

Overview of national measures regarding employment and social security of displaced persons coming from Ukraine

Country Fiche – Austria
August 2022

© European Labour Authority, 2022

Reproduction is authorised provided the source is acknowledged.

For any use or reproduction of photos or other material that is not under the copyright of the European Labour Authority, permission must be sought directly from the copyright holders.

Neither the European Labour Authority nor any person acting on behalf of the European Labour Authority is responsible for the use which might be made of the following information.

The present document has been produced by Milieu Consulting SRL and EFTHEIA as author(s). This task has been carried out exclusively by the author(s) in the context of a contract between the European Labour Authority and the author(s), awarded following a tender procedure. The document has been prepared for the European Labour Authority, however, it reflects the views of the author(s) only. The information contained in this report does not reflect the views or the official position of the European Labour Authority.

Information provided in this fiche considers legal and policy developments up to 31 August 2022.

Disclaimer: The information in the present document is provided solely for general guidance purposes about the different national measures, including those, where relevant, implementing Council Directive 2001/55/EC activated by Council Implementing Decision (EU) 2022/382, adopted by the Member States as well as EEA countries in the field of access to labour market and social protection applicable/having impact on the situation of displaced persons from Ukraine. The country fiche has no legal value but is of informative nature only. The information is provided without any guarantees, conditions or warranties as to its completeness or accuracy. ELA accepts no responsibility or liability whatsoever with regard to the information contained in the fiche nor can ELA be held responsible for any use which may be made of the information contained therein.

This information is:

- a) of a general nature only and is not intended to address the specific circumstances of any particular individual or entity;
- b) not necessarily comprehensive, complete, accurate or up to date;
- c) sometimes linked to external sites over which ELA has no control and for which ELA assumes no responsibility;
- d) not professional or legal advice.

For further information please contact the competent national authorities.

Contents

1.0	Legal and institutional framework	4
1.1	Legal framework	4
1.1.1	List of the legal framework	4
1.1.2	Beneficiaries (persons covered by temporary protection).....	5
1.2	Institutional framework	7
2.0	Possibility of changing the status	8
3.0	Access to labour market (Article 12 of the Temporary Protection Directive)	9
4.0	Social security, social welfare and means of subsistence assistance, as well as medical care (Article 13 of the Temporary Protection Directive)	11
5.0	Public support instruments	12

1.0 Legal and institutional framework

1.1 Legal framework

1.1.1 List of the legal framework

- I. Legislation implementing the Temporary Protection Directive (TPD or the Directive)¹ and Council Implementing Decision (EU) 2022/382²

- ▶ [Section 62 Asylum Act 2005 \(Asylgesetz 2005\)](#): The Act on Asylum introduced by Federal Gazette I No. 100/2005, last amendment by No. 234/2021, Section 62 introduced by Federal Gazette I No. 87/2012, last amendment by No. 70/2015, former Section 76 *Niederlassungs- und Aufenthaltsgesetz* (Settlement and Residence Act), former Section 29 *Fremdengesetz* (Act on Foreigners), date of coming into force: 1 January 2014, last amendment 20 July 2015.
- ▶ [Asylum Act Implementing Ordinance 2005 \(Asylgesetz-Durchführungsverordnung\)](#), Federal Gazette II No. 93/2022; date of coming into force: 11 March 2022.
- ▶ [Regulation on Displaced Persons from Ukraine \(Vertriebenen-Verordnung\)](#) implementing the Temporary Protection Directive introduced by Federal Gazette II No. 92/2022, date of coming into force: 11 March 2022.

- II. Legislation having an impact on the (access to) (self-)employment and social security/welfare for the displaced persons coming from Ukraine

Access to employment

- ▶ **Administrative decree (Erlass) of the Federal Ministry of Labour (2022-0.178.109, not published)**: By this decree the Austrian labour market service authorities (AMS) have been assigned to issue to every holder of an identity card for displaced persons a working permit for all economic branches. Mandatory quota, e.g. in the touristic or agricultural sector, limiting the number of working permits per season, do not apply.

Social security

- ▶ [Regulation on Displaced Persons from Ukraine \(Vertriebenen-Verordnung\)](#) implementing the Temporary Protection Directive introduced by Federal Gazette II No. 92/2022, date of coming into force: 11 March 2022.

