



16 March 2022

The Hungarian Helsinki Committee (HHC) provides regular, reliable information on the situation at the Ukrainian-Hungarian border and those fleeing Ukraine due to the Russian invasion.

The HHC's staff is on continuous duty on all days of the week, including on weekends. Our dedicated email address for those fleeing Ukraine is ukrainecrisis@helsinki.hu. HHC's Facebook page also responds to inquiries sent through Messenger: <https://www.facebook.com/helsinkibizottsag>. People can also reach us at +3613214141 on workdays 9-17.

Earlier editions of this note are available here: <https://helsinki.hu/en/war-in-ukraine-protection-situation-in-hungary/>

Changes in the situation since the previous update are marked with a *******.

1. ***** Statistics**

a. Hungary

Number of registered inbound border crossings (between 00:00 24 February – 23:59 15 March): **250 138**¹
Number of registered applications for temporary protection (between 22:00 24 February – 12:00 15 March): **2550**²

Number of push-backs from Hungary to Serbia (between 00:00 24 February – 23:59 16 March): **4699**³

b. Other countries bordering Ukraine

	Poland ⁴	Slovakia ⁵	Romania ⁶	Moldova ⁷	All, including Hungary
Since 24 February	1 893 000	220 892	168 469	309 723	2 842 222

UNHCR launched a dedicated page that includes further data and relevant documents on the Ukraine refugee situation: <https://data2.unhcr.org/en/situations/ukraine>

2. **Legal background**

As of 8 March 2022, the previous Hungarian temporary protection scheme is repealed.⁸ For a description of what it was, please refer to the first Protection Situation report.⁹ The repeal is **with retroactive** effect, meaning that those who do not fall under the personal scope of the new, EU law-based temporary protection¹⁰ will not be

¹ <https://www.police.hu/hirek-es-informaciok/hatarinfo/magyar-ukran-hatarszakasz-forgalma>

² http://oif.gov.hu/index.php?option=com_k2&view=item&id=1762:az-orszagos-idegenrendeszeti-foigazgatosag-tajekoztatasa-az-ukrajnabol-erkezo-kerelmezokkel-kapcsolatosan&lang=hu

³ <https://www.police.hu/>

⁴ https://twitter.com/straz_graniczna

⁵ <https://www.facebook.com/policiaslovakia>

⁶ Daily update here: [Press releases / News and informations - Border Police \(politiadefrontiera.ro\)](https://www.politiadefrontiera.ro)

⁷ Daily update here: <https://www.border.gov.md/noutati>

⁸ Government Decree 86/2022. (III. 7.)

⁹ See here: <https://helsinki.hu/en/wp-content/uploads/sites/2/2022/03/War-in-Ukraine.pdf>

¹⁰ Based on 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 in official languages: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022D0382>

granted Hungarian temporary protection based on the previous regulation either, even if they have already applied for it.

It seems that the Government Decree that is meant to “transpose” the Council Implementing Decision is in breach of the Council Decision itself. Article 2(2) of the Council Decision provides that

“Member States shall apply either this Decision 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 issued in accordance with Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin.”

Against this, the new government decree states that:

“In accordance with Article 2(2) of the Council Decision, Hungary shall not apply the provisions of the Council Decision concerning temporary protection who are stateless persons and third-country nationals who can prove that, before 24 February 2022, they were, in accordance with Ukrainian law on the basis of a valid permanent residence permit issued in accordance with Ukrainian law, and who cannot return in safe and sustainable conditions to their country or region of origin.

With regard to persons referred to [above], the aliens policing authority shall, in accordance with the provisions of the Council Decision, act in accordance with the general rules.”

The contradiction lies in that the Council Decision requires that those non-Ukrainians who have valid Ukrainian permanent residence permit and cannot return to the country of origin shall be eligible either for EU law-based temporary protection, or to an adequate form of protection provided in domestic (e.g. Hungarian) law. The Hungarian Decree states that such people will not be eligible for EU law-based temporary protection but will be dealt with according to the “general rules”. However, according to the general rules, nobody has the right to apply for asylum in Hungary since May 2020. All those wishing to apply for asylum in Hungary must travel first to the Hungarian embassy in Belgrade or Kyiv (!), submit a so-called “statement of intent”, wait for 2 months for an approval and in case that is granted, must then travel to Hungary and ask for asylum.¹¹

