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# War in Ukraine Protection Situation in Hungary

11 August 2023



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 work days of the week. Our dedicated email address for those fleeing Ukraine is [ukrainecrisis@helsinki.hu](mailto: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 the +3613214141 number.

We set up a hotline for refugees from Ukraine where we can answer your questions in Russian on Monday: 12-16, Wednesday: 14-18, Friday: 10-14 pm. Please call us at: +36 70 302 6219

This is a brief information material concerning the general temporary protection framework in Hungary. For detailed assessment see the thematic annex on temporary protection of the AIDA Country Report on Hungary: <https://ecre.org/2022-update-aida-country-report-hungary/>

## 1. Statistics

### a. Hungary

Number of registered applications for temporary protection between 24 February 2022 – 7 August 2023): **46 926**<sup>1</sup>

### b. Other countries bordering Ukraine

	Poland	Slovakia	Romania	Czech Republic	All, including Hungary
Since 24 February	1 639 725	122 480	138 825	543 190	4 000 0000 est.

Number of push-backs from Hungary to Serbia since start of the war in Ukraine (between 24 February – 7 August 2023): **188 037**<sup>2</sup>

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

On the eve of 24 February 2022, the day which marked the start of the full-scale Russian invasion in Ukraine, a new Government Decree entered into force in Hungary, activating the national temporary protection (TP) framework for those fleeing Ukraine. According to the decree, Hungary provided temporary protection to every person, regardless of their nationality, who resided legally in Ukraine before the start of the war in accordance with the provisions of the Asylum Act. However, the national temporary protection scheme was only in effect until 7 March 2022, when the common European protection regime, designed for people fleeing Ukraine was introduced by the decision of the Council of the European Union. As a consequence, the original TP framework was repealed and Government Decree No. 86/2022. (TP Decree) entered into force on 8 March, setting out the new general protection framework for Ukrainians by transposing the provisions of the Council Implementing Decision.

However, the TP Decree failed to put a protection framework in place which is fully compatible with the common European temporary protection regime. While the original national protection framework has made TP accessible to nationals of all third countries (not just Ukraine) fleeing the war and legally residing in Ukraine, the TP Decree has narrowed the personal scope of protection by excluding this

<sup>1</sup> <https://data.unhcr.org/en/situations/ukraine>

<sup>2</sup> <https://www.police.hu/en>



group of people from temporary protection in Hungary, in breach of EU law. 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.”*

The Hungarian TP Decree sets forth the following:

*“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 TP Decree states that such people are not eligible for EU law-based temporary protection but are dealt with according to the “general rules”.

At the same time, the systemic shortcomings of the general asylum system in Hungary make it virtually impossible for those people fleeing the war and who do not fall under the personal scope of TP in Hungary to seek protection in the country.

Those wishing to seek asylum in Hungary have to first submit a “statement of intent” at the Hungarian embassy in Belgrade or Kyiv. Depending on the approval of the “statement of intent”, the would-be asylum-seeker is issued with a special travel permit allowing him or her to travel to Hungary and submit an asylum application there. This so-called “embassy system” deprives people fleeing from accessing the asylum procedure, and paired with the systemic push-backs carried out by the Hungarian Police, the current Hungarian legal system is designed to keep people away. The Court of Justice of the European Union ruled in June 2023 that the “embassy system” is in violation of EU law.

Consequently, the current Hungarian legislative framework leaves several groups who had to flee from Ukraine without any valid protection alternatives. These include undocumented persons and other third-country nationals (TCNs) 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. This violates 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”.

This limited personal scope introduced on 8 March 2022 was already applied in those procedures which started under the national TP regime but had not been concluded. Consequently, non-Ukrainian nationals have virtually been denied access to adequate protection during the whole cycle of the Ukrainian refugee crisis in Hungary.

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](https://helsinki.hu/en/wp-content/uploads/sites/2/2022/03/HUgovdecree_implementing_councildecision_tempprotEN.pdf)  
<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:



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

The TP 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.

In 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.

Pursuant to the regulations, as of 12 March 2022 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 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 rules, local municipalities are eligible for a benefit of 5 000 HUF (EUR 13) 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 (HUF 5 000), 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.



Should an applicant indicate 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 the notification of the asylum authority.

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 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 enjoys temporary protection in Hungary shall register at the designated district authority as a jobseeker within five days after the first transfer of granted subsistence 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.

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.

Ukrainians without biometric passports or other travel or identification documents have been all granted entry to Hungary after 24 February 2022. The same regime was applied at the border crossing points to TCNs fleeing Ukraine in 2022, however as of January 2023 Hungary stopped admitting those non-Ukrainian nationals who entered Ukraine after the start of the invasion, and those who had no residence permit in Ukraine, arguing that returning them to Ukraine is not in breach of refoulement.

With regard to the Romanian border, different regulations are applied. Ukrainians entering Hungary from Romania have been allowed to enter regardless of the type of their identification documents since the start of the war in Ukraine. At the same time, TCNs are only allowed to cross the Romanian border in case they hold a valid Schengen visa. EU Temporary Protection status is attainable according to the Romanian protection framework for TCNs stranded in Romania.

#### **b. Application for TP**

The application for temporary protection has to be submitted to the asylum authority (NDGAP) in an official application form. In Budapest, the application may be submitted at the asylum client service of the authority at 60 Budafoki Street. Biometric passport holders can also submit their application at district government offices if they fill out an online registration form in advance. Case officers at the client service 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 website or mobile application of the NDGAP for that purpose. That possibility only exists to accelerate the procedure and does not exempt the applicant from the obligation to appear in person before the authority.



