

THE APPLICATION OF THE TEMPORARY PROTECTION DIRECTIVE IN AUSTRIA

Challenges and Good Practices in 2023



Finanziert von der
Europäischen Union



Bundesministerium
Inneres



LANDESBÜRO
FÜR ÖSTERREICH



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Publisher: National Contact Point Austria in the
European Migration Network

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This publication was issued without formal editing by IOM.

This publication was issued without IOM Publications Unit (PUB) approval for adherence to IOM's brand and style standards.

This publication was issued without IOM Research Unit (RES) endorsement.

This publication was issued without official translation by IOM Translations Unit (TRS). It is an unofficial translation of the original version in German, entitled *Die Anwendung der Richtlinie über vorübergehenden Schutz in Österreich. Herausforderungen und bewährte Praktiken im Jahr 2023*.

Required citation: Stiller, M. (2023). *The application of the temporary protection directive in Austria. Challenges and good practices in 2023*. International Organization for Migration (IOM), Vienna.

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Common Template of EMN Study 2023

The Application of the Temporary Protection Directive: Challenges and Good Practices in 2023

National Contribution from AUSTRIA

***Disclaimer:** The following information has been provided primarily for the purpose of contributing to this EMN study. The EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study.*

Top-line factsheet

In March 2022, the Regulation on Displaced Persons¹ – based on the implementing decision² activating the EU Temporary Protection Directive (Temporary Protection Directive)³ – established the legal basis for the rapid admission of displaced persons from Ukraine in Austria. The Regulation on Displaced Persons has essentially remained unchanged since then; only the duration of the temporary right of residence has been extended in the meantime. The resulting extension of “ID cards for displaced persons” as proof of the right of residence in Austria was carried out automatically where possible. At present, displaced persons from Ukraine are unable to switch to the Settlement and Residence Act.⁴

In principle, displaced persons from Ukraine are free to travel within and outside Austria (including to Ukraine). Trips of this kind only affect their right of residence in Austria if they leave “the federal territory of Austria for more than just a short period”, because in such cases the right of residence is revoked. The lack of corresponding information makes the task of tracking border crossings and permanent departures a challenge for the Austrian authorities. The Temporary Protection Registration Platform has proved a useful tool in this regard, although certain technical constraints do limit the platform’s applicability.

In Austria, vulnerable displaced persons from Ukraine are supported within the framework of the basic care system, for example with housing in the accommodation facilities provided. In contrast to the initial stage in the reception of displaced persons from Ukraine, there has been a growing trend for housing in organized accommodation in recent months, not least due to a drop in the supply of private accommodation. A cost-of-living adjustment for private accommodation providers agreed upon in March 2023 was intended to alleviate the financial consequences of receiving displaced persons from Ukraine. However, payment of the cost-of-living adjustment is still ongoing in some provinces.

¹ Regulation of the Federal Government on the Temporary Protection for Displaced Persons from Ukraine, FLG II No. 92/2022, in the version of ordinance FLG II No. 27/2023.

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, pp. 1–6.

³ 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, pp. 12–23.

⁴ Settlement and Residence Act, FLG I No. 100/2005, in the version of federal law FLG I No. 221/2022.

In spring 2023, access to the Austrian labour market for displaced persons from Ukraine was made easier and the former requirement for a work permit was abolished. However, the labour force potential of Ukrainian nationals in Austria has not yet been exhausted. Experts suggest that one of the reasons for this is the additional earnings limit imposed under the basic care system.

The limited number of spaces available in medical care facilities in Austria is a challenge for the health-care system. Displaced persons from Ukraine are not entitled to (or only have a limited entitlement to) long-term care allowance and support for people with disabilities. The lack of access to these social benefits is already a problem, exacerbated by the expected long-term stay of displaced persons from Ukraine in Austria.

It has been suggested that a uniform clearing process should be introduced in order to better utilize existing qualifications and to better identify vulnerabilities. This would also make it easier to detect, for instance, cases of trafficking in human beings. It is particularly difficult to identify cases of human trafficking and exploitation among displaced persons from Ukraine because they often have less contact with authorities than, for example, applicants for international protection.

SECTION 1. STATE OF PLAY

In the Synthesis Report, this section will provide an overview of the current situation in terms of number of beneficiaries of temporary in the EMN Member Countries / number of people from Ukraine in EMN Observer Countries.

SECTION 2. LEGAL STATUS

Legal Pathways and Transition from Temporary Protection to other Types and Forms of Residence or Protection

1. Is it possible for beneficiaries of temporary protection residing in your Member State to apply for other types of residence permits/visas/authorization of stay (e.g. a residence permit for work, family, study or other purposes)? If yes, please specify if this is in addition or as an alternative to temporary protection?

Infobox 1: Right of residence for displaced persons from Ukraine in Austria

The Regulation on Displaced Persons came into force in Austria on 12 March 2022.⁵ With this regulation, the implementing decision⁶ activating the EU Temporary Protection Directive⁷ was transposed into national law. The Regulation on Displaced Persons grants protection to certain categories of people (Art. 1 Regulation on Displaced Persons). Specifically, it covers:

- Ukrainian nationals residing in Ukraine who were displaced from Ukraine due to the armed conflict on or after 24 February 2022;
- third-country nationals and stateless persons who enjoyed protection status in Ukraine before 24 February 2022; and
- their family members (spouses, registered partners, minor children, other close relatives of the persons referred to above who were living under the same roof as these persons before the displacement and were completely or largely dependent on them).

According to Constitutional Court case law (Constitutional Court, 2023), Ukrainian nationals who left Ukraine “not long” before 24 February 2022 also fall within the scope of the Regulation on Displaced Persons because they were still residents of Ukraine on 24 February 2022 and have been displaced from Ukraine as a result of the outbreak of armed conflict.⁸

Under the Regulation on Displaced Persons, these categories of people are granted a temporary right of residence in Austria, which arises ex lege on the basis of the Regulation on Displaced Persons if the relevant requirements are met (Filzwieser et al., 2016:§ 62 K1); hence, there is no need for an administrative decision as justification for their right of residence (Federal Ministry of the Interior, 2023e). The Regulation on Displaced Persons also grants a temporary right of residence to Ukrainian nationals who were already lawfully resident in Austria before 24 February 2022 and have been unable to return to Ukraine because of the war. The right of residence granted under the Regulation on

⁵ Regulation of the Federal Government on the Temporary Protection for Displaced Persons from Ukraine, FLG II No. 92/2022, in the version of ordinance FLG II No. 27/2023.

⁶ 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, pp. 1–6.

⁷ 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, pp. 12–23.

⁸ Clarity as to which persons are covered by the Regulation on Displaced Persons is of particular relevance for the Federal Office for Immigration and Asylum also with regard to the Dublin III Regulation (Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 Establishing the Criteria and Mechanisms for Determining the Member State Responsible for Examining an Application for International Protection Lodged in one of the Member States by a Third-Country National or a Stateless Person (Recast, OJ L 180, pp. 108–136). Based on Art. 12 and Art. 19 of the Dublin III Regulation, the Federal Office for Immigration and Asylum assumes that Austria is responsible for examining any application for international protection filed in another EU Member State, provided that the person is covered by the Regulation on Displaced Persons and therefore has a temporary right of residence in Austria (Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023).

Displaced Persons is confirmed by the issue of a – purely declarative⁹ – “ID card for displaced persons” (Art. 62 para 4 Asylum Act 2005).¹⁰

No. Although audits were underway at national level as of August 2023 with regard to a move or transition to the Settlement and Residence Act,¹¹ it is not currently possible to switch from the temporary right of residence under the Asylum Act 2005 to a regular Austrian residence permit under the Settlement and Residence Act; only when a person’s temporary protection status ceases does this become a prospect.¹² According to Art. 1 para 2 subpara 1 Settlement and Residence Act, the Settlement and Residence Act does not apply if the person concerned is “entitled to residence (...) under the Asylum Act 2005”. The Regulation on Displaced Persons was adopted on the basis of Art. 62 Asylum Act 2005, and, in the view of the Federal Office for Immigration and Asylum, the resulting right of residence constitutes a residence permit for exceptional circumstances,¹³ that is, a permit regulated by the Asylum Act 2005. Therefore, under the current legal situation, it is not possible to transfer to the Settlement and Residence Act. However, it has been argued in expert circles that a right of residence under the Regulation on Displaced Persons does not stand in the way of a right of residence under the Settlement and Residence Act.¹⁴ Diakonie Austria also called for a “Ukrainians’ Law”¹⁵ to establish long-term prospects for displaced Ukrainians to stay and integrate in the country (Diakonie Österreich, 2023).

2. If yes to Q1, are there any special procedures, lowered requirements, dedicated programmes or similar practices in place to assist in obtaining those residence permits/visas/authorization of stay?

See Question 1 – no option to switch to a regular residence permit in Austria.

3. If yes to Q1, in the event of granting of such residence permits/visas/authorization, what happens with temporary protection and/or the access to rights/facilities/benefits provided under temporary protection?

See Question 1 – no option to switch to a regular residence permit in Austria.

4. What is the procedure followed by your Member State when a person to whom temporary protection is applied submits an application for international protection? (a) if they already have been registered as a beneficiary of temporary protection and (b) if they have not (yet) been registered as a beneficiary temporary protection. The Federal Office for Immigration and Asylum emphasizes that in principle all individuals on federal territory have the right to apply for international protection in Austria.¹⁶
- a) If, however, an application for international protection is submitted by an individual who is entitled to a temporary right of residence in Austria under the Regulation on Displaced Persons, this will not be processed for the duration of their right of residence as a displaced person because the statutory

⁹ The issued ID card therefore only serves as documentation and does not establish the right of residence (Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023).

¹⁰ Asylum Act 2005, FLG I No. 100/2005, in the version of federal law FLG I No. 221/2022.

¹¹ Settlement and Residence Act, FLG I No. 100/2005, in the version of federal law FLG I No. 221/2022.

¹² Interview with Bianca Prugger and Barbara Oueslati, Federal Ministry of the Interior (Department V/B/8 - Asylum), 10 August 2023.

¹³ Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023.

