'Immigration Rules Appendix Ukraine Scheme', last updated 11 March 2024, available at: <https://bit.ly/3WG13XV>.

²⁸⁶³ Home Office, 'National statistics – Safe and legal (humanitarian) routes to the UK', 29 February 2024, available at: <https://tinyurl.com/mu2pbcss>.

²⁸⁶⁴ Home Office, 'Home Secretary announces visa concessions for Ukrainians', 24 February 2022, available at: <https://bit.ly/3N1XyYA>.

²⁸⁶⁵ Home Office, 'Immigration system statistics data tables: Returns detailed datasets, year ending December 2023', 29 February 2024, available at: <https://tinyurl.com/bdhnwfr>.

²⁸⁶⁶ The Guardian, 'Ukrainian refugees: frustration grows over long wait times for UK visas', 25 March 2022, available at: <https://tinyurl.com/j2rnd67b>.

²⁸⁶⁷ UK Visas and Immigration and Home Office, 'Home Secretary update on support for Ukrainians', 10 March 2022, available at: <https://bit.ly/43qYkDG>.

Applications to the three schemes are considered by the Home Office.²⁸⁶⁸ The Homes for Ukraine scheme requires an application from outside of the UK. When an application is agreed, the applicant is granted entry clearance through the issuing of a visa or in some circumstances a ‘permission to travel’ letter issued by the Home Office. Once in the UK, the visa holder is required to register biometrics if they have not done so as part of their application and subsequently collect their Biometric Residence Permit.²⁸⁶⁹

No fees are required to apply.

Discretion allows border officials at any port or at the land border with Ireland to grant entry clearance in the form of leave outside of the rules,²⁸⁷⁰ although it is not widely advertised.

Generally, rules require that applications are made before leave expires to maintain existing entitlements while waiting for a decision,²⁸⁷¹ so applications for the extension scheme should be made before the current visa expires. Visas for Ukrainians already in the UK were automatically extended until the end of December 2022.

The visa decision making is a non-devolved matter (UK government controlled) so the issue of delays affected people applying to each of the four nations. Reports in the media²⁸⁷² and debates in parliament included some acknowledgment of this by government.²⁸⁷³ Public statistics are more generic but as of February 2024 were reporting a three week processing time for applications made under the Homes for Ukraine scheme.²⁸⁷⁴ A government committee reported that there were problems with delays again in 2023 and that 63% of applications took more than the 15 day target in July 2023, compared with 19% in June 2022.²⁸⁷⁵

There is no right of appeal in any of the three specific visa schemes. Refused applicants may present unlimited subsequent applications.

2. Legal assistance

In England and Wales there is no provision of free immigration advice funded by government even where an applicant has insufficient funds. Only asylum advice is publicly funded and that applies to people in the UK only.

A group of lawyers established a pro bono project.²⁸⁷⁶ The Scottish government funded a project to provide free legal advice for Ukrainians seeking to apply to live in Scotland.²⁸⁷⁷

²⁸⁶⁸ Home Office, *Ukraine Scheme – Version 4.0*, 11 March 2022, available at: <https://bit.ly/3BXtze9>.

²⁸⁶⁹ Home Office et al, ‘Move to the UK if you’re coming from Ukraine’, last updated 22 February 2023, available at: <https://bit.ly/43e2vTI>.

²⁸⁷⁰ Article 7(1) of the Immigration (Leave to Enter and Remain) Order 2000, available at: <https://tinyurl.com/zrrbns6w>.

²⁸⁷¹ Section 3C, Immigration Act 1971, available at: <https://tinyurl.com/5yw7yub7>.

²⁸⁷² See for example Diane Taylor, ‘Homes for Ukraine hosts protest over Home Office visa delays’, 25 April 2022, *The Guardian*, available at: <https://bit.ly/3N1XOqw>; Mark Easton and Callum May, ‘Ukraine refugees: Patel apologises for UK visa delays’, 8 April 2022, *BBC News*, available at: <https://bit.ly/3WG5W31>.

²⁸⁷³ UK Parliament, ‘Hansard - Homes for Ukraine: Visa Application Centres’, 28 April 2022, available at: <https://bit.ly/3MGmgwd> and UK Parliament, ‘Hansard – Ukraine Refugee Visas’, 31 March 2022, available at: <https://bit.ly/3qfsdsq>.

²⁸⁷⁴ UK Visas and Immigration, ‘Visa processing times: applications outside the UK’, 19 February 2024, available at: <https://bit.ly/3IHRFNC>.

²⁸⁷⁵ Public Accounts Committee, ‘Homes for Ukraine: Risk of homelessness in scheme likely to increase, PAC report warns’, page 6, 23 February 2024, available at: <https://tinyurl.com/2m53b977>.

²⁸⁷⁶ Ukraine Advice Project UK, ‘Free UK immigration advice for people fleeing Ukraine’, available at: <https://bit.ly/3IL3hPS>.

²⁸⁷⁷ Scottish Refugee Council, ‘Ukraine Advice Scotland’, available at: <https://tinyurl.com/2d7dtj8m>.

Northern Ireland is part of the UK schemes although information about the action taken if people cross the border from the Republic of Ireland (largely unstaffed) with no prior leave to enter the UK, is issued by the UK government.²⁸⁷⁸

The only free legal advice for visa schemes is via the pro bono project above, which has limited value if applicants are not aware of its existence.

3. Information provision and access to NGOs

The government's online information is provided in English, Ukrainian and Russian.

When the scheme for unaccompanied children opened in July 2022 specific guidance was published,²⁸⁷⁹ as well as a welcome guide for children themselves.²⁸⁸⁰

Information is provided from a mixture of NGO and government advice. Some government advice signposts to NGO information but there is relatively good, translated information aimed at Ukrainians compared to other migrants. There are a number of difficulties generally with regard to information for asylum seekers at different stages of the asylum procedure but it is not clear at the moment which would be applicable specifically to Ukrainians.

The main relevant border crossing point is the Irish border which is largely unstaffed. No information appears to be available at ports specific to the schemes as the intention is for people to apply before arriving at the UK border.

F. Guarantees for vulnerable groups

For vulnerable groups there is only one specific process for unaccompanied children applying to be sponsored/hosted by someone who is not a parent or guardian. This application must be accompanied by specific consent forms and be approved by the local authority in whose area the sponsor lives.²⁸⁸¹

In June 2022, an announcement was made that the visa applications by applicants under 18 who were not accompanied or joining a parent/guardian, which had all been put on hold for these reasons, would begin to be processed.²⁸⁸² New applications were permitted from 10 August.²⁸⁸³

Mental health support and support for torture survivors and traumatised beneficiaries is mainly provided by NGOs although some of it is funded by government.²⁸⁸⁴ The government in England signposts to support from organisations such as Barnardo's.²⁸⁸⁵

²⁸⁷⁸ UK Visas and Immigration and Immigration Enforcement, 'Right to work checks: an employer's guide', last updated 28 March 2023, available at: <https://bit.ly/45teQoC>.

²⁸⁷⁹ Department for Levelling Up, Housing and Communities, 'Homes for Ukraine: Guidance for sponsors (children and minors applying without parents or legal guardians)', last updated 20 February 2024, available at: <https://tinyurl.com/2znavf3j>.

²⁸⁸⁰ Department for Levelling Up, Housing and Communities, 'Homes for Ukraine: welcome guide for Ukrainian children under 18', last updated 19 February 2024, available at: <https://bit.ly/45Doh56>.

²⁸⁸¹ UK Visas and Immigration and Home Office, 'Apply for a visa under the Ukraine Sponsorship Scheme (Homes for Ukraine)', last updated 13 April 2023, available at: <https://bit.ly/3INCfHQ>.

²⁸⁸² Department for Levelling Up, Housing and Communities and Department for Education, 'Homes for Ukraine scheme to begin processing applications from unaccompanied children', 22 June 2022, available at: <https://bit.ly/43tBjA8>.

²⁸⁸³ Department for Levelling Up, Housing and Communities, 'Homes for Ukraine: Guidance for sponsors (children and minors applying without parents or legal guardians)', last updated 16 January 2023, available at: <https://bit.ly/42cAquP>.

²⁸⁸⁴ Department for Levelling Up, Housing and Communities, 27 September 2023, 'Support for under-21s from Ukraine, Afghanistan & Hong Kong', available at: <https://tinyurl.com/en5u5mtk>.

²⁸⁸⁵ Department for Education, 'Resources to help support children and young people arriving from Ukraine', updated 28 September 2022, available at: <https://bit.ly/43t34Ja>.

Content of Protection under Ukraine Visa Schemes

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to beneficiaries of the Ukraine visa schemes?
3 years
2. How many residence permits have been issued under the Ukraine visa schemes in 2023?
 - ❖ Ukraine Family Scheme
26,784 applications had been made, with 9,672 grants and 12,000 arrivals
 - ❖ Ukraine Sponsorship Scheme
44,124 applications had been made, with 32,095 grants and 30,300 arrivals
 - ❖ Ukraine Extension Scheme
31,182 extensions have been granted since the scheme began.²⁸⁸⁶²⁸⁸⁷

There have been no reports of difficulties accessing Biometric Residence Permits (BRP) after arrival in the UK. The process is explained in information on the government's official website.²⁸⁸⁸ Depending on whether biometrics were given as part of the application, beneficiaries either collect their BRP or register to give biometrics, after which a BRP will be produced. This must be done within six months of arrival in the UK.

All schemes offer a three-year visa.

All beneficiaries have access to work and public funds. There is no requirement to pay the surcharge (as most visa beneficiaries do) to access the NHS.²⁸⁸⁹

2. Access to asylum

Outside of the three visa schemes that persons displaced by the war may benefit from Ukrainians can claim asylum if they are present in the UK. No special arrangements have been made to process such claims. Government statistics show an increase in asylum claims in 2022 peaking with 472 initial asylum applications made by Ukrainians in the first quarter of 2022. There was a sharp rise in between the outbreak of the Russian invasion and the opening of the visa extension scheme but after that numbers dropped and in 2023 136 Ukrainians applied for asylum. Also in 2023 there were 649 grants of asylum made to initial applicants, 293 claims were deemed withdrawn, and 13 applications were refused.²⁸⁹⁰

²⁸⁸⁶ Home Office, 'National statistics – Safe and legal (humanitarian) routes to the UK', 29 February 2024, available at: <https://tinyurl.com/mu2pbcss>.

²⁸⁸⁷ Home Office, 'National statistics – How many people do we grant protection to?', 29 February 2024, available at: <https://tinyurl.com/6dnb7mfe>.

²⁸⁸⁸ UK Visas and Immigration and Home Office, 'Apply for a visa under the Ukraine Sponsorship Scheme (Homes for Ukraine) – After you've applied', last updated 13 April 2023, available at: <https://bit.ly/3INCfHQ>.

²⁸⁸⁹ Minister of State at the Department of Health and Social Care, 'Outcome of the review of the NHS Charging Regulations exemption from Ukrainians', 24 October 2022, available at: <https://bit.ly/3oyyxef>.

²⁸⁹⁰ Home Office, 'Immigration system statistics data: Asylum applications, initial decisions and resettlement detailed datasets, year ending December 2023', 29 February 2024, available at: <https://tinyurl.com/bdhnwfr>.

B. Movement and mobility

There are no restrictions on freedom of movement within the UK.

There have been no reported issues for people wishing to temporarily return to Ukraine as the visa is not issued under a protection route.

C. Housing

1. Sponsorship scheme / Homes for Ukraine

Indicators: Housing

1. For how long are persons granted a sponsorship visa entitled to stay in a UK household?
Sponsors were asked to agree that the person/s sponsored could stay for a minimum of six months but there is no guarantee.²⁸⁹¹
2. How many displaced people are benefiting from the Ukraine sponsorship scheme?
As of 11 March 2023, 224,500 applications had been made, with 181,600 grants and 144,700 arrivals²⁸⁹²

The government surveyed sponsors in August 2023 and published experimental statistics which showed that around half (48%) of hosts had provided accommodation for 12 months or more. Almost all (99%) believed that their guests needed help to access private rental accommodation or to make other independent living arrangements. 31% of hosts reported bias or discrimination against Ukrainians by landlord or estate agencies.²⁸⁹³

There is no guaranteed entitlement for length of stay. Sponsors are asked to commit to six months' minimum stay although this is not enforced.²⁸⁹⁴ Sponsors of unaccompanied children are asked to commit to the entire three years or until the child reaches 18 years of age.

Under the 'super sponsor' schemes in Scotland and Wales the government could identify accommodation of the beneficiary, whereas the overall scheme required the offer (and acceptance) of accommodation by an individual host before the visa is issued. Both super sponsor schemes have remained suspended since June 2022 (Wales)²⁸⁹⁵ and July (Scotland).²⁸⁹⁶

Beneficiaries of the sponsor scheme and family scheme may turn to a local authority for assistance if the placement is no longer able to provide appropriate accommodation for them. A report by the National Audit Office found that data was not being recorded on how many people on the scheme were likely to become homeless soon or had already been homeless.²⁸⁹⁷ The government provided additional

²⁸⁹¹ Department for Levelling Up, Housing and Communities, 'Ending your hosting arrangements, and helping your guest with their next steps: Homes for Ukraine', 19 February 2024, available at: <https://tinyurl.com/2p9tttmd>.

²⁸⁹² Home Office, 'Ukraine Family Scheme, Ukraine Sponsorship Scheme (Homes for Ukraine) and Ukraine Extension Scheme, accessed 20 March 2024, available at: <https://tinyurl.com/3tss6ahj>.

²⁸⁹³ Office for National Statistics, 'Experiences of Homes for Ukraine scheme sponsors, UK: 10 to 21 August 2023', 4 October 2023, available at: <https://tinyurl.com/27v2ax7n>.

²⁸⁹⁴ Department for Levelling Up, Housing and Communities, 'Ending your hosting arrangements, and helping your guest with their next steps: Homes for Ukraine', 19 February 2024, available at: <https://tinyurl.com/2p9tttmd>.

²⁸⁹⁵ Welsh Government, 'Super Sponsor', available at: <https://tinyurl.com/yja2s4j5>.

²⁸⁹⁶ Scottish Government, 'Visa sponsorship for Ukrainians coming to Scotland' last updated 29 February 2024, available at: <https://tinyurl.com/5t4dzucn>.