******* Consequently, the current Hungarian legislative framework leaves several groups who had to flee from Ukraine without any valid protection alternative. These include non-refugee stateless residents of Ukraine (including those under a formal statelessness determination procedure and those already received stateless status in Ukraine), undocumented persons and other third country nationals who did not have refugee status in Ukraine, but who cannot return to their country of origin for having fear of persecution or serious harm or for any other pressing legal or durable practical reason. This is at odds with Article 2 (2) of the Council Directive, which, using mandatory language, stipulates that Member States shall either apply EU law-based temporary protection 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 issued in accordance with Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin.”*

An unofficial translation of the Government Decree is available here: https://helsinki.hu/en/wp-content/uploads/sites/2/2022/03/HUgovdecree_implementing_councildecision_tempprotEN.pdf

It is yet to be seen how the Government Decree will be implemented. A key question is what the “general procedure” the aliens policing authority shall conduct will practically mean. Possibilities include e.g.:

- a) Issuing temporary residence permits valid for 30 days as has been the practice for the majority of people since 24 February;
- b) First a), then after the expiry of the permit in accordance with the domestic rules legalising collective expulsions (push-backs) of unlawfully staying third-country nationals, removing these people to the Serbian side of the border fence;¹²
- c) An expulsion procedure during which a proper *non-refoulement* assessment might reveal that the person cannot be returned to their country of origin and is granted tolerated stay (“*befogadott*”).

¹¹ More on this “embassy system” can be found here: <https://helsinki.hu/wp-content/uploads/new-Hungarian-asylum-system-HHC-Aug-2020.pdf> and <https://helsinki.hu/en/wp-content/uploads/sites/2/2021/12/No-access-to-asylum-1.11.2021.pdf>

¹² More on this see: https://helsinki.hu/wp-content/uploads/HHC_UNSR-migration_pushbacks.pdf and <https://helsinki.hu/en/akta/push-backs/>

The following table summarises the main characteristics of the EU law-based Temporary Protection regime as transposed into Hungarian law:

Personal scope	<ul style="list-style-type: none"> • Ukrainian citizens residing in Ukraine before 24 February 2022 and were displaced on or after that date • 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 were displaced on or after that date • Family members of the above
Right to work while the procedure is pending	YES
Right to work after status is granted	YES
Access to health care beyond emergency care	YES (emergency and essential, except for unaccompanied children and other vulnerable persons who are eligible to access further services)
Access to education for children under the age of 16	YES
State provided shelter	YES
Meals	YES
Financial assistance	YES (equivalent to employment substituting benefit which added up to 22.800 HUF / 61.5 EUR per month in 2021)
Integration support	YES
Freedom of movement within the EU	NO (but remains to be seen in practice in light of the Declaration of the Member States attached to the Council Implementation Decision)

The new Government Decree finally resolves the issue the HHC raised since 24 February 2022, that Hungarian citizens residing in Ukraine are not eligible for protection in Hungary and as a consequence, are not eligible for any of the services provided to those non-Hungarian citizens fleeing Ukraine. The new Government Decree provides that Hungarian citizens having a permanent address in Ukraine who arrived in Hungary on or after 24 February 2022 shall have access to the same services and benefits as those receiving temporary protection.

******* On 12 March 2022, the Hungarian government issued a series of decrees in order to set the framework for accommodation, employment and supply for people eligible for temporary protection in Hungary.¹³

Pursuant to the new regulations, as of 12 March those who provide accommodation for people eligible for temporary protection (including Hungarian nationals fleeing Ukraine as well) and contract with state authorities for that service, are entitled to apply for government financial support. Accommodation providers are granted with financial support for one month or until the end of the temporary protection application procedure of the accommodated person, conducted by state authorities.

According to the new rules, local municipalities are eligible for a benefit of 4 000 HUF (11 EUR) per day after each accommodated person. Furthermore, the Ministry of the Interior or the designated Regional Security Committee is entitled to contract with private enterprises to accommodate persons eligible for temporary protection. In this case, the number of accommodated individuals cannot be less than 20. The contracting private accommodation provider is entitled to apply for individual financial support equivalent to that of granted to local municipalities (4 000 HUF), unless the contracting parties agree otherwise. In case the accommodation provider calls up the accommodated person eligible for temporary protection to leave its lodging, however that person does not cooperate, the police shall transport the individual to a state provided reception centre.¹⁴

¹³ Government Decree 104/2022 (III. 12); Government Decree 105/2022 (III. 12); Government Decree 106/2022 (III. 12); Government Decree 109/2022 (III. 12)

¹⁴ Government Decree 104/2022 (III. 12)

Those who apply for temporary protection in Hungary are eligible for monthly subsistence allowance which is equivalent to the Hungarian monthly employment substituting benefit (22 800 HUF / 61.5 EUR). With regard to children, the monthly allowance is equivalent to the Hungarian family allowance (13 700 HUF / 37 EUR).