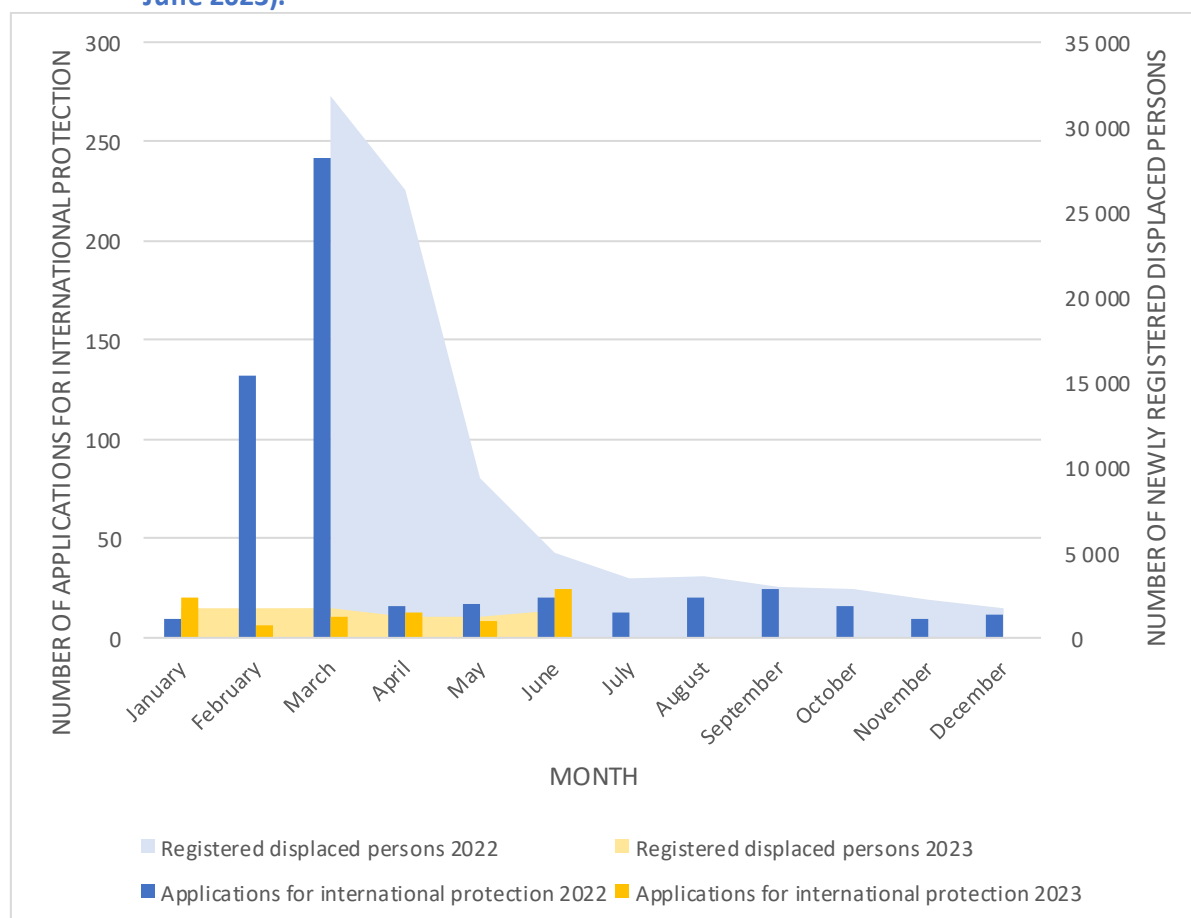
¹⁴ See Niederhammer, 2023.

¹⁵ In this context, the Federal Law to Ensure the Continued Right of Residence for Integrated Displaced Persons from Bosnia and Herzegovina, FLG I No. 85/1998, from 1998 was recalled. The background was that, as a result of Austrian measures taken at that time, a large number of nationals from Bosnia and Herzegovina displaced by the war, who had been temporarily admitted to Austria in 1992 and thereafter, had found employment and secure livelihoods. For social and integration policy reasons, it was therefore not considered sensible to end the stay of these foreigners, who previously had a temporary right of residence and had been able to integrate in Austria. For this group of persons, therefore, the possibility of continuing to remain in Austria was to be ensured by transferring them to the regime of residence titles under the Aliens Act 1997. See in this regard Parliament Austria, 1997.

¹⁶ Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023.

time limits have been suspended (Art. 22 para 8 Asylum Act 2005; Federal Ministry of the Interior, n.d.). The Federal Office for Immigration and Asylum will send a notice to the applicant once the ID card for displaced persons has been issued (see above, Q1) to inform them that the time limits have been suspended. In principle, however, the fact that a suspension of such limits has been introduced does not preclude a legal decision. A decision regarding the application for international protection may therefore still be made even though time limits have been suspended,¹⁷ as international protection status and the temporary right of residence are not mutually exclusive.¹⁸ Applications for international protection from displaced persons from Ukraine (hereinafter: displaced persons) are now the exception rather than the norm, as Figure 1 illustrates. It was only at the start of the war in Ukraine that the number of applications for international protection in Austria increased. This can be explained by the fact that, on the part of the displaced persons, an application for international protection was initially seen as a requirement to remain in Austria,¹⁹ especially as the implementing decision activating the EU Temporary Protection Directive was only adopted on 4 March 2022 and the Regulation on Displaced Persons only came into force in Austria on 12 March 2022.

Figure 1: Number of applications for international protection filed in Austria by Ukrainian nationals and number of newly registered displaced persons (January or March 2022–June 2023).



Note: Data on applications for international protection in 2023 retrieved on 16 August 2023; Ukrainian nationals only.

Sources: Federal Ministry of the Interior, 2023a, 2023g; Eurostat, n.d.b.

¹⁷ In this context, the Federal Office for Immigration and Asylum referred, for example, to cases of family proceedings (Art. 34 Asylum Act 2005), according to which all family members receive the same protection (Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023).

¹⁸ Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023.

¹⁹ Ibid.

b) In principle, individuals who are not yet registered as displaced persons in Austria are also entitled to a temporary right of residence under the Regulation on Displaced Persons (“ex lege”, see also Q1). If a displaced person who has not yet registered submits an application for international protection, the time limit is also suspended – on the basis of the right of residence that has arisen ex lege – and the individual in question is instructed by the Federal Office for Immigration and Asylum to register in view of their existing right of residence.²⁰

5. Has your Member State encountered any challenges* with persons claiming to be fleeing the war in Ukraine who do not fall under the scope of temporary protection established by the Council Implementing Decision?

**For each challenge please: a) describe for whom it is a challenge; b) indicate why it is mentioned as a challenge, and c) indicate the source / evidence for the challenge.*

In the first half of 2023, there were 61 cases in Austria of persons being denied temporary protection status under the Regulation on Displaced Persons (Federal Ministry of the Interior, 2023e). In this connection, the Federal Office for Immigration and Asylum explained that this mainly concerned persons who had clearly left Ukraine before the cut-off date specified in the Regulation on Displaced Persons and who no longer had a residence in Ukraine or for whom there was a reason for exclusion.²¹

6. If yes to Q5, please explain how such challenges were addressed and/or what are the legal remedies available for such persons.

If a person does not meet the requirements of the Regulation on Displaced Persons (see Q1), this is determined by way of an administrative decision (declaratory decision) by the Federal Office for Immigration and Asylum.²² As a rule, any official decision in Austria can be subject to judicial review (Art. 132 Federal Constitutional Act).²³ The same applies to the declaratory decision referred to above. The persons concerned therefore also have recourse to the Federal Administrative Court in the first instance, and, under certain circumstances, the Constitutional Court and/or the Supreme Administrative Court.²⁴

On the basic possibility of lodging an application for international protection, see Q4 above.

Traveling to other Member States and Outside the EU

7. What, if any, is the mechanism in your Member State to track the movement of the beneficiaries of temporary protection who are travelling to (i) other Member States and (ii) outside the EU?

In the view of the Federal Office for Immigration and Asylum, the Temporary Protection Directive allows for secondary movements of displaced persons,²⁵ particularly to other EU Member States, an interpretation it deems only right.²⁶ However, in Austria, border crossings of both displaced persons and beneficiaries of international protection status are monitored as closely as possible (Stiller, 2018a:34), especially since there are benefits – particularly in the basic care system – that depend on the recipient residing in Austria. Unfortunately, border crossings are difficult to track if the Federal Office for Immigration and Asylum does not receive any information about them.²⁷

Information about permanent departures is sometimes brought to the attention of the Federal Office for Immigration and Asylum by the individuals concerned, for instance when a previously issued ID card

²⁰ Ibid.

²¹ To consider are cases in which, for example, persons worked for years on ships or in other States outside Ukraine and therefore the question arose as to whether this person – as required by the Regulation on Displaced Persons – continued to have a residence in Ukraine (Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023).

²² Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023.

²³ Federal Constitutional Act, FLG No. 1/1930 in the version of federal law FLG I No. 222/2022.

²⁴ Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023.

²⁵ Consider, for example, traveling onwards to relatives or to countries with a strong community of displaced persons.

²⁶ Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023.

²⁷ Ibid.

for displaced persons is returned. Accommodation providers in the basic care system also convey corresponding information when they detect a prolonged absence. The Federal Ministry of the Interior also performs targeted operations in basic care accommodation. The intention of doing so is to check on the presence of persons in the basic care system as well as their need for assistance. The Central Population Register is also an important tool for the Federal Office for Immigration and Asylum in terms of tracking permanent departures. All persons registered in Austria are included in this public register (oesterreich.gv.at, n.d.b). The mandatory residence registration arises from Art. 2 Registration Act 1991,²⁸ which states that any individual moving into or out of accommodation in Austria is required to officially register or deregister with the authorities within certain time limits.²⁹ This legal requirement also applies to displaced persons. The Federal Office for Immigration and Asylum has an interface to the Central Population Register in its systems, allowing it to draw conclusions about permanent departures on the basis of deregistrations received. The Temporary Protection Registration Platform³⁰ has also proved useful for tracking permanent departures to other EU Member States (see Q11 below). Permanent departures to third countries, on the other hand, are more difficult for the Austrian authorities to trace because traditional investigative methods – such as liaison officers in the countries of destination or police cooperation centres – are not generally used throughout the country, as in many cases the third country to which the permanent departure took place is not known either.³¹

8. What happens to temporary protection and the related benefits provided when the person travels outside your Member State to (i) another Member State* and (ii) outside the EU, including to Ukraine?

Travel by displaced persons to other (EU Member) States only affects their right of residence if they leave the federal territory of Austria for more than just a short period, because in such cases the right of residence is revoked (Art. 4 para 3 Regulation on Displaced Persons).³² On a practical level, determining whether someone has left Austria only for a short period or whether they have left for good is a major challenge for the Federal Office for Immigration and Asylum, not least due to the circumstances outlined in Q7.³³

In the current view of the Federal Office for Immigration and Asylum, only visits abroad that last a maximum of 90 days within 180 days are classed as a “short period” (short term) within the meaning of the Regulation on Displaced Persons. This maximum duration is also considered legitimate because capacities must be kept available – especially in the basic care system – and there are costs involved in doing so. Ultimately, this interpretation of the Regulation on Displaced Persons is also subject to checks by the supreme courts, with the result that there are not yet any administrative practices in place based on the case law of the supreme courts.³⁴ Unlike beneficiaries of international protection status, who may have their protection status revoked as a result of travelling to their country of origin,³⁵ trips abroad by displaced persons, including to Ukraine, do not affect the displaced persons’ right of residence in Austria provided that such visits are only “for a short period”. However, it must be noted that leaving the federal territory of Austria may lead to the termination of basic care benefits (Art. 2 para 3 Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional

²⁸ Registration Act 1991, FLG No. 9/1992 in the version of federal law FLG I No. 89/2023.

²⁹ Since de-registrations have been forgotten in the past, “file corpses” have accumulated over the years, which should be removed in the course of the creation of the Central Population Register (Grosinger, 2001). It cannot be ruled out that de-registrations will continue to be omitted, so that the entries in the Central Population Register do not necessarily reflect a person’s current registration status.

³⁰ EU Commission platform for the exchange of information on beneficiaries of temporary protection and adequate protection under national law. The platform enables the exchange of information on registered persons between EU Member States in real time, so that displaced persons can effectively benefit from their rights in all Member States and cases of double or multiple registrations and possible abuse can be avoided. See also European Commission, 2022b.

³¹ Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023.

³² Upon re-entry to Austria, the right of residence arises again ex lege.

³³ Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023.

³⁴ Ibid.

³⁵ For details see Stiller, 2018a.