²⁸⁹⁷ National Audit Office, 'Investigation into the Homes for Ukraine Scheme', 17 October 2023, available at: <https://www.nao.org.uk/reports/investigation-into-the-homes-for-ukraine-scheme/>.

funding to local authorities to prevent homelessness, for example by providing temporary accommodation.²⁸⁹⁸

Private accommodation is assessed for suitability by the relevant local authority. A ‘thank-you’ payment of £ 350 per week (EUR 408) is paid to the host for the first year, which then increases to £ 500 (EUR 582).²⁸⁹⁹ Hosts were asked to commit to a six-month minimum stay but this is not enforced.²⁹⁰⁰ Some NGOs have been approved as suitable to ‘match’ sponsors and hosts;²⁹⁰¹ this was established following reports of irresponsible and inappropriate matching often using social media.²⁹⁰²

Concerns have been raised by a governmental committee about the risk of homelessness among Ukrainians, particularly where the sponsor arrangement breaks down or ends.²⁹⁰³ Another report has looked at experiences of exploitation by those who came to the UK under the Sponsorship scheme, and how housing insecurity has contributed to this.²⁹⁰⁴

2. Family visa scheme and extension scheme

Those granted leave in these two categories are able to rent privately as well as access social housing and homelessness assistance.²⁹⁰⁵

D. Employment and education

1. Access to the labour market

Visa beneficiaries are permitted to work in the UK.

Some employers made statements welcoming Ukrainians²⁹⁰⁶ and developed specific schemes.²⁹⁰⁷ The UK government assisted with information and some matching.²⁹⁰⁸ In March 2024 a new scheme was launched providing skills training from top technology companies for Ukrainians in the UK.²⁹⁰⁹

Persons granted visas are entitled to equal treatment to nationals with regard to employment. Data for the period March 2022 to December 2023 shows the number of Ukrainians who had been issued with a National Insurance Number (required to work and claim benefits in the UK) since March 2022 and who then started paying tax through employment, broken down by age, gender and region. At the end

²⁸⁹⁸ Public Accounts Committee, ‘Homes for Ukraine: Risk of homelessness in scheme likely to increase, PAC report warns’, pages 12-13, 23 February 2024, available at: <https://tinyurl.com/2m53b977>.

²⁸⁹⁹ Department for Levelling Up, Housing and Communities, ‘Paying sponsors: Homes for Ukraine’, 19 February 2024, available at: <https://tinyurl.com/y66mwh7>.

²⁹⁰⁰ Department for Levelling Up, Housing and Communities, ‘Ending your hosting arrangements, and helping your guest with their next steps: Homes for Ukraine’, 19 February 2024, available at: <https://tinyurl.com/2p9tttmd>.

²⁹⁰¹ Department for Levelling Up, Housing and Communities, ‘Recognised Providers: Organisations who can help UK citizens become sponsors’, 6 May 2022, available at: <https://bit.ly/3N2CtXi>.

²⁹⁰² Rajeev Syal, ‘Stop matching lone female Ukraine refugees with single men, UK told’, 13 April 2022, *The Guardian*, available at: <https://bit.ly/43vyMp5>.

²⁹⁰³ Public Accounts Committee, ‘Homes for Ukraine: Risk of homelessness in scheme likely to increase, PAC report warns’, 23 February 2024, available at: <https://tinyurl.com/2m53b977>.

²⁹⁰⁴ Focus on Labour Exploitation, ‘From exploitation risks to mitigations: looking back locally on the implementation of the UK’s Ukraine schemes’, 21 March 2024, available at: <https://tinyurl.com/2upxn68h>.

²⁹⁰⁵ Shelter, ‘Housing rights of people displaced by the war in Ukraine’, accessed 21 March 2023, available at: <https://tinyurl.com/5da65ftd>.

²⁹⁰⁶ HR World, ‘Four in five businesses welcome applications from Ukrainian refugees’, 6 April 2022, available at: <https://bit.ly/3IKotWe>.

²⁹⁰⁷ Financial Times, ‘UK companies join scheme helping Ukrainian refugees find jobs’, available at: <https://bit.ly/3WGoQH7>.

²⁹⁰⁸ Department for Levelling Up, Housing and Communities, ‘Guidance for businesses offering work to people coming from Ukraine’, 6 May 2022, available at: <https://bit.ly/3MXL5oJ>.

²⁹⁰⁹ GOV.UK, ‘UK-Ukraine TechBridge launches skills training for tech careers’, 14 March 2024, available at: <https://tinyurl.com/33b48ddk>.

of December 2023 there were 52,250 Ukrainians working and this comprised 37,850 females and 14,400 males. The largest age group was 35 to 44 years old of whom there were 20,350. The region with the highest number of employed Ukrainians at the end of December 2023 was London with 12,750.²⁹¹⁰

There are no specific exemptions from qualification recognition for Ukrainians.²⁹¹¹

2. Access to education

Access to education up to age 18 is provided under the terms of the visa under the same conditions as nationals.

In **England** data was published in October 2022²⁹¹² showing that 20,500 children had been offered a school place. Although the data was from a limited number of local authorities, it was also shown as a percentage of applications made to those local authorities (92%).

Data is not available from the other nations.

There are no limitations to accessing education in law. Resources have been developed for the purpose of assisting children to access education²⁹¹³ and funding is provided to local authorities in England.²⁹¹⁴ Information for those wishing to access the Ukrainian curriculum are signposted towards the document produced by Ukraine's Parliament.²⁹¹⁵

The law provides access to education and vocational training for adults/ young people but differences in provision occur according to local factors e.g. availability of ESOL classes.²⁹¹⁶

Beneficiaries of the visa schemes can access higher education as 'home students' i.e. equal eligibility to UK citizens) in all nations of the UK.²⁹¹⁷

Regional variations can apply to ease of access to education post 18, particularly as some beneficiaries may be hosted in areas with little specialist provision.

E. Social welfare

The law provides access to public funds including access to social welfare, in all four nations.²⁹¹⁸

²⁹¹⁰ Department for Levelling Up, Housing and Communities, 'Analysis of Ukrainian nationals entering employment in the UK', 29 February 2024, available at: <https://tinyurl.com/yj8vdppn>.

²⁹¹¹ Department for Levelling Up, Housing and Communities, 'Guidance for businesses offering work to people coming from Ukraine', 19 February 2024, available at: <https://tinyurl.com/563zchw5>.

²⁹¹² UK government, 'School placements for children from outside of the UK', 13 October 2022, available at: <https://bit.ly/3ovkfer>.

²⁹¹³ Department for Education, 'Resources to help support children and young people arriving from Ukraine', 28 September 2022, available at: <https://bit.ly/43t34Ja>.

²⁹¹⁴ Department for Levelling Up, Housing and Communities and Department for Education, 'Homes for Ukraine education and childcare grant conditions of funding', 24 February 2023, available at: <https://bit.ly/3N1ZYGE>.

²⁹¹⁵ Child.Wales, *Information education sources for Ukrainian children*, March 2022, available at: <https://bit.ly/3MZXInJ>.

²⁹¹⁶ GOV.UK, 'Find an ESOL class outside London', accessed 19 March 2024, available at: <https://tinyurl.com/5cu4szjs>.

²⁹¹⁷ House of Commons Library, 'Support for students from Ukraine in UK higher education', 20 December 2022, available at: <https://bit.ly/43tqrSS>.

²⁹¹⁸ e.g. Welfare Reform Act 2012, available at: <https://tinyurl.com/yamac7dmz>.

The law was changed to exempt Ukraine visa scheme beneficiaries from the ‘habitual residence test’ which can restrict access to those arriving in the UK from overseas for the initial months of their residence.²⁹¹⁹

The Department for Work and Pensions administers Universal Credit and other financial assistance. Housing is granted through local authorities.

Language limitations and unfamiliarity with systems can impede access although it is notable that there is much more advice aimed specifically at Ukrainians including translated information, than for other non-UK nationals. Sponsors and hosts are also encouraged to assist.

There is no information on the number of persons granted visas under the Ukraine schemes who had accessed different forms of social welfare as of 31 December 2023.

F. Health care

Persons granted support under the Ukraine visa schemes have access to all health care in England other than assisted conception services.²⁹²⁰

Access is the same as nationals in whichever country the beneficiary resides e.g. everyone living in **Wales** has free prescriptions. Dental charges have been waived for Ukrainians displaced and living in **Scotland**.

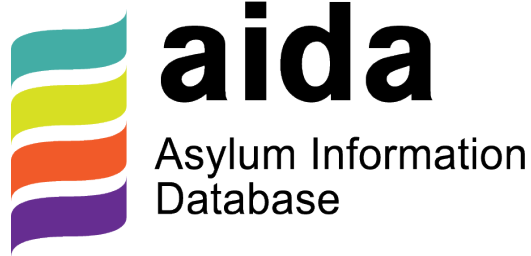
Gaps in health provision e.g. waiting times for treatment, timely access to mental health support, vary across regions²⁹²¹ and whilst displaced Ukrainians may face additional barriers, additional help e.g. the establishment of mental health helplines and translated information²⁹²² are examples of good practice.

²⁹¹⁹ The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2022, available at: <https://tinyurl.com/48vsh27z>.

²⁹²⁰ Minister of State at the Department of Health and Social Care, ‘Outcome of the review of the NHS Charging Regulations exemption for Ukrainians’, 24 October 2022, available at: <https://bit.ly/3oyyxef>.

²⁹²¹ Community Health Services Waiting Lists, accessed 19 March, available at: <https://tinyurl.com/bdxcbhmy>.

²⁹²² NHS inform, ‘A guide to NHS Scotland Services for displaced persons from Ukraine (Ukrainian)’, last updated 6 April 2022, available at: <https://bit.ly/45yBiga>; NHS England, ‘Meeting the initial health needs of people arriving in the UK from Ukraine’, last updated 6 October 2022, available at: <https://bit.ly/3MD9FK9>.



Switzerland

2023 Update



Temporary Protection Procedure

A. General

Swiss asylum law provides the possibility to grant temporary protection (“protection provisoire”, “S permit”) to persons in need of protection during a period of serious general danger, in particular during a war or civil war as well as in situations of general violence.²⁹²³ This instrument – introduced in the aftermath of the conflicts in the former Yugoslavia – should enable the Swiss authorities to react in an appropriate, quick and pragmatic manner to situations of mass exodus. It was activated for the first time in the context of the war in Ukraine by the Federal Council on 11 March 2022.²⁹²⁴ The status shows some parallels to the EU Temporary Protection Status.²⁹²⁵ It is provided to a certain category of persons (see [Qualification for Status S](#)) without undergoing an asylum procedure. Only in obvious cases of asylum grounds (it remains to be seen what “obvious” means), access to the asylum procedure is granted. The status allows immediate access to the labour market as well as freedom of movement within Europe.²⁹²⁶

In addition to the more than 97,000 protection statuses granted, the Confederation awarded several aid packages relief measures.²⁹²⁷

The SEM was not able to tell if there are significant numbers of people who were displaced – either directly or indirectly – by the conflict present in the country but beyond the scope of Status S because there is no characteristic apart from Status S to differentiate between people affected by the Ukraine war and other refugees.²⁹²⁸

In the inquiries to the Swiss Refugee Council, three main groups of refugees who do not fall within the scope of protect can be identified:

- ❖ Students from African or Asian countries who have fled from Ukraine to Switzerland.
- ❖ Binational couples. In practice, they are not granted protection status S in Switzerland if they could return to their second home without danger. However, this practice is still under judicial review.
- ❖ Persons who lived outside Ukraine for a few weeks or months before the outbreak of war and cannot return to Ukraine.

At the end of 2023, there had been 97,566 applications for status S registered before the SEM. 90,082 applications resulted in a positive decision.²⁹²⁹

²⁹²³ Art. 66 – 79(a) AsylA.

²⁹²⁴ Federal Council, *Ukraine: le Conseil Fédéral active le statut de protection S pour les Ukrainiens*, press release, 11 March 2022, available in French (and German and Italian) at: <https://bit.ly/3XaEDgK>.

²⁹²⁵ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof [2001] OJ L 212/12, available at: <http://bit.ly/409uJhu>.

²⁹²⁶ Art. 75 para 2 AsylA and decision of the Federal Council, *Ukraine: le Conseil fédéral active le statut de protection S pour les Ukrainiens*, press release, 11 March 2022, available in French (and German and Italian) at: <https://bit.ly/3xkmSQY>.

²⁹²⁷ Federal Council, *One year of war against Ukraine: Federal Council takes stock of its engagement and request new aid package*, 22 February 2023, available at: <https://bit.ly/3C2r3TH>.

²⁹²⁸ Information provided by the SEM, 17 May 2023.

²⁹²⁹ SEM, *Statistique en matière d'asile 2023*. 13 February 2023, available at: [Statistiken \(admin.ch\)](#)

B. Qualification for Status S

Protection status S applies to the following categories of persons according to the Decision of the Federal Council on 11 March 2022:²⁹³⁰

- a. Ukrainian citizens seeking protection and their family members (partners, children and other close relatives and who were fully or partially supported at the time of the escape) who were resident in Ukraine before 24 February 2022;
- b. Persons seeking protection of other nationalities and stateless persons as well as their family members as defined in letter a who have applied for international or national protection status in Ukraine prior to 24 February 2022;
- c. Persons of other nationalities seeking protection and stateless persons as well as their family members as defined in letter a, who are in possession of a valid short stay or residence permit giving them a valid right of residence in Ukraine and who cannot be returned to their home countries in safety and permanently.

If someone has received protection status in another safe country, they in principle cannot receive further protection status S in Switzerland because they are not considered as in need of protection.²⁹³¹

This also applies to persons who have renounced their protection status in another EU/EFTA state, unless the EU/EFTA state that granted the protection status is a state particularly affected by the Ukraine crisis (e.g. Poland).²⁹³² The SEM examines all applications for protection and makes a decision on a case-by-case basis. In addition, persons who have a second citizenship in addition to Ukrainian citizenship do not receive protection status. This practice was confirmed by the Federal Administrative Court.²⁹³³

Persons who entered Switzerland before 24 February 2022 will not receive protection status S. In accordance with the practice of the SEM, these persons receive a temporary admission status.²⁹³⁴

In addition to Ukrainian nationals and their family members, the wording of the Federal Council's decision also includes stateless persons and third-country nationals and their family members, if they had protection status in Ukraine prior to 24 February 2022 (category b) or cannot return to their home countries in safety and permanently (category c). A family is defined as spouses, life partners, underage children and persons in need of care for whom the person seeking protection cared before 24 February 2022.