The regulations provide a new framework for the employment of people enjoying temporary protection (including Hungarian nationals fleeing Ukraine) in Hungary. According to the government decree, every individual in active age, who enjoy temporary protection in Hungary shall register at the designated district authority as a jobseeker within five days after the first transfer of granted substance allowance is due. Within 45 days from the reception of the first monthly subsistence allowance, the individual must accept a suitable job offered to him/her by state authorities. Mitigation might apply for individuals who have children not older than 3, and for those underage individuals who are taking part in primary education.¹⁵

Those individuals enjoying temporary protection in Hungary and taking care of underage children are entitled for the same services as Hungarian nationals including access to nursery and preschool services.

3. Implementation

a. At border crossings

Five border crossings operate at the Hungarian-Ukrainian border section. At Záhony (HU) – Cap (UA) there is also a train crossing and is traditionally one of the busiest crossings. Further south are Lónya (HU) – Dzvinkove (UA), a small border crossing, Barabás (HU) – Kason (UA), another small border crossing, Beregsurány (HU) – Astei (UA), traditionally the other main crossing in addition to Záhony, and Tiszabecs (HU) – Vilok (UA), another small border crossing. The small crossings normally operate only during the day and allow for pedestrian crossing as well. Currently, most crossings are open 24/7 for all passengers. As of 8 March, the Lónya-Dzvinkove crossing is open 7-23.¹⁶

According to the available information at the time of this update, the Hungarian authorities allow all persons showing up at the border crossings at the Ukrainian-Hungarian border section to enter Hungary.

The Police (border guards were integrated into the Police as of 1 January 2008) still do not provide information on the need/possibility to apply for temporary protection or how people would become eligible to certain services.

On the evening of 2 March, people who did not meet the entry requirements set out in the Schengen Borders Code but fleeing the war in Ukraine were no longer allowed to enter from Romania. In the morning on 3 March, both the Romanian and the Hungarian officials stated that from then on, citizens of Ukraine, regardless of their travel documents, will be able to enter Hungary. Third-country nationals who do not meet the entry requirements are still not allowed to enter at the Romanian-Hungarian border, even if they can provide proof of their previous lawful stay in Ukraine.

The overall lack of information on the protection scheme among people fleeing raises serious concerns about the efforts made by state authorities to provide sufficient information to new arrivals on the border. As a consequence, since the start of the war, only 2 550 applications have been submitted for temporary protection until 15 March 12:00, despite the fact that more than 250 000 people entered Hungary from Ukraine during the same timeframe.¹⁷ The regular presence of HHC staff at these locations can remedy this situation and assist people in accessing protection and identifying their special needs.

b. At registration points

Registration points were set up at several locations inside Hungary, usually a few dozen kilometres from the border. At these registration points, Hungarian authorities set up a one-stop-shop a few days after the Russian invasion began where the registration of those fleeing from Ukraine can take place.

*** The number and location of designated registration points has been reorganised on a regular basis since the beginning of the crisis. According to the current scheme, registration points are set up in Cigánd¹⁸, Fehérgyarmat¹⁹ and Záhony.

¹⁵ Government Decree 106/2022 (III. 12)

¹⁶ <https://www.police.hu/hu/hirek-es-informaciok/legfrissebb-hireink/hatarrendeszet/valtozott-a-nyitvatartas-a-lonyai>

¹⁷ <https://www.police.hu/hirek-es-informaciok/hatarinfo/magyar-ukran-hatarszakasz-forgalma>

¹⁸ Vasút u. 46

¹⁹ Iskola köz 3., emergency shelter capacity: 700

Following the first chaotic days, it seems that 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 is compulsory. At the same time, the registration procedure remains extremely slow. At some registration points, people need to wait 4-8, in some cases 10+ hours. The HHC also received reports that there continues to be a shortage of interpreters at registration points and the authorities cannot communicate with those being registered.

At registration points, people can "choose" whether to apply for temporary protection or for a temporary residence card, the latter valid for 30 days.

