

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

Country Fiche – Switzerland
February 2023

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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 adopted a similar decision on 11 March 2022:

- ▶ [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. It entered into force on 12 March 2022.

Already in 1998, Switzerland had, on the basis of the national federal law, created a so called 'S-status' that is similar to the protection status provided by the Directive 2001/55/EC. 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, in force since 1 October 1999), 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 of the [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 activated the S-status. It allows persons displaced from Ukraine to stay in Switzerland for the period of one year (maximum five 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 of the Ordinance concerning the issue of travel documents for foreigners ([Ordinance RDV](#)), (Verordnung über die Ausstellung von Reisedokumenten für ausländische Personen), in force since 1 December 2012).

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>.

On 9 November 2022, the Swiss Federal Government decided to maintain the S-status for displaced persons from Ukraine until March 2024 ‘unless the situation in Ukraine changes fundamentally before then’. The [support measures](#) for people with protection S-status were extended by one year.

On 2 December 2022, an Annex to [Ordinance RDV](#) concerning the issuing of travel documents for foreign persons was updated. This update entered in force on 1 February 2023.

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. Also see AsylV 1, Ordinance 1 concerning Asylum (Articles 44-52). Act in force since 1 October 1999.
- ▶ [Foreign Nationals Act \(FNA\)](#), in force since 1 January 2008.
- ▶ **Regulation on admission, residence and employment ([VZAE](#))**, in force since 1 January 2008.

Social security

- ▶ The general rules of social security apply such as [83 Social Insurance \(Sozialversicherung\)](#), in force since 1 January 2003.
- ▶ 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 also applies to displaced persons from Ukraine, no matter if they work or not. Act in force since 1 October 1999.

Social welfare

- ▶ [Asylum Act](#): Act in force since 1 October 1999.
- ▶ [Foreign Nationals Act \(FNA\)](#) in force since 1 January 2008.

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. of the General Decision of 11 March 2022 .
Family members	Yes

Type of beneficiary	National regime of temporary protection for displaced persons coming from Ukraine
<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 	<p>Article 68 of the 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.</p> <p>The term family member is defined in different ways, depending on which kind of regulation is at issue. Article 71 of the 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 also extended to other close family members the person is supporting. See Section I letters a. and b. of the General Decision of 11 March 2022.</p>
<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>See Section I letter b. of the General Decision of 11 March 2022.</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>Yes</p> <p>See Section I letter c. of the General Decision of 11 March 2022.</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 conditions to their country or region of origin (Article 2(3) Council Decision).</p>	<p>No</p> <p>General Decision of 11 March 2022 does not mention other groups, but this may change in the future.</p>
<p>Any additional category of beneficiaries (i.e. persons who arrived from Ukraine before 24 February 2022)</p>	<p>No</p>

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)	State Secretariat for Migration SEM (see Article 68 AsylA)	<i>Staatssekretariat für Migration / Secrétariat d'Etat aux migrations SEM</i>	https://www.sem.admin.ch/sem/en/home.html
Employment rights	Article 75(1) AsylA that allows gainful employment after three month refers to the FNIA which is applied by SEM and by the Cantons.	<i>Staatssekretariat für Migration / Secrétariat d'Etat aux migrations SEM</i>	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 (Article 82 and Article 82a AsylA). 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.	<i>AHV- Ausgleichskassen; Office fédéral des assurances sociales</i>	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 are eligible to get a work permit. They do not undergo a change in their legal status with regard to asylum law or the Foreign Nationals Act. In other words, obtaining a work permit does not trigger a status change. A status change occurs by course of time. After five years the protected person may get a regular residence permit (Article 74 Paragraph 2) and after 10 years a permanent residence permit (Article 74 Paragraph 3). During the first five years, the person is therefor allowed to live and work in Switzerland on the ground of Asylum Law but not on the ground of Immigration Law. 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 the social security law and not from the 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).

As mentioned above, the law allows the protected person to get a regular work and residence permit after five years. The law does not require that the person leaves the country first and comes back to have his/her status change.

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

Status change from temporary protection to a regular residence permit for foreign nationals

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

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.

The first condition is that the Government has not revoked the S-status for displaced persons from Ukraine (Article 74 Paragraph 2 Asylum Act). Second, five years need to have passed since the protected person obtained the S-status (Article 74 Paragraph 2 Asylum Act). On these legal grounds, the person gets a so called 'B' permit.

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

The difference is that the permit expires after one year; but it is renewable each following year (Article 33 of the [Foreign Nationals Act](#), Article 46 AsylV 1).

Any alteration of rights with respect to

residence:	employment rights:	social welfare and social security rights:
The alteration is that the residence permit expires after one year and has to be renewed each year which is not the case for persons that fall under the general rule of Art. 33 FNA.	N/A	N/A

- 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. On 2 June 2022, the Swiss State Secretariat for Migration has informed about the possibility of revoking the S-status on prolonged travel home and about binational couples (they are not entitled to an S-status if one of them is a EU/EFTA citizen, or a citizen of the UK, Canada, the USA, New Zealand or Australia).

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.

The S-status, which is based on the Asylum Act, does not automatically trigger a work permit. During the first three months, the protected person is not allowed to work. After this time period, the work permit can be requested on the grounds of the [Foreign Nationals Act](#) which is Immigration Law (Article 75 Paragraph 1 [Asylum Act](#)). 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 only be issued if the local wage and working conditions as described in Article 22 [Foreign Nationals Act](#) 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](#), which is a general rule, displaced 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. The Government made use of this exception by Article 53 Paragraph 1 [VZAE](#): according to this ordinance, persons under temporary protection 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](#).

Ukrainians and assimilated persons are temporarily allowed to be self-employed if they meet certain conditions of the [Foreign Nationals Act](#) (see Article 19 letters b and c. FNA and Article 53 Paragraph 2 of the [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 of the [Foreign Nationals Act](#), 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 of the [Foreign Nationals Act](#) 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, 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 also applies 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](#)).

- II. Eligibility conditions

Social security

The eligibility conditions are the same as for other persons in employment relationship. Persons who work and have an S-status are insured against accidents, unemployment, old age, disability etc. As a consequence, they are eligible to benefits as long as the legal conditions of the relevant social security laws are fulfilled, same as

for any other insured person. As mentioned before, however, Article 82a of the [Asylum Act](#) contains a special rule concerning sickness insurance.

Social welfare

For persons 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](#). For the rest, eligibility conditions depend on the law of the cantons (Article 82 Paragraph 1 [Asylum Act](#)).

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. In general, this is 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.

Certain initiatives from non-governmental bodies exist:

- ▶ [Swiss Ukrainian Society \(swiss-ukrainian.ch\)](#) gathers a list of national initiatives
- ▶ A dedicated webpage [Help Ukrainians \(swiss-ukrainian.ch\)](#)