

## ENTRY CONDITIONS, RIGHTS AND OBLIGATIONS OF UKRAINIAN CITIZENS, ACCORDING TO HUNGARIAN LAW\*

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**Abstract.** The escalation of the war in Ukraine on 24 February 2022 triggered one of the fastest growing humanitarian emergencies in recent history. Hungary is both a transit country and a destination for people fleeing conflict in Ukraine. Central and local government institutions, civil society, and non-governmental organizations have taken on the task of providing essential support to refugees arriving from Ukraine. The purpose of the paper is to show how Hungary has dealt with the new migration situation and also what policy Hungary is pursuing towards Russia and Ukraine.

**Keywords:** Ukraine; refugees; migration policy; Hungary.

### INTRODUCTION

It should be noted that for a long time, the countries of Central European were more emigration countries than destinations for immigrants. However, the war caused by Russia has led to a dynamic influx of foreigners. This situation represented a significant change and challenge requiring a new way of thinking and new policies from the governments and societies of neighboring countries such as the Czech Republic, Hungary, Poland and Slovakia. These countries, as part of the Visegrad Group, have adopted legal regulations concerning migrants. The Visegrad Group countries have determined that migration policy should be based on the principle of “flexible solidarity”.

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This concept should enable Member States to make decisions regarding specific forms of contribution, taking into account their experience and potential. Moreover, all distribution mechanisms should be voluntary.<sup>1</sup>

The outbreak of war in Ukraine has caused Europe to face a refugee crisis. Millions of Ukrainians and third-country nationals (TCNs) have crossed into nations to the west and south of Ukraine, including Turkey, as a result of the war in Ukraine. The war began on February 24, 2022, when Russia invaded that country.<sup>2</sup> Hungary's general election campaign in 2022 featured a significant emphasis on the conflict in Ukraine. The main plank of the Hungarian government's communication strategy was to avoid getting involved in the Russian-Ukrainian conflict in order to present themselves to the public as defenders of the Hungarian people and families [Sadecki 2022; Maksymiuk 2022, 198]. Although the government did not strongly denounce the Russian action, it did emphasize that Hungary needed to continue having positive business connections with Putin's Russia in order to keep energy costs down [Korkut and Fazekas 2023]. Therefore, Hungary did not support most of the European Union sanctions and tried to veto the developments to constrain Russia via economic regulations [Herszenhorn, Barigazzi, and Moens 2022]. Orban sabotaged the implementation of strategic decision regarding Ukraine, attempting to force the European Union to make concessions in the dispute over Hungary's funds. Hungary questioned not only the date of the start of negotiations but also Ukraine's integration with the European Union as such, despite having supported it earlier [Sadecki 2023].

After all, the Hungarian government pledged that, for the Ukrainian persons "they would do whatever it takes for all refugees" [Korkut and Fazekas 2023]. György Bakondi, the Prime Minister's advisor on internal security in the government, stated that due to the war in Ukraine, 542,000 people have arrived in Hungary so far. "We help everyone who is fleeing from war or coming to us because of war, but we also assist those who are in great need in Transcarpathia or in other areas of Ukraine," he said, noting that Hungary has exemplary fulfilled this dual task, and the Hungarian people have shown a willingness to help. György Bakondi also stated that, apart from that, Hungary does not send or allow the flow of weapons through its territory. "It is a matter of primary national security interest for Hungary, and we represent NATO's position on this issue."<sup>3</sup> Statements from members

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<sup>1</sup> Joint Statement of the Heads of Governments of the V4 Countries, <https://www.visegradgroup.eu/calendar/2016/joint-statement-of-the-160919> [accessed: 20.09.2024].

<sup>2</sup> As of August 31, 2024, there are over 62 thousand refugees from Ukraine registered in Hungary. More than 46 thousand refugees registered for temporary protection: <https://data.unhcr.org/en/situations/ukraine/location/10783> [accessed: 20.09.2024].

<sup>3</sup> *Minden Menekültnek Segit Magyarország*, <https://kormany.hu/hirek/minden-menekultnek-segit-magyarorszag> [accessed: 20.09.2024].

of the Hungarian government and articles appearing in the press suggested that Hungary is providing refugees with all possible assistance.

