



Destitution and homelessness: the situation of vulnerable Ukrainian beneficiaries of temporary protection

3 September 2024

Hungary, which provided temporary protection to a little over 36 000 Ukrainians, restricts access to temporary protection and available services to beneficiaries of temporary protection to the point where thousands of people, supposedly under the protection of Hungary, have lost eligibility to state-funded mass sheltering on 21 August 2024, in breach of EU law. The approximately 3 000 beneficiaries of temporary protection who, according to the Hungarian government, did not previously reside in Ukraine in territories directly affected by the Russian invasion, face destitution and homelessness, unless they move to other Member States or back to the war in Ukraine.

Temporary protection in Hungary

Limited solution with no alternative

Hungary was the first member state to trigger the temporary protection mechanism under domestic law (*'menedékes'*) on 24 February 2022.¹ This was especially necessary as Hungary has no functioning asylum system since May 2020, when it externalised asylum applications to its embassies in Belgrade and Kyiv.² Following the Council Implementing Decision of 4 March 2022 triggering the temporary protection scheme in all Member States,³ Hungary replaced the previously introduced rules. The new decree excluded non-Ukrainian citizens with permanent residency in Ukraine prior to 24 February 2022 from the personal scope of temporary protection.⁴ Taking into account that Hungary abolished its asylum system, those fleeing Ukraine and unable to return to their country of origin, but falling outside of the scope of the temporary protection scheme were left in legal limbo. The Hungarian Helsinki Committee (HHC) has been representing many non-Ukrainian citizens with long-term residency in Ukraine who cannot return to their country of origin in return procedures, including for example Russian and Belarussian human rights defenders, opposition activists.

¹ Government Decree 56/2022. (II. 24.) on derogations from the temporary rules on asylum procedures set out in Act LVIII of 2020 on Transitional Provisions related to the Termination of the State of Danger and on Epidemiological Preparedness.

² See a detailed description of the so-called embassy system: <https://helsinki.hu/wp-content/uploads/new-Hungarian-asylum-system-HHC-Aug-2020.pdf> Following an infringement procedure, this system was found to be in breach of EU law, see: <https://helsinki.hu/en/hungarian-asylum-policy-violates-eu-law-finds-cjeu/>.

³ 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>.

⁴ 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 act, unofficial English translation: https://helsinki.hu/en/wp-content/uploads/sites/2/2022/03/HUgovdecree_implementing_councildecision_tempprotEN.pdf

Until June 2024, 36 565 people received temporary protection in Hungary.⁵

The HHC has submitted a complaint due to the erroneous implementation of the Council Implementing Decision to the European Commission on 4 April 2022. It was registered in July 2022.⁶ No further action has been taken since then by the Commission.

No shelter

On 24 July 2023, the government amended the decree that regulates the services available to beneficiaries of temporary protection, significantly limiting access to state-funded mass shelter.⁷ The changes, entering into force on 1 August 2023, prescribed among others that free (mass) shelter is only provided for one month upon receiving temporary protection, except for certain groups of vulnerable beneficiaries (e.g. pregnant women, persons living with disability).

As the Temporary Protection Directive requires that Member States ensure that beneficiaries of temporary protection have access to suitable accommodation, this restriction is in clear violation of EU law.⁸ The HHC has submitted a complaint to the Commission in December 2023 that was registered only in May 2024.⁹ No further action has been taken since then by the Commission.

On 28 June 2024, the government further restricted access to state-funded mass shelter of beneficiaries of temporary protection.¹⁰ The decree came into full effect on 21 August 2024 and prescribe that only vulnerable beneficiaries of temporary protection who resided in a “territory impacted by war” remain eligible for state-funded mass shelter. The list of *oblasts* the government considers to be a “territory impacted by war” is supposedly published, based on unclear criteria, at the beginning of each month. Those already granted temporary protection but falling outside the personal scope of eligibility criteria were allowed to submit leniency requests until 5 July to be able to remain in state-funded mass shelters.

The HHC has submitted another complaint, referring to the previous one relating to revocation of support for housing, to the Commission on 5 July 2024. To date, the HHC has not received an official response.

The situation following 20 August 2024

Based on the regular monitoring missions of the HHC to accommodation sites, an estimated 3 000 beneficiaries of temporary protection lost their eligibility for state-funded shelter on 21 August, with cca. 1 000 continue to be accommodated under this scheme. At the time of writing, the authorities are yet to respond to the HHC’s freedom of information request regarding statistical data on the affected population, the number of leniency requests submitted, granted, and rejected.

On the days following 20 August 2024, the HHC has carried out monitoring visits to dozens of facilities where beneficiaries of temporary protection stayed under the state-funded housing scheme.

⁵ Source: Eurostat

⁶ Complaint registered under CHAP(2022)00985.

⁷ Government Decree 337/2023. (VII. 24).

⁸ Section 1 of Article 13 of 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.

⁹ CPLT(2024)01258.

¹⁰ Government Decree 134/2024 (VI. 28.)

Monitoring teams observed that the vast majority of Ukrainians who lost their home the second time in the past years were women and children, including new-born babies.¹¹ Through legal and public advocacy means, the HHC continues to assist people fleeing Ukraine. These attempts include pilot lawsuits at various domestic courts, arguing for the obligation to provide basic shelter to beneficiaries of temporary protection. At the time of publication, these lawsuits, as well as the HHC's related complaints with the Commission are still pending.

In a number of individual cases, grassroots groups, UNHCR, the HHC, and a handful of small charity organisations managed to secure temporary housing for extremely vulnerable beneficiaries of temporary protection. These attempts, however, cannot substitute the state's obligation and responsibility to provide basic accommodation.

Recommendations

The Hungarian government:

- immediately repeal the amendments to Government Decree 104/2022. (III. 12.) that restrict beneficiaries of temporary protection's access to state-funded housing.

Members of the Hungarian Charity Council:¹²

- provide immediate humanitarian relief to beneficiaries of temporary protection, including shelter, food, and non-food items until their situation is resolved.

The European Commission:

- launch infringement procedures against Hungary for the erroneous implementation of both the Council Implementing Decision and the Temporary Protection Directive;
- make available financial resources to actors, including municipalities, the UNHCR, civil society organisations with a proven track record of providing housing to beneficiaries of temporary protection, that are able and willing to ensure that Ukrainians fleeing the war are provided with adequate shelter.

¹¹ See for example this coverage in English from the town of Kocs, where 80 women and 40 children were evicted: <https://www.euronews.com/my-europe/2024/08/21/ukrainian-refugees-face-homelessness-after-hungarian-asylum-rule-change>

¹² A government-organised steering group of selected large charities, presided over by state secretary Miklós Soltész, its members are Caritas Hungary, the Hungarian Reformed Church Aid, the Hungarian Charity Service of the Order of Mailta, the Hungarian Interchurch Aid, the Hungarian Baptist Aid, and the Hungarian Red Cross, its official website is: <https://karitativtanacs.kormany.hu/index>