Regarding family members, including of Ukrainians, the decision does not mention any further criteria regarding their nationality. Thus, binational families would fall under the category "a" of the Federal Council decision (compare B.1.). In practice, however, binational families are often denied protection status S as a use case on category "c", if they could return to their second home. Appeals are currently underway against such refusals. Some Court decisions criticising this practice are available.

People who are not eligible to status S may apply for asylum if individual persecution can be credibly substantiated. In addition, in the case of a refusal of protection status S, temporary admission is possible until a negative asylum decision can be executed.²⁹³⁵

²⁹³⁰ Federal Council, *Ukraine: le Conseil Fédéral active le statut de protection S pour les Ukrainiens*, press release, 11 March 2022, available in French (and German and Italian) at: <https://bit.ly/3XaEDgK>.

²⁹³¹ Federal Administrative Court, Decision D-3584/2022, 9 March 2023, available in German at: <https://bit.ly/42Xqp5k>.

²⁹³² Practice-based observation by the Swiss Refugee Council, January 2023.

²⁹³³ Federal Administrative Court, Decision E-3638/2022, 5 December 2022, available in German at: <https://bit.ly/41DKIE3>.

²⁹³⁴ Article 42 AsylA and Article 83 FNIA.

²⁹³⁵ Article 69 AsylA.

The Federal Council decided on 1 November 2023 that the protection status S will be maintained at least until 4 March 2025.²⁹³⁶ If protection status is not revoked after five years, a residence permit may be issued. If protection status is not revoked after ten years, a settlement permit can be issued.²⁹³⁷

C. Access to temporary protection and registration

1. Admission to territory

To the knowledge of the Swiss Refugee Council there were no problems with entry at the Swiss borders for persons fleeing from Ukraine.

However, persons who had returned to Ukraine and sought to re-enter Switzerland did experience difficulties at the border; especially if they returned to renew an expired passport and then lived in Ukraine for more than 15 days. According to Article 78 AsylA, to stay in the country of origin for a long time or repeatedly is a reason for revocation the protections status. The SEM has in practice decided that a “long time” is 15 days.

In general, access to the Swiss territory was facilitated for anybody claiming to have been fleeing from Ukraine.

2. Freedom of movement

Persons entitled to status S but not holding a biometric passport or travel documents experienced issues in travelling to other European States. This was especially the case during the first six months, as the Swiss S status was not recognised as a residence permit in the other Schengen states. Many persons entitled to S status were denied entry in other countries. However, entry into Switzerland was always possible, even without a biometric passport.

3. Registration under temporary protection

The SEM is responsible for registering status S applications. The application can be submitted either online²⁹³⁸ or at one of the federal asylum centres. If a person expresses their intention to apply for temporary protection at the border, they will be referred to the nearest federal asylum centre. There they can register and apply for protection status S.

After the 90 days (including the time in other Schengen states) which they are allowed to stay in the Schengen area visa-free, they would be obliged to leave the Schengen area. This means that an application has to be done before those 90 days are over, otherwise the person would be staying illegally in Switzerland. According to the practice-based observation by the Swiss Refugee Council, they can still apply for S status and receive the S status, but could in theory be subject to a criminal procedure for illegal stay.

To prove they are eligible to status S, displaced persons all need identity documents. If someone is in possession of a Ukraine passport, it is assumed that the person previously resided in Ukraine and no other documents are needed to prove residence in Ukraine before 24 February 2022. Persons without a passport have to provide other evidence that they resided in Ukraine before 24 February 2022. Other documents are requested on a case-by-case basis, e.g. a marriage certificate for married couples. If they are accommodated privately, they need to provide a confirmation of the accommodation with a

²⁹³⁶ Available at: <https://tinyurl.com/4skj634f>

²⁹³⁷ Articles 76 and 74 AsylA.

²⁹³⁸ SEM, *RegisterMe help / Допомога / Помощь*, available at: <https://bit.ly/3ZxP5k4>.

copy of the ID of the host. If minors travel without their parents, they need official documents or written confirmations from their parents. Further useful documents such as for example birth and marriage certificates, medical documents in case of pre-existing illness, animal passports and driver's licenses and vehicle registration documents are also desired.

Upon registration of their claim, the applicants are provided with a confirmation of the registration of their application for temporary protection for persons from Ukraine. As soon as the authority has decided that status S will be granted, those seeking protection will also receive an address/directions and public transport ticket for the way to the allocated canton, and the S-decision (which includes the cantonal allocation decision).

Especially at the beginning of the implementation of status S, many of the persons who moved to Switzerland could stay at private houses with people they knew. Thus, they already had accommodation before they had received a protection status. With the registration and the granting of the S-status, however, they were then assigned to a specific canton according to the distribution key (see [General Report – Dispersal across cantons](#)). This caused chaos at the beginning. Due to the unequal distribution at the beginning and the strict enforcement of the distribution key today, there are always problems with "new arrivals" who want to live with their relatives/acquaintances or have already organised a job in a certain canton before their arrival.

Applicants who are denied status S can lodge an appeal to the Federal Administrative Court within 30 days.²⁹³⁹

If the refusal of S status remains valid and there are indications of reasons for asylum in the protection procedure, an asylum procedure must be started ex officio.²⁹⁴⁰ Otherwise, an asylum procedure can be started if the person wishes so.

4. Legal assistance

Access to free legal advice is guaranteed in the Federal Asylum Centres. As soon as those seeking protection are distributed to the cantons or accommodated with host families, free legal advice is no longer guaranteed. This is currently being discussed politically but in the context of an evaluation.²⁹⁴¹

In the federal asylum centres there are legal advice offices that are financed by the state (see also [General Report – Regular procedure – Legal assistance](#)). Otherwise, NGOs in particular provide legal assistance to those seeking protection.

Persons who stay with acquaintances or relatives and are not staying in federal asylum centres have little access to free legal assistance.

5. Information provision and access to NGOs

Regarding provision of information, the same legal provisions apply as in the asylum procedure (see [General report – Provision of information on the procedure](#)). All government information is available in Switzerland in the three official languages (German, French and Italian). Information regarding status S is also available in Russian and partly also in Ukrainian.

²⁹³⁹ Articles 72, 105 and 108 AsylA.

²⁹⁴⁰ Pursuant to Article 69(4) AsylA, Federal Administrative Court, Decision E-2877/2022, 6 July 2022, available in German at: <https://bit.ly/3Jm6o1N>.

²⁹⁴¹ Federal Department of Justice and Police, *Ukraine : le groupe d'évaluation du statut S présente ses premières conclusions*, press release, 1 December 2022, available in French (and German and Italian) at: <https://bit.ly/3H81N1G>.

The information provided is specifically tailored to the need of vulnerable individuals;²⁹⁴² especially in the area of trafficking in human beings²⁹⁴³ or unaccompanied minors.²⁹⁴⁴

In practice, information is provided through the websites, E-mails, Hotline of the Federal Office for Migration,²⁹⁴⁵ the Swiss Refugee Council,²⁹⁴⁶ Caritas,²⁹⁴⁷ Swiss Red Cross²⁹⁴⁸ and websites of all cantonal authorities²⁹⁴⁹. The Swiss Refugee Council²⁹⁵⁰ and the Swiss Red Cross²⁹⁵¹ also have Telegram-channels. All information is provided in the national languages German, French and Italian as well as Russian, Ukrainian and English.

The Federal Office for Customs and Border Security claims to employ many people who speak several languages, and thus can ensure provision of information on how to apply for status S at border-crossing points. They also direct persons to the information provided by the SEM. But there is no interpretation available at the border crossings.²⁹⁵²

D. Guarantees for vulnerable groups

There are no specific identification mechanisms in place to systematically identify persons entitled to status S who need specific procedural safeguards because of their vulnerability, either before or after their registration as beneficiaries of status S.

However, there was a special procedure introduced specifically adapted to the needs of non-accompanied minors entitled to Status S. They are only accommodated for a short time in federal asylum centres and then enter special accommodation with special care. In Switzerland, however, there is a shortage of staff in the care sector.²⁹⁵³

No specific programme was introduced in 2023 to address the needs of individuals fleeing from Ukraine suffering from mental health problems, including torture survivors and traumatised beneficiaries. Specialised treatment for victims of torture or traumatised beneficiaries or people with mental health problems is not available in practice.

²⁹⁴² SEM, *Information on the Ukraine crisis*, available at: <https://bit.ly/3QKcESP>.

²⁹⁴³ Swiss Platform against Human Trafficking, available at: <https://bit.ly/3EqRkNp>; SEM, *Protect yourself!*, available at: <https://bit.ly/40Q87CZ>.

²⁹⁴⁴ Swiss Refugee Council, *Ukraine: Helpful information for people seeking protection*, available at: <https://bit.ly/40VkWvF>.

²⁹⁴⁵ SEM, *Information on the Ukraine crisis*, available at: <https://bit.ly/3QKcESP>.

²⁹⁴⁶ Swiss Refugee Council, *Ukraine*, available at: <https://bit.ly/3iO4ZGp>.

²⁹⁴⁷ Caritas, *assistance for the victims of the war in Ukraine*, available at: <https://bit.ly/3HZzCBc>.

²⁹⁴⁸ Swiss Red Cross, *Helpful*, available in French, German, Italian, Russian and Ukrainian at: <https://bit.ly/3luJoNz>.

²⁹⁴⁹ Conference of Cantonal Directors of Social Services, *Ukraine, available in French and German at: https://bit.ly/3XtfUnt*; for example, Bern Canton, available in French and German at: <https://bit.ly/3RTEDQm>.

²⁹⁵⁰ SwissHelp Telegram Channel, available at: <https://bit.ly/3Wft3uL>.

²⁹⁵¹ Red Cross UA bot, available at: <https://bit.ly/3XBT90L>.

²⁹⁵² Federal Office for Customs and Border Security, *Entering Switzerland: Information for refugees from Ukraine*, available at: <https://bit.ly/3XCu7Pp>.

²⁹⁵³ Compare also: Bern Canton, *Regional partners and partners for unaccompanied minors*, available at: <https://bit.ly/3ZClqV>.

Content of Status S

A. Status and residence

1. Residence permit

Indicators: Residence permit

1. What is the duration of residence permits granted to Status S beneficiaries?	1 year
2. How many residence permits were issued to Status S beneficiaries from its introduction in the national system until 31 December 2023?	97,566

The SEM is responsible for the procedure for granting an S residence permit. The procedure from the registration (application for S status) to the decision (granting of S status and allocation to a canton) takes about 14 days. Then those seeking protection are distributed to the cantons. (see [Registration under temporary protection](#)).

The Federal Council decided on 1 November 2023 that the protection status S will be maintained at least until 4 March 2025.²⁹⁵⁴ The cantons extend the documents annually. If protection status is not revoked after five years, a residence permit may be issued. If protection status is not revoked after ten years, a settlement permit can be issued.²⁹⁵⁵

Those who receive status S are entitled to social benefits and universal health insurance. In addition, the freedom to travel (in Switzerland and for 2 months also abroad, except to Ukraine)²⁹⁵⁶ is guaranteed. Anyone who finds a job in Switzerland is allowed to work. Self-employment is also possible. However, the salary is then credited to the social benefits.²⁹⁵⁷

There are many requests from persons who have received protection status in an EUMS and wish to travel on to Switzerland and receive status S. Reasons for this are:

- ❖ Expiry of the protection program in the EUMS;
- ❖ No guaranteed accommodation;
- ❖ No work;
- ❖ Acquaintances and relatives with protection status in Switzerland;
- ❖ Climatic conditions.²⁹⁵⁸

But anyone who has protection status in another EUMS does currently not receive protection status S in Switzerland. However, this decision is currently reviewed by the courts.

According to Art. 78 AsylA, protection status S may be revoked by the SEM if the person in need of protection receives a legal right of residence in a third country where they may return. The person in need of protection shall notify the SEM of his departure. Then the S status is cancelled.

2. Access to asylum

No asylum procedure will be carried out for persons entitled to status S. Ongoing asylum procedures are suspended.²⁹⁵⁹ The exceptions are obvious asylum grounds, i.e. clear and rare case constellations, which can be clearly identified by means of a short interview in the status S procedure. In these cases,

²⁹⁵⁴ Schutzstatus S wird nicht aufgehoben, available at: <https://tinyurl.com/4skj634f>

²⁹⁵⁵ Articles 76 and 74 AsylA.

²⁹⁵⁶ Practice of the SEM regarding Article 79 AsylA and Article 78(1)(c) AsylA.

²⁹⁵⁷ Article 85 AsylA.

²⁹⁵⁸ Compare the correspondence with the Swiss Refugee Council.

²⁹⁵⁹ Article 69(3) AsylA.

a transfer to the asylum procedure takes place. If the S status is revoked or not granted, the persons concerned are free to apply for asylum. In such a subsequent asylum procedure, a new cantonal distribution takes place and there is no entitlement to distribution to the same canton as in the previous protection procedure.

B. Family reunification

According to the Federal Council's decision, spouses, partners and minor children as well as persons for whose care the beneficiary of status S was responsible also receive status S. However, this was not implemented in practice for binational families (see [Qualification for status S](#)).

There are no material requirements for family reunification for persons with status S.

When applying for status S, family members must indicate the identity of their family member beneficiary of status S. They are then assigned to the canton concerned.

Family members receive the same status as the person they are joining.

C. Movement and mobility

Beneficiaries of status S can travel freely in Switzerland and also work in any canton. For social benefits, housing and compulsory schooling, however, they are tied to the canton to which they were allocated.

They can travel without authorisation in EU member States.²⁹⁶⁰ Further they are allowed to live in EU countries for 2 months per year. In case they live abroad for more than 2 months, a transfer of the centre of life is presumed and protection status S can be withdrawn according to Art. 7 AsylA. However, withdrawal of status will be examined on a case-by-case basis.