Act),^{36,37} receipt of family allowance (Art. 2 para 1 Act on the Compensation of Family Expenses 1967)³⁸ and receipt of childcare allowance (Art. 2 para 1 subpara 4 Childcare Allowance Act).³⁹

The option under Austrian law to travel to Ukraine for a short period without losing the right of residence is in line with the recommendations of the United Nations High Commissioner for Refugees (UNHCR). According to these recommendations, maintaining links with friends and family members, and regularly checking on the prevailing situation in the country of origin, can help pave the way for durable returns in the future once conditions permit. UNHCR's recommendation is that trips to Ukraine lasting less than three months should not affect the legal status of displaced persons (UNHCR, 2023:margin number 7, 17). According to the Ukraine Refugee Coordination Unit of the Federal Government (hereinafter: Ukraine Refugee Coordination Unit), displaced persons use the possibility of short-term travel between Austria and Ukraine, in particular due to the geographical proximity of the two countries.⁴⁰ There are various reasons for these trips, which often last a couple of days or weeks: for instance, to visit relatives in need of care, to be reunited with male family members who are serving in the Ukrainian army and are not allowed to leave,⁴¹ or to attend to urgent matters, for example to extend an official identification document, to sell property in Ukraine, or to collect pets to bring them to Austria.⁴²

9. Do national authorities in your Member State have knowledge of any challenges* encountered by beneficiaries of temporary protection in re-entering the EU or your Member State specifically when coming back from Ukraine or other Member States? If so, why is it considered a challenge and according to which national authority? How has this been addressed by your Member/Observer State?

**For each challenge please: a) describe for whom it is a challenge; b) indicate why it is mentioned as a challenge, and c) indicate the source / evidence for the challenge.*

The Federal Ministry of the Interior is not aware of any cases in which beneficiaries of temporary residence status have encountered difficulties re-entering the EU or Austria.⁴³ One of the reasons for this is that since visa liberalization⁴⁴ in 2017, Ukrainians with a biometric passport have been exempt from the visa requirement for visits not exceeding 90 days within a 180-day period⁴⁵ and are thus free to enter the Schengen Area without a visa. Furthermore, Ukrainians with a valid ID card for displaced persons may return to Austria at any time (Federal Office for Immigration and Asylum, 2022a). It is also possible to enter with an ID card that has an expired validity date (Federal Office for Immigration and Asylum, n.d.).

Temporary Protection Registration Platform (TPP)

10. How and to what extent has your country made use of the TPP during the research period?

The Temporary Protection Registration Platform has been a useful addition from the Austrian perspective. It is used regularly by the Federal Office for Immigration and Asylum, hence employees of both the Federal Office for Immigration and Asylum and the Federal Ministry of the Interior have the

³⁶ Agreement Between the Federal State and the Provinces on Basic Care - Art. 15a Federal Constitutional Act, FLG I No. 80/2004.

³⁷ For information on possible termination of accommodation, see Retter, 2023.

³⁸ Act on the Compensation of Family Expenses, FLG No. 376/1967, in the version of federal law FLG I No. 82/2023.

³⁹ Child Care Allowance Act, FLG I No. 103/2001, in the version of federal law FLG I No. 82/2023.

⁴⁰ In this context, there has already been increasing evidence of circular migration movements between the Ukraine and the EU (Düvell, 2022).

⁴¹ See also Kurier, 2023.

⁴² Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

⁴³ Interview with Bianca Prugger and Barbara Oueslati, Federal Ministry of the Interior (Department V/B/8 - Asylum), 10 August 2023.

⁴⁴ For details see Stiller, 2018b.

⁴⁵ See Art. 4 para 1 Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 Listing the Third Countries Whose Nationals Must be in Possession of Visas When Crossing the External Borders and Those Whose Nationals are Exempt from that Requirement (Codification). OJ L 303, pp. 39–58.

opportunity to register for access to this platform. Registered employees receive the necessary training and are informed about the search options to ensure there is clarity at case handling points on how to deal with this platform.⁴⁶

11. Has your country encountered any (i) challenges and (ii) good practices in the use of the TPP? Please elaborate and specify why it is considered a challenge and according to whom this is a challenge/good practice.

From Austria's point of view, the Temporary Protection Registration Platform has proved particularly useful in terms of identifying permanent departures to other Member States (see above, Q7.) It serves as a tool in this context and can indicate when a displaced person has relocated, for instance when the individual in question has registered in another EU Member State shortly before or after departure. However, the Federal Office for Immigration and Asylum has also pointed out that certain technical limitations impair the platform's applicability. It does not allow for biometric data comparisons, for example, hence differences in the spelling or translation of personal names could cause problems when searching for information.⁴⁷

12. Does your country upload in the Platform the identity of the adult persons accompanying "separated" children arriving from Ukraine, and respectively, of guardians appointed in Ukraine before departure?

The Austrian guidelines regarding the use of the Temporary Protection Registration Platform stipulate that all available relevant data must be uploaded to the platform. The Federal Office for Immigration and Asylum, which enters the data every day, ensures compliance with these guidelines.⁴⁸

Assistance to People Wishing to go Home (Back) to Ukraine

13. Does your Member State provide support for the beneficiaries of temporary protection who wish to go home (back) to Ukraine? If so, please elaborate.

Since the beginning of the war in Ukraine, Austria has temporarily suspended support to return to Ukraine (Return from Austria, n.d.), apart from organizational support in individual cases.⁴⁹ The Austrian approach is therefore in line with UNHCR's position, which deems it inappropriate to promote or incentivize returns to Ukraine in the current context in view of the ongoing conflict and consequent hostilities (UNHCR, 2023). Only for persons who have been evacuated and sent to Austria through the medical evacuation within the framework of the EU Civil Protection Mechanism (MEDEVAC)⁵⁰ are the costs of returning covered in agreement with the Federal Ministry of the Interior.⁵¹

14. Has your Member State observed any trends in terms of outflows of beneficiaries of temporary protection? If so, please elaborate.

There has been no apparent trend for returns among displaced persons during the research period. In March 2023, Diakonie Austria's Ukraine Advice Centre determined that growing numbers of displaced persons planned to stay in Austria (Salzburger Nachrichten, 2023). This view was corroborated by studies in the first half of 2023, which reported that only a limited proportion of displaced persons intended to return, with figures falling compared to 2022. The percentages of those intending to return varied in the individual studies; the study⁵² published by UNHCR Austria in June 2023 recorded the highest number

⁴⁶ Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023.

⁴⁷ Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023.

⁴⁸ Ibid.

⁴⁹ If necessary, the Federal Agency for Reception and Support Services will provide organizational support for the voluntary return of Ukrainian nationals to Ukraine. No financial support is provided due to the lack of sustainability of the departure, in particular due to the possibility of re-entry based on the right of residence in Austria (Written input: Federal Ministry of the Interior, 2 November 2023).

⁵⁰ For details see European Commission, 2022c.

⁵¹ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

⁵² This study was conducted with the participation of more than 1,500 displaced persons from mid-January to mid-March 2023.

of respondents expressing the intention of returning. Of the 46 per cent of respondents who intended to return according to this study, 4 per cent planned to return in the next three months and 42 per cent had no specific timeframe in mind (UNHCR National Office in Austria, 2023). The study commissioned by the Austrian Integration Fund⁵³ found that only 13 per cent of female respondents had concrete plans to return to Ukraine. In 2022 the figure was 30 per cent of respondents (Dörfler-Bolt and Kaindl, 2023). According to a study by IOM Austria,⁵⁴ 69 per cent of respondents said they had no concrete plans to return (Heilemann, 2023:23).

Based on previous refugee movements, it is known that the number of people who actually return to their country of origin falls in line with the duration of their stay in a host country (Expert Council for Integration, 2022:4). In this respect, experts do not rule out that a large number of displaced persons will remain in the EU – and therefore in Austria – more or less permanently (Düvell, 2022:10). Although the number of returning Ukrainians is currently low (Eurostat, n.d.c), the Expert Council for Integration is of the opinion that the prospect of returning should still be taken into account. Accordingly, though measures to promote integration should be taken at the earliest possible stage, these measures should not adversely affect individuals' chances of returning (Expert Council for Integration, 2022:5, 8–9).

Registration

15. Have there been any major legal, policy or practical changes regarding registration of beneficiaries of temporary protection during the research period*? If there were any, please elaborate.

The police have been responsible for the registration of displaced persons since the Regulation on Displaced Persons came into force. Registration is carried out at certain police stations or in special reception or registration centres (Federal Office for Immigration and Asylum, 2022b). Due to the drop in arrivals of displaced persons in Austria (see Figure 1), the Federal Office for Immigration and Asylum has adopted a more flexible approach to the registration centres that were initially established, adapting these to suit the respective situation. Depending on needs and the specific number of persons to be registered, these registration centres can be centralized and closed, or reopened if necessary.⁵⁵ In Vienna, for instance, since 1 June 2023, Ukrainians displaced by the war can now only register by prior electronic appointment and at one sole central address (Federal Office for Immigration and Asylum, 2023).

16. What procedure was used to extend the validity of documentation based on temporary protection after the first year? Please elaborate on the process.

When the European Commission announced on 6 October 2022 that no proposal would be made to terminate the right of residence for persons displaced from Ukraine and that their temporary right of residence would thus remain in force until March 2024 (European Commission, 2022a), preparations for reissuing ID cards for displaced persons with a new expiry date were already underway in Austria (Federal Ministry of the Interior, 2022a). On 30 January 2023, the Regulation on Displaced Persons was amended⁵⁶ and the right of residence for displaced persons was extended to 4 March 2024.⁵⁷

The ID cards of over 90,000 displaced persons registered in Austria had to be extended. Where possible, the Federal Office for Immigration and Asylum relied on automatic extensions and automatic postal deliveries (Federal Ministry of the Interior, 2022e). There were certain criteria to be met for this purpose: in addition to being granted a right of residence for displaced persons and a valid ID card, the individual had to be properly registered with the Central Population Register, with no removal measures

⁵³ This is the follow-up survey to a survey conducted in 2022. As part of the spring 2023 follow-up survey, 1,008 women displaced from Ukraine aged 18 to 55 were interviewed.

⁵⁴ The data collection was conducted from 17 January to 8 February 2023 with 552 participants.

⁵⁵ Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023.

⁵⁶ The amendment to the Regulation on Displaced Persons was promulgated on 30 January 2023 in the Federal Law Gazette II No. 27/2023.

⁵⁷ In July 2023, the European Commission announced at an informal meeting of Justice and Home Affairs Ministers that it would present a decision in September 2023 to further extend the right of residence of displaced persons until March 2025. Cf. Federal Ministry of the Interior, 2023e.

underway. In some cases, however, extensions had to be processed manually in order to rectify discrepancies that had arisen in the system. The issue was that some of the shipped ID cards for displaced persons could not be delivered or letters deposited at the post office were not collected because, among other things, the person in question was no longer residing in Austria despite having duly registered with the Central Population Register. The individual's residence status in Austria was subsequently reviewed in such cases and, where necessary, measures were initiated to remove them from the register in accordance with the Registration Act 1991 and from the basic care system.⁵⁸

17. What challenges** did your Member State encounter in the registration process and how were these addressed/planned to be addressed during the research period? Were there any good practices?

**The research period is from 1st January 2023 to 1st July 2023.*

***For each challenge please: a) describe for whom it is a challenge; b) indicate why it is mentioned as a challenge, and c) indicate the source / evidence for the challenge.*

The Federal Ministry of the Interior and the Federal Office for Immigration and Asylum have not highlighted any particular challenges or good practices in connection with registering or issuing the ID cards for displaced persons. For good practices in connection with extensions, see Q16.

⁵⁸ Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023.