¹ 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, OJ L 212, 7 August 2001, p. 12-23, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32001L0055>.

² 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, 4 March 2022, p. 1-6, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32022D0382>.

- ▶ **General Social Insurance Act:** According to Section 3 General Social Insurance Act, every person employed or self-employed in Austria is subject to Austrian mandatory social insurance, provided that the income exceeds the threshold of EUR 484.85 (*Geringfügigkeitsgrenze*) per month.
- ▶ **Regulation 104 on Amendment of the Implementation of Health Care Insurance regarding persons included into Health Care Insurance on the grounds of Section 9 General Social Insurance Act:** All persons enjoying temporary (or adequate) protection, are – irrespective of whether they are employed or not – included into mandatory health care insurance.

Social welfare

- ▶ **Agreement on the conditions for subsistence for persons who are in need of protection based on Article 15a Federal Constitution** (*Grundversorgungsvereinbarung zwischen dem Bund und den Ländern gem Art 15a Bundesverfassungsgesetz*), laying down the principles of eligibility to social subsistence and the types of benefits in a coherent way for the Federal State (*Bund*) and all States (*Bundesländer*). Due to constitutional reasons, the competence to provide subsistence and primary care for persons in need is divided between the State of Austria (*Bund*) and the Federal States (*Bundesländer*). Therefore, the Austrian State and the Federal States concluded an agreement on the conditions for subsistence for persons who are in need of protection based on Article 15a Federal Constitution (Article 15a *Bundesverfassungsgesetz* StF: [BGBl. I No. 80/2004](#)), laying down the principles of eligibility to social subsistence and the types of benefits in a coherent way for all Federal States. Based on this agreement, the [Austrian State](#) as well as the Federal States introduced laws on subsistence for persons in need residing in Austria as follows: [Vienna](#); [Niederösterreich](#); [Oberösterreich](#); [Salzburg](#); [Tirol](#); [Vorarlberg](#); [Kärnten](#); [Steiermark](#), and [Burgenland](#).

1.1.2 Beneficiaries (persons covered by temporary protection)

Type of beneficiary	National regime of temporary protection for displaced persons coming from Ukraine
Ukrainian nationals <ul style="list-style-type: none"> ▶ Residing in Ukraine ▶ displaced from 24 February 2022 	Yes
Family members <ul style="list-style-type: none"> ▶ of a Ukrainian national present or residing in Ukraine before 24 February 2022 and displaced from Ukraine on or after 24 February 2022 ▶ of third-country nationals and stateless persons, who benefited from international protection or equivalent national protection in Ukraine before 24 February 	Yes <p>According to Section 2 of the Regulation on Displaced Persons from Ukraine the following categories of persons may be considered family members of an Ukrainian national or third-country national or stateless person present or residing in the Ukraine before 24 February 2022:</p> <ul style="list-style-type: none"> ▶ spouse and registered partners ▶ minor, unwedded children of the concerned person or his/her spouse or registered partner