Those who have received protection status S are allowed to return to Ukraine for 15 days per quarter.²⁹⁶¹

D. Housing

Indicators: Housing

- | | |
|----------------------------------------------------------------------------------------------|---------------|
| 1. For how long are Status S protection beneficiaries entitled to stay in reception centres? | No limit |
| 2. Number of beneficiaries staying in reception centres as of 1 May 2023 | 311 |
| 3. Number of beneficiaries staying in private accommodation as of 12/2023 | Not available |

The main forms of accommodation provided to beneficiaries of status S are asylum centres and host families, while many reside in private accommodation with relatives and acquaintances.

Beneficiaries of status S are entitled to the same reception conditions as asylum seekers (see [General Report – Reception conditions](#)).

²⁹⁶⁰ Article 9 (8) Ordonnance on the issue of travel documents for foreign persons (RDV).

²⁹⁶¹ Article 78 AsylA and AO1.

First, the federal government are responsible for the provision of reception to beneficiaries of status S in the federal asylum centres. Then, with the distribution of those seeking protection among the cantons, the cantons concerned are responsible and, if the canton offers host families, the Swiss Refugee Council is responsible for reception with the host family programme.²⁹⁶²

Beneficiaries of status S can remain in a federal asylum centre until they are distributed to the cantons. This should be possible within a few days, maximum 2 weeks. They then remain in the cantonal centre either until the S status is lifted or until they move on to a host family or self-financed accommodation. According to the SEM, reception places are used in a flexible way for asylum seekers and persons with Status S (for further details see [General Report – Housing](#)).²⁹⁶³

If a canton does not have enough space in collective accommodation, it can use private accommodation such as hotels, private apartments, host families, etc.²⁹⁶⁴

In practice, many difficulties have arisen with regard to access to reception conditions. Initially most asylum seekers were directly attracted to private individuals and were not officially distributed to the cantons via federal asylum centres. These people thus were after 90 days illegally in Switzerland and had no opportunity to receive social benefits or work legally. In addition, this led to an unequal distribution in terms of the foreseen quantity of protection seekers in the regions,²⁹⁶⁵ which had to be compensated with redistribution.

Reception in private accommodation is not directly organised by the State. The Swiss Refugee Council arranges private accommodation in cantons that have mandated the organisation for this purpose. There are also cantons that look for civil accommodation without the homestay programme. The Swiss Refugee Council has no information about any criteria in these cases.

On behalf of the SEM, the host family project of the Swiss Refugee Council places people seeking protection from the centres with host families.²⁹⁶⁶ The host families are carefully selected in advance (visits to the apartment, criminal records, etc.) and then closely supervised during the accommodation of the guests. Contracts are concluded between host families and guests for, depending on the canton, at least 3 or 6 months. If these 3 or 6 months cannot be met, the Swiss Refugee Council will support in finding a new solution.

The Swiss Refugee Council selected host families taking into account the extract from the criminal record and by conducting personal interview. This took quite a long time, and some families withdrew their willingness or housed displaced persons with them in an unofficial way.

Regarding the protection of status S beneficiaries from risks of work exploitation, contracts must be submitted to and approved by the cantonal employment office. At the beginning of the Ukraine war, many displaced persons from Ukraine went to work without a contract or with an unauthorised contract and did not receive a salary.

²⁹⁶² For more information in French (and German), see Swiss Refugee Council, *Familles d'accueil pour personnes réfugiées d'Ukraine*, available in French (and German) at: <https://bit.ly/3ZAFsRO>.

²⁹⁶³ Information provided by the SEM, 1 May 2023.

²⁹⁶⁴ For example the canton of Bern, *Coordination of Ukraine Aid*, available at: <https://bit.ly/3ZHMcgP>.

²⁹⁶⁵ According to the cantonal distribution key, see [General Report – Dispersal across cantons](#).

²⁹⁶⁶ For more information see Swiss Refugee Council, *Familles d'accueil pour personnes réfugiées d'Ukraine*, available in French (and German) at: <https://bit.ly/3ZAFsRO>.

E. Employment and education

1. Access to the labour market

Persons with protection status can work immediately after obtaining S status.²⁹⁶⁷ To do this, they must obtain a permit from the cantonal employment office. The employment office checks whether the job offer is serious and whether the wage payments are appropriate. It is also possible to work as self-employed. The place of work is not tied to the place of residence. A person's salary is taken into account when calculating an individual's entitlement to social benefits.

There are state and private Internet platforms with job offers for status S beneficiaries. In addition, those seeking protection and status S beneficiaries are supported by state social workers in their search for work.²⁹⁶⁸

In contrast to asylum seekers, persons with status S have the same rights as nationals. There are no professions exempt from status S.

Of 39951 persons eligible for work (age 18-64), 8417 were actually employed on 4 January 2024. A breakdown per sector of employment does not exist.²⁹⁶⁹ There exists no specific measures in place to combat labour exploitation.

2. Access to education

Children between 4 and 15 years must attend compulsory school. Children over 15 can participate voluntarily.²⁹⁷⁰ Beneficiaries of status S are entitled to education under the same conditions as nationals.

Of the 19,805 children who received Status S until 31 December 2022, 14,978 are between the age of 4 and 15 years old and therefore must have access to compulsory school.²⁹⁷¹ No further information for 2023 were available at the moment of publication.

There are no restrictions in accessing the education. The problem is that, depending on the canton of residence, different language lessons are mandatory. For example, children in southern Switzerland have first to learn Italian and German or French as a second national language, French in French-speaking Switzerland and German as a second national language, and German in German-speaking Switzerland and French as the second national language. To the knowledge of the Swiss Refugee Council, this leads to many absences, as those seeking protection and beneficiaries of status S are not willing to learn the respective languages due to a lack of prospects of staying. Among other things, this also means that some people seeking protection and beneficiaries of status S want to change their canton of residence and move to a canton that speaks a different language.

In addition, there is the problem that some persons seeking protection and beneficiaries of status S want to continue learning in home schooling at Ukrainian schools, but cannot do so during compulsory schooling in Switzerland.

²⁹⁶⁷ Article 53(1) Ordonnance on admission, residence and employment; Federal Council, *Ukraine: le Conseil Fédéral active le statut de protection S pour les Ukrainiens*, press release, 11 March 2022, available in French (and German and Italian) at: <https://bit.ly/3XaEDgK>.

²⁹⁶⁸ See for example Randstad, *Jobs for ukrainians. Робота для українців*, available at: <https://bit.ly/3XAuvOo>; and Jobrapido, available at: <https://bit.ly/3CT0Nw2>.

²⁹⁶⁹ Data and information provided by the SEM, available at: <https://tinyurl.com/n74tpr9s>

²⁹⁷⁰ Article 80(4) AsylA. See also the recommendations of the Federal Commission on Migration FCM: *Recommandations de la CFM en matière d'enseignement obligatoire des enfants et des jeunes réfugiés*, 24 March 2022, available in French (and German and Italian) at <https://bit.ly/3wkdFaZ>.

²⁹⁷¹ Data provided by the SEM, 1 May 2023.

Accommodation of special needs of children and alternative arrangements varies depending on the canton or municipality. Compulsory education is municipal autonomy. There are very different offers and supports.

Access to higher education is guaranteed. It requires the same prerequisites as foreigners who want to study in Switzerland. There are various specific information portals for status S beneficiaries at colleges and universities.²⁹⁷²

Language and distance are major obstacles to accessing vocational training or education for beneficiaries of status S having passed the age of mandatory education. With regard to language, however, free language instruction is available to all beneficiaries (in German, French or Italian, depending on the canton).

In addition, it is difficult to find an apprenticeship if it is not clear how long the apprentice can stay in Switzerland due to the uncertain duration of the status S. In order to solve this problem, the head of the federal Department of Justice and Security decided on 1 March 2023 to give young people between the ages of 15 and 20 the opportunity to start and complete an apprenticeship in Switzerland, even if the protection status S should be lifted before the end of the apprenticeship.

F. Social welfare

Anyone under status S is granted social welfare in accordance with Art. 81 and 82 AsylA. Social welfare is provided to beneficiaries of status S under the same conditions and on the same level as for national or as legally residing third country nationals. Assets/income are counted towards social benefits; also the accommodation costs.

The cantons and the communes and responsible for granting social assistance.²⁹⁷³ Social benefits are paid by the housing municipality. Anyone who leaves this must officially re-register with another municipality. Changes of municipality and canton can be approved by the authorities.

The amount of social benefits is often a problem, according to the persons who approach the Swiss Refugee Council, who report that it is insufficient. In addition, most people seeking protection and status S beneficiaries are not aware that assets and wages are credited to social benefits.

G. Health care

Compulsory universal health care service is guaranteed.²⁹⁷⁴ This means every person living in Switzerland must be insured against illness,²⁹⁷⁵ and therefore has access to the basic health system. Cantons may limit the choice of insurers and of physicians and hospitals for protection and asylum seekers and temporarily admitted persons. Apart from this restriction, the basic insurance and the covered treatments do not depend on the status but on the needs. Mental health problems are also covered if a psychiatrist (not psychologist) is involved; however, there are limited capacities for adequate treatment in some fields.

²⁹⁷² See for example Perspectives – Studies, available at: <https://bit.ly/3XHjryF> ; ZHAW, *Admission of students from Ukrainian universities as visiting students at the ZHAW*, available in English at: <https://bit.ly/3Xm2avy> and <https://bit.ly/40VpQZB>.

²⁹⁷³ Articles 80-84 AsylA.

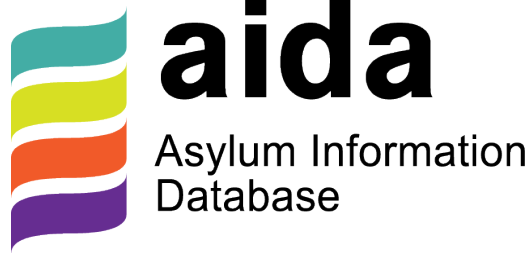
²⁹⁷⁴ Article 80(4)4 AsylA.

²⁹⁷⁵ Article 3 Health Insurance Act (HIA).

Specialised treatment for victims of torture or traumatised persons or people with mental health problems is available, but the capacity is far too small. There is not only a lack of specialised psychiatrists but the number of interpreters and funding for interpretation for this purpose are insufficient. Especially intercultural interpretation would be needed for specialised treatment of mental health problems.

Beneficiaries of status S are entitled to the same health care as nationals or legally residing third country nationals.

Compulsory health insurance does not cover all benefits. Often people with protection status S are not aware of what is being paid. This sometimes leads to treatment refusals in hospitals and doctors' practices, according to the persons concerned as well as host families.



Serbia

2023 Update



Temporary Protection Procedure

A. General

The Asylum and Temporary Protection Law²⁹⁷⁶ defines temporary protection as a form of protection granted on the basis of the decision of the Government of the Republic of Serbia (Government) in case of a mass influx of displaced persons who cannot be returned to their country of origin or country of habitual residence.²⁹⁷⁷

The Asylum Act more specifically defines temporary protection as a form of protection that is provided in the extraordinary procedure, in the case of a **mass influx of displaced persons** who cannot be returned to their country of origin or habitual residence if there is a risk that, due to such mass influx, it will not be possible to effectively carry out individual asylum procedures and in order to protect the interests of displaced persons and other persons seeking protection.²⁹⁷⁸ A decision on the provision of temporary protection is taken by the Government.

The term **displaced persons** is related to foreign nationals who have been forced to leave their area or country of origin or habitual residence, or who have been evacuated, and who are unable to return to durable and safe living conditions due to the situation that is prevalent in that country, in particular:

- 1) persons who have left an area of armed conflict or localised violence.
- 2) persons who face a serious threat of mass violations of human rights or who have been victims of such violations.²⁹⁷⁹

Temporary protection may also be granted to persons who legally resided in the Republic of Serbia (Serbia) at the time of the adoption of the Government's Decision, which basically means that the Serbian Asylum Act also recognises *sur place* beneficiaries of temporary protection.²⁹⁸⁰ The protection of *sur place* refugees who benefit from temporary protection is also related to those foreigners whose right to residence had expired before the decision on temporary protection was revoked.²⁹⁸¹

In accordance with the decision, persons who have been granted temporary protection are registered in accordance with Article 35 of the Asylum Act.²⁹⁸² Accordingly, they are issued a registration certificate on the intention to lodge a request for temporary protection (registration certificate). The decision granting temporary protection is taken for each applicant individually.²⁹⁸³

On 18 March 2022, on the basis of Article 74 (2) of the Asylum Act and Article 43 (1) of the Law on the Government,²⁹⁸⁴ for the first time in the history of the Serbian asylum system, the Government adopted the Decision on Providing Temporary Protection in the Republic of Serbia to Displaced Persons Coming from Ukraine.²⁹⁸⁵ The scope of temporary protection is related to 'persons displaced from Ukraine' who were forced to leave Ukraine as their country of origin or country of habitual residence or who were evacuated from Ukraine and who cannot return to permanent and safe living conditions because of the current situation prevailing in that country.²⁹⁸⁶

²⁹⁷⁶ *Official Gazette*, no. 24/18, available in English at: <https://bit.ly/3tK8WLG>, hereinafter: Asylum Act.

²⁹⁷⁷ Article 2 (1-9) Asylum Act.

²⁹⁷⁸ Article 74 (1) Asylum Act.

²⁹⁷⁹ Article 74 (3) Asylum Act.

²⁹⁸⁰ Article 74 (3) Asylum Act.

²⁹⁸¹ Article 74 (4) Asylum Act.

²⁹⁸² Article 74 (5) Asylum Act.

²⁹⁸³ *Ibid* and Point 3 TP.

²⁹⁸⁴ *Official Gazette*, nos. 55/05, 71/05 - correction, 101/07, 65/08, 16/11, 68/12 - CC, 72/12, 7/14 - US, 44/14 and 30/18 - etc. The law is available in Serbian at: <https://bit.ly/424S5os>, hereinafter: Government Act.

²⁹⁸⁵ *Official Gazette*, no. 36/2022, available in Serbian at: <https://bit.ly/44b1MDV>, hereinafter: TP.

²⁹⁸⁶ Point 1 TP.

