

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

Country Fiche – Austria
February 2023

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Information provided in this fiche considers legal and policy developments up to 31 January 2023.

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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).....	10
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	13

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. The core legal provisions implementing the TPD into national Austrian law can be found in [Section 62 Asylum Act](#). According to Section 62, the right to temporary stay can be granted by the Austrian government in mutual decision with the Austrian Parliament. The right to temporary stay has to be certified by a specific identification card for displaced persons (*Ausweis für Vertriebene*). The conditions of the right to temporary stay are then to be determined by executive order (ordinance); first and foremost by the 2022 [Regulation on Displaced Persons from Ukraine](#) (see below).
- ▶ [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](#) (*Vetriebenen-Verordnung*) implementing the Temporary Protection Directive introduced by Federal Gazette II No. 92/2022, date of coming into force: 11 March 2022. The Regulation guarantees to specific categories of displaced persons (cf. 1.1.2) a right to temporary stay in Austria at least until 4 March 2024 which will be automatically renewed unless temporary protection has come to an end.

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

A specific legal framework regulating access to employment or inclusion into social security or social assistance does not exist. In this context, already existing schemes have been made available to displaced persons from Ukraine by executive orders.

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

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>.

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](#) (*Vetriebenen-Verordnung*) implementing the Temporary Protection Directive introduced by Federal Gazette II No. 92/2022, date of coming into force: 11 March 2022.
- ▶ [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](#) (*104. Verordnung: Änderung der Durchführung der Krankenversicherung für die gemäß § 9 ASVG in die Krankenversicherung einbezogenen Personen*): All persons enjoying temporary (or adequate) protection, are – irrespective of whether they are employed or not – included into mandatory healthcare 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 'Article 15 B-VG-Agreement'*), 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 *Bundes-Verfassungsgesetz* StF). 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 	Yes According to Section 2 of the Regulation on Displaced Persons from Ukraine the following categories of persons may

Type of beneficiary	National regime of temporary protection for displaced persons coming from Ukraine
<p>displaced from Ukraine on or after 24 February 2022</p> <ul style="list-style-type: none"> ▶ 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 	<p>be considered family members of an Ukrainian national or third-country national or stateless person present or residing in 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 ▶ other close relatives who lived before the displacement in a common household and who were completely or mostly dependent from the beneficiary.
<p>Third-country nationals and stateless persons beneficiaries of international or equivalent national protection in Ukraine until 24 February 2022</p>	<p>Yes</p>
<p>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>	<p>No</p> <p>According to official information, this group of persons has nevertheless the right to entry 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 nevertheless unclear, but might be seen in Article 6 Paragraph 5 letter c of the Regulation (EU) 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 or 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</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 persons concerned are unable to return in safe and durable conditions to their country or region of origin. The legal basis for the right to enter Austria due to humanitarian reasons is nevertheless unclear, but might be seen in Article 6 Paragraph 5 letter c of Regulation (EU) 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</p>

Type of beneficiary	National regime of temporary protection for displaced persons coming from Ukraine
conditions to their country or region of origin (Article 2(3) Council Decision).	in such a restrictive way that it is hardly conceivable that third country nationals legally residing in Ukraine before the war will meet them.
Any additional category of beneficiaries (i.e. persons who arrived from Ukraine before 24 February 2022)	Yes Ukrainian nationals who are legally residing in Austria but who do not fulfil any longer the criteria for an extension of the 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 Section 2)	Federal Office for Immigration and Asylum For registration of entry and residence: police and respective competent municipal office	<i>Bundesamt für Fremdenwesen und Asyl</i> <i>Polizei und Bezirksverwaltungsbehörde bzw Magistrat</i>	https://www.bfa.gv.at/ in Vienna e.g.: https://start.wien.gv.at/ukraine
Employment rights	Labour Market Service/Service for Job Seekers	<i>Arbeitsmarktservice: Service für Arbeitssuchende</i>	https://www.ams.at
Social welfare and social security rights	Federal Agency for Reception and Support Service The Federal States of Austria	<i>Bundesagentur für Betreuungs- und Unterstützungsleistungen GmbH</i> <i>Bundesländer</i>	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.

