

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

Country Fiche – Switzerland
August 2022

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

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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

The Agreement concerning Schengen concluded between the EU and Switzerland in 2004 (SR 0.362.31) does not include Directive 2001/55/EC. Therefore, the Temporary Protection Directive is not binding for Switzerland. However, after the EU adopted Decision (EU) 2022/382 in March 2022, Switzerland has, on 11 March 2022, adopted a similar decision:

- ▶ [General Decision of 11 March 2022](#) on the grant of temporary protection in accordance with the situation in Ukraine (*Décision de portée générale concernant l'octroi de la protection provisoire en lien avec la situation en Ukraine du 11 mars 2022*), FF 2022 586.

Already in 1998, Switzerland had, on the basis of national federal law, created a so called 'S-status' that is similar to the protection status provided by Directive 2001/55. The S-status was activated by the Swiss Government on 11 March 2022 in order to receive persons displaced from Ukraine (General Decision).

This activation of the S-status was decided after consultations with the Swiss cantons, charitable organisations such as the Red Cross and the Office of the UN High Commissioner for Refugees.

The legal base of the S-status is Article 66 of the Federal [Asylum Act](#) ('AsylA', SR 142.31), which allows the Federal Government to decide 'whether and according to which criteria Switzerland will grant temporary protection to groups of persons in need of protection' in accordance with Article 4 [Asylum Act](#). Article 4 is a general rule of Swiss asylum law that grants temporary protection to persons in need, in particular during wars and civil wars.

This is the first time that Switzerland has activated the S-status. It allows persons displaced from Ukraine to stay in Switzerland for the period of one year (maximum 5 years) without applying for asylum; they get social aid and medical help, may work in Switzerland, have their children go to school and they can travel to other countries (Article 9 Paragraph 8 RDV, *Verordnung über die Ausstellung von Reisedokumenten für ausländische Personen*, [SR 143.5](#)). The General Decision of 11 March 2022 entered into force on 12 March 2022 at midnight (see No. II. General Decision of 11 March 2022). On 2 June 2022, the Swiss Federal Government [decided](#) that the S-status may be revoked if a displaced person from Ukraine travels home for more than 15 days in a quarterly period.

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>.

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

- ▶ **Chapter 4 [Asylum Act \(Articles 66-79a\)](#)** granting temporary protection contains rules about the legal status of the persons in need of protection. Since 12 March 2022, those rules are applicable to Ukrainian citizens and assimilated persons.
- ▶ [Foreign Nationals Act \(FNA\)](#)
- ▶ [Regulation on admission, residence and employment \(VZAE\)](#)

Social security

- ▶ The general rules of social security apply such as [83 Sozialversicherung](#).
- ▶ The special rule of **Article 82a [Asylum Act](#)** applies in the field of sickness insurance: for asylum seekers, the cantons have to provide social sickness insurance; this rule applies also to displaced persons from Ukraine, no matter if they work or not.

Social welfare

- ▶ [Asylum Act](#)
- ▶ [Foreign Nationals Act \(FNA\)](#)

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 See Section I letter a. General Decision of 11 March 2022 .
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 2022 and were displaced from Ukraine on or after 24 February 2022	Yes Article 68 Asylum Act obliges the State Secretariat for Migration 'SEM' to take into account the "principle of family unity" while defining in detail the group of persons in need of protection and deciding who will be granted temporary protection in Switzerland. The term family member is defined in different ways, depending on which kind of regulation is at issue. Article 71 Asylum Act concerning temporary protection focusses on 'spouses of persons in need of protection and their minor children'. Concerning displaced persons from Ukraine, the family status is extended also to other close family members the person is

Type of beneficiary	National regime of temporary protection for displaced persons coming from Ukraine
	supporting. See Section I letters a. and b. General Decision of 11 March 2022.
Third-country nationals and stateless persons beneficiaries of international or equivalent national protection in Ukraine until 24 February 2022	Yes See Section I letter b. General Decision of 11 March 2022 .
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.	Yes See Section I letter c. General Decision of 11 March 2022 .
Other persons who are displaced for the same reasons and from the same country of region of origin (Article 7(1) of TPD), including <ul style="list-style-type: none"> ▶ stateless persons and ▶ nationals of third countries other than Ukraine, 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).	No General Decision of 11 March 2022 does not mention other groups, but this may change in the future.
Any additional category of beneficiaries (i.e. persons who arrived from UA before 24 February 2022)	No

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)	State Secretariat for Migration SEM (see Article 68 AsyIA)	Staatssekretariat für Migration / Secrétariat d'Etat aux migrations SEM	https://www.sem.admin.ch/sem/en/home.html
Employment rights	Article 75(1) AsyIA that allows gainful employment after three month refers to the FNIA which is applied by SEM and by the Cantons.	Staatssekretariat für Migration / Secrétariat d'Etat aux migrations SEM	https://www.sem.admin.ch/sem/en/home.html
Social welfare and social security rights	Social aid and sickness insurance for unemployed refugees is provided through the cantons (Articles 82 and Article 82a AsyIA). Once a person works in gainful employment, social security institutions become competent, mostly the Public Pension Bodies, which apply the Federal social security law under the control of the Federal Social Insurance Office OFAS.	AHV- Ausgleichskassen; Office fédéral des assurances sociales	https://www.bsv.admin.ch/bsv/en/home.html

- 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.

In order to get the S-status, the person has to go through a simplified procedure that contains some of the steps the ordinary asylum procedure is requiring (for instance registration of the request, security check, short interview). The cantons have to designate offices that are in charge of the coordination with Federal authorities (see e.g. [Article 4 Ordinance 2 concerning the Asylum Act](#), SR 142.312, applicable to the coordination in the field of social aid for asylum seekers).