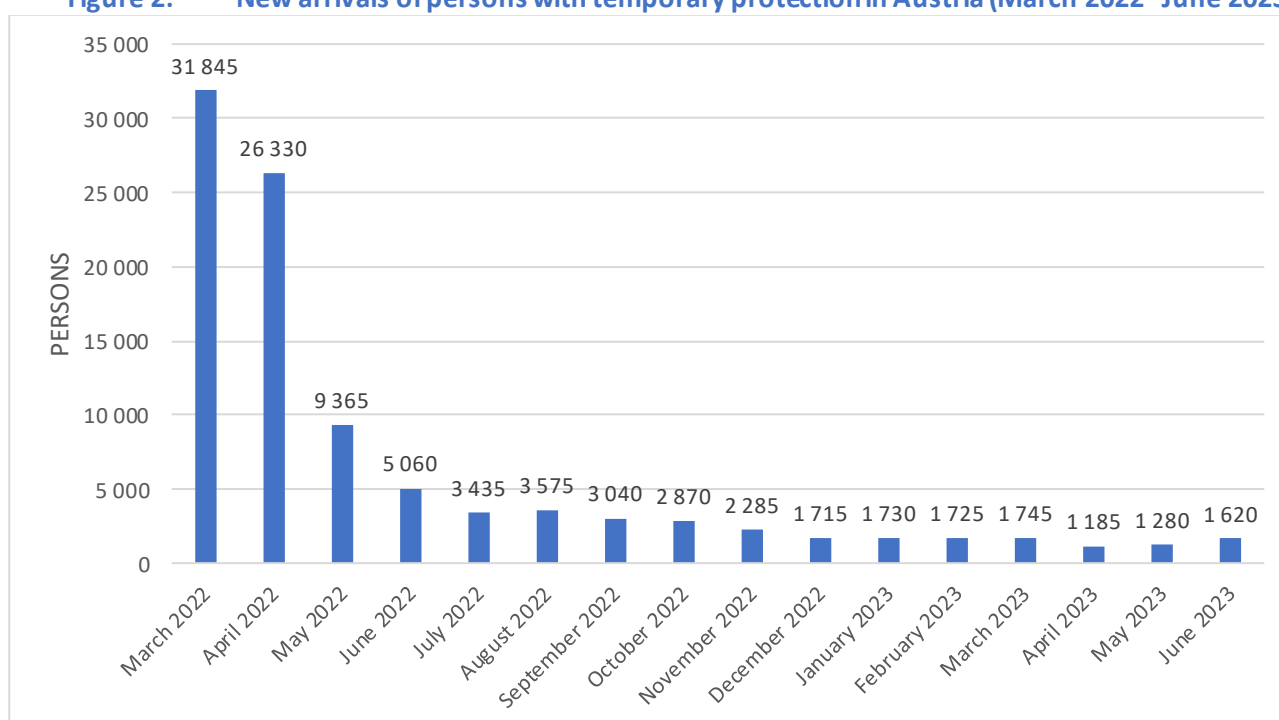
SECTION 3. ACCESS TO RIGHTS PROVIDED BY THE TEMPORARY PROTECTION DIRECTIVE

Accommodation

18. Have there been any major legal, policy or practical changes regarding access to accommodation for beneficiaries of temporary protection during the research period*? If there were any, please elaborate. Are there any changes foreseen in the way access to suitable accommodation or the means to obtaining housing is arranged?

Fairly soon after the start of the war in Ukraine, arrival/reception centres were created in Austria (Stiller, 2023:13). In recent months, the majority of these centres have closed.⁵⁹ The number of new arrivals of displaced persons was already declining significantly in 2022 and has remained relatively constant in recent months (see below, Figure 2) so that the cost of maintaining the arrival centres outweighed their usefulness.⁶⁰

Figure 2: New arrivals of persons with temporary protection in Austria (March 2022–June 2023)



Note: Data retrieved on 31 August 2023; Ukrainian nationals only.

Source: Eurostat, n.d.b.

Furthermore, the centres have been adapted to current needs, for example in Vienna where the arrival centre was relocated and reduced in size due to declining numbers (ORF.at, 2023b). The arrival centre still provides meals, assists with information and guidance on living in Vienna and arranges emergency accommodation (Federal Agency for Reception and Support Services, n.d.b). Apart from the provision of arrival centres, displaced persons seeking protection in Austria are still able to contact the hotline of the Federal Agency for Reception and Support Services. The police also serve as an initial point of contact, for example in the context of the data collection of displaced persons, and inform the Federal Agency for Reception and Support Services if accommodation is needed (Federal Agency for Reception

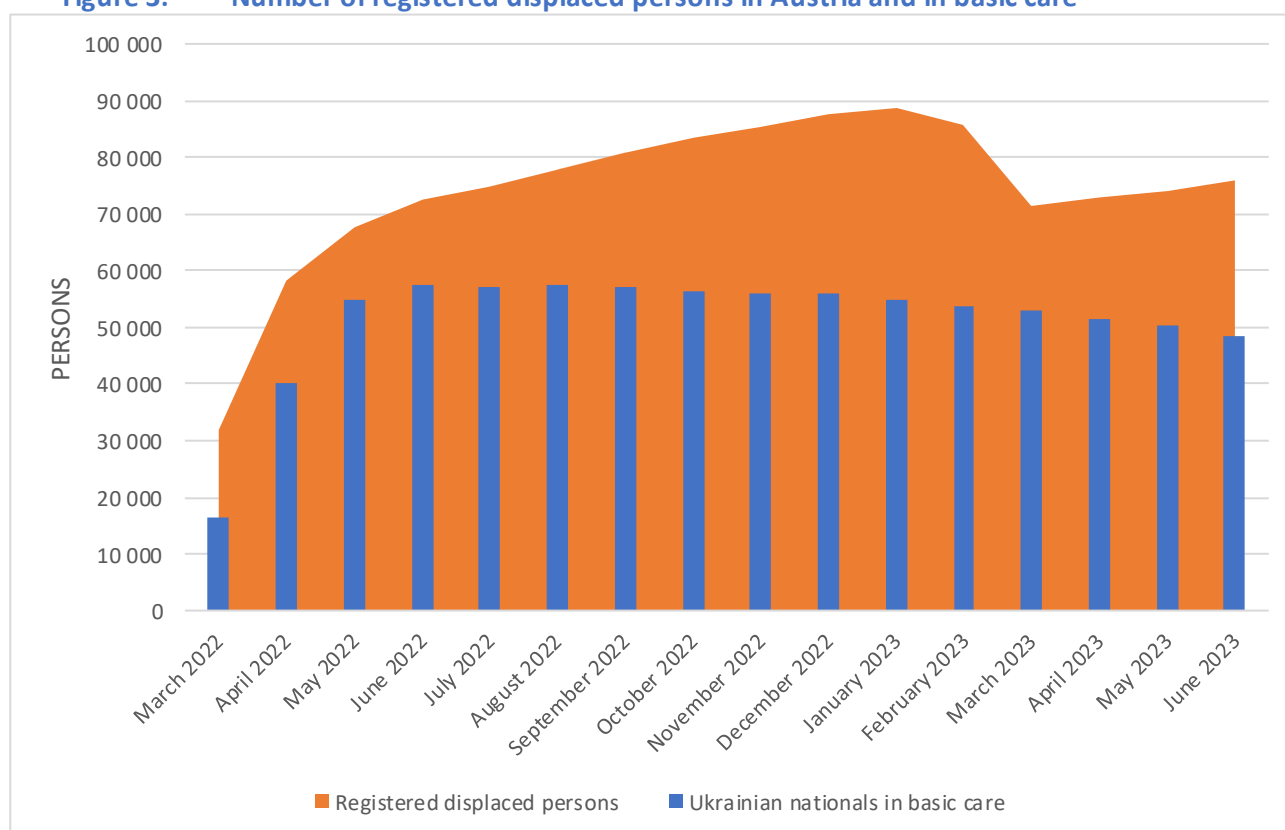
⁵⁹ This concerned, for example, the reception centre in the former mail distribution centre at Linz Central Station, which had existed since March 2022 and was closed in March 2023. See Province of Upper Austria, 2022, MeinBezirk.at, 2023.

⁶⁰ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

and Support Services, n.d.b; Federal Ministry of the Interior and Federal Agency for Reception and Support Services, n.d.; Federal Ministry of the Interior, 2022d).⁶¹

Where persons entitled to protection require assistance, for example if a person cannot or cannot sufficiently provide for the basic necessities of life for themselves and their dependants living in the same household from their own resources and means and also cannot or cannot sufficiently obtain them from other persons or institutions, they fall into the target group covered by Art. 2 para 1 subpara 3 Agreement between the Federal State and the Provinces on Basic Care (Art. 2 Abs. 1 Z 3 Agreement between the Federal State and the Provinces on Basic Care - Art. 15a Federal Constitutional Act). As shown in Figure 3, the number of displaced persons in the basic care system in Austria has continuously decreased since September 2022. With a total of 80,755 displaced persons registered in Austria in September 2022 and 75,775 in June 2023 (-6%), the number of Ukrainian nationals in the basic care system fell by 15 per cent during the same period (September 2022: 56,987 persons; June 2023: 48,586 persons (Eurostat, n.d.a; Austrian Integration Fund, n.d.).

Figure 3: Number of registered displaced persons in Austria and in basic care



Notes: The number of registered displaced persons for the months March to June 2022 was determined by adding the monthly new arrivals (see also Figure 2) and therefore only represents an approximation of the number of people actually registered. Data retrieved on 31 August 2023; extra-EU27 nationals or Ukrainian nationals only.

Sources: Eurostat, n.d.a, n.d.b; Austrian Integration Fund, n.d.

The housing of displaced persons within the framework of basic care provision can be in private accommodation or in accommodation organized by basic care centres. While relatively few people were housed in organized or emergency accommodation in the months following the outbreak of war in Ukraine (Rosenberger and Lazareva, 2022:17), there has been an increasing trend towards housing displaced persons in organized accommodation in recent months, as shown in Table 1.

⁶¹ Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023.

Table 1: Ukrainian nationals in the basic care system, as of the respective reporting date

	Date		
	1 July 2022	31 December 2022	1 July 2023
Private accommodation	45 060	39 967	33 061
Organized accommodation	12 442	15 832	15 525
Total	57 502	55 799	48 586
Percentage in organized accommodation	21.63%	28.37%	31.95%

Sources: Federal Ministry of the Interior, 2022b, 2023d, 2023c.

For this reason, there are sometimes waiting times of a few days for organized accommodation in the provinces (unless the individuals are considered vulnerable). In terms of accommodation, there is an increasing focus on “self-admission to basic care” according to information provided by the Ukraine Refugee Coordination Unit. This means that displaced persons report directly to the basic care centre of the respective province and then gain access to basic care provision.⁶²

19. What were the key challenges** in your Member State in providing access to suitable accommodation or the means to obtaining housing to beneficiaries during the research period? How were these challenges addressed/planned to be addressed and are there any good practices?