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 4 March 2024 which will be automatically renewed unless temporary protection has come to an end. 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 to apply for asylum or to invoke the right to enter Austria due to humanitarian reasons on grounds of national law or on the basis of Article 6 Paragraph 5 Letter c of Regulation (EU) 2016/399. However, Article 6 Paragraph 5 Letter c of Regulation (EU) 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 who applied for asylum have no access to the Austrian labour market, but are included into the subsistence schemes of the Federal States. Persons staying in Austria for humanitarian reasons have access to the Austrian labour market neither 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](#).

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.

- 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.

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

The conditions set in the legislation to apply for such a status change while remaining in the country:

There are no specific rules referring to the special 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](#) (*Niederlassungs- und Aufenthaltsgesetz*) 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, e.g. for an EU Blue Card: university education of at least three years, binding employment offer, income in a certain amount. 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](#) (*Niederlassungs- und Aufenthaltsgesetz*).

Any difference in admission criteria and conditions between first time applicant and when applying for a change of status:

The applicant must fulfil the respective criteria for the right to stay.

Any alteration of rights with respect to

<p>residence:</p> <p>Changing the status might have impacts on the duration of the right to reside in Austria. Displaced persons from Ukraine falling under the personal scope of the Regulation on Displaced Persons from Ukraine are entitled to temporary stay in Austria just until 4 March 2024 which will be automatically renewed unless temporary protection is declared ended. Persons holding e.g. an EU Blue Card in contrast have the right to reside in Austria up to two years automatically.</p>	<p>employment rights:</p> <p>Changing the status might have impacts on the questions whether the person concerned has free or limited access to the Austrian labour market. Employers of displaced persons from Ukraine can apply for a working permit at the Austrian Labour Market Service. The issued permit is than limited to the specific employer who applied for it. The same applies to holders of an</p>	<p>social welfare and social security rights:</p> <p>Dependent on the status an employment permit might give access to all branches of the Austrian social insurance scheme.</p>
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	EU Blue Card. Holders of a Red-White-Red-Plus Card in contrast have free access to the Austrian labour market and are not limited to a specific employer.	
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- 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).

Section 4 of the [Regulation on Displaced Persons from Ukraine](#) provides the rule that the right to temporary stay in Austria expires if the beneficiary leaves the territory of Austria 'not solely for a short time'. However, it is not further specified what has to be considered a 'short time'. Still, we have no jurisdiction clarifying this notion.

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 4 March 2024 which will be automatically renewed unless the temporary protection comes to an end. 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

Specific rules for displaced persons from Ukraine do not exist. The general rules on the recognition of qualifications/diplomas (so called '[Nostrifizierung](#)') apply.– According to recent reports of the Austrian Labour Market Authority (AMS) this – causes 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

Displaced persons from Ukraine are included into healthcare insurance, irrespective of whether they are employed or not, according to [Regulation 104 on Amendment of the Implementation of Health Care Insurance regarding persons included into HealthCare 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 of the General Social Insurance Act, subject to Austrian mandatory social insurance, i.e. healthcare 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

Displaced persons from Ukraine, who are not (self-) employed or whose income does not exceed the limit of Euro 110 per month, are included into the Austrian subsistence scheme originally intended for Asylum seekers (*Grundsicherung*). As a consequence, displaced persons do not have access to the general Austrian social assistance scheme (*Sozialhilfe/Mindestsicherung*) intended for persons in need. The main differences between the two schemes are as follows. First, the amount of benefit is different. *Mindestsicherung* is much higher than *Grundsicherung* (for a single person Euro 978 in Vienna in comparison to Euro 400). Second, solely persons receiving social assistance are subject to mandatory healthcare insurance. However, this problem has been solved for displaced persons from Ukraine by including them into the mandatory healthcare insurance through Regulation 104. Third, pursuing an employment is not incompatible with the allowance of *Mindestsicherung* in contrast to the receipt of *Grundsicherung*, where any income above the limit of Euro 110 results in a reduction or even loss – if the income exceeds Euro 485,85 – of the entitlement.

According to the material scope (Article 6) of Article 15a B-VG-Agreement (*Grundversorgungsvereinbarung*), the entitlement to *Grundsicherung* includes 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.

Social welfare/Subsistence

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 contact point has been established for persons in need providing all necessary information. An important private initiative which supports displaced persons from Ukraine is the '[Asylkoordination Österreich](#)'.

Furthermore, especially in Vienna, [specific points of registration and information](#) (see also [here](#)) 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.

Displaced persons from Ukraine had until October 2022 the possibility to use public transport free of charge.