## 1. LEGAL BASIS FOR THE ACTIONS OF THE HUNGARIAN GOVERNMENT

The United Nations and the European Union have adopted solution that oblige Member States to provide – in legally defined situations – protection for foreigners and, within this framework, an appropriate range of support [Morón, Madej, and Csoba 2024, 45]. Hungary is obligated to provide protection to foreigners in accordance with national and international law. International law consists of international systems (European Union law and United Nations law) and national law. Obviously, states implement international rules into national law, thus creating a coherent system governing the protection of aliens in need of assistance, but the specific legal solutions in individual states differ.

Since hostilities began on 24 February 2022 in Ukraine, over 522,100 refugees have arrived in Hungary directly from Ukraine or via third countries, the majority of women and children as well as older people and those with disabilities.<sup>4</sup>

Residence in Hungary is possible on the basis of permits such as: asylum card, residence permit, settlement permit, which can be applied for at the National Directorate-General for Aliens Policing. A Ukrainian national can file two different kinds of process with the National Directorate-General for Aliens Policing (NDGAP).<sup>5</sup>

Ukrainian refugees can apply for temporary protection if they want to stay safely in Hungary until the conflict in their home country ends. If they do not seek protection in Hungary, but want to work, set up a business or study in Hungary, they can apply as part of an aliens police procedure.

Hungary grants temporary protection in accordance with the Council of the European Union (EU) 2022/382.<sup>6</sup> The Temporary Protection

<sup>4</sup> *Ukraine refugee situation operational update*, file:///C:/Users/user/Downloads/Hungary%20-%20Operational%20Update%20-%202024%20March%202022.pdf [accessed: 20.09.2024].

<sup>5</sup> The National Directorate-General for Aliens Policing of Hungary is an independent budgetary body with countrywide jurisdiction, under the control of the Minister of Interior of Hungary. The National Directorate-General for Aliens Policing of Hungary is the countrywide competent authority responsible for cases related to the entry, stay, residence and settlement of foreign nationals and processing asylum applications. In addition, the authority is responsible for making decisions in the cases of foreign nationals who are staying illegally in Hungary or foreign nationals committing other offences, and for organising the repatriation of foreign nationals under the obligation to leave the territory of Hungary, [http://oif.gov.hu/index.php?option=com\\_k2&view=item&layout=item&id=564&Itemid=1847&lang=en](http://oif.gov.hu/index.php?option=com_k2&view=item&layout=item&id=564&Itemid=1847&lang=en) [accessed: 20.09.2024].

<sup>6</sup> 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

Directive, adopted following the conflicts in former Yugoslavia, introduced a special status: temporary protection. It should be noted that the Directive sets minimum standards, so the Member States may decide on more favourable solutions. The temporary protection Directive European Union from 2001 was activated for the first time in 2022 – in response to the influx of millions of people fleeing the brutal war in Ukraine to the European Union. The Council's decision on March 4, 2022, obligated European Union Member States to provide an appropriate level of protection to Ukrainian citizens and other individuals who fled the war in Ukraine. According to the Directive, the preparation of common policy on asylum, including common European arrangements for asylum, is a constituent part of the European Union's objective of establishing progressively an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the European Union. Temporary protection is granted automatically, but one must apply for a residence permit in the European Union country where they have decided to stay.

The European Union has decided to provide temporary protection to those Ukrainian citizens, refugees recognised in Ukraine and stateless persons and their families who lived in Ukraine prior to 24 February 2022 and had to leave Ukraine because of the war.

On 24 February 2022, Government Decree 56/2022 (II.24.) came into effect. The Hungarian Government, being the first in Europe, decided to grant temporary protection to everyone who had a legal basis to stay in Ukraine and fled the country to Hungary, regardless of their nationality. The national protection provided thereby was applicable until 7 March 2022. Since 8 March 2022, Government Decree No. 86/2022 (III.7.)<sup>7</sup>

The Government Decree 86/2022 (III.7.)<sup>8</sup> establish a new protection system exclusively for Ukrainian citizens. Regarding non-Ukrainian citizens who lived in Ukraine, Hungary made the decision to exercise its discretion. Instead of offering sufficient protection, however, it offers individuals escaping the war protection “in accordance with the general rules” in Hungary, which in reality translates to no protection at all [Babická 2022]. Such persons had to apply for residence under general rules or for international

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a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, [www.eur.lex.eu](http://www.eur.lex.eu) [accessed: 20.09.2024].