The term ‘displaced persons’ encompasses the following categories:

1. citizens of Ukraine and their family members who resided in Ukraine;
2. asylum seekers, stateless persons and foreign nationals who have been granted asylum or equivalent national protection in Ukraine and their family members who have been granted residence in Ukraine.
3. foreign nationals who have been granted valid permanent residence or temporary residence in Ukraine and who cannot return to their country of origin under permanent and long-term circumstances.²⁹⁸⁷

Temporary protection is also granted to citizens of Ukraine and their family members, who at the time of the activation of TP already legally resided in Serbia, but whose right to stay expired before the revocation of the decision on temporary protection.²⁹⁸⁸ The notion of ‘family members’ in terms of the Asylum Act to which the TP explicitly refers to the following individuals:²⁹⁸⁹

1. spouses, but only if the marriage was concluded before the arrival in Serbia and their minor children born in legal or in common-law marriage, minor adopted children, or minor step-children.
2. extramarital partner and their minor children born in common-law marriage, minor adopted children, or minor step-children. The extramarital partnership needs to meet the criteria set out in Article 4 of the Family Law²⁹⁹⁰ which outlines that common-law marriage represents the permanent cohabitation of man and woman, between whom there are no marriage obstacles which creates an obligation of mutual support and the right to joint property of common-law partners.²⁹⁹¹

Exceptionally, the status of family member may also be granted to other persons, taking into account particularly the fact that they had been supported by the person who has been granted refugee status, subsidiary or temporary protection. Special circumstances which should be considered are their age and psychological dependence, as well as health, social, cultural, or other similar circumstances.²⁹⁹²

Temporary protection introduced through the TP lasts one year from the date of entry into force of this decision.²⁹⁹³ In this way, Serbia has joined almost all European countries in providing temporary protection to millions of Ukrainian citizens and other types of residents from this country impacted by the international armed conflict.

On 16 March 2023, the Government extended temporary protection to displaced people through the Decision on Supplementing of the TP, making it valid until 18 March 2024.²⁹⁹⁴ On 14 March 2024, the Government of Serbia again extended temporary protection by adopting the Decision on Supplementing of the TP which will be valid until 16 March 2025.²⁹⁹⁵

The armed conflict in Ukraine caused by the Russian aggression triggered also the mass movement of Russian nationals who arrived in Serbia due to the free-visa regime between these two countries since 7 March 2008.²⁹⁹⁶

²⁹⁸⁷ Point 2, paragraph 1 TP.

²⁹⁸⁸ Point 2, paragraph 2 TP.

²⁹⁸⁹ Point 2, paragraph 3 TP.

²⁹⁹⁰ *Official Gazette*, nos. 18/2005, 72/2011 – other law and 6/2015, available in English at: <https://bit.ly/3vZUH76>, hereinafter: Family Act.

²⁹⁹¹ Article 2-1-12 Asylum Act.

²⁹⁹² Article 2-1-12-2 Asylum Act.

²⁹⁹³ Point 5 TP.

²⁹⁹⁴ *Official Gazette*, nos. 36/2022 and 21/2023, available in Serbian at: <https://bit.ly/44b1MDV>.

²⁹⁹⁵ *Official Gazette*, nos. 36/2022, 21/2023 и 21/2024., available in Serbian at: <https://bit.ly/44b1MDV>.

²⁹⁹⁶ Decision on Cancellation of Visas for the Citizens of the Russian Federation, *Official Gazette*, no. 27-931/2008, available in Serbian at: <https://bit.ly/3LI8Tej>.

Even though it is hard to get an accurate number of Russian citizens who arrived in Serbia after the end of February 2022, some sources indicate that more than 200,000 Russians resided in Serbia in 2022,²⁹⁹⁷ while other sources indicate that this number goes up to 300,000 but that 50,000 of them were granted different forms of temporary residency²⁹⁹⁸ under Article 40 of the Law on Foreigners Act.²⁹⁹⁹ According to Radio Television Serbia, 100,000 Russians had moved their residency in Serbia in November 2022.³⁰⁰⁰ Maybe the most accurate information was obtained by Radio Free Europe which published that between 25 February 2022 and 21 December 2022, the Ministry of Interior (MoI) recorded a total of 219,153 arrivals of Russian nationals in Serbia, but it remains unclear how many remained in Serbia.³⁰⁰¹

The mass arrival of Russian citizens occurred in two waves. The initial one started right after the beginning of the conflict in February 2022, when mostly Russian citizens who were employed in foreign companies and mainly in the IT sector decided to come to Serbia and register their companies. According to Radio Free Europe, in 2022 alone, a total of 4,187 Russian companies and entrepreneurship were registered in the Agency for Business Registers (*Agencija za privredne registre* - APR).³⁰⁰² In 2021, the total number of registered Russian companies in the APR was only 159.³⁰⁰³ Thus, the first wave mainly included people who had their own financial resources to come to Serbia, to rent or buy real estate and continue their own business. This caused an increase in average rent prices of at least 30%, while the price of rents in Belgrade and Novi Sad, the country's two main cities, doubled or – in some instances – tripled.³⁰⁰⁴

During the second wave of arrivals in September 2022, after the announcement of military mobilisation by Russian President Vladimir Putin,³⁰⁰⁵ the first asylum applicants arrived in Serbia. 99% of the Russian citizens who moved their residency regularised their stay in line with the Foreigners Act, while in the last quarter of 2022, and the first quarter of 2023, people who claimed to have fled military mobilisations started to arrive to Serbia. What is also interesting to outline is that these people have weaker financial status and have been accommodated in the Asylum Centre (AC) in Krnjača throughout 2022 and 2023.

It is not possible to determine the exact number of Russian Federation nationals who moved to Serbia pursuing safety also for 2023, but in most of the cases looking for the opportunity to work and live outside the scope of sanctions imposed by the EU. In May 2024, it was reported that between 300,000 and 500,000 Russians lives in Serbia, mostly in Belgrade and Novi Sad.³⁰⁰⁶

In terms of asylum seekers coming from Russia, the following statistical overview can depict the changes which impacted the asylum system in Serbia.

²⁹⁹⁷ Euronews, *U Srbiju je prošle godine došlo oko 200.000 Rusa, a sa njima i brojne promene koje su mnogi već osetili - u novčaniku*, 16 January 2023, available at: <https://bit.ly/3nCsjcO> or ABC News, *In pro-Putin Serbia, liberal-minded Russians seek a home*, 6 February 2023, available in English at: <https://bit.ly/3LKNWA5>.

²⁹⁹⁸ Labour grounds, educational grounds, family grounds, humanitarian grounds, etc.

²⁹⁹⁹ *Official Gazette*, no. 24/2018 and 31/2019, available in English at: <https://bit.ly/3bxcWrf>.

³⁰⁰⁰ N1, *RTS: 100,000 Russians and 18,000 Ukrainians in Serbia*, 16 November 2022, available in English at: <https://bit.ly/44A8eEA>.

³⁰⁰¹ Radio Free Europe, *Uticao rata u Ukrajini na Srbiju u brojkama*, 2 January 2023, available in Serbian at: <https://bit.ly/3B1InI3>.

³⁰⁰² Radio Free Europe, *Русски на svakom koraku u Beogradu*, 18 January 2023, available at: <https://bit.ly/3HKMBYp>.

³⁰⁰³ *Ibid.*

³⁰⁰⁴ Radio Free Europe, *Uticao rata u Ukrajini na Srbiju u brojkama*, 2 January 2023, available in Serbian at: <https://bit.ly/3B1InI3>.

³⁰⁰⁵ The Guardian, *Putin announces partial mobilisation and threatens nuclear retaliation in escalation of Ukraine war*, 21 September 2022, available in English at: <https://bit.ly/3NMhfo1>.

³⁰⁰⁶ AlJazeera, *Rusi u Srbiji: Bijeg od putinizma, rata i mobilizacije*, 27 May 2023, available at: <https://bit.ly/3zULnZq>.

According to the available statistics provided through UNHCR cooperation with the MoI, between 2009 and 2023, a total of 91 Russian citizens lodged an asylum application in Serbia.

Breakdown of Russian asylum seekers in the period 2009-2023

Year	Number of asylum applications lodged
2009	2
2011	2
2015	13
2016	4
2018	6
2019	4
2020	3
2021	3
2022	20
2023	34
Total	91

It is reasonable to assume that all asylum procedures initiated up to 2020 have become final and executive. Only 3 decisions on refugee status granted to 3 LGBTQI+ applicants from Chechnya.³⁰⁰⁷ In the period 2021-2023, there were 57 asylum applications lodged by Russian citizens before the Serbian asylum authorities. According to statistical data from UNHCR, the 3 asylum applications lodged in 2021 ended with a decision on discontinuing the asylum procedure due to absconding.

The available statistics indicate that 20 asylum applications were lodged in 2022 and an additional 33 in 2023 plus 1 subsequent asylum application. A total of 54 asylum applications were lodged in the given period.

Russian asylum seekers in the period January 2022 - April 2023

Month	Number of Russian asylum seekers	Number of Hearings	Number of applicants absconding in 2022 and 2023
January 2022	0	0	0
February 2022	0	0	0
March 2022	0	0	0
April 2022	0	0	0
May 2022	1	0	0
June 2022	3	1	0
July 2022	6	0	0
August 2022	0	0	0
September 2022	1	0	6
October 2022	0	0	0
November 2022	7	0	0

³⁰⁰⁷ Asylum Office, Decisions Nos. 26-1216/18, 26-1217/18 and 26-1218/18, 12 February 2019.

December 2022	2	0	1
January 2023	5	0	0
February 2023	3	1	0
March 2023	4	5	0
April 2023	13	1	0
May 2023	1	0	1
June 2023	1	0	7
July 2023	0	1	1
August 2023	2	1	1
September 2023	0	5	0
October 2023	1	0	2
November 2023	3	0	0
December 2023	1	1	0
Total	54	16	19

Out of these 54 applicants, 19 absconded from the procedure, 11 applicants were rejected on the merits at first instance (1 in 2022 and 10 in 2023) and 1 subsequent asylum application was dismissed. The 4-member family rejected in merits in December 2023 decided not to appeal the negative decision, but to voluntarily return to Russia, which means that their case was also concluded in 2023 but does not fall under the absconding statistics. On 31 December 2023, a total of 31 applications of Russian citizens were pending. Out these, one application was also rejected by the Asylum Commission, while the Administrative Court did not decide upon the complaints of Russian citizens in 2023.

Accordingly, on 31 December 2023, a total of 31 Russian applicant cases were pending before Serbian asylum authorities: 1) 24 before the Asylum Office; 2) 6 before the Asylum Commission and 3) 1 before the Administrative Court.

Many applicants claim a risk of persecution on the basis of their political beliefs, public opposition to the Russian Government's actions (including military actions),³⁰⁰⁸ risk of forced recruitment into the Russian military and draft evasion.³⁰⁰⁹ In 2023, every asylum application decided in merits was rejected. A total of 5 such decisions related to 10 applicants were rendered in 2023. Also, 1 subsequent asylum application was dismissed.

No.	Case file No.	Date of Decision	Number of applicants	Remarks
1.	26-2886/22	7 June 2023	1	<i>Prima facie</i> non credible
2.	26-1529/18	27 October 2023	1	Dismissed subsequent asylum application
3.	26-1654/22	9 November 2023	3	Religious persecution

³⁰⁰⁸ Law of 4 March 2022 No.31, Law of 25 March 2022 No. 62, Law of 18 March 2023 No. 57, Law of 4 March 2022 No. 32, Law of 25 March 2022 No. 63, Law of 18 March 2023 No. 58, description and explanation of these regulations is available in English at: <https://bit.ly/3M3woQz>.

³⁰⁰⁹ Decree No. 647 of 21 September 2022, available in English at: <https://bit.ly/3HNidga>.

4.	26-2882/22	28 November 2023	1	Draft evasion
5.	26-2862/22	4 December 2023	1	Draft evasion
6.	26-2728/22	22 December 2023	4	<i>Prima facie</i> non credible
Total	6		11	

In two out of 5 decisions rendered on the merits in 2023, based on the author's expertise, the assessment of the Asylum Office lacked an assessment of relevant COI related to the practice of forced recruitment (the draft evasion cases outlined in the Table above) and the unpredictability and arbitrariness of the application of the laws governing the process, categories and priorities in military mobilization.³⁰¹⁰ Because of these circumstances, even though these two applicants do not fall under the categories which are recognized as primary candidates for military mobilization, the assessment of the risk of *refoulement* in terms of the general circumstances, which can be derived from credible sources such as the EUUA report, were disregarded. This further corroborates the remarks on the poor quality of the credibility assessment conducted by Serbian asylum authorities as outlined in details in general report on Serbia.³⁰¹¹

According to the Serbian Commissariat for refugees, from 24 February 2022 until 24 February 2023, around 148,000 Ukrainian citizens were recorded entering Serbia, while around 26,000 were granted some form of temporary residency.³⁰¹² In July 2024, it was reported that more than 350,000 Ukrainian citizens transited through Serbia. 58,000 of them were granted some type of residency.³⁰¹³

The support of the Commissariat for Refugees and Migrations is provided to around 4,500 Ukrainian residing in private accommodations and to around 70 to 80 refugees from Ukraine accommodated in the AC in Vranje.³⁰¹⁴ It is not possible to have statistics as to nationals of other countries eligible for temporary protection under the TP.³⁰¹⁵ A total of 406 Ukrainian refugees transited through the Asylum Centre in Vranje.

The following tables provide a statistical overview of the number of Ukrainian citizens and other nationals eligible for temporary protection under the TP who were registered and granted temporary protection.

Registration certificates issued to applicants for temporary protection in the period March 2022 -December 2023

Months	Ukraine	Russia	Other ³⁰¹⁶	Total	Male	Female	Children
March 2022	51	3	0	54	15	39	23
April 2022	278	5	2	285	88	197	74
May 2022	255	6	6	267	75	192	59
June 2022	165	1	9	175	50	116	48
July 2022	93	2	0	95	65	30	24
August 2022	58	2	1	61	20	41	12

³⁰¹⁰ EUAA, *The Russian Federation - Military service*, December 2022, available at: <https://bit.ly/3Y7E7nb>.

³⁰¹¹ See AIDA, *Country Report: Serbia – 2023 Update*, August 2024, available [here](#).

³⁰¹² RTS, *Kroz Srbiju prošlo 148.000 državljana Ukrajine, a 26.000 prijavilo boravište*, 24 February 2023, available in Serbian at: <https://bit.ly/3HLWsNw>.

³⁰¹³ Radar, *Ukrajinke u Srbiji*, 16 July 2024, available at: <https://bit.ly/3Aa1brf>.