The HHC received a high number of requests from those fleeing as well as from Hungarian citizens and Hungarian municipalities hosting people fleeing from Ukraine regarding the possibility to apply for temporary protection. Concerning reports of pre-filled documents showing that the individual "is not requesting protection"; of entire buses of people transferred from border crossing points to registration points being told "not to ask for protection in order to speed up the procedure" remain regular. This is one of the most likely explanation behind the shockingly low number of temporary protection applications registered by the NDGAP: merely 1% of all people who crossed from Ukraine since 24 February.

4. Humanitarian relief

Humanitarian aid is organised by grassroots (e.g. Migration Aid²⁰), charity groups (e.g. Age of Hope²¹, Budapest Bike Maffia²²), individuals mostly utilizing different Facebook groups (e.g. for shelters²³, NFIs and transport²⁴). Members of the government-organised Charity Council began providing humanitarian aid and divided crossings among each other where each set up a so-called Helping Point, see details below:

Member organizations of the Charity Council on the border:

- **Caritas Hungarica**

Tel: +36 1 / 372-0910

E-mail: office@caritas.org.hu

Border Crossing Point: Barabás

Present in Transcarpathia

- **Hungarian Reformed Church Aid**

Tel: +36 1 / 273 0449

E-mail: mrsz@jobbadni.hu

Border Crossing Point: Záhony

Present in Transcarpathia

- **Hungarian Maltese Charity Service**

Tel: +36 1 / 391 4700

E-mail: mmszok@maltai.hu

Border Crossing Point: Beregsurány

- **Hungarian Interchurch Aid**

Tel: +36 1 / 382 0700

E-mail: segelyszervezet@segelyszervezet.hu

Border Crossing Point: Beregsurány, Barabás

Present in Transcarpathia and in Lviv

- **Hungarian Baptist Aid**

Tel: +36 1 / 381 0084

E-mail: hbaid@hbaid.org

Border Crossing Point: Tiszabecs

Present in Transcarpathia

- **Hungarian Red Cross**

Tel: +36 1 / 311 3660

²⁰ <https://migrationaid.org/>

²¹ <https://aoh.hu/>

²² <https://bikemaffia.com/en/home/>

²³ <https://www.facebook.com/groups/1350360178761136/>

²⁴ <https://www.facebook.com/groups/994143548136400/> and <https://www.facebook.com/groups/52732055481268/>

E-mail: titkarsag@voroskeresztbp.hu

Border Crossing Point: Lónya

Present in Transcarpathia

The Disaster Management Agency arranges accommodation for those requesting shelter at the registration points.

******* According to the visits conducted by HHC, so-called Helping Points set up and managed by members of the Charity Council are well equipped to provide immediate humanitarian assistance shortly after people crossed to Hungary. These Helping Points, however, are only meant to for shorter stays. Shelters hastily set up and managed by local municipalities, religious communities, and local communities are experiencing shortage of donations to a varying degree: some lacked cleaning agents, gloves, others ran out of raw food to cook for those accommodated. It seems that with almost three weeks into the crisis, state authorities responsible for managing and coordinating the response continue to experience difficulties in doing so.

5. Identified gaps

a. Access to protection

The Council Implementing Decision already limited the scope of third-country nationals eligible for temporary protection. This can be explained by the fact that in all other EU Member States, access to asylum is ensured, so these people still have the ability to seek protection, just will not automatically receive it. This already limited scope is further limited by the new Government Decree. This is of extreme concern as unlike in other Member States, in Hungary, since May 2020, it is impossible to seek asylum. In practice this means that third-country nationals (including even such clear cases as Belarussian opposition activists who fled to Ukraine and have to flee further) are excluded from *any* kind of protection.

- At a minimum, Hungary must bring in line the domestic implementation decree with the Council Implementation Decision regarding the personal scope of temporary protection. At the same time, Hungary must ensure access to the asylum system in line with the EU asylum acquis.

Those crossing are not aware of the possibility to apply for temporary protection, and consequently do not request it, thereby losing access to services they would otherwise be eligible for.

- At a minimum, leaflets explaining the situation and the available options must be provided to all persons crossings the Ukrainian-Hungarian border. The NDGAP that bears the sole responsibility to conduct the temporary protection procedures shall have continuous presence not only at registration points, but at border crossings too.

b. Implementation, humanitarian aid

Following the first chaotic days, it seems that 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 is compulsory. At the same time, the registration procedure remains extremely slow. The HHC also received reports that there continues to be a shortage of interpreters at registration points and the authorities cannot communicate with those being registered.

- The registration procedure must be rationalised and speeded up, if necessary, by establishing further registration points and by involving further personnel, including an adequate number of interpreters.