In Austria, the accommodation situation for displaced persons and the resulting challenges have changed significantly over time. At the beginning of the war in Ukraine, Austria relied on “neighbourhood accommodation”, i.e. vacant properties or rooms that were donated to the Federal Agency for Reception and Support Services as temporary accommodation for displaced persons (Federal Agency for Reception and Support Services, n.d.e; Stiller, 2023:12). In March 2022 alone, the Federal Agency received 9,429 such donations (Tiroler Tageszeitung, 2023). Although the Federal Agency continues to receive such offers, the number of monthly offers of neighbourhood accommodations was recently in single digits (Federal Ministry of the Interior, 2023b), so that it was not until 17 February 2023 that the 10,000th neighbourhood accommodation was registered (Federal Agency for Reception and Support Services, n.d.a). In view of this high level of civic support in terms of housing displaced persons, the Ukraine Refugee Coordination Unit would like to see a clear sign of appreciation from the Federal Government. Without this civic support, it would have proved impossible to manage so effectively the challenges posed by accommodating displaced persons (ORF.at, 2023d).⁶³

One reason for the recent drop in offers of accommodation seems to be the overburdening of accommodation providers.⁶⁴ This overburdening may be of a financial nature as the provision of housing as a donation is not financially compensated (Federal Agency for Reception and Support Services, n.d.d), which can have huge consequences, particularly in view of the high level of inflation and increased energy costs in Austria. However, providers who rent out their accommodation to displaced persons can also be affected by inflation. They provide their accommodation either free of charge or at reduced rates, and although rent subsidies are available within the framework of the basic care system, they incur additional costs due to high inflation and energy prices (Dulle, 2023). An attempt has therefore been made to counteract these costs by granting a cost-of-living adjustment. This entails the Federal Government reimbursing the provinces for the costs they incur from granting a cost-of-living adjustment to private accommodation providers (Art. 1 para 1 Federal Act on a Temporary Reimbursement of Costs by the Federal Government to the Provinces for Financial Expenses as a Cost-of-Living Adjustment in the Context of Basic Care).⁶⁵ The agreed cost-of-living adjustment provides

⁶² Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Federal Act on a Temporary Reimbursement of Costs by the Federal Government to the Provinces for Financial Expenses as a Cost-of-Living Adjustment in the Context of Basic Care, FLG I No. 28/2023.

for a maximum of EUR 50 (single person) or EUR 100 (two or more persons) per accommodation per month for individual accommodation for the period from 1 October 2022 to 31 March 2023 (Art. 1 para 2 *ibid.*).⁶⁶ Although the decision to implement the cost-of-living adjustment was taken in March 2023, some provinces still need time before payment can actually begin.⁶⁷ In addition to the delay in payment, the cost-of-living adjustment has also been criticized because the financial compensation payments are restricted to the above-mentioned period (Tiroler Tageszeitung, 2023).

In addition, the Ukraine Refugee Coordination Unit believes that private accommodation providers may be experiencing psychosocial stress because of the burden of dealing with traumatized displaced persons – in some cases in their own homes. The war and the need to accommodate displaced persons are lasting longer than expected. This has meant in some cases displaced persons having to vacate their temporary accommodation as the war continues, for instance because the landlord needs the property to meet their own accommodation needs, because living together is no longer working or because misunderstandings are leading to an uncomfortable atmosphere (Heilemann, 2023:18,19; Rosenberger and Lazareva, 2022:19).⁶⁸ In view of the developments described above, the Ukraine Refugee Coordination Unit estimates that there is a slight trend towards organized accommodation (see above, Q18). The Ukraine Refugee Coordination Unit feels that the provision of affordable housing remains a challenge, especially since the financing of private accommodation within the framework of the basic care system is not possible with current maximum rates.⁶⁹

With regard to vulnerable groups (see also Q33) and, in particular, persons with reduced mobility, the Ukraine Refugee Coordination Unit has identified the challenge of the lack of accessible facilities in the basic care system and the absence of corresponding, adequate funding for care.⁷⁰

20. Have these challenges changed since the initial arrival of beneficiaries of temporary protection in 2022?

**The research period is from 1st January 2023 to 1st July 2023.*

***For each challenge or good practice please: a) describe for whom it is a challenge/good practice; b) indicate why it is mentioned as a challenge/good practice, and c) indicate the source / evidence for the challenge/good practice*

The challenges described above did not start to become evident in 2023. They were already apparent before this time.⁷¹

Labour Market

**Please note that an EMN Inform is being developed on the labour market integration of beneficiaries of temporary protection which will explore this topic in further detail and complement the information collected*

21. Have there been any major legal, policy or practical changes regarding access to the labour market for beneficiaries of temporary protection during the research period* (e.g. concerning the conditions and procedures for (self-)employment such as labour market tests, work permits, access to regulated professions, etc.)? If there were any, please elaborate.

Fundamental changes were made in spring 2023 regarding access of displaced persons to the Austrian labour market. The Act Governing the Employment of Foreign Nationals⁷² was amended in April 2023 with the aim of removing “all obstacles relating to labour market authorities”. The amendment

⁶⁶ In addition, the law provides for a maximum of EUR 2 per person per day for organized accommodation and a maximum of EUR 4 for unaccompanied minors (Art. 1 para 3 and 4 Federal Act on a Temporary Reimbursement of Costs by the Federal Government to the Provinces for Financial Expenses as a Cost-of-Living Adjustment in the Context of Basic Care).

⁶⁷ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

⁷¹ *Ibid.*

⁷² Act Governing the Employment of Foreign Nationals, FLG No. 218/1975, in the version of federal law FLG I No. 84/2023.

exempted individuals with the status of displaced persons from the scope of the legislation. This did away with the previous requirement for such people to hold a work permit, meaning that they are now able to take up any employment without a permit (Parliament Austria, 2023).

22. What were the key challenges** that your Member State encountered in (i) providing access to (self-)employment during the research period (e.g. in connection with the issuance of work permits, access to regulated professions and/or other conditions) and (ii) providing measures facilitating employment and labour market activation, such as vocational training, language courses, training or integration assistance for adult beneficiaries of temporary protection?

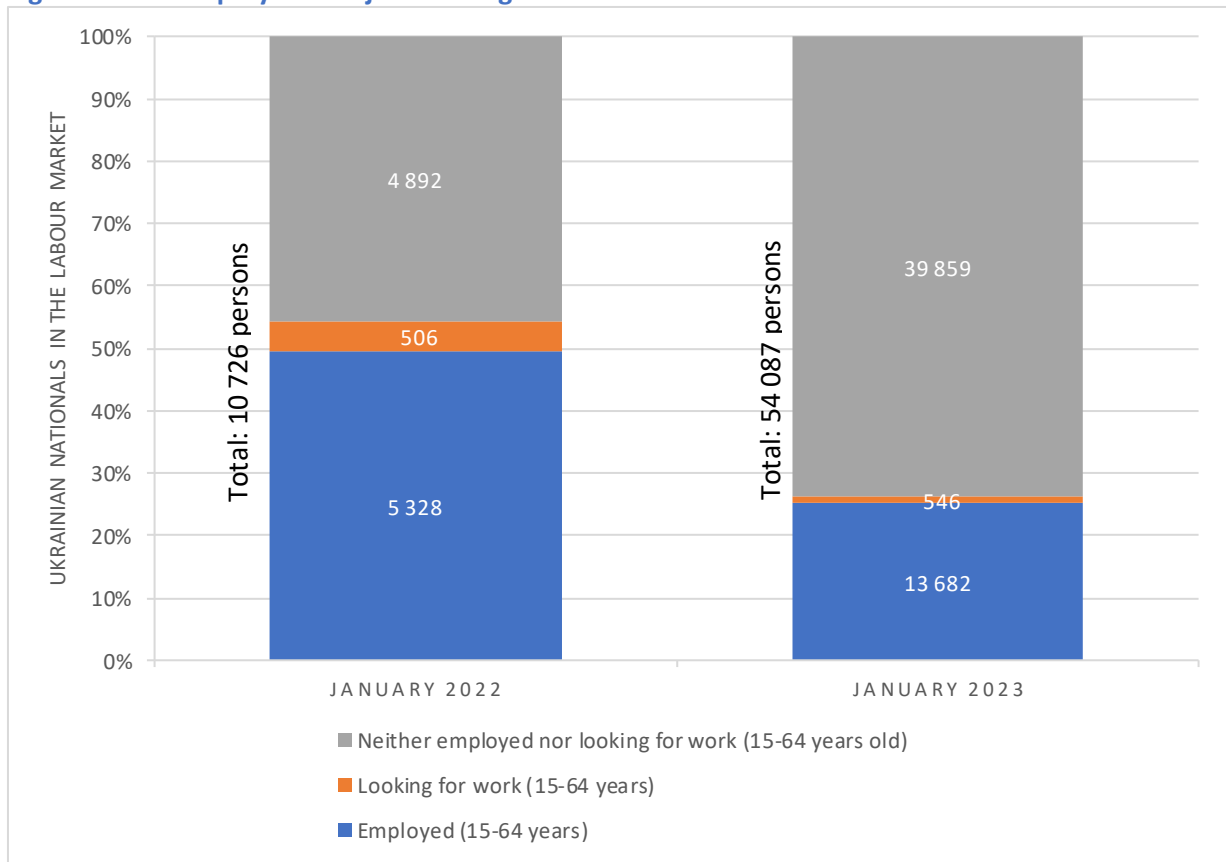
The labour market statistical data publicly available in Austria are broken down into various categories, including nationality. However, there is no longer a separate category that enables analyses to be made solely with regard to displaced persons.⁷³ Nevertheless, when looking at the increase in Ukrainian nationals residing in Austria compared to the previous year,⁷⁴ it can be assumed that the majority of Ukrainian nationals in Austria fall under the Regulation on Displaced Persons and therefore have a temporary right of residence including access to the labour market.

The integration of Ukrainian nationals into the Austrian labour market appears to pose a significant challenge. Figure 4 below shows the number of Ukrainian nationals of working age in Austria and their labour market activity before the outbreak of the war in Ukraine. At that time, just under 50 per cent were in employment and 5 per cent were registered as jobseekers with the Public Employment Service. In January 2023, just under a year since the start of the war, a significantly higher number of Ukrainian nationals of working age were in Austria, but only 25 per cent were in employment. Moreover, only one per cent were registered as jobseekers with the Public Employment Service.

⁷³ An evaluation of only people with displaced person status was possible until March 2023, as an employment permit was required until then. A corresponding evaluation could be carried out using this data. With the elimination of the need for an employment permit (see Q21) as of April 2023, this evaluation is no longer possible.

⁷⁴ At the beginning of 2022, 12,673 Ukrainian nationals were present in Austria. At the beginning of 2023, with 79,615 people, it was more than six times as many as in the previous year. Cf. Statistics Austria, n.d.

Figure 4: Employed and job-seeking Ukrainian nationals in the Austrian labour market



Note: The category "Employed (15–64 years)" includes dependently and marginally employed persons at the month-end cut-off date.

Sources: Federal Ministry of Labour and Economy, n.d.; Statistics Austria, n.d.

Once the requirement to have a work permit ended in April 2023 (see above, Q21), this seems to have encouraged the taking up of employment. At least, the statistical data show a significant increase in Ukrainian nationals registered as seeking work – from 531 persons in March 2023 to 1,793 persons in April 2023 (Federal Ministry of Labour and Economy, n.d.). Compared to April 2023 (17,472), the number of Ukrainian nationals (dependently and marginally) employed on the Austrian labour market also increased in May 2023 (19,167) and June 2023 (20,547; Federal Ministry of Labour and Economy, n.d.). Figure 4 shows, however, that the labour force potential of Ukrainian nationals in Austria does not seem to have been exhausted. According to the Ukraine Refugee Coordination Unit, this is also linked to uncertainty as to whether and what effects registration with the Public Employment Service could have on basic care benefits.⁷⁵ In this context, however, it is also important to point out the demographic composition of displaced persons, as since February 2022 the majority have been women (Eurofound and European Union Agency for Fundamental Rights, 2023:5; Dörfler-Bolt and Kaindl, 2023:7) as well as children and older people (Expert Council for Integration, 2022:4) coming from Ukraine both to Austria and to other EU Member States. For example, of the Ukrainian nationals living in Austria in January 2023, 72 per cent were women (Statistics Austria, n.d.). As Ukrainian women living in Austria are often single parents (Dörfler-Bolt and Kaindl, 2023:11–12; Heilemann, 2023:VI), taking up gainful employment seems impossible unless appropriate childcare is provided (Expert Council for Integration, 2022:9).⁷⁶

⁷⁵ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

⁷⁶ In a survey in ten EU Member States, 28 percent of respondents chose the answer "I have to take care of small children/elderly/sick relatives" in this context. Cf. Eurofound and the European Union Agency for Fundamental Rights, 2023:13, European Union Agency for Fundamental Rights, 2023:11.