<sup>7</sup> *Temporary protection Hungary*, [https://asylumineurope.org/wp-content/uploads/2024/07/AIDA-HU\\_Temporary-Protection\\_2023.pdf](https://asylumineurope.org/wp-content/uploads/2024/07/AIDA-HU_Temporary-Protection_2023.pdf) [accessed: 20.09.2024].

<sup>8</sup> Government Decree No. 86/2022. (III. 7.) on rules applicable in state of danger and related to persons recognized as eligible for temporary protection, and on derogations from the rules of Act CVI. of 2011 on public employment and on the amendment of acts related to public employment and of other acts, [https://helsinki.hu/en/wp-content/uploads/sites/2/2022/03/HUgovdecree\\_implementing\\_councildecision\\_tempprotEN.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2022/03/HUgovdecree_implementing_councildecision_tempprotEN.pdf) [accessed: 20.09.2024].

protection. Under this decree, the beneficiaries of temporary protection are citizens of Ukraine, persons who have previously resided in Ukraine as refugees (who are citizens of another country but have been recognised as such by Ukraine) or stateless persons (who do not have the citizenship of any nation), members of the above-mentioned families (spouses, individuals with official status as unmarried partner of an individual in the above-mentioned categories, children of an individual in the above-mentioned categories under the age of 18), relatives who have been financially dependent on an individual in the above-mentioned categories, such as sick siblings or elderly partners, who after February 24, 2022, escaped to Hungary from the conflict. In Hungary, citizens of Ukraine, refugees recognized in Ukraine, stateless persons, and their family members who lived in Ukraine before February 24, 2022, and had to leave due to the war can apply for temporary protection. This is called temporary protection status (“menedékes” in Hungarian) in Hungary. This status is also provided to you if you did not arrive in Hungary directly from Ukraine. Note, however, that you may only request protection if you arrived in Hungary on or after 24 February 2022. The following are considered family members: a married spouse, a partner, a child under the age of 18 and other relatives who had resided in the same household in Ukraine. Family members are entitled to the same protection, even if they are not Ukrainian citizens, and even if they arrived in Hungary prior to 24 February.<sup>9</sup> The validity of temporary protection has been extended until March 4, 2025, across the European Union, including Hungary.<sup>10</sup>

Persons who are citizens of Ukraine and arrived before February 24 do not qualify for temporary protection. However, they can still apply for temporary protection, and they will likely receive a status called “tolerated status” (known as “befogadott” in Hungarian). Although it is not the same as temporary protection, it allows them to remain in Hungary and provides them with some rights. Anyone who is not a Ukrainian citizen, a recognized refugee or stateless person, or a family member of a Ukrainian citizen (or recognized refugee or stateless person) is ineligible for temporary protection. These individuals can apply for asylum, which is not so simple in Hungary. The asylum procedure is a single procedure where entitlement to refugee status and subsidiary protection is considered. Those wishing to seek asylum in Hungary must first personally submit a “statement of intent” for the purpose of lodging an asylum application at the Embassy

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<sup>9</sup> *Information for Ukrainian citizens fleeing Ukraine, for refugees recognised in Ukraine and for stateless persons and their family members*, <https://helsinki.hu/en/information-ukraine-stateless-recognized-refugees/> [accessed: 20.09.2024].

<sup>10</sup> *Temporary Protection status*, <https://help.unhcr.org/hungary/temporary-protection/> [accessed: 20.09.2024].

of Hungary in Belgrade or in Kyiv.<sup>11</sup> The embassy must then forward the “statement of intent” to the NDGAP in Budapest, which shall examine it within 60 days. The NDGAP should make a proposal to the embassy whether to issue the would be asylum seeker a special, single-entry permit to entry Hungary for the purpose of lodging an asylum application. The law does not clarify the criteria to be considered by the NDGAP in deciding on such applications.<sup>12</sup> Restriction on accessed to territory and asylum procedures are considered incompatible with European Union law.<sup>13</sup>

## 2. TEMPORARY PROTECTION

Temporary protection is a special status offered within the European Union to individuals who are fleeing the war in Ukraine. It permits persons to remain in Hungary for a predetermined amount of time by granting certain privileges and services to those who qualify. Access to social welfare benefits, health care, children’s education, and job authorization are all included in temporary protection.