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.

According to the existing rules (Article 75 [Asylum Act](#), Article 53 Paragraph 1 [VZAE](#)) persons that have received the S-Status get the work permit as such. They do not undergo a change in their legal status with regard to asylum law or [Foreign Nationals Act \(FNA\)](#). After five years only they may get a regular residence permit (Article 74 Paragraph 2) and after 10 years a permanent residence permit (Article 74 Paragraph 3). Access to the labour market, however, triggers a certain number of consequences in social security protection, as workers are insured against accidents, unemployment and other risks. But these consequences follow from social security law and not from asylum law.

- 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).

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

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

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

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.

- 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).

Switzerland applies the [Dublin-Rule](#) (Agreement concerning Dublin from 2004, RS 0.142.392.68) and might therefore preclude double registration; no specific measures have been taken so far.

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.

According to Article 53 [VZAE](#) employers have to ask for the work permit if they want to hire a person falling under the scope of the temporary protection; according to this same rule, the permit will be issued only if the local wage and working conditions as described in Article 22 [Foreign Nationals Act \(FNA\)](#) are respected. Once the work permit is issued, all general rules concerning employment and self-employment apply.

- 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

Chapter 4 [Asylum Act](#) (Articles 66-79a) granting temporary protection contains rules about the legal status of the persons in need of protection. Since 12 March 2022, those rules are applicable to Ukrainian citizens and assimilated persons. According to Article 75 Paragraph 1 [Asylum Act](#), persons in need of protection may, in principle, not be gainfully employed for the first three months after the entry into Switzerland. According to Article 75 Paragraph 2 [Asylum Act](#), the Federal Government may stipulate more favourable conditions for gainful employment which he has done by Article 53 Paragraph 1 [VZAE](#): according to this ordinance, displaced persons from Ukraine and assimilated persons may work in Switzerland before the expiration of the three-month period (RS 142.201). Other requirements for accomplishing a gainful activity in Switzerland may be governed by the [Foreign Nationals Act \(FNA\)](#).

Ukrainians and assimilated persons are temporarily allowed to be self-employed if they meet certain conditions of [Foreign Nationals Act \(FNA\)](#) (see Article 19 letters b and c. FNA and Article 53 Paragraph 2 of the [Regulation on admission, residence and employment \(VZAE\)](#)). Please also note that the General Decision of 11 March 2022 only enumerates the categories of persons that may obtain the S-status but does not provide rules about gainful activity or social security. Furthermore, the Ordinance adopted on the ground of Article 75 Paragraph 2 ([VZAE](#)) that was mentioned before only contains a limited number of rules. Therefore, the general rules concerning work permits, labour law and social security should apply with respect to persons displaced from Ukraine as they apply to regular local workers.

- II. Recognition of qualifications/diplomas

According to Article 23 Paragraph 1 and Paragraph 2 [Foreign Nationals Act \(FNA\)](#), access to a gainful activity in Switzerland is provided only to foreigners who have a high standard professional qualification; Article 30

Paragraph 1 letter I [Foreign Nationals Act \(FNA\)](#) allows to waive this rule also. A certain number of professions in Switzerland require, like in other countries, specific qualifications (e.g. physicians, attorneys, etc.); the recent rules adopted with respect to persons displaced from Ukraine do not waive these restrictions.

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

Like other refugees who have the authorisation to work, displaced persons from Ukraine have access to the services provided by the local job agencies. The Swiss job market however is very short on qualified workers; as a consequence, employers' associations and other private actors provide [job placement services](#) that can effectively provide job opportunities.

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

The general rules are applicable to persons displaced from Ukraine. Like other job-seekers, they can sign up with the [public employment service \(RAV\)](#) and get help by consultation and placement.

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

Like for other foreign workers, the law requires to check if the job proposal meets the local wage and working conditions (Article 53 Paragraph 1 VZAE). Otherwise, all general rules apply.

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

The general rules of social security apply. The Swiss federal and local laws grant health insurance on the same level as for the local population. Therefore, persons with employment will be automatically insured against accidents, maternity, old age, death, disability, unemployment and family charges. For this purpose, the cantons get global funding from the Federal state (Article 22 Ordinance 2 concerning [Asylum Act](#), SR 142.312). The payment of social assistance benefits and emergency aid is regulated by the law of the cantons (Article 82 Paragraph 1 [Asylum Act](#)).

Self-employed persons are mandatorily insured against maternity, and old age and disability; they can adhere to the social accident insurance. For all the federal social security laws see [83 Sozialversicherung](#).

A special rule applies in the field of sickness insurance. For asylum seekers, the cantons have to provide social sickness insurance (Article 82a [Asylum Act](#)); this rule applies also to persons displaced from Ukraine, no matter if they work or not.

Social welfare

Federal law and local laws require that for refugees, stateless persons and persons in need **without residence permit**, the level of support must be less than that given to the local population (Article 82 Paragraph 1 [Asylum Act](#)). On the contrary, refugees, stateless persons and persons in need **with residence permit** get the same level of social aid as the local population (Article 3 Paragraph 1 22 Ordinance 2 concerning [Asylum Act](#)). Persons displaced from Ukraine will most often have the S-Status, which is not identical with a residence permit within the meaning of Article 82 Paragraph 2 [Asylum Act](#) (cf. Article 33 [Foreign Nationals Act \(FNA\)](#)).

II. Eligibility conditions

Having the S-Status and being in need for social benefits (which is in general not the case for persons who are working; see [here](#)).

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

As mentioned before, social aid is regulated by the cantons. As a common principle, that is not based on a federal law; the access to social aid is limited to persons in financial need which is in general not the case for persons who are working in Switzerland.

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.

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