Experts also presume that entry into the labour market is hampered by the additional earnings limit⁷⁷ which must be taken into account when receiving basic care benefits. If the additional earnings limit is exceeded, basic care benefits can be reduced or stopped,⁷⁸ regardless of whether the income from employment is sufficient to maintain self-sufficiency. The additional earnings limit for displaced persons was increased in 2022 (Stiller, 2023:18) and is applied in most provinces (ORF.at, 2023e). Another problem affecting the entry of qualified workers onto the labour market appears to be the verification of academic qualifications gained outside Austria. Although there are no centrally collected data on the number and (average) duration of verification procedures (Federal Ministry of Education, Science and Research, 2023), the Ukraine Refugee Coordination Unit points out that these procedures take a long time.⁷⁹

23. How were these challenges addressed/planned to be addressed and are there any good practices in responding to the challenges?

**The research period is from 1st January 2023 to 1st July 2023.*

***For each challenge or good practice please: a) describe for whom it is a challenge/good practice; b) indicate why it is mentioned as a challenge/good practice, and c) indicate the source / evidence for the challenge/good practice*

Various measures have been taken in Austria to encourage Ukrainian nationals to enter the labour market. These include active recruitment to the public sector (Health Agency of Lower Austria, n.d.), job fairs (ORF.at, 2023c; Public Employment Service, 2023), targeted support measures by the Public Employment Service, for example in the form of skills surveys and search facilities specifically for jobseekers from Ukraine (Public Employment Service, n.d.), and private initiatives (Jobs for Ukraine, n.d.).

In terms of labour market integration of Ukrainian nationals and their relatively low share in the Austrian labour market in the first half of 2023, the call made in 2022 by UNHCR and Diakonie Austria to integrate displaced persons into the social assistance system (Diakonie Flüchtlingsdienst, 2022; UNHCR, 2022), seems to have gained renewed relevance. Currently, Art. 4 para 1 General Social Assistance Act⁸⁰ excludes displaced persons from the system. The request for displaced persons to be included in the social assistance system was based in particular on Art. 3 para 4 General Social Assistance Act, according to which social assistance benefits should be provided “dependent on the beneficiary’s sustained willingness to employ their labour and on their active contribution to the labour market”. Accordingly, to continue receiving social assistance benefits, the recipient must be active on the labour market. According to UNHCR, the compulsory registration with the Public Employment Service as a jobseeker would be linked to an accelerated take-up of employment by displaced persons (UNHCR, 2022). In addition, the financial benefits for displaced persons would be significantly better than those received within the framework of the basic care system,⁸¹ the maximum rates of which currently make many displaced people unable to earn a living (Corazza, 2023).

Healthcare

24. Have there been any major legal, policy or practical changes regarding access to healthcare (including mental health support) for beneficiaries of temporary protection during the research period*? If there were any, please elaborate.

According to the Ukraine Refugee Coordination Unit, there were no legal, political or practical changes relating to access to health care⁸² during the research period, particularly since the statutory

⁷⁷ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

⁷⁸ See Stiller, 2023:18.

⁷⁹ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

⁸⁰ General Social Assistance Act, FLG I No. 41/2019, in the version of federal law FLG I No. 45/2023.

⁸¹ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

⁸² Ibid.

regulations – both in terms of granting basic care services and otherwise⁸³ – are still in force. The Ukraine Refugee Coordination Unit stated, however, that although the provision of health care as described in the General Social Insurance Act⁸⁴ through payment of health insurance contributions within the framework of the basic care system (Art. 6 para 1 subpara 5 Agreement between the Federal State and the Provinces on Basic Care) is regulated uniformly throughout the country, access “after individual assessment to any additionally required services not covered by health insurance” (Art. 6 para 1 subpara 6 Agreement between the Federal State and the Provinces on Basic Care) is highly dependent on the individual province.⁸⁵

25. What were the key challenges** in your Member State in providing access to medical care to beneficiaries of temporary protection during the research period?

In terms of medical care for displaced persons, Austria faces the challenge of limited availability of care places, for which there is great need among displaced persons. Moreover, there are currently many hospital beds not available in Austria (Krutzler, 2023) that MEDEVAC transfers of severely injured patients from Ukraine have had to be refused in some cases.⁸⁶

According to the Ukraine Refugee Coordination Unit, medical care for displaced persons in Austria is essentially functioning well. However, there is a challenge here as not all actors in the health-care sector are aware that displaced persons are able to receive health insurance benefits simply by providing evidence of Ukrainian citizenship – for example with their passport – before they have an insurance number or an e-card replacement document (Austrian Health Insurance Fund, n.d.). Consistent issuance of the e-card to persons in basic care would therefore be a significant relief.⁸⁷

For long-term care allowance and support for people with disabilities, see Q33 below.

26. How were these challenges addressed/planned to be addressed and are there any good practices in responding to the challenges?

**The research period is from 1st January 2023 to 1st July 2023.*

***For each challenge or good practice please: a) describe for whom it is a challenge/good practice; b) indicate why it is mentioned as a challenge/good practice, and c) indicate the source / evidence for the challenge/good practice*

The Ukraine Refugee Coordination Unit liaises with the Austrian Health Insurance Fund and the Austrian Medical Council in order to inform the actors in the health-care system more effectively about the treatment of displaced persons and current special regulations. In identified cases where such persons lack insurance cover, these are quickly resolved through effective dialogue between the Ukraine Refugee Coordination Unit and the Federal Office for Immigration and Asylum, the Federal Ministry of the Interior and the Austrian Health Insurance Fund. The Ukraine Refugee Coordination Unit reports about five to ten such cases per week.^{88,89}

⁸³ See Art. 6 para 1 subpara 5 Agreement between the Federal State and the Provinces on Basic Care - Art. 15a Federal Constitutional Act and Art. 1 subpara 1 Regulation of the Federal Minister for Social Administration of 28 November 1969 on the Implementation of Health Insurance for Persons Included in Health Insurance Pursuant to Art. 9 General Social Insurance Act, FLG No. 420/1969, in the version of federal law FLG II No. 104/2022.

⁸⁴ General Social Insurance Act, FLG No. 189/1955, in the version of federal law FLG I No. 110/2023.

⁸⁵ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ In October 2023, the Ukraine Refugee Coordination Unit announced in this regard that the previously planned interface between the Austrian Health Insurance Fund and the Federal Ministry of the Interior had been established, so that there should no longer be any insurance gaps (Written input: Ukraine Refugee Coordination Unit of the Federal Government, 10 October 2023).

Education

27. Have there been any major legal, policy or practical changes regarding access to education for beneficiaries of temporary protection during the research period*? If there were any, please elaborate.

A number of measures were taken in the school sector during the research period. These included teaching Ukrainian school students in mainstream classes instead of in German support classes tailored to their needs (City of Vienna, 2022). The Vienna Board of Education planned to place all Ukrainian school students in mainstream classes for the school year 2023/2024 (ORF.at, 2023a). Some schools were already teaching Ukrainian students in mainstream classes in spring 2023 and offered additional German language support. By working with German-speaking students, Ukrainian students were able to acquire the language more quickly (Tomaselli, 2023).

In the higher education sector, a regulation issued by the Federal Minister of Education, Science and Research in June 2023 decreed that students with Ukrainian citizenship should also have their tuition fees waived for the winter semester 2023/24.⁹⁰

28. What are the key challenges** and barriers in your Member State during the research period in providing access to primary and secondary education to persons under 18 years old (including measures facilitating the possibility to follow the online Ukrainian curricula)?

An issue that again became problematic in the first half of 2023 and affected Ukrainian and other school students was their classification as “extraordinary” students. School students who have insufficient knowledge of the German language of instruction⁹¹ are normally enrolled as “extraordinary” students (Art. 4 para 2 (a) School Education Act).⁹² It is only possible to a limited extent to give grades to such students. In order to obtain the status of “ordinary” student, they must provide sufficient evidence of language skills in further examinations at the end of the semester (Federal Ministry of Education, Science and Research, n.d.b). If they do not demonstrate sufficient language skills, they continue to be regarded as “extraordinary” students. If they do not pass the language skills test at the end of the first semester, but only at the end of the year, they can only finish the school year as “extraordinary” students and therefore do not receive a grade. This means they are not able to progress to the next year of schooling or next stage of school education (Art. 25 School Education Act), which means they must repeat the previously completed school year (Der Standard, 2023).

In Austria, in addition to compulsory schooling, young people under the age of 18 who have completed general compulsory schooling are obliged to undertake further education or training (Art. 1 para 1 Compulsory Education Act).^{93,94} The aim is to enable them to obtain an appropriate qualification (Art. 2 para 1 Compulsory Education Act). According to Art. 3 Compulsory Education Act, however, this obligation only applies to those young people who have completed their general compulsory schooling and are not solely residing temporarily in Austria. Since displaced persons have only a “temporary right of residence” in Austria, this obligation for compulsory education does not apply to them. For example, a survey conducted by IOM Austria showed that 22 per cent of children who are no longer of school age are looked after at home (Heilemann, 2023:8).

Attending Ukrainian online schooling does not pose a particular challenge in Austria. Whereas the issue of compulsory schooling was handled flexibly at the beginning of the war in Ukraine and the arrival of displaced persons in Austria, since September 2022 compulsory schooling has also applied without restriction to Ukrainian children (Federal Ministry of Education, Science and Research, 2022; Tomaselli, 2022; ORF.at, 2022). In addition, however, schools have consistently offered use of their facilities outside

⁹⁰ Amendment of the Tuition Fee Regulation, FLG II No. 187/2023.

⁹¹ The language level is determined by the “Measuring Instrument for Competence Analysis German”. Cf. Federal Ministry of Education, Science and Research, n.d.c.

⁹² School Education Act, FLG No. 472/1986, in the version of federal law FLG I No. 37/2023.

⁹³ Compulsory Education Act, FLG I No. 62/2016, in the version of federal law FLG I No. 164/2020.

⁹⁴ The training obligation is fulfilled, for example, by attending a secondary school, training in accordance with health regulations or participating in labour market policy measures. See Federal Ministry of Education, Science and Research, n.d.a.

teaching hours to enable attendance of online Ukrainian classes (Federal Ministry of Education, Science and Research, 2022; ORF.at, 2022).

29. What steps have been taken to address these challenges, and are there any good practices in responding to the challenges?

