

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 and on the amendment of acts related to public employment and of other acts

The Government

within in its original legislative competence under Article 53(2) of the Fundamental Law, with respect to Section 51/A of Act CXXVIII of 2011 on civil protection and on the amendment of certain related acts,

as regards Section 11, within its original legislative competence under Article 53(3) of the Fundamental Law, on the basis of the authorization received from the National Assembly under Section 2(1) of Act I. of 2021 on the Containment of the Coronavirus Pandemic,

acting within its functions set out under Article 15(1) of the Fundamental Law,

orders the following:

1. General provisions

Section 1.

Under this Decree the following definition shall apply:

beneficiaries of temporary protection: persons granted temporary protection by Hungary under point a) of Section 19 of Act LXXX. of 2007 on Asylum (hereinafter: 'Asylum Act') who are

- 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 persons referred to in points a) and b), as defined by Article 2(4) of 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 of 20 July 2001, and having the effect of introducing temporary protection (hereinafter: Council Decision).

2. Provisions on beneficiaries of temporary protection, on persons applying for temporary protection, and on asylum procedures related thereto

Section 2.

(1) The provisions of this subtitle shall apply to beneficiaries of temporary protection, persons applying for temporary protection, and on asylum procedures related thereto.

(2) In compliance with Article 2(2) of the Council Decision, Hungary does not apply the provisions of the Council Decision on beneficiaries of temporary protection 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 issued in accordance with Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin.

(3) With respect to persons under paragraph 2, the aliens policing authority in compliance with the requirements of the Council Decision – shall proceed under the general rules.

Section 3.

Persons applying for temporary protection shall provide evidence that they fulfill at least one of the conditions set out under points a)-c) of Section 1. Personal identity documents may be used primarily as means of evidence.

Section 4

(1) The following provisions of the Asylum Act shall not be required to be applied:

- a) point d) of Section 22(1), nor
- b) Sections 37(2) and (3).

(2) The provisions of Sections 43(1) and (2) of the Asylum Act shall be applied with the derogation that persons applying for temporary protection shall have a personal interview only in necessary cases, for the purposes of clarifying the issues strictly necessary for clarifying the facts of the case.

(3) In application procedures for temporary protection, Section 77(4) of the Asylum Act shall be applied with the derogation that points a)-f) of Section 66(2) of the Asylum Act shall also apply concerning the termination of the procedure.

Section 5

(1) The following provisions of Government Decree No. 301/2007 (XI.9.) on the implementation of Act LXXX. of 2007 on Asylum (hereinafter: 'Implementing Gov. Decree') shall not be required to be applied:

- a) Section 9
- b) point e) of Section 11/C,
- c) Section 16 (4),
- d) Sections 17-19,
- e) Section 38 (2),
- f) Section 39,
- g) Sections 74–76.

(2) The relevant provision of Annex I on the identity document and the document certifying the right of residence of beneficiaries of temporary protection shall be applied instead of the provision of Annex I of the Implementing Gov. Decree on the identity document and the document certifying the right of residence of beneficiaries of temporary protection.

Section 6

(1) The asylum authority shall issue an official certificate certifying the place of residence designated for the beneficiary of temporary protection on the request of the beneficiary of temporary protection.

(2) Persons applying for temporary protection and beneficiaries of temporary protection shall be entitled to:

a) health care services under Section 44(2) of the Implementing Gov. decree,

b) in addition to services under point a), specialized oncological care, examinations and medical treatment within the framework of health services related to other chronic illness, pharmaceutical with a reimbursement available for persons entitled to certain social security benefits for the purposes of the improvement or maintenance of health condition or analgesia within the framework of specialized oncological care and health services related to other chronic illnesses, and

c) reimbursement of translation costs of the document under Section 49 of the Implementing Gov. Decree.

(3) In cases when beneficiaries of temporary protection or persons applying for temporary protection are not placed at reception centers, any accommodation designated for them for those purposes shall also be understood as 'reception center' within the meaning of Section 59 of the Implementing Gov. Decree.

(4) Beneficiaries of temporary protection shall be entitled to be employed in the territory of Hungary without work permit in cases when they are employed in one of the jobs listed in the publication by the minister responsible for issues related to the employment of third-country nationals in Hungary, including cases of employment within the framework of temporary agency work.