³⁰¹⁴ Data extracted from monthly statistical overviews provide on the monthly basis by the UNHCR office in Serbia.

³⁰¹⁵ *Ibid.*

³⁰¹⁶ China, Latvia, Bosnia and Hercegovina, Belarus, Georgia, Uzbekistan and Armenia.

September 2022	44	0	1	45	15	30	9
October 2022	55	2	6	63	28	35	13
November 2022	53	1	0	54	17	37	11
December 2022	66	5	3	74	31	43	22
January 2023	50	1	0	51	20	31	8
February 2023	14	0	0	14	4	10	1
March 2023	33	0	0	33	13	20	5
April 2023	22	0	0	22	7	15	4
May 2023	27	1	0	28	10	18	3
June 2023	30	0	1	31	8	23	0
July 2023	30	0	0	30	16	14	0
August 2023	25	1	1	27	12	15	4
September 2023	37	0	1	38	14	24	6
October 2023	46	2	0	48	17	31	10
November 2023	32	1	0	33	18	15	3
December 2023	21	2	0	23	7	16	3
Total	1,485	35	31	1,551	555	996	342

Total number of persons granted temporary protection in the period March 2022 - December 2023

Months	Ukraine	Russia	Other	Total
March 2022	0	0	0	0
April 2022	0	0	0	0
May 2022	314	7	3	324
June 2022	381	8	6	395
July 2022	96	2	0	98
August 2022	72	2	0	74
September 2022	49	0	2	51
October 2022	49	2	1	52
November 2022	61	1	5	67
December 2022	51	3	0	54
January 2023	64	2	3	69
February 2023	29	1	0	30
March 2023	18	0	0	18
April 2023	25	0	0	25
May 2023	30	1	0	31
June 2023	25	0	0	25
July 2023	26	0	1	27
August 2023	26	0	0	26
September 2023	19	1	1	21

October 2023	30	0	0	30
November 2023	62	2	0	65
December 2023	1	0	0	1
Total	1,428	32	22	1,482

The number of persons granted the extension of temporary protection in the period March - April 2023

Months	Ukraine	Russia	Other	Total
March 2023	219	5	4	228
April 2023	424	14	5	443
May 2023	47	0	0	47
June 2023	11	1	0	12
July 2023	5	0	0	5
July 2023	3	0	0	3
August 2023	3	0	0	3
September 2023	0	0	0	0
October 2023	2	0	0	2
November 2023	2	0	0	2
December 2023	1	0	0	1
Total	717	20	9	746

Between March 2022 and December 2023, the total number of persons registered under the TP was 1,551. 1,173 were registered in 2022 and 378 in 2023. Out of that number, 1,485 were Ukrainian nationals, 35 were Russian nationals and 31 were of other nationalities (China, Latvia, Bosnia and Hercegovina, Belarus, Georgia, Uzbekistan and Armenia). Out of a total of 1,551 registered individuals, 996 were female and 555 male. Also, out of that number, a total of 342 were children.

Out of 1,551 registered individuals, 1,482 were granted temporary protection, while in the period March-December 2023, 746 people's temporary protection was extended.

There was one instance in 2022 in which the request for temporary protection was rejected based on national security grounds. The Asylum Office did not provide the reasons outlined in the security assessment.³⁰¹⁷ This decision was confirmed by the Asylum Commission³⁰¹⁸ and the case is currently pending before the Administrative Court. This case further illustrates unreasoned security assessments of the Security Information Agency (BIA).³⁰¹⁹ Also, in June 2023, one request for temporary protection was dismissed.

³⁰¹⁷ Asylum Office, Decision No. 26–1658/22, 23 June 2022.

³⁰¹⁸ Asylum Commission, Decision No. AÐ 20/22, 12 August 2022.

³⁰¹⁹ See more in AIDA, *Country Report: Serbia, 2022 Update*, May 2023, available at: <https://bit.ly/3I5K6Qr>.

B. Qualification for temporary protection

According to the TP, the following categories are eligible for temporary protection:

1. citizens of Ukraine and their family members who resided in Ukraine;
2. asylum seekers, stateless persons and foreign nationals who have been granted asylum or equivalent national protection in Ukraine and their family members who have been granted residence in Ukraine.
3. foreign nationals who have been granted valid permanent residence or temporary residence in Ukraine and who cannot return to their country of origin under permanent and long-term circumstances.³⁰²⁰

From available data, it is not possible to determine whether most of the applicants who are not Ukrainian nationals were categorised under the first category as family members of Ukrainian citizens. However, it cannot be excluded that some of the beneficiaries of temporary protection also belong to the categories enlisted under no. 2 and 3.

There is no specific procedure envisaged for persons eligible for the TP who were in the *sur place* situation. As it has already been outlined, temporary protection may be granted also to persons who legally resided in Serbia at the time of the adoption of the Government's Decision, which basically means that the Serbian Asylum Act also recognises *sur place* beneficiaries of temporary protection.³⁰²¹ The protection of *sur place* refugees who benefit from temporary protection is also related to foreigners whose right to residence expired before the decision on temporary protection was revoked.³⁰²²

It cannot be determined how many beneficiaries of temporary protection Serbia benefited from *sur place* temporary protection, in line with Point 2, paragraph 1 of the TP.

Point 2, paragraph 1 of the TP explicitly covers asylum seekers, stateless persons and foreign nationals who have been granted asylum or equivalent national protection in Ukraine. The definition of family members is outlined in [General](#).

Refugees from Ukraine have unhindered access to the asylum procedure, as well as a variety of alternative statuses such as different forms of temporary residency. According to the Serbian Commissariat for refugees, from 24 February 2022 until 24 February 2023, around 148,000 Ukrainian citizens were recorded entering Serbia, while around 26,000 were granted some form of temporary residency.³⁰²³ Data from 2023 indicate that around 58,000 refugees from Ukraine reported some type of residency and that around 8,000 resides on the private address.³⁰²⁴

It is important to note that several Ukrainian nationals applied for asylum. In 2022, a total of 6 Ukrainians applied for asylum – one 3-member family and 3 individuals. The family and one journalist from Ukraine were granted subsidiary protection and refugee status respectively, while the remaining two cases are still pending. The first 4 applicants (family and journalists) were treated with priority and were granted international protection within the statutory 3 months deadline in the case of the family and 4 months for the journalist. This indicates that Ukrainian applicants in these two cases were prioritized compared to applicants from Syria, Afghanistan, Burundi, Cuba, etc whose asylum procedure lasts from 8 to 12 months on average, and sometimes even longer.³⁰²⁵ On the other hand, the other two applicants have

³⁰²⁰ Point 2, paragraph 1 TP.

³⁰²¹ Article 74 (3) Asylum Act.

³⁰²² Article 74 (4) Asylum Act.

³⁰²³ RTS, *Kroz Srbiju prošlo 148.000 državljana Ukrajine, a 26.000 prijavilo boravište*, 24 February 2023, available in Serbian at: <https://bit.ly/3HLWsnw>.

³⁰²⁴ Radar, *Između ljubavi, stereotipa i politike, Ukrajinke u Srbiji*, 16 July 2024, available at: <https://bit.ly/3Aa1brf>.

³⁰²⁵ See more in AIDA, *Country Report: Serbia, 2022 Update*, May 2023, available at: <https://bit.ly/3I5K6Qr>.

been waiting for their first instance decision for more than three months and their cases were still pending at the time of writing.

In 2023, there was only 1 asylum application made by a Ukrainian citizen in on 15 November 2023 and that there was only 1 asylum hearing of the individual whose asylum application was rejected on national security grounds.

No.	Case File No.	Date of Asylum Application	Date of hearing	Date of 1 st instance decision	Length of asylum procedure	Number of applicants
1.	26-462/22	24.03.2022	May	15.06.2022	83 days	3
2.	26-	24.03.2022	April	22.08.2022	120 days	1
3.	X.	August	September	Pending	Pending	1
4.	26-2736/22	15. November 2022		29 June 2023	7 months	1
	26-2628/23	November 2023	12 February 2024	Pending	Pending	1
Total						7

The temporal scope of temporary protection was initially set for 1 year, and was then extended for another year, all in line with Article 74 of the Asylum Act. Article 74 foresees that temporary protection may be granted for a period of maximum one year. If the grounds for providing temporary protection continue to exist, temporary protection may be extended for a further six months, and for a maximum of one year.³⁰²⁶ Temporary protection shall cease upon the expiry of the period for which it was granted, or when the grounds based on which it was granted have ceased to exist, as specified in a decision taken by the Government.³⁰²⁷

The first TP was adopted on 18 March 2022, and extended on 16 March 2023 until 18 March 2024. Another extension was adopted in March 2024, and TP is now valid until 16 March 2025.

C. Access to temporary protection and registration

1. Admission to territory

There were no reports or recorded incidents regarding people fleeing Ukraine being denied access to the territory in line with Article 15 of the Foreigners Act (refusal of entry) or though the well-documented practice of pushbacks and other forms of collective expulsions which has been intensively ongoing since 2016.³⁰²⁸ Thus, the positive practice of the Serbian authorities when it comes to assistance to and treatment of persons displaced from Ukraine at the border should be used as an example for the treatment of persons in need of international protection arriving to Serbia from other countries.

Additionally, there were no recorded cases of returnees from Ukraine being subjected to any kind of formal or informal forcible removals from the Serbian territory such as readmission, pushbacks, expulsion or refusal of entry.

³⁰²⁶ Article 74 (2) Asylum Act.

³⁰²⁷ Article 74 (3) Asylum Act.

³⁰²⁸ See more in AIDA, *Country Report: Serbia, 2022 Update*, May 2023, available at: <https://bit.ly/3I5K6Qr>.

In October 2011, the Law on Ratification of the Agreement between the Government of the Republic of Serbia and the Cabinet of Ministers of Ukraine on the cancellation of visas for their citizens was adopted in the Parliament on Serbia,³⁰²⁹ introducing the free visa regime which has been in force ever since.

Thus, Ukrainian citizens face no obstacles in accessing Serbian territory and remaining for up to 90 days. This legal possibility has been used by the vast majority of persons in need of international protection displaced from Ukraine to transit through Serbia towards the EU countries.

2. Freedom of movement

All persons meeting the requirements set out in the TP, regardless of them having or not having biometric passports or biometric travel documents have had unhindered access to the territory of Serbia and to move freely within it. There were no reported obstacles for the more than 100,000 displaced persons from Ukraine that left Serbia towards European Union countries such as Hungary, Croatia or Romania.

3. Registration under temporary protection

The Mol – the Administration for Border Police (ABP) and relevant Regional Border Centres within ABP, as well as all Police Departments who have their immigration units, are tasked with registering persons claiming to meet the requirements set out in the TP and in line with the Article 35 of the Asylum Act.

Foreigners may express the intention to lodge the request for temporary protection to the competent police officers at the border or within the territory either verbally or in writing,³⁰³⁰ including in places such as border posts, police stations or even the Detention Centre for Foreigners in **Padinska Skela, Dimitrograd and Plandište**.³⁰³¹ Unaccompanied and separated children (UASC) cannot express the intention to seek asylum until a social welfare centre appoints a temporary legal guardian.³⁰³² However, there have not been UASCs from Ukraine recorded since the introduction of the TP.

Regional Border Centres staff within ABP can issue the registration certificate on the spot. There is no need for further referrals and the procedure is fairly simple and entails directing applicants to AC **Vranje** if necessary, or just simple allowance to continue towards their destination country, but also hotels, hostels and private addresses if they are willing to remain in Serbia. All persons registered for temporary protection are also given an information leaflet drafted in Ukrainian which contains all necessary information, including relevant contact numbers of the Commissariat for Refugees and Migration (CRM), UNHCR, CSOs and others.

An authorised police officer shall photograph and fingerprint the person (identification),³⁰³³ who will thereafter be issued a certificate on registration as a foreigner who has expressed the intention to lodge a temporary protection application in Serbia ('registration certificate - registration').³⁰³⁴ The manner and procedure for registration, as well as the content of the registration certificate, are defined in the Rulebook on Registration. This Rulebook prescribes the design and content of registration certificates.

Pursuant to the Rulebook, registration certificates shall be issued in two copies, one of which is handed to the foreigner and the second one is to be archived in the Mol organisational unit where the officer who issued the registration certificate is employed.³⁰³⁵

³⁰²⁹ Official Gazette, no. 8/2011 and 17/2021, available in Serbian at: <https://bit.ly/3VFIh2i>.

³⁰³⁰ Article 35(1) Asylum Act.

³⁰³¹ Article 35(2) Asylum Act.

³⁰³² Article 11 Asylum Act.

³⁰³³ Article 35(5) Asylum Act

³⁰³⁴ Article 35(12) Asylum Act.

³⁰³⁵ Article 8 Rulebook on Registration.

Every person who claims to be in need of international protection can express their intention to apply for asylum or temporary protection. It is possible that people displaced from Ukraine could have overstayed in Serbia (more than 90 days); while in theory they could be penalized for the misdemeanour of illegal residency on the territory of Serbia,³⁰³⁶ such cases were not reported. The bottom line is that there is no deadline for them to be registered or to apply for temporary protection.

There are no reports which could indicate that persons displaced from Ukraine have been denied access to the territory, registration and temporary protection procedure due to lack of personal documents. Such persons are issued with a decision on allowing access to the territory. The same rule applies to persons who are not Ukrainian citizens, but had legal residence in Ukraine and cannot return to their country of origin.³⁰³⁷ All potential beneficiaries of temporary protection are issued with registration certificates in line with the Article 35 of the Asylum Act.

In practice, no problems related to registration of applications for temporary protection were recorded on national territory and at the borders.

There is no appeal against the informal decision not to issue a registration certificate to a person who claims temporary residency. However, there were no instances in which such a problem was reported, and it can be safely assumed that all persons displaced from Ukraine were effectively allowed to access the temporary protection procedure.

4. Legal assistance

The Free Legal Aid Act (FLA) explicitly guarantees free legal aid to asylum seekers (including persons applying for temporary residency),³⁰³⁸ refugees and persons granted subsidiary protection.³⁰³⁹ However, the Free Legal Aid Fee Schedule Regulation (FLA Regulation)³⁰⁴⁰ foresees free legal aid only for administrative dispute procedures conducted before the Administrative Court. This means that asylum seekers, including those who are applying for temporary protection, could apply for State funded free legal aid only if they reach the third instance authority. So far, not a single asylum seeker has used State funded free legal aid, including persons displaced from Ukraine.³⁰⁴¹ However, there was one case in which the applicant from Ukraine was rejected on the merits, based on national security grounds, but he enjoyed free legal aid from CSOs.