**The research period is from 1st January 2023 to 1st July 2023.*

***For each challenge or good practice please: a) describe for whom it is a challenge/good practice; b) indicate why it is mentioned as a challenge/good practice, and c) indicate the source / evidence for the challenge/good practice*

In order to enable students to progress to the next year of schooling or next stage of school education, the existing practice was changed at short notice in June 2023, just before the end of the school year. For example, students who had not passed their German language skills examination, but who had already repeated the fourth grade (fourth year of compulsory schooling), were given the opportunity to advance to the next stage of school education (Horaczek, 2023). Although this regulation did not apply solely to Ukrainian students, but to all students in German support classes, it seems to have had a particular impact on Ukrainian students, as some of them reportedly had already completed a particular year of schooling three times (Der Standard, 2023; Horaczek, 2023). Although this approach does not represent a long-term solution, the Ukraine Refugee Coordination Unit feels that the creation of this opportunity for students to progress has been a successful measure. For the future, however, the development of more far-reaching education and integration concepts is proposed with a stronger focus on the primary language.⁹⁵

Social Assistance/Welfare

**Please note that an EMN Inform is being developed on the labour market integration of beneficiaries of temporary protection which will explore the transition from social assistance/welfare into employment and financial independence in further detail and complement the information collected*

30. Have there been any major legal, policy or practical changes regarding access to social assistance for beneficiaries of temporary protection during the research period*? If there were any, please elaborate.

The criticism voiced in Austria in 2022 regarding the inclusion of displaced persons in the basic care system continued (Brickner, 2022), and even though there were further calls to include displaced persons in the social assistance system (Diakonie Österreich, 2023; SOS Kinderdorf, 2023), there were no changes in this regard in the first half of 2023. The Federal Ministry of the Interior stated that due to mandatory EU requirements an exemption from basic care would only be permissible if the persons concerned are entitled to claim social assistance in accordance with the social assistance provisions of the provinces and these provincial provisions provide for benefits in line with the requirements of the EU Temporary Protection Directive. The transfer of displaced persons from basic care to social assistance would require an amendment to social assistance legislation at federal and provincial level, with reference being made to the competence of the Federal Ministry of Social Affairs, Health, Care and Consumer Protection at federal level.⁹⁶ This means it is still not possible for displaced persons to move from the basic care system to the social assistance/minimum income system,⁹⁷ although this would be welcomed by the Ukraine Refugee Coordination Unit.⁹⁸

⁹⁵ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

⁹⁶ Written input: Federal Ministry of the Interior, 2 November 2023.

⁹⁷ Until the General Social Assistance Act is implemented in the provinces, the current minimum income laws of the individual provinces still apply. See oesterreich.gv.at, n.d.a.

⁹⁸ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

31. What are the key challenges** and barriers in your Member State in providing access to social assistance/welfare for beneficiaries of temporary protection during the research period?

In particular, those measures that stipulate a retrospective reduction or discontinuation of basic care benefits pose a challenge in Austria. In addition to the unpredictable consequences for those affected, the necessary calculations and any recovery procedures also involve a considerable administrative burden.⁹⁹

A specific issue here concerns the reduction or discontinuation of basic care benefits as a consequence of the receipt of childcare allowance. Since July 2022, displaced persons can also receive childcare allowance (Stiller, 2023:14), a retrospective active application is possible for a maximum of 182 days (Art. 4 para 2 Child Care Allowance Act).¹⁰⁰ If the childcare allowance is applied for retrospectively and the application is approved, this ultimately means the recipient retrospectively receives two sets of benefits, that is the basic care benefits as well as the retrospectively granted childcare allowance. Childcare allowance is treated as income and is therefore set off against basic care benefits (Federal Agency for Reception and Support Services, n.d.c). Therefore, the childcare allowance is subsequently offset, which can lead to a repayment obligation on the part of the displaced persons. Due to the long processing time of the applications of several weeks to months, according to the estimation of the Ukraine Refugee Coordination Unit, and the continued basic care during this time, the reclaimed amounts can be very high, so that they must be paid back in instalments. In addition, basic care may be suspended until the amount claimed back has been paid. If a person has a residual entitlement to basic care benefits, this entitlement will remain in place for the period that the person continues to receive childcare allowance, which means that the amount of basic care benefits they receive may be correspondingly low in future. In this context, the Ukraine Refugee Coordination Unit also points out that the legal requirements in the context of basic care were handled fairly leniently at the start of reception of displaced persons in Austria in order to accommodate them. This concerned, for example, the non-offsetting of realizable assets such as their own motor vehicles or Ukrainian pensions against basic care benefits. Now, the legal requirements are implemented more strictly and the deduction from basic care benefits is being made retroactively. This leads to more retrospective reductions in basic care benefits or the suspension of benefits and, for example, to Ukrainian pensioners being confronted, in some cases through no fault of their own, with high repayment demands.¹⁰¹

32. How were these challenges addressed/planned to be addressed and are there any good practices in responding to the challenges?

**The research period is from 1st January 2023 to 1st July 2023.*

***For each challenge or good practice please: a) describe for whom it is a challenge/good practice; b) indicate why it is mentioned as a challenge/good practice, and c) indicate the source / evidence for the challenge/good practice*

Due to the complexity and possible consequences associated with the receipt of childcare allowance, the Ukraine Refugee Coordination Unit is of the opinion that all displaced persons need to receive good advice. This is primarily because the receipt of childcare allowance can be disadvantageous if it is offset by high repayments of basic care benefits. In addition, the Ukraine Refugee Coordination Unit advocates generalizing the "one-stop shop" system that originally existed in the arrival and reception centres. In this way, all relevant contact points would be available to displaced persons in one place. In addition, in order to reduce the administrative burden, only one disbursing agency should be defined in the case of several disbursing agencies, which would take responsibility for further coordination with the other actors – for example, the basic care centres or the Public Employment Service.¹⁰²

⁹⁹ Ibid.

¹⁰⁰ Child Care Allowance Act, FLG I No. 103/2001, in the version of federal law FLG I No. 82/2023.

¹⁰¹ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

¹⁰² Ibid.

SECTION 4. VULNERABLE GROUPS

Support for Vulnerable Groups

33. What are the key challenges** in your Member State in (i) identifying vulnerable persons under the TPD and (ii) providing them the necessary assistance and support during the research period*?

I) In Austria, the initial identification of vulnerable displaced persons is primarily the responsibility of the police. Thanks to appropriate training that focuses on the identification of vulnerable groups in general and due to their involvement in the process of registering displaced persons in Austria, the police are able to identify vulnerabilities at an early stage. Under the basic care system, the Federal Agency for Reception and Support Services is also responsible for identifying vulnerabilities so that suitable accommodation can be provided.¹⁰³

In this context, the Ukraine Refugee Coordination Unit expressed regret at the lack of clearing centres for persons seeking international protection and displaced persons. It was pointed out that persons seeking international protection, for example, undergo medical check-ups at the initial reception centres so that the necessary treatment can be organized and vulnerabilities identified. Despite the provision of initial arrival centres for displaced persons, however, it was not possible to put a similar approach into practice for displaced persons, most of whom are or were living in private accommodation and had therefore moved on from the initial arrival centres too soon to start social counselling, which thus did not take place until later. Only in the cases of those persons who remained in arrival centres, such as the sick or persons with reduced mobility, could further counselling activities be carried out and treatment measures initiated.¹⁰⁴

II) Moreover, displaced persons in Austria were not entitled to long-term care allowance during the research period (Art. 3a Federal Long-Term Care Allowance Act),^{105,106} and the provinces only provide support for people with disabilities on a goodwill basis. They are only legally entitled to this support, if at all, under certain conditions (see, for example, Art. 4 Vienna Equal Opportunities Act,¹⁰⁷ Art. 4 Upper Austrian Equal Opportunities Act¹⁰⁸ or Art. 2 Styrian Disability Act).^{109,110} The latest figures for July 2023 reveal that these legal restrictions do not just affect isolated cases; rather, they applied to:¹¹¹

- 273 Ukrainian children with a degree of disability of at least 50 per cent;
- 82 persons requiring care in the basic care system;
- 197 displaced persons with increased care needs, for example due to serious illness.

In addition, 600 displaced persons had been issued with a disability identity card in Austria by July 2023.¹¹² As the Ukraine Refugee Coordination Unit does not believe that all cases have been recorded, the true figure can be expected to be higher. The lack of access to these social services was also identified as a particular problem since, in the view of the Ukraine Refugee Coordination Unit, it

¹⁰³ Interview with Thomas Fauland, Federal Office for Immigration and Asylum, 10 August 2023.

¹⁰⁴ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

¹⁰⁵ Federal Long-Term Care Allowance Act, FLG No. 110/1993, in the version of federal law FLG I No. 109/2023.

¹⁰⁶ The decision of the Supreme Court of 22 August 2023 clarified that displaced persons belong to the group of persons covered by Art. 3a para 2 subpara 1 of the Federal Long-Term Allowance Act and are therefore entitled to long-term care allowance if the other eligibility requirements are met (Supreme Court, 2023).

¹⁰⁷ Viennese Equal Opportunities Act, PLG No. 45/2010 in the version of provincial law PLG No. 49/2018.

¹⁰⁸ Upper Austrian Equal Opportunities Act, PLG No. 41/2008, in the version of provincial law PLG No. 82/2020.

¹⁰⁹ Styrian Disabilities Act, PLG No. 26/2004, in the version of provincial law PLG No. 12/2023.

¹¹⁰ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023. In this context, Austria was recommended by the Committee on the Rights of Persons with Disabilities in the report published in 2023 to, among other things, grant access to support measures for impaired persons with displaced status. Cf. Committee on the Rights of Persons with Disabilities, 2023:14.

¹¹¹ Written input: Ukraine Refugee Coordination Unit of the Federal Government, 18 August 2023.

¹¹² A disability pass is only issued if there is a degree of disability or a reduction in earning capacity of at least 50 percent. See Sozialministeriumservice, n.d.

can be assumed that these persons will remain in Austria in the long term and therefore need access to the social system.¹¹³

34. How were these challenges addressed/planned to be addressed and are there any good practices in responding to the challenges?

**The research period is from 1st January 2023 to 1st July 2023.*

***For each challenge or good practice please: a) describe for whom it is a challenge/good practice; b) indicate why it is mentioned as a challenge/good practice, and c) indicate the source / evidence for the challenge/good practice*

In order to identify vulnerable groups, the Ukraine Refugee Coordination Unit proposed that a clearing process be introduced in which, for example, medical needs could be assessed. To date, however, this proposal has not been adopted.¹¹⁴

Support for UAMs, Separated Children, and Children Accompanied by Ukrainian guardians

35. What are the key challenges** in your Member State in providing assistance to UAMs, separated children, and children accompanied by a guardian appointed in Ukraine? (e.g. recognition of guardianship, appointment of accompanying adult as a temporary guardian, accommodation and care conditions for individual children accompanied by guardians; monitoring the situation, etc)

The Ukraine Refugee Coordination Unit is in contact with the child and youth welfare offices in the provinces and notes that staff are aware of unaccompanied refugee minors, separated children¹¹⁵ and children who are accompanied by a guardian appointed in Ukraine. In addition, the Ukraine Refugee Coordination Unit pointed out a new trend that seems to be emerging in relation to children and young people. Time and again, it says, cases occur in which parents or other people who had guardianship of the minor child leave the child behind in Austria and then leave the country themselves. The children and young people involved subsequently need to be accommodated in child and youth welfare facilities in the provinces.¹¹⁶

36. Does your Member State host groups of children evacuated from Ukrainian institutions? If so, how many children were hosted during the research period? Please describe the type of accommodation and care that are offered to this category of children.

***For each challenge or good practice please: a) describe for whom it is a challenge/good practice; b) indicate why it is mentioned as a challenge/good practice, and c) indicate the source / evidence for the challenge/good practice*

In 2022, the Federal Ministry for European and International Affairs and Austrian representative authorities supported evacuations of children from Ukraine to Austria (EMN Austria, 2023:87). Apart from the children who entered the country in 2022, the Ukraine Refugee Coordination Unit is not aware of any new groups of children evacuated from Ukraine who might have come to Austria in the first half of 2023. Although Austria offered to host groups of evacuated children, these offers were rejected by Ukraine. Medical evacuations from the Republic of Moldova were stopped due to Austrian hospitals having reached the limits of their capacities.¹¹⁷

¹¹³ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

¹¹⁴ Ibid.