The condition for being recognized as a beneficiary of temporary protection is to present evidence of this to the appropriate authorities. For this purpose, it is necessary to have the required documentation confirming nationality or citizenship, length of stay in Ukraine, family connections, and the date of entry into Hungary. Individuals who arrived in Hungary prior to February 24, 2022, and were employed there at the time, are not eligible to be recognized as recipients of temporary protection.

Using a biometric (new-type) passport, Ukrainian nationals can enter Hungary without the need for a separate visa or other formalities. When traveling to Hungary from Ukraine with a biometric passport, citizens of Ukraine may choose to remain on Hungarian or Schengen Area territory for a maximum of 90 days. Ukrainian nationals who want to work, study, or stay longer in Hungary must apply to NDGAP with a case-specific application.

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<sup>11</sup> Government Decree no. 233/2020 (V.26.), On the rules of the asylum procedure during the state of danger declared for the prevention of the human epidemic endangering life and property and causing massive disease outbreaks, and for the protection of the health and lives of Hungarian citizens, [https://helsinki.hu/wp-content/uploads/Government-Decree-no.-233\\_2020-on-the-rules-of-the-asylum-procedure-during-the-state-of-danger.pdf](https://helsinki.hu/wp-content/uploads/Government-Decree-no.-233_2020-on-the-rules-of-the-asylum-procedure-during-the-state-of-danger.pdf) [accessed: 20.09.2024].

<sup>12</sup> *Country Report: Short overview of the asylum procedure*, <https://asylumineurope.org/reports/country/hungary/asylum-procedure/general/short-overview-asylum-procedure/> [accessed: 20.09.2024].

<sup>13</sup> *Hungary de facto removes itself from the common European asylum system (CEAS)*, <https://helsinki.hu/wp-content/uploads/new-Hungarian-asylum-system-HHC-Aug-2020.pdf> [accessed: 20.09.2024]; *No access to asylum on the territory since 27 May 2020*, <https://helsinki.hu/en/wp-content/uploads/sites/2/2023/03/Access-to-asylum.pdf> [accessed: 20.09.2024].

When requesting temporary protection, persons are entitled to support from the states. In order to receive permanent accommodation and three meals a day, it is important that you submit your asylum application within one month of your arrival in Hungary. In this case, until you receive the asylum card or the decision rejecting the asylum application, you are entitled to accommodation and meals. If you submit your asylum application more than 30 days after your arrival in the country, long-term accommodation and meals are only available if you are pregnant, a parent raising a child under the age of six, a person with a disability or the caretaker of such a person, over 65 years of age or 18 years of age below, who lives in a joint household with any of the people listed here. Persons who receive the temporary protection card are entitled to accommodation and food for 30 days. Pregnant women, children under the age of 18 and one parent living in the same household as them, people with disabilities and their caregivers, as well as people over 65 years of age, can receive accommodation and meals for an unlimited period of time beyond 30 days after obtaining the asylum card. If someone receives a temporary protection card, accommodation and meals are only available for 30 days after obtaining the card, unless this person takes up work and their employers provides a contract with an accommodation included. People who do not have a job are unfortunately not entitled to a free meal and accommodation, unless they belong to the group of beneficiaries defined in the previous paragraph.

Furthermore, there is the right to medical care, translation of personal documents, employment, schooling for children, preschools and day-care and 6 months of free meals for children and discounted travel tickets.