The right to free legal aid is also guaranteed by the Asylum Act, as well as the right to receive information concerning asylum.³⁰⁴² The Asylum Act further provides that an asylum seeker shall have access to free legal aid and representation by UNHCR and CSO whose objectives and activities are aimed at providing free legal aid to refugees. In practice, the vast majority of persons who submit an asylum application in Serbia use the services of CSO lawyers before both national and international bodies. Their work and assistance are not state, but project funded and the main donors are UNHCR, EU and other donors. CSOs represent asylum seekers in all three instances and in front of the Constitutional Court.

Asylum Protection Center (APC), the Belgrade Center for Human Rights (BCHR) and the Center for Research and Social Development IDEAS (IDEAS) provided free legal aid and legal information and orientation to refugees from Ukraine. Still, the attitude of the MoI in terms of applicants for temporary protection, but also those who applied for temporary residency was impeccable, allowing people to fully

³⁰³⁶ Article 122 and Article 123 Foreigners Act.

³⁰³⁷ UNHCR, *Temporary Protection in Serbia*, available at: <https://bit.ly/3M6q376>.

³⁰³⁸ Article 4 (2-6) FLA.

³⁰³⁹ Article 4 (2-7) FLA.

³⁰⁴⁰ Free Legal Aid Fee Schedule Regulation (*Uredba o tarifi za pružanje besplatne pravne pomoći*), Official Gazette of the RS No. 74/2019.

³⁰⁴¹ This conclusion is drawn from the fact that legal representatives in all Administrative Court judgments were CSOs.

³⁰⁴² Article 56(3)-(4) Asylum Act.

enjoy their rights in line with the TP regardless of them having legal representatives or not. Assistance was also provided by the CRM.

There were no reported cases in which persons entitled to temporary protection were faced with obstacles obtaining legal aid in their temporary residence procedure.

5. Information provision and access to NGOs

A foreigner who has expressed their intention to apply for temporary protection in Serbia, as well as a person who has lodged their request for temporary protection, shall have the right to be informed about their rights and obligations throughout the temporary protection procedure.³⁰⁴³

The provision of relevant information, as well as something which can be considered as legal orientation, are a primary task of the State and relevant police stations and police departments in which foreigners who might be in need of international protection are registered. Still, reality has shown that information for refugees and migrants is provided by an entire set of state and non-state actors including CRM and CSOs.

All relevant CSOs have developed informational leaflets, as well as UNHCR,³⁰⁴⁴ but also CRM³⁰⁴⁵ and Mol.³⁰⁴⁶ Also, several dozen CSOs provided information in various different locations, including at reception facilities. The Asylum Office also provided information leaflets to all refugees from Ukraine who received decisions on granting temporary protection on their rights and responsibilities.

There is no data on special leaflets designed for displaced people from Ukraine such as UASC, survivors of trafficking in human beings, torture victims and others. Still, there were no recorded obstacles regarding information provision. The Mol provides information leaflets specially designed for Ukrainian refugees during registration, including at the border, but also after they are channelled through the temporary protection procedure.

D. Guarantees for vulnerable groups

The Asylum Act explicitly foresees that, during the asylum and temporary protection procedure, the specific circumstances of certain categories of applicants requiring special procedural or reception guarantees will be taken into consideration. This category includes minors, unaccompanied minors, persons with disabilities, elderly persons, pregnant women, single parents with minor children, victims or survivors of trafficking in human beings, severely ill persons, persons with mental disorders, and persons who were subjected to torture, rape, or other serious forms of psychological, physical or sexual violence, such as women who were victims of female genital mutilation.³⁰⁴⁷

However, as with asylum seekers, it remains unclear how in practice and in which kind procedure relevant asylum authorities are conducting vulnerability assessments, what kind of decision they issue and how they design special and individualised programmes to meet the special needs of the above-listed categories in different contexts (accommodation, provision of psycho-social support, provision of medical support, in asylum or integration procedure, etc.).

³⁰⁴³ Article 56(1) Asylum Act.

³⁰⁴⁴ UNHCR, *Temporary Protection in Serbia*, available at: <https://bit.ly/3M6q376>.

³⁰⁴⁵ CRM, Information, available in Serbian at: <https://bit.ly/3nFOvTf>.

³⁰⁴⁶ *Ibid.*

³⁰⁴⁷ Article 17(1) and (2) Asylum Act.

What is important to note is that most vulnerabilities are determined by relevant CSOs, UNHCR, but also CRM, but access to specific rights and safeguards is predominately done by CSOs.³⁰⁴⁸

Still, the positive attitude, but also very simple approach towards granting temporary protection allows the author of this Report to safely assume that all categories of persons displaced from Ukraine have effective access to temporary protection.

There were no special procedures introduced for UASCs which can be considered as different than the one provided to UASCs who apply for asylum in the regular procedure. However, there were no UASCs from Ukraine registered in the period between March 2022 and December 2023.

There are no institutionally established programmes for vulnerable categories of refugees, asylum seekers and migrants, including refugees coming from Ukraine, in Serbia. Thus, beneficiaries of temporary protection are in an identical situation as other refugees and asylum seekers. These services are provided by PIN, IAN, ATINA and other CSOs who have limited expertise in the provision of support to vulnerable applicants from Ukraine.³⁰⁴⁹

³⁰⁴⁸ See more in AIDA, *Country Report: Serbia, 2022 Update*, May 2023, available at: <https://bit.ly/3I5K6Qr>.
³⁰⁴⁹ *Ibid.*

Content of Temporary Protection

A. Status and residence

1. Residence permit

Indicators: Residence permit

- | | |
|--------------------------------------------------------------------------------------------------------------------------------|--------|
| 1. What is the duration of residence permits granted to beneficiaries of temporary protection? | 1 year |
| 2. How many residence permits were issued to beneficiaries from the activation of temporary protection until 31 December 2023? | 1,482 |

Despite their right to permanent residence under the Asylum Act,³⁰⁵⁰ recognised refugees are not issued a separate document of residence, as they are considered *ipso facto* to be entitled to reside in the country. The same rule applies for beneficiaries of temporary protection. The right to reside in Serbia shall be approved per a decision on granting temporary protection and shall be proven by an identity card for persons who have been granted the right to temporary protection.³⁰⁵¹ ID cards for persons granted temporary protection are valid for one year.

The content of this document is simple, and the ID card is a laminated document containing a photo of the person, their surname and first name, gender, date and place of birth, country of origin, address, as well as the document number and date of issue and expiration. The document is filled out by hand by an Asylum Office official and the only proof that the document has been issued by a State administration body is a stamp of the Ministry of Interior.

ID cards that are issued to beneficiaries of temporary protection create an entire set of everyday obstacles. The first problem is that this document cannot prove the identity and legal status of beneficiaries of temporary protection. While ID cards issued to Serbian citizens and foreigners granted temporary or permanent residency contain the unique personal number of the citizen (JBMG) or the foreigner's registration number (EBS), this document, due to lack of its biometric features does not contain any of these data. Thus, the current ID card for beneficiaries of temporary protection does not contain the EBS, which further causes bureaucratic obstacles to enjoy other rights such as obtaining a work permit, opening bank accounts and other everyday needs which can be met only with additional documentation issued by the Asylum Office, such as a confirmation of obtention of international protection in Serbia or an EBS confirmation document. The EBS number is not included in the ID card of TP holder or TP applicant and separate request has to be submitted in order to obtain such number. The issuance of EBS is not problematic, and it usually takes a week.

ID cards for persons granted temporary protection are valid for one year and should be renewed for all beneficiaries who remained in Serbia after the TP was extended.

Article 76 of the Asylum Act envisages the following rights for temporary protection beneficiaries:

- ❖ the right to legally reside for a period of one year (now overall extended until March 2025)
- ❖ the right to have a personal document confirming their status,
- ❖ the right to health care as other foreigners, in line with the Law on Health Protection,
- ❖ the right to access the labour market (in accordance with the Law on Employment of Foreigners),
- ❖ the right to primary and secondary education free of charge,
- ❖ the right to free legal aid,

³⁰⁵⁰ Article 60 Asylum Act.

³⁰⁵¹ Article 90 Asylum Act.

- ❖ the right to freedom of religion,
- ❖ the right to stay in collective accommodation in designated facilities,
- ❖ the right to special support for persons with specific needs, like children, unaccompanied or separated children, persons with disabilities, elderly persons, pregnant women, single parents with children, victims of human trafficking, persons with serious medical conditions including mental health issues, victims of torture, rape, or exposed to any form of serious psychological, physical, or sexual violence,
- ❖ the right to submit an asylum claim and in justified cases the right to family reunification.

There were no instances in which TP holders wanted to transfer their residence to EU Member States, nor were there recorded instances in which applicants who received temporary protection in other countries applied for temporary protection to Serbia.

2. Access to asylum

As already outlined, persons displaced from Ukraine have unhindered access to the asylum procedure, regardless of if they were previously holders of temporary protection or not (See [General](#)).

B. Family reunification

A beneficiary of temporary protection has the right to reunification with their family members.³⁰⁵² Family members are the spouse, provided that the marriage was contracted before the arrival in Serbia, the common law partner in accordance with the regulations of Serbia, their minor children born in legal or in common law marriage, minor adopted children, or minor stepchildren.

Exceptionally, the status of family member may also be granted to other persons, taking into account particularly the fact that they had been supported by the person who has been granted asylum or subsidiary protection, their age and psychological dependence, including health, social, cultural, or other similar circumstances.³⁰⁵³ A family member for whom there exist grounds to be excluded from asylum shall not have the right to family reunification.³⁰⁵⁴

The Foreigners Act prescribes that family reunification is related to the so called 'nuclear family' which covers: spouses, civil partners, their minor children born in or out of wedlock, minor adopted children or minor stepchildren, who have not married.

The general requirements for any kind of temporary residency are the following:

- ❖ Valid travel document
- ❖ Evidence of means for subsistence during the planned stay
- ❖ Registered address of residence in the Republic of Serbia
- ❖ Evidence of health insurance during the planned stay (around 300 EUR per year)
- ❖ Proof of payment of the prescribed administrative fee (around 135 EUR)

Only temporary residence granted on humanitarian grounds does not require an individual to meet the general criteria. Article 61 of the Foreigners Act provides that temporary residence may be granted to a foreigner who does not meet the general criteria when other circumstances exist that require special consideration. These circumstances are the following:

³⁰⁵² Articles 70(1) and 9(2) Asylum Act.

³⁰⁵³ Article 2(2) and (12) Asylum Act.

³⁰⁵⁴ Article 70(4) Asylum Act.

- ❖ Their family, cultural or social ties with Serbia, recent level of integration of the foreigner in the society of the Republic of Serbia, particularly with regard to their education, work activities or language skills;
- ❖ Delay of forced removal of a foreigner referred to Article 84 of this Law, over a period of one year or longer;
- ❖ A foreigner who is a victim of a serious criminal offence, including persons who have been involved in actions to enable irregular migration and who cooperate with the police and the judiciary, and whose presence is necessary in the criminal proceedings or who is participating in an investigation as witness or plaintiff;
- ❖ A minor foreigner who has been abandoned, who is a victim of organised crime or has for other reasons lost parental care or company;
- ❖ Serious and legitimate personal reasons of humanitarian nature, existing interests of the Republic of Serbia or international commitments made.

The Mol shall also grant temporary residence for humanitarian reasons if they determine that the circumstances based on which the application was made are founded, even if the general criteria referred to above are not met for legitimate reasons.³⁰⁵⁵

Temporary residence for humanitarian reasons shall be granted for a minimum of six months and a maximum of one year and may be extended, if the circumstances that the temporary residence was based on still exist.³⁰⁵⁶

The family reunification procedure is regulated by the Foreigners Act, which explicitly foresees that family members of persons granted asylum have to apply for a visa at the diplomatic-consular representation of Serbia in their country of origin or a third country. They also have to provide evidence of their family ties with a person granted asylum in Serbia. People granted visas to arrive in Serbia will be granted temporary residence for the purpose of family reunification in line with Article 55 of the Foreigners Act.

In practice and since the TP was introduced, there were no cases of family reunification procedures realised, which could indicate if family members of beneficiaries of temporary protection would obtain the same form of temporary protection or temporary protection on humanitarian grounds.

C. Movement and mobility

Beneficiaries of temporary protection have equal rights to free movement as permanently residing foreigners in Serbia.³⁰⁵⁷

There were no recorded cases in which beneficiaries of temporary protection were denied access to EU Member States.

³⁰⁵⁵ Article 61 (2) Foreigners Act.

³⁰⁵⁶ Article 61 (3) Foreigners Act.

³⁰⁵⁷ Article 62 Asylum Act.

D. Housing

Indicators: Housing

1. For how long are temporary protection beneficiaries entitled to stay in reception centres?
For as long as TP is in force
2. Number of beneficiaries staying in reception centres as of 31 December 2023: 46
3. Number of beneficiaries staying in private accommodation as of July 2024 Approx. 8,000

The vast majority of beneficiaries of temporary protection is accommodated at a private address, while between 70 to 80 on average have been accommodated in the AC **Vranje** in 2023, designated solely for people displaced from Ukraine.

Beneficiaries of temporary protection are entitled to access reception facilities managed by the CRM for as long as they enjoy such protection. The CRM is the main State authority in charge of accommodating refugees, asylum seekers, persons seeking temporary protection and beneficiaries of temporary protection.

The AC in **Vranje** has been specifically designated to host beneficiaries of temporary protection. On 3 January 2023, a total of 83 beneficiaries of temporary protection resided in the AC Vranje, which has a maximum capacity of 150 beds. On 31 December 2023, the number of Ukrainians nationals accommodated in AC Vranje was 46.

The Serbian asylum system does not recognise any specific reception schemes designated for refugees from Ukraine, which are then hosted in the 19 asylum and reception centres. AC Vranje was designated for Ukrainian refugees from the onset of armed conflict in February 2022. Apart from the data that 1,482 Ukrainian refugees in Serbia opted for temporary protection until 31 December 2023 and that temporary protection was extended for 746 people, there is no accurate data as to how many of them remained in Serbia. It can be safely said that the AC in Vranje covers the needs of those refugees who cannot afford private accommodation. The remaining beneficiaries live in private accommodations at their own cost. There were no instances in which beneficiaries of temporary protection were denied access to reception facilities.