Type of beneficiary	National regime of temporary protection for displaced persons coming from Ukraine
2022 and were displaced from Ukraine on or after 24 February 2022	<ul style="list-style-type: none"> ▶ other close relatives who lived before the displacement in a common household and who were completely or mostly dependent from the beneficiary.
Third-country nationals and stateless persons beneficiaries of international or equivalent national protection in Ukraine until 24 February 2022	Yes
Stateless persons and nationals of third countries, legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent resident permit and unable to return in safe and durable conditions to their country or region of origin	<p>No</p> <p>According to official information, this group of persons has nevertheless the right to enter Austria and stay in Austria due to humanitarian reasons as long as the person concerned is unable to return in safe and durable conditions to his/her country or region of origin. The legal basis for the right to enter Austria due to humanitarian reasons is unclear, but might be seen in Article 6 Paragraph 5 letter c of the Regulation 2016/399. However, the national legal conditions for the right to stay on grounds of humanitarian reasons (Section 55 and Section 57 of the Act on Asylum) are defined in such a restrictive way that it is hardly conceivable that third-country nationals legally residing in Ukraine before the war will meet them.</p>
<p>Other persons who are displaced for the same reasons and from the same country of region of origin (Article 7(1) of TPD), including</p> <ul style="list-style-type: none"> ▶ stateless persons and ▶ nationals of third countries other than Ukraine, <p>who are residing legally in Ukraine and who are unable to return in safe and durable conditions to their country or region of origin (Article 2(3) Council Decision).</p>	<p>No</p> <p>According to official information, this group of persons has the right to enter Austria and stay in Austria due to humanitarian reasons as long as the person concerned is unable to return in safe and durable conditions to his/her country or region of origin. The legal basis for the right to enter Austria due to humanitarian reasons is unclear, but might be seen in Article 6 Paragraph 5 letter c of the Regulation 2016/399. However, the legal conditions for the right to stay on grounds of humanitarian reasons (Section 55 and Section 57 of the Act on Asylum) are defined in such a restrictive way that it is hardly conceivable that third country nationals legally residing in Ukraine before the war will meet them.</p>
Any additional category of beneficiaries (i.e. persons who arrived from UA before 24 February 2022)	<p>Yes</p> <p>Ukrainian nationals who are legally residing in Austria but who do not fulfil any longer the criteria for an extension of the</p>

Type of beneficiary	National regime of temporary protection for displaced persons coming from Ukraine
	residence permit are entitled to temporary stay in Austria provided that they are unable to return in safe and durable conditions to the Ukraine.

1.2 Institutional framework

- a) National competent authority(ies) providing assistance to the persons enjoying temporary (or adequate) protection coming from Ukraine.

Scope of work	Name of the authority (in EN)	Name of the authority (in national language)	Hyperlink
General (including status change in question 2)	Federal Office for Immigration and Asylum For registration of entry and residence: police and respective competent municipal office	Bundesamt für Fremdenwesen und Asyl Polizei und Bezirksverwaltungsbehörde bzw Magistrat	https://www.bfa.gv.at/ in Vienna e.g.: https://start.wien.gv.at/ukraine
Employment rights	Labour Market Service/Service for Job Seekers	Arbeitsmarktservice: Service für Arbeitssuchende	https://www.ams.at
Social welfare and social security rights	Federal Agency for Reception and Support Service The Federal States of Austria	Bundesagentur für Betreuungs- und Unterstützungsleistungen GmbH Bundesländer	https://www.bbu.gv.at

- b) Existence of a mechanism in place to coordinate the work of these national authorities with respect to persons enjoying temporary (or adequate) protection coming from Ukraine.

Yes, the Federal Office of the Chancellor (*Bundeskanzleramt*) assigned a specific administrative department for the coordination of the support for displaced persons from Ukraine (*Stabstelle Ukraine-Flüchtlingskoordination*). The task of this specific administrative department is to coordinate the support activities of the different national and federal authorities and NGOs, to organise sufficient housing possibilities and to report to the Austrian government. However, there are no specific legal competences assigned to the

administrative department for the coordination of the support for displaced persons from Ukraine (*Stabstelle Ukraine-Flüchtlingskoordination*).

2.0 Possibility of changing the status

- a) Difference between temporary protection status and other forms of adequate protection³ under national law, in respect of third country nationals and stateless persons coming from Ukraine.

Austria does not legislate other forms of adequate protection. Displaced persons from Ukraine can either apply for temporary protection, asylum or a right to stay due to humanitarian reasons.

According to the [Regulation on Displaced Persons from Ukraine](#) solely third-country nationals and stateless person who are beneficiaries of international or equivalent national protection in Ukraine until 24 February 2022 are entitled to temporary stay in Austria until 3 March 2023 which will be automatically renewed for up to six months twice, unless it is declared ended. This entitlement to temporary stay is approved by the 'identity card for displaced persons'. Holders of this card have access to the Austrian labour market by a working permit, are included into health insurance and are entitled to primary care and subsistence (*Grundversorgung*) from the federal government or federal states, operated by the *Bundesagentur für Betreuungs- und Unterstützungsleistungen GmbH*.