The asylum authority has 45 days to conduct the procedure. The time-limit set for the procedure of the expert authority shall be 10 days, therefore, the maximum duration of the procedure is 55 days.

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.

#### d. Humanitarian relief

Humanitarian aid is organised by grassroots and charity groups. Members of the government-organised Charity Council began providing humanitarian aid and divided border crossings among each other where each set up a so-called Helping Point, see details below.

#### Member organizations of the Charity Council:

##### **Caritas Hungarica**

Tel: +36 1 / 372-0910

E-mail: office@caritas.org.hu

Border Crossing Point: Barabás

##### **Hungarian Reformed Church Aid**

Tel: +36 1 / 273 0449

E-mail: mrsz@jobbadni.hu

Border Crossing Point: Záhony

##### **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

##### **Hungarian Baptist Aid**

Tel: +36 1 / 381 0084

E-mail: hbaid@hbaid.org

Border Crossing Point: Tiszabecs

##### **Hungarian Red Cross**

Tel: +36 1 / 311 3660

E-mail: titkarsag@voroskeresztbp.hu

Border Crossing Point: Lónya

## **4. Identified gaps**

### a. Access to protection

As a general practice, as of March 2023, TCNs excluded from temporary protection have been issued temporary residence certificates (TRC) usually for 30 days with a limited possibility for subsequent extensions.

By issuing the TRC, Hungarian authorities recognize the temporary stay of TCNs in Hungary. The issuance of a TRC does not entitle beneficiaries to health care, to take a job, or to leave to any other



country apart from their country of origin.

The margin of lawful stay provided to TCNs is meant to secure enough time for these people to arrange their return to their country of origin. It is therefore unfit for those who cannot return safely to their country of origin for fear of persecution or serious harm. In case the person concerned does not leave Hungary during the validity of the TRC, the NDGAP will either issue an expulsion decision or grant them a humanitarian residence permit if their return would be in breach of the principle of *non-refoulement*. Domestic legislation calls this tolerated stay (*befogadott státusz*). Similarly to TRC, the tolerated stay status does not grant automatic access to services (e.g. to education or health care apart from emergency care) or the right to work. Consequently, those TCNs who cannot return in safe and durable conditions to their country of origin are stranded in Hungary without access to adequate international protection.

In late January 2023, the practice changed at border crossings: there is an increasing number of cases where non-Ukrainian citizens not in possession of a permanent Ukrainian residence permit attempting to enter at one of the official border crossing points at the Ukrainian-Hungarian border received refusal of entry decisions. Even those in possession of a valid permanent residence permit are refused entry if they left Ukraine after 24 February 2022 and went back there again.

b. Access to TP entitlements:

Delays in the issuance of the TP card has been a problem which also hinders access to subsistence allowance given that in Hungary, applicants for TP are not entitled to receive state financial support, only beneficiaries. Despite the fact that the immigration authority issues an official paper certificate of the granted TP status until the plastic card arrives to beneficiaries, some Government offices tend not to accept the official certificate in the absence of an actual plastic card. The monthly transfer of subsistence allowance is still very inconsistent.

c. Vulnerable groups

Unaccompanied minors (UAMs) are often not identified as such and are not assigned a legal guardian. The local guardianship office does not monitor the situation of UAMs at accommodation sites to assess whether there is a need to initiate guardianship processes. The asylum authority, although recognizes the need for a legal guardian, frequently has failed to notify the guardianship authorities. This puts UAMs at risk.

No adequate preventive measures have been carried out to eradicate human trafficking targeting persons fleeing Ukraine. There is no accessible information on the risks of trafficking in a language people fleeing Ukraine can understand at every accommodation site. No information at all is available for UAMs in a child-friendly and age-appropriate manner. 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. Unfortunately, even if they find this service, there is no Ukrainian or Russian speaker dispatcher available there.

d. Education

Education is obligatory for children fleeing Ukraine and residing in Hungary from the age of 6 to 16. Upon submitting the TP 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 began before their age of eighteen. The law states that this may be done on the same conditions as Hungarian citizens. If the beneficiary of temporary protection cares for a minor, they are entitled to use the services of nursery care and the services of the "Biztos Kezdet" children's home under the same conditions as Hungarian citizens.

In spite of the enabling legal framework, there has been a systemic lack of access to appropriate education in several locations. Many consulted individuals complained that schooling remains a major source of anxiety. Even if children fleeing Ukraine had access to Hungarian schooling, only a few



schools had started integration programmes or Hungarian language courses. As a consequence, children are often frustrated by not understanding the lessons held in Hungarian. In addition, a high proportion of Ukrainian parents would prefer if their children took part in Ukrainian online education, but it is not possible due to compulsory schooling in Hungary.

e. Access to the labour market

Applicants and beneficiaries of temporary protection have the same rights regarding employment as Hungarian citizens do, except for the public service and civil servant sector where Hungarian citizenship is a requirement. According to the TP Decree, beneficiaries and applicants may work in the territory of Hungary without special permission, including temporary employment and public employment.

The HHC has received an increasing number of enquiries relating to labour exploitation, reporting unfair labour conditions from applicants or beneficiaries of temporary protection in Hungary. Most reports concern unfairness regarding salary (e.g. receiving substantially less salary than agreed beforehand) or the fact that persons are employed without a contract.