

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

***Country Fiche – Spain***  
**February 2023**

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# 1.0 Legal and institutional framework

## 1.1 Legal framework

### 1.1.1 List of the legal framework

- I. Legislation implementing the Temporary Protection Directive (TPD or the Directive)<sup>1</sup> and Council Implementing Decision (EU) 2022/382<sup>2</sup>

The [Regulation on temporary protection regime in the event of a mass influx of displaced persons, approved by Royal Decree 1325/2003 of 24 October 2003](#), in force from 26 October 2003 (TPRD 1325/2003), is the main legislation transposing the Temporary Protection Directive.

The Spanish temporary protection regime is based on two types of decisions with different legal basis.

- ▶ The general declaration of temporary protection which is based on the Council of the European Union Decision or the Spanish Government decision (Articles 4 to 6 of the TPRD 1325/2003) and the individual decision on the granting of the benefits of the temporary protection regime following the [Organic Law 4/2000 of 11 January](#) on rights and freedoms of foreigners in Spain and their social integration, as amended by the Organic Law 8/2000, of 22 December (Immigration Organic Law).
- ▶ [Royal Decree 203/1995, of 10 February 1995](#) (Asylum Regulation RD 203/1995), approving the Regulations for the application of the Law 5/1984, of 26 March 1984, regulating the right to asylum and refugee status, as modified by the TPRD 1325/2003, establishes the distribution of competences for granting the temporary protection. The relevant amendments introduced by the TPRD 1325/2003 entered into force on 26 October 2003. The Law 5/1984, of 26 March 1984, regulating the right to asylum and refugee status has been repealed and replaced by the [Law 12/2009](#) (Asylum Law). As this law has not been developed by any regulations, difficulties have emerged regarding the application of the RD 203/1995 as it refers to the 1984 Law.

The [Management Handbook](#) of the reception and integration system for applicants and beneficiaries of international protection provides guidance on the application of the relevant provisions establishing the Reception System for beneficiaries of international protection, including beneficiaries of temporary protection.

The Council Implementing Decision (EU) 2022/382 is implemented in Spain via several documents.

- ▶ [Order PCM/170/2022](#) of 9 March, publishing the Agreement of the Council of Ministers of 8 March 2022 to extend the temporary protection granted under the Council Implementing Decision (EU) 2022/382 of 4 March 2022 to persons affected by the conflict in Ukraine who may find refuge in Spain (Order PCM/170/2022) - within the meaning of Article 5 of the Directive 2001/55/EC, to additional categories of displaced persons. It entered into force on 10 March 2022.

<sup>1</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 a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, OJ L 212, 7 August 2001, p. 12-23, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32001L0055>.

<sup>2</sup> Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection, OJ L 71, 4 March 2022, p. 1-6, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32022D0382>.

- ▶ [Order PCM/169/2022](#) of 9 March implementing the procedure for the granting of temporary protection to persons affected by the conflict in Ukraine (Order PCM/169/2022). This order entered into force on 10 March 2022.
- ▶ [Instruction 2/2022](#) adopted on 10 March 2022 by the Ministry of Interior, Police DG – General Police Commissioner for Immigration and Borders, establishes the procedure for temporary protection request for Ukrainian citizens, as well as displaced persons from Ukraine in Spain. This Instruction is the instrument used at each of the Provincial Immigration and Border Brigades, as well as to the Local Brigades of Algeciras, Vigo and Gijon, and the reception centres established by the Ministry of Inclusion, Social Security and Migrations in Alicante, Barcelona, Madrid and Malaga

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

The Spanish legislation implements the provisions of the Directive regarding access to (self-)employment and social security/welfare for Ukrainians or displaced persons from Ukraine through the Immigration Law with the conditions and procedures applied to asylum seekers.