All other categories of third-country nationals and stateless persons (e.g. legally residing in Ukraine according to Ukrainian national law) have the right to enter Austria due to humanitarian reasons, probably on the basis of Article 6 Paragraph 5 Letter c of Regulation (EU) 2016/399. However, Article 6 Paragraph 5 Letter c of the Regulation 2016/399 does not provide a stable legal basis for a right to stay or residence in Austria. For a right to stay the third-country national would have to apply for asylum or a right to stay due to humanitarian reasons according to national law (Section 55 and Section 57 of the [Act on Asylum](#)). Persons staying in Austria for humanitarian reasons furthermore do not have access to the Austrian labour market and are partially excluded from subsistence for persons in need. That is true for the subsistence systems of the Federal States of Lower Austria (*Niederösterreich*) and Styria (*Steiermark*), which exclude persons who are residing in the respective Federal State solely due to humanitarian reasons from social subsistence according to Section 55 of the [Act on Asylum](#).

- b) Possibility to file status change inside the territory without the requirement for the person to first leave the country or return to Ukraine from temporary protection or other forms of adequate protection to employment-based residence permit during the temporary protection regime and at the end of this regime (e.g. single permit for work, EU Blue Card for highly-qualified workers, seasonal workers, family reunification).

Yes, the possibility to file status change inside the territory without the requirement for the person to first leave the country or return to Ukraine from temporary protection to the single permit work, EU Blue Card, seasonal workers, seasonal workers and family reunification is possible during the temporary protection regime.

³ 'Adequate protection' under national law is referred to in Article 2(2) of the Council Decision as a possible alternative that may be offered by Member States to temporary protection and therefore does not have to entail benefits identical to those attached to temporary protection as provided for in Directive 2001/55/EC. Nevertheless, when implementing the Council Decision, Member States must respect the Charter of fundamental rights of the European Union and the spirit of Directive 2001/55/EC. The respect for human dignity and therefore a dignified standard of living (such as residency rights, access to means of subsistence and accommodation, emergency care and adequate care for minors) has to be ensured in respect of everyone.

c) Relevant national legislation on changing the status (including the procedure to be followed).

<p>The conditions set in the legislation to apply for such a status change while remaining in the country:</p> <p>There are no specific rules referring to the specific situation of displaced persons from Ukraine trying to change their status. Therefore, the general rules regarding the change of status according to the Settlement and Residence Act (<i>Niederlassungs- und Aufenthaltsgesetz</i>) apply. According to Section 26 of this Act, solely persons legally staying in Austria have the right to apply for a status change if they fulfil the respective criteria. However, this possibility is explicitly limited to applicants legally staying in Austria. That is the fact with regard to persons who benefit from temporary protection, but not with regard to third-country nationals or stateless persons who are not subject to the Regulation on Displaced Persons from Ukraine. If the residence right already expired, the person concerned cannot refer to Section 2 (12) of the Settlement and Residence Act (<i>Niederlassungs- und Aufenthaltsgesetz</i>).</p>		
<p>Any difference in admission criteria and conditions between first time applicant and when applying for a change of status:</p> <p>The applicant must fulfil the respective criteria for the right to stay.</p>		
<p>Any alteration of rights with respect to</p>		
<p>residence:</p> <p>No</p>	<p>employment rights:</p> <p>No</p>	<p>social welfare and social security rights:</p> <p>No</p>

d) Measures aiming to preclude registration of displaced persons in more than one Member State/EEA-EFTA country (see Article 26 of the Temporary Protection Directive).

There are no specific issues or salient points identified for this question.

3.0 Access to labour market (Article 12 of the Temporary Protection Directive)

a) Overview on how equal treatment on the labour market as regards working conditions is ensured for persons enjoying temporary (or adequate) protection from Ukraine.

Austrian labour law is fully applicable to all persons who are employed in Austria on grounds of a working permit without difference of the status of stay or nationality. Every differentiation in labour conditions would be considered a discrimination on grounds of origin which is prohibited by the Equal Treatment Act (*Gleichbehandlungsgesetz*).

b) Conditions applicable to persons enjoying temporary (or adequate) protection from Ukraine, (including the procedure to be followed):

I. The conditions regulating work permits/work authorisation, if required

According to the [Regulation on Displaced Persons from Ukraine](#) (*Vertriebenen-Verordnung*) solely Ukrainian nationals and third-country nationals and stateless persons who are beneficiaries of international or equivalent national protection in Ukraine until 24 February 2022 are entitled to temporary stay in Austria until 3 March 2023 which will be automatically renewed for up to six months twice, unless it is declared ended. This entitlement to temporary stay is approved by the 'identity card for displaced persons'. Holders of this card have access to the Austrian labour market by a working permit, are included into health insurance and are entitled to primary care and subsistence (*Grundversorgung*) from the federal government or federal states, operated by the *Bundesagentur für Betreuungs- und Unterstützungsleistungen GmbH*.