¹¹⁵ A child under 18 years of age who is outside their country of origin and separated from both parents or their previous legal/customary primary caregiver (European Migration Network, 2018).

¹¹⁶ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

¹¹⁷ Ibid.

Prevention of Trafficking in Human Beings

37. What particular steps were taken in your Member State to protect people fleeing Ukraine and, especially, UAMS, from trafficking in human beings during the research period*?

**The research period is from 1st January 2023 to 1st July 2023.*

The fact that displaced persons have faced and are still facing an increased risk of human trafficking and exploitation remains unchanged (Chen, 2022; Schocher, 2023; Hausbichler and Maan, 2022; Heilemann, 2023:19). They are vulnerable to various forms of exploitation: minors can be affected by illegal adoptions, while women and children may be impacted by labour exploitation, forced begging or sexual exploitation. Operators of sex service establishments in Austria continue to seek information about the conditions under which Ukrainian women are allowed to work as prostitutes in Austria. In addition, dating agencies are showing an unabated interest in young Ukrainian women.¹¹⁸

In light of these developments, action has been taken in Austria since the start of the war in Ukraine in 2022 to prevent trafficking in human beings. Posters, folders and stickers have been produced as part of information campaigns, for example, and the human trafficking hotline set up by Criminal Intelligence Service Austria has been proactively advertised and its reach expanded. Apart from these general measures, which have been continued in 2023, Criminal Intelligence Service Austria has relied on the support of a mediator employed by the Federal Agency for Reception and Support Services and working at the Train of Hope – Flüchtlingshilfe association since July 2023. This mediator offers advice and assistance to displaced persons in the event of potential human trafficking cases.¹¹⁹

38. What are the key challenges in your Member State in relation to trafficking in human beings?

The challenges generally faced in Austria relating to the identification and prevention of human trafficking obviously also apply in the context of displaced persons. These include, in particular, the identification of trafficked persons (Stiller, 2021; GRETA, 2020). With regard to displaced persons, the situation is complicated by the fact that they often have less contact with authorities than applicants for international protection, for example, which makes it more difficult for potential human trafficking or exploitative situations to be identified. In Austria, 46 suspected cases have been investigated until the cut-off date of 3 October 2023, but no trafficked Ukrainians have been identified.¹²⁰ In other Western European countries too, there have been only a few registered cases. According to the Organization for Security and Co-operation in Europe (OSCE), however, it is not possible to conclude that there is no human trafficking problem on the basis of the small number of registered cases and the OSCE assumes that the number of documented cases will increase significantly in the coming months (Schocher, 2023).

Particularly in view of the fact that some displaced persons are housed in private accommodation, there is a risk that their emergency situation will be exploited by accommodation providers, who may, for example, expect them to perform housework or domestic care for free (Heilemann, 2023:19).¹²¹ However, private offers of help – such as the promise of free transport or accommodation – which are made in particular to displaced females and minors in the areas around railway stations or arrival and reception centres also involve an element of risk and are difficult to identify.¹²² In addition, access to the labour market is sometimes made more difficult by the practical matters such as a lack of childcare (see above, Q22) or non-recognition of skills.¹²³ This may put displaced persons in financially precarious situations. A study conducted by IOM Austria concludes that a precarious financial situation may expose the vulnerable group of female single-person

¹¹⁸ Written input: Criminal Intelligence Service Austria, 8 August 2023.

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ Written input: Katie Klaffenböck, IOM Austria, 14 July 2023.

¹²² Written input: Criminal Intelligence Service Austria, 8 August 2023.

¹²³ Written input: Katie Klaffenböck, IOM Austria, 14 July 2023.

households with children, in particular, to a greater risk of exploitation (Heilemann, 2023:VII, 20, 21), since a precarious financial situation makes individuals more vulnerable to exploitation (Schocher, 2023).

The particular challenge for those working in criminal intelligence is that criminals are increasingly using the Internet and social media for everything from the recruitment of displaced persons to their physical exploitation, making it easier for such persons to be exploited (Stiller, 2021:36). Moreover, recruitment efforts are characterized by an ever increasing level of sophistication, advanced technical skills and expertise.¹²⁴

39. How were these challenges addressed/planned to be addressed and are there any good practices in responding to the challenges?

In general, the fight against human trafficking is both a domestic and foreign policy priority for the Austrian Federal Government. Accordingly, the fourth National Action Plan (2021–2023) was adopted in July 2021 and contains over 100 goals to be implemented by the various partners in the fight against human trafficking by 2023 (Stiller, 2021:7; Federal Ministry of the Interior, 2023f:21). Furthermore, Criminal Intelligence Service Austria has taken action throughout Austria and internationally since 2022 to combat human trafficking, especially from Ukraine, with the group of (unaccompanied) minors being accorded the highest priority. Accordingly, Austrian police officers stationed at checkpoints at the borders with Slovakia, Czechia and Hungary were made aware of the issue of Ukrainian minors entering the country with unrelated adults. Covert patrols were also stepped up at railway stations and increased attention was directed to arrival, reception, registration and mass accommodation centres since human traffickers focus their recruitment efforts on these hotspots.

The measures specifically tailored to displaced persons also included:

- Establishing the Ukraine Task Force on Combating Trafficking in Human Beings (Federal Ministry of the Interior, 2022c);
- Conducting research into the social media used by human traffickers and reporting suspected cases;
- Ensuring cooperation between Criminal Intelligence Service Austria and the Federal Agency for Reception and Support Services to raise staff awareness in order to identify signs of human trafficking during counselling (for instance, via the Federal Agency for Reception and Support Services hotline);
- Facilitating preventive measures taken by Criminal Intelligence Service Austria in partnership with the victim protection organization LEFÖ-IBF by publishing special folders and postcards and distributing them throughout Austria to police registries and to reception and advice centres.¹²⁵

During the research period, IOM Austria also held training courses and events with a special focus on displaced persons as part of the Asyl-Train II¹²⁶ project, specifically:

- Information event on the risks of human trafficking in the Ukraine crisis for the Train of Hope – Flüchtlingshilfe association, with the involvement of Criminal Intelligence Service Austria and victim protection organizations;
- Information events to raise awareness of emergency forces in direct contact with displaced persons.¹²⁷

¹²⁴ Written input: Criminal Intelligence Service Austria, 8 August 2023.

¹²⁵ Ibid.

¹²⁶ The "Asyl-Train II" project aims to improve the quality of the Austrian asylum and migration system, including the identification and protection of trafficked persons. Cf. IOM County Office Austria, n.d.

¹²⁷ Written input: Katie Klaffenböck, IOM Austria, 14 July 2023.

Section 5: Conclusions

40. Please synthesize the main and most important findings of your national report by drawing conclusions from your responses, emphasizing on how challenges were addressed and main lessons learnt during the research period in terms of the key research for this Study, including:

- Legal pathways beyond TPD and transition from temporary protection to other types and forms of residence
- Traveling of beneficiaries of temporary protection
- Assistance to people wishing to go home (back) to Ukraine
- Registration
- Access to rights provided under the TPD, including accommodation, labour market, healthcare, education, social assistance and support for vulnerable groups

In summary, it can be said that the admission of displaced persons to Austria has essentially worked well. At the same time, however, key learning experiences for the future have emerged over the past few months, as have a number of issues that still need to be resolved. These include the question of how to deal with displaced persons after their displaced person status has expired at a European and national level. They are currently unable to switch to an Austrian residence permit under the Settlement and Residence Act. Although displaced persons have the option under Austrian law to travel to Ukraine for a short period without losing their right of residence, which can encourage permanent return, no large-scale return movement has become apparent. With displaced persons failing to return to their country of origin, the fact that they are unable to switch to a regular Austrian residence permit seems problematic.

One recent positive learning experience appears to be that the Austrian registration system seems to work even when there is a large number of people to be registered – no challenges were identified in this context, at least. In addition, the automatic extension of ID cards for displaced persons appears to work well in practice.

Another learning experience relates to basic care; the original decision to admit displaced persons to the basic care system at the outset still seems reasonable, especially since no other care system would have been able to admit displaced persons as quickly. With regard to civil society support – among others, the housing of displaced persons by private individuals – the desire expressed by the Ukraine Refugee Coordination Unit for the Federal Government to give a clear indication of appreciation seems to be particularly important. With regard to the retroactive offsetting (for example of Ukrainian pensions) against basic care benefits, the Ukraine Refugee Coordination Unit sees an important learning aspect in the fact that future requirements should be applied consistently from the outset in order to avoid subsequent tightening of the practice adopted previously.¹²⁸

However, alongside the positive aspects of displaced persons being rapidly admitted to the basic care system, negative effects are also evident. Due to Austrian and European legal requirements, displaced persons have a more favourable legal status than applicants for international protection. This legal status covers access to the labour market, for example; however, this access is restricted by the limitations of the basic care system, specifically by the additional earnings limit (which is higher for displaced persons). This means that although it is legally possible for displaced persons to support themselves, in reality this is thwarted by the fact that beneficiaries of basic care benefits must fear losing these benefits if they exceed the additional earnings limit. They face the threat of this consequence regardless of whether their income from employment is sufficient to meet their living costs, hence they have little incentive to actively enter the Austrian labour market.

Against this background, it was mentioned that initially receiving basic care benefits for a certain period of time and then transitioning to the social assistance system might have been a better

¹²⁸ Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

approach. As well as improving the financial situation of displaced persons, moving them to the social assistance system would involve them having to become active on the labour market or to mandatorily register as job seekers with the Public Employment Service. This could lead to more displaced persons being helped into employment. However, moving displaced persons to the social assistance system in Austria appears to be a controversial issue and only possible if the relevant federal and provincial laws are adapted. If displaced persons are not included in the social assistance system, it would at least seem necessary to further increase their basic care benefits¹²⁹ or to bring these benefits into line with social assistance, according to the Ukraine Refugee Coordination Unit. With regard to vulnerable persons, the suggestion of introducing a clearing process would appear to be an approach worth pursuing. If there was a defined clearing process that everyone had to go through, not only could this prevent vulnerabilities¹³⁰ from being overlooked; information could also be gathered about aspects besides medical needs,¹³¹ such as education and training, professional experience or language skills. These data would not just be important as the basis for developing relevant resources; they would also provide a clear picture of who is resident in Austria, what support is required and what qualifications these persons have. This information would subsequently also be relevant for the education sector, the labour market, as well as the health and social sectors, among others.¹³²

¹²⁹ The maximum cost rates have already been increased with the supplementary agreement to the existing Agreement between the Federal State and the Provinces on Basic Care (Agreement Between the Federal State and the Provinces According to Art. 15a Federal Constitutional Act Determining in Particular the Increase of Specific Maximum Cost Rates of Art. 9 Agreement Between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act as Well as a Lump Sum for Initial Care, FLG I No. 197/2022), which came into force on 1 December 2022 (Written input: Federal Ministry of the Interior, 15 November 2023).

¹³⁰ It was pointed out that recognizing vulnerabilities – such as human trafficking, child trafficking, or sexualized violence – requires trained personnel.

¹³¹ While some of these data are collected in Austria, they are not subsequently merged.

¹³² Interview with Daniela Krois and Lisa Sommerauer, Ukraine Refugee Coordination Unit of the Federal Government, 3 August 2023.

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