(5) In positions not covered by the jobs referred to in paragraph 4, work permits shall be issued without the assessment of the aspects set out in Sections 3(2)-(7) of Government Decree No. 445/2013. (XI. 28.) on the authorization of the employment of third-country nationals in Hungary on the basis of other than a single application procedure, on the exemption from the obligation to obtain an authorization, on the participation of employment centers of the Metropolitan and County Government Offices as specialized authorities in single application procedures, on notifications of employment in Hungary of third-country nationals who are authorized to be employed in Hungary without a work permit, and on the reimbursement of wages [hereinafter: 445/2013. (XI. 28.)] and in points a) and e) of Section 5(1) of Government Decree No. 445/2013. (XI. 28.).

(6) The provisions of Section 71 of Act II. of 2007 on the Admission and Right of Residence of Third-Country Nationals shall apply *mutatis mutandis* on the notification about the employment of beneficiaries of temporary protection.

(7) An operating license may be issued for the purposes of providing primary care by general practitioners for beneficiaries of temporary protection or persons applying for temporary protection, without an obligation to provide in-area care, for health care service providers maintained by organizations operating as members of the Charity Council. In such cases agreements for the financial support for primary care by general practitioners, without an obligation to provide in-area care, may be entered into even if the requirements set out in Sections 9 (1) and (2) of Government Decree No. 43/1999. (III.3.) on the detailed rules of financing health care services from the Health Insurance Fund are not complied with.

Section 7

Beneficiaries of temporary protection may be employed in public work scheme under Act CVI. of 2011 on public employment and on the amendment of acts related to public employment and of other acts (hereinafter: 'Public Employment Act').

3. Special rules on persons arriving from Ukraine

Section 8

(1) Hungarian nationals with permanent residence in Ukraine and arriving from Ukraine on 24 February 2022 or on a later date shall be granted all the benefits and advantages provided to beneficiaries of temporary protection unless they shall enjoy a more favorable treatment with regard to their Hungarian nationality.

(2) Hungarian nationals with permanent residence in Ukraine and arriving from Ukraine on 24 February 2022 or on a later date may be employed in public employment under the Public Employment Act.

Section 9

(1) For the purposes of providing a timely assistance in Hungary to persons arriving from Ukraine the organ established for performing general policing functions (hereinafter: the police) shall process the data of those third-country nationals fleeing from the armed conflict in Ukraine who

- a) do not fulfill the requirements of the lawful crossing of the border, or
- b) fulfill the requirements of the lawful crossing of the border but indicate their intention to submit an application for temporary protection.

(2) The police shall process the following data of persons referred to in paragraph 1:

- a) family name and first name,
- b) place of birth,
- c) date of birth,
- d) mother's name,
- e) gender,
- f) nationality,
- g) place of measures carried out by the authority,
- h) collection point designated for registration purposes,
- i) number and type of travel document,
- j) name of family members, family relationship, registration number of family member,
- k) facial image,
- l) fingerprint,
- m) place of residence and registration number enabling the carrying out of registration tasks,
- n) telephone, e-mail address (if available),

o) address.

(3) The police shall process data under paragraph (2) for the period of one year following entry.

(4) The police shall transfer the data under paragraph (2) for the aliens policing authority for the purposes of fulfilling its official functions related to immigration and aliens policing.

4. Final provisions

Section 10

(1) This Decree – subject to paragraph 2 – shall enter into force on the day following its publication.

(2) Section 11 shall enter into force on the fifteenth day following the publication of this Decree.

Section 11

(1) The Government hereby extends the period of application of this Decree until the repeal of Act I. of 2021 on the Containment of the Coronavirus Pandemic.

(2) This Decree shall be repealed together with the repeal of Act I. of 2021 on the Containment of the Coronavirus Pandemic.

Section 12

The provisions of this Decree shall be applied to procedures concerning applications for temporary protection submitted before the entry into force of this Decree and concerning which a final decision has not yet been adopted.

Section 13

Government Decree No. 56/2022. (II.24.) on the derogatory application of temporary rules of asylum procedure under Act LVIII. of 2020 on transitional rules related to the termination of the state of danger and on pandemic preparedness shall be repealed.

signed Viktor Orbán

Prime Minister