II. Recognition of qualifications/diplomas

General rules on the recognition of qualifications/diplomas apply also to persons enjoying temporary protection. Specific rules for displaced persons from Ukraine do not exist. This results – according to recent reports of the Austrian Labour Market Authority (AMS) – in the problem that displaced persons from Ukraine often work in low level jobs due to the fact that they do not apply for the recognition of qualifications or because the procedure takes too long.

III. Eligibility to receive assistance for job seekers (e.g., career counselling, skills assessment, locating appropriate job openings, etc.)

According to the decree of the Federal Ministry of Labour (2022-0.178.109, not published) the Austrian labour market service authorities are assigned to provide to persons from Ukraine holding an identity card for displaced person, assistance 'according to their specific needs', like e.g. German language courses.

IV. Availability of vocational training/educational opportunities for adults/practical workplace experience.

The Austrian labour market service provides information centres at the points of first contact for displaced persons of Ukraine. Especially language courses have been launched for this target group.

V. Any exceptions to the general law in force in the country applicable to remuneration and other conditions of (self-) employment

No

4.0 Social security, social welfare and means of subsistence assistance, as well as medical care (Article 13 of the Temporary Protection Directive)

I. Types of benefits with description and coverage

Social security

Inclusion into health care insurance, irrespective of whether displaced persons are employed or not, according to [Regulation 104 on Amendment of the Implementation of Health Care Insurance regarding persons included into Health Care Insurance on the grounds of Section 9 General Social Insurance Act](#).

Moreover, every person employed or self-employed in Austria is according to Section 3 General Social Insurance Act subject to Austrian mandatory social insurance, i.e. health care insurance, pension insurance, accident at work insurance and unemployment insurance, if their income exceeds the limit of EUR 485.85. If the income is lower than this threshold, they are only subject to accident at work insurance. That applies to Austrian citizens as well.

Social welfare

The material scope of [Article 15a B-VG-Agreement](#) (*Grundversorgungsvereinbarung*) includes according to Article 6 the following benefits:

- ▶ housing
- ▶ food
- ▶ pocket money in case of housing in an officially organised accommodation
- ▶ medical treatment
- ▶ payment of health care insurance contributions
- ▶ long-term care
- ▶ information and guidance by assistance of interpreters
- ▶ cost for transport
- ▶ cost for school transport
- ▶ clothing
- ▶ costs of the return to the home country.

II. Eligibility conditions

Social security

Ukrainian citizens and all other displaced persons who left Ukraine due to the war and who are temporarily staying in Austria are included into healthcare insurance, irrespective of whether they are employed or not in Austria. Inclusion into the other branches of the Austrian social security system is contingent upon employment in Austria. For conditions to be subject to mandatory social insurance, also see above.

Social welfare

The personal scope of [Article 15a B-VG-Agreement](#) (*Grundversorgungsvereinbarung*) applies to persons who applied for asylum (Article 2) as well as to persons who are enjoying temporary (or adequate) protection according to the Temporary Protection Directive (Article 8).

III. Any exceptions to the general law in force in the country to access to social security systems or social welfare system relating to employed or self-employed activities

No

5.0 Public support instruments

Overview of other public support instruments facilitating labour market participation, information about and enforcement of rights and entitlements for displaced persons.

With the [Federal Agency for Reception and Support Service](#) one single point of contact has been established for persons in need providing all necessary information.

Furthermore, especially in Vienna, [specific points of registration and information](#) have been established where all competent institutions are present providing support.

The Austrian Labour Market Service (AMS) introduced a specific [online platform](#) for displaced persons from Ukraine which aims to facilitate integration into the Austrian labour market.