### 3. NEW IMMIGRATION LAW

On September 26, 2023, in Budapest, the UNICEF Crisis Response Office in Hungary and the Hungarian Ministry of Interior committed to further developing their cooperation to ensure access to essential services for refugees' children and families from Ukraine. The Memorandum of Understanding signed by Mátyás Hegyaljai, Deputy State Secretary of the Hungarian Ministry of Interior, and Pilar Gonzalez Rams, Emergency Coordinator for UNICEF Refugee Response Office, Hungary, commits to supporting social inclusion, providing education, health services, and specialized child protection and child welfare services, including temporary care for children and prevention of human trafficking.<sup>14</sup> Interestingly, on 1 January, 2024,

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<sup>14</sup> *Hungarian Ministry of Interior and UNICEF expand partnership to continue support for refugees from Ukraine*, <https://www.unicef.org/eca/press-releases/hungarian-ministry-interior-and-unicef-expand-partnership-continue-support-refugees> [accessed: 20.09.2024].



the new Immigration Law entered into force, and its provisions are applied from 1 March, after a transitional period. The new law (Act XC of 2023 on the General Rules for the Entry and Residence of Third-Country Nationals (TCNs), abbreviated in Hungarian as: “Btátv”) has significantly changed the rules on residence permits. The new law has fundamentally changed the way TCNs can work in Hungary. Certain residence permits have been abolished and replaced by new ones, and related conditions and rules have also changed radically. If the applicable resident’s permits regulations are the same under the new law as they were under the prior law, then the procedures for renewing a residence permit stay the same. For example, the process of extending a residency permission in order to pursue education will continue to operate as it did prior to the new legislation. If a specific type of residence permission is no longer available according to the new law, it is not possible to apply for its extension either.<sup>15</sup> Hungary is implementing these changes as part of a broader effort to tackle labour shortages, while simultaneously intending to protect the local market, especially in certain industries due to recent high levels of migration to the country.

In June 2024 Viktor Orban, the prime minister of Hungary, issued an executive order ending public funding for shelters used by many Ukrainian refugees, most of whom are Roma. In accordance with the decree, only those Ukrainian refugees who come from combat zone in Ukraine – in other words from parts of the country that are directly impacted by the war – will in future get state support for temporary accommodation. Eligibility will be determined on the basis of each refugee’s current registered address in Ukraine. From now on, state support for refugee accommodation will be limited to the end of the month after the date of the person’s registration as a refugee in need of temporary protection. The Hungarian government intends to revise its list of combat zones in Ukraine every month [Verseck 2024]. Hungarian non-governmental organizations estimate that over 3 000 Ukrainian refugees will lose access to state-subsidized accommodation as a result. The majority of individuals impacted are from neighbouring western Ukrainian areas or the far-western Zakarpattia Oblast (Transcarpathia). Their official status is now “in need of temporary protection”. The majority are Roma who speak Hungarian.

## CONCLUSION

The European Union has introduced a temporary protection solution, applicable to large groups leaving their country of origin due to armed conflicts.

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<sup>15</sup> Hungary: Ukrainian refugees losing housing, <https://www.hrw.org/news/2024/09/11/hungary-ukrainian-refugees-losing-housing> [accessed: 20.09.2024].



The influx of a large number of displaced persons from Ukraine due to hostilities on its territory required measures to support refugees. The Member States of the European Union were obliged to introduce legal solution regulating the possibility of temporary protection for refugees from Ukraine.

The outbreak of the war in Ukraine significantly affected the election campaign in Hungary. Orban and his government implemented a strategy to shift focus away from their political and economic connections with the Russian Federation. The Hungarian government tried not to get involved in the Russian-Ukrainian war under the pretext of protecting the Hungarian nation. Therefore, the main media message was to emphasize the need to restore peace rather than identify the aggressor and their actions. At the same time, it was emphasized that Hungary does not send or allow the transit of weapons through its territory.

The government declared that it helps everyone fleeing due to the war and has launched aid programs. Ukrainian refugees with certain rights: the right to work, the right to education, and the right to medical care. Based on European Union law, Hungary recognized the rights of Ukrainian citizens, citizens of other countries, and stateless person recognized in Ukraine as refugees. This means that the new legal regulation does not cover citizens of other countries fleeing their own country. Additionally, Ukrainian citizens who were in Hungary before the outbreak of the war cannot benefit from temporary protection.

Over time, support is reduced, and benefits are granted for a limited period of time, especially for those who can take up employment and support themselves.

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