In May 2017, the Reception Centre in **Vranje** (220 places) opened in a motel at the entrance of the town. The conditions in Vranje may be described as satisfactory bearing in mind their provisional nature, but realistic capacity which would guarantee human dignity and longer stay is several dozen less. In June 2021, this facility became an asylum centre, accommodating Ukrainian families (28 persons in total) at the end of March 2022, and 40 persons in mid-April. The living conditions in the AC Vranje are of the highest standards and this facility was completely refurbished and equipped with new furniture for Ukrainian refugees. In January 2023, the AC in Vranje accommodated 83 refugees from Ukraine. They are provided with food, healthcare, clothes and occasional cash cards. There were no reported incidents or challenges related to access to State reception facilities nor there were reports on inappropriate housing.

There are no private hosting models designated for refugees from Ukraine, and private accommodation is not organised by the State. There are also no exceptions concerning qualification recognition. As it is the case in all reception facilities in Serbia, there is no vulnerability assessment process upon the arrival to AC Vranje and thus, there are no State runed safeguards in place which can identify potential survivors of human trafficking.

E. Employment and education

1. Access to the labour market

The Asylum Act foresees that persons granted temporary protection are equal to foreigners with respect to the right to work and rights arising from employment and entrepreneurship.³⁰⁵⁸ The Employment of Foreigners Act (EFA) explicitly states that persons who have been granted temporary protection are to be issued personal work permits for the duration of that status.³⁰⁵⁹

Assistance is to be provided by the Commissariat for Refugees and Migrations and is to form part of every individual beneficiary of refugee status's integration plan (see [General report – Content of international protection – Access to the labour market](#)). Still, the CRM has not produced a single integration plan in 2022 and 2023 regarding Ukrainian refugees. The assistance should include help gathering all the necessary documents for registration with the National Employment Service (NES), the recognition of foreign degrees, enrolling in additional education programmes and courses in line with labour market requirements and engaging in measures of active labour market policy.³⁰⁶⁰

What is also a positive legislative development in 2023 is the amendment of the EFA, which simplified access to labour market and abolished the issuance of working permits. Right to work now is guaranteed now for every asylum seeker after the expiry of 6 months only with the certificate of asylum request being submitted by the Asylum Office in a simple procedure, alongside EBS number certificate.³⁰⁶¹ The same is valid for people granted asylum who need to obtain EBS number certificate as well as the certificate of being granted asylum. Refugees and asylum seekers do not need to pay for fees anymore.³⁰⁶² The same rule applies for applicant for temporary protection and those individuals granted temporary protection.

In spite of the fact that, under the law, persons granted temporary protection in Serbia should not face significant challenges to access the labour market, finding employment is difficult in practice, especially bearing in mind the language barrier that exists between most of these persons and the local community.

It should be also borne in mind that support to access the labour market is solely provided by CSOs. In other words, State institutions still do not provide organised assistance to refugees for inclusion into the labour market, despite the provisions of the Integration Decree.³⁰⁶³ This is also the case for beneficiaries of temporary protection.

There are no specific measures which are different from those envisaged for persons granted asylum or asylum seekers. Beneficiaries of temporary protection have the same treatment as persons granted asylum and asylum seekers.

³⁰⁵⁸ Article 65 Asylum Act.

³⁰⁵⁹ Article 13(6) Employment of Foreigners Act.

³⁰⁶⁰ Article 7 Integration Decree.

³⁰⁶¹ Article 3 (3) Employment of Foreigners Act.

³⁰⁶² See more in AIDA, *Country Report: Serbia, 2022 Update*, May 2023, available at: <https://bit.ly/3I5K6Qr>, 195-196.

³⁰⁶³ Article 7 of the Integration Decree.

2. Access to education

The right to education is a constitutional right in Serbia further governed by a number of laws, primarily the Law on Basics of the Education System.³⁰⁶⁴ Specific degrees of education are regulated by the Law on Primary Education,³⁰⁶⁵ the Law on Secondary Education,³⁰⁶⁶ and the Law on Higher Education.³⁰⁶⁷

The Integration Decree foresees provides that the Commissariat for Refugees and Migrations shall assist those granted temporary protection to enter the educational system.³⁰⁶⁸ The Commissariat is to assist child beneficiaries of temporary protection enrolled in pre-school, elementary and high-school education, as well as illiterate adults who are to be enrolled in adult literacy programmes in cooperation with the Ministry of Education. The assistance provided to children includes the provision of textbooks and educational material, assistance in having foreign degrees recognised, learning support and financial support for engaging in extracurricular activities.³⁰⁶⁹

The Professional Instruction on the Inclusion of Refugee/Asylum Seeker Students in the Education System of Serbia further regulates access to education for refugee children.³⁰⁷⁰ If the refugee children have proof of prior education, enrolment is made according to their age and level of education completed.³⁰⁷¹ On the other hand, if they do not have any proof of prior education, enrolment is based on a test which aims to assess their level of knowledge.³⁰⁷² For each student, the school is required to develop a Support Plan that should include an adaptation and stress management programme, an intensive Serbian language programme, an individualised teaching activities programme, and an extracurricular activities programme.³⁰⁷³

Under the Law on Basics of the Education System, foreign nationals, stateless persons and persons applying for citizenship shall have a right to education on an equal footing and in the same manner as Serbian nationals.³⁰⁷⁴ The Asylum Act also guarantees the right to education of persons granted temporary protection.³⁰⁷⁵ A person granted temporary protection is entitled to preschool, primary, secondary and higher education under the same conditions as citizens of Serbia.³⁰⁷⁶

Primary school is free and mandatory, and underage beneficiaries are to be ensured access to education immediately, and no later than three months from the date of their application for temporary protection.³⁰⁷⁷ Secondary education is also free of charge but is not mandatory.

In 2022, a total of 66 Ukrainian children were enrolled in primary schools throughout Serbia.³⁰⁷⁸ For the 2022/2023 school year, 80 children were enrolled into elementary and secondary schools.³⁰⁷⁹

³⁰⁶⁴ Official Gazette, no. 88/17 and 27/18.

³⁰⁶⁵ Official Gazette, no. 55/13, 101/17 and 27/18.

³⁰⁶⁶ Official Gazette, no. 55/13, 101/17 and 27/18.

³⁰⁶⁷ Official Gazette, no. 88/17, 27/18 – other laws and 73/18.

³⁰⁶⁸ Article 2(4) Integration Decree.

³⁰⁶⁹ Article 6 Integration Decree.

³⁰⁷⁰ Ministry of Education, Science and Technological Development Instruction No. 601-00-00042/17-2018 of May 2017.

³⁰⁷¹ *Ibid*, 1-2.

³⁰⁷² *Ibid*, 2.

³⁰⁷³ *Ibid*, 3.

³⁰⁷⁴ Article 3(5) Law on Basics of the Education System.

³⁰⁷⁵ Articles 55 and 64 Asylum Act.

³⁰⁷⁶ Article 64 Asylum Act.

³⁰⁷⁷ Article 55 (2) Asylum Act.

³⁰⁷⁸ Euronews, *Koliko je ruske i ukrajinske dece u srpskim školama: Zna se tačna brojka, ali i kako se snalaze sa učenjem na srpskom*, 5 November 2022, available in Serbian at: <https://bit.ly/3i3PrYC>.

³⁰⁷⁹ Euronews, *Srpski kao strani jezik: Zbog ruske i ukrajinske dece u škole u Srbiji bi uskoro mogao da se uvede novi izborni predmet*, 12 February 2022, available at: <https://bit.ly/46r0FBs>.

Ukrainian children face similar obstacles as other children from the refugee population due to the language barrier. These obstacles are addressed by different CSOs who assist these children better adapting to the school system of Serbia. There are no reported instances in which vulnerable children enjoying temporary protection have faced obstacles which require alternative arrangements.

The Integration Decree foresees Serbian language courses and courses of Serbian history, culture and constitutional order for persons recognised as refugees. Persons entitled to Serbian language courses are those who do not attend regular schools in Serbia, those who do, and persons older than 65. Persons not attending regular schools are entitled to 300 school periods of Serbian language classes during a single school year, while those engaging in businesses requiring university education may be provided with another 100 periods in a school year. Persons attending school have the right to be provided an additional 140 school periods of Serbian language classes, whereas those above 65 are provided with 200 school periods of Serbian language adapted to the needs of everyday communications. The courses may be provided at regular or foreign language schools, whereas the adapted Serbian language classes may likewise be provided by companies suggesting a suitable programme and capable of employing the required staff.³⁰⁸⁰ The classes are to be provided in the area where these persons reside, and if this is not possible, transport costs are to be covered by the Commissariat.

In 2021, with the help of the UNHCR office in Serbia, the ENRIC/NARIC Centre of the Qualification Agency of the Republic of Serbia joined the Council of Europe project of a European Qualification Passport for Refugees.³⁰⁸¹ Two Ukrainian diplomas were recognised in 2022, while there is no available data for 2023.

F. Social welfare

The Social Welfare Act (SWA) defines social welfare as an organised social activity of common interest which purpose is to provide assistance and strengthen individuals and families for an independent and productive life in society, as well as prevent the causes of, and eliminate, social exclusion.³⁰⁸² The Act defines Serbian citizens as beneficiaries of social welfare, but states that foreigners and stateless persons may also receive social welfare in line with the law and international agreements.³⁰⁸³ This right is exercised through the provision of social protection services and material support.³⁰⁸⁴ The regulations on social welfare for persons seeking asylum or who have been granted asylum are within the jurisdiction of the Ministry of Labour, Employment, Veteran and Social Issues, which has enacted a Rulebook on Social Welfare for Persons Seeking or Granted Asylum (RSW).³⁰⁸⁵

Social welfare is provided under the same conditions as for asylum seekers and persons granted asylum. Social assistance is granted by local social welfare centres on which territory the beneficiary reported their residency (see [General report – Content of international protection – Social welfare](#)).

The request for social welfare is examined and decided upon by the social welfare centre with jurisdiction over the municipality in which the beneficiary resides.³⁰⁸⁶ Once granted, the conditions for benefitting from social welfare are re-examined by the social welfare centre on an annual basis. The second instance body is the Minister responsible for social affairs.³⁰⁸⁷

³⁰⁸⁰ Article 4 Integration Decree.

³⁰⁸¹ More on the European Qualification Passport see on the following link: <https://bit.ly/3wy8gOC>.

³⁰⁸² Article 2 Social Welfare Act, Official Gazette no. 24/2011.

³⁰⁸³ Article 6 SWA.

³⁰⁸⁴ Article 4 (2) SWA.

³⁰⁸⁵ Rulebook on Social Welfare for Persons Seeking or Granted Asylum, Official Gazette no. 44/2008.

³⁰⁸⁶ *Ibid*, Article 8.

³⁰⁸⁷ *Ibid*, Article 9.

The Asylum Act and RSW do not recognise the actual needs of persons granted temporary protection as a member of a particularly underprivileged group. The main reason for this claim lies in the fact that beneficiaries who are accommodated in Asylum Centres and who do not have sufficient means of livelihood are not eligible for social allowances.

Beneficiaries of temporary protection did not receive social allowances in 2022 and 2023.

G. Health care

The Asylum Act prescribes that the right to healthcare is guaranteed to all persons granted temporary protection and that all costs of health care are covered by the State.³⁰⁸⁸ Additionally, foreigners' health care is also governed by the Health Care Act (HCA)³⁰⁸⁹ and the Health Insurance Act (HIA)³⁰⁹⁰ as well as the Rulebook on the Terms and Procedure for Exercising the Right to Compulsory Health Insurance (RHI).³⁰⁹¹ HCA stipulates that refugees and asylum seekers, but also persons granted temporary protection, are entitled to health care under equal terms as Serbian nationals.³⁰⁹² In general, appropriate enjoyment of the right to health care depends on the assistance of relevant CSOs and International Organisations.³⁰⁹³

As is the case with refugees and asylum seekers, HIA and RHI do not specify further the rights of beneficiaries of temporary protection. Thus, the HIA does not recognise beneficiaries of temporary protection referred to in the Asylum Act as a separate category of beneficiaries for insurance purposes.³⁰⁹⁴ The same conclusion can be drawn in relation to the Serbian Health Insurance Act.³⁰⁹⁵ Hence, beneficiaries of temporary protection are not entitled to compulsory health insurance and issuance of health insurance cards.³⁰⁹⁶ They can obtain them only if they pay 3,607 dinars per month (a bit more than 300 EUR annually). Of course, employed persons granted temporary protection obtain health care insurance from their employers, but the problem arises mainly for those beneficiaries of the TP who are unofficially unemployed.

Like beneficiaries of international protection, beneficiaries of temporary protection face numerous obstacles in local health care centres due to their plastic ID cards, the language barrier and the fact that employees in health centres are not familiar with this category of persons. This requires continuous assistance of CSOs, but also CRM and even MoI.

³⁰⁸⁸ Article 63 Asylum Act.

³⁰⁸⁹ Official Gazette no. 25/19.

³⁰⁹⁰ Official Gazette no. 107/25, 109/05 – correction, 57/11, 110/12 – Constitutional Court Decision, 119/12, 99/14, 123/14, and 126/14 – Constitutional Court Decision.

³⁰⁹¹ Official Gazette no. 10/10, 18/10 – correction, 46/10, 52/10 – correction, 80/10, 60/11 – Constitutional Court Decision, and 1/13.

³⁰⁹² Article 236, para. 1, and Article 239 of the Law on Health Care.

³⁰⁹³ BCHR, *Right to Asylum in the Republic of Serbia* 2019, available at: <https://bit.ly/46mtBJ0>, 185-187.

³⁰⁹⁴ Article 11 HIA.

³⁰⁹⁵ Exercising the Right to Compulsory Health Insurance, Serbian Health Insurance Fund, Belgrade, May 2015, available in Serbian at: <http://bit.ly/33amche>.

³⁰⁹⁶ Article 25 HIA; see more in BCHR, *Right to Asylum in the Republic of Serbia* 2019, available at: <https://bit.ly/46mtBJ0>, 184-185.