- ▶ **Article 16** of the of the [TPRD 1325/2003](#) establishes that beneficiaries of temporary protection will be granted temporary residence according to Article 41(3)a) of the **Regulation implementing the Organic Law 4/2000** of 11 January on rights and freedoms of foreigners in Spain and their social integration ([Immigration Organic Law 4/2000](#), as amended by Organic Law 8/2000, of 22 December) and approved by the Royal Decree 864/2001, of 20 July.
- ▶ **Article 19** of the **TPRD 1325/2003** establishes that an administrative authorisation to work shall be granted to beneficiaries of temporary protection in accordance with Article 79.1.b) of the **Regulation implementing the Organic Law 4/2000** of 11 January on rights and freedoms of foreigners in Spain and their social integration (**Immigration Organic Law**, as amended by [Organic Law 8/2000](#), of 22 December) and approved by the Royal Decree 864/2001, of 20 July. Furthermore, Article 129 recognises that temporary residence is accompanied by a work permit.
- ▶ The **Royal Decree 864/2001** implementing the Immigration Law is no longer in force and has only been partially replaced by other legislation, namely the Royal Decree 2393/2004 later repealed and replaced by the **Royal Decree 557/2011** ([Immigration Regulation RD 557/2011](#)). As such, the cross reference to Article 79.1 b) no longer applies.
- ▶ The **Immigration Regulation RD 557/2011** entered into force on 30 June 2011.
  - ▷ Articles 125 and 129 of the Immigration Regulation RD 557/2011 provide that an authorisation for reasons of **international protection** may be granted to the persons authorised to remain in Spain by decision of the Minister of the Interior, including displaced foreigners in the sense regulated in the **regulations on temporary protection** in the event of a mass influx of displaced persons. Likewise, a temporary residence permit may be granted in the cases provided for in the **regulations implementing** the Asylum [Law 12/2009](#), of 30 October.
  - ▷ **Article 129** of the Immigration Regulation RD 557/2011 provides that the granting of the authorisation for temporary residence according to Article 125 is accompanied by a **work permit** with the exception of the minors of working age.

- ▶ This is in line with **Article 10 of the Immigration Organic Law 4/2000** which establishes that all foreigners that are residents in Spain and meet the requirements set forth in the Immigration Organic Law have the **right to carry out a paid activity on their own account or on behalf of another, as well as to access the social security system**, in accordance with the current legislation. Those foreigners may also access **public employment** under the terms provided in Law 7/2007, of April 12, on the Basic Statute of Public Employees.
- ▶ **Article 3** of the [Order PCM/169/2022](#) establishes that the request for temporary protection enables the person to remain in the Spanish territory and to benefit from **the social aid** provided by **Article 20 of the TPRD 1325/2003** which states that beneficiaries of temporary protection who do not have sufficient resources may benefit from **social and health services** in accordance with asylum regulations.
- ▶ **Article 32 of the Law 12/2009** of 30 October regulating the right to asylum and subsidiary protection ([Asylum Law 12/2009](#)) recognises that applicants for international protection will be **authorised to work** in Spain under the terms established by law.
- ▶ Furthermore, **Article 36** of the Asylum Law 12/2009 establishes that the right to asylum will imply the recognition of other rights such as:
  - ▷ permanent residence and work authorisation, in the terms established by the Immigration Organic Law 4/2000;
  - ▷ the issuance of identity and travel documents;
  - ▷ access to public employment services;
  - ▷ access to education, health care, housing, social assistance and social services, the rights recognised by the legislation applicable to victims of gender violence, where appropriate, **social security** and to integration programs, under the same conditions as the Spanish;
  - ▷ access, under the same conditions as Spaniards, to continuing or occupational training and internships, as well as to procedures for the recognition of academic and professional diplomas and certificates and other official qualification tests issued abroad;
  - ▷ access to integration programs of a general or specific nature.

Other applicable laws are the following.

- ▶ Social Security General Law adopted by the [Royal Legislative Decree 8/2015](#) of 30 October which entered into force on 2 January 2016 in relation to the [Law 4/2000](#) and the Immigration Regulation [RD 557/2011](#).
- ▶ [Law 38/2003](#), of November 17, General Subsidies, and its implementing Regulation approved by the Royal Decree 887/2006, of 21 July (*Ley 38/2003, de 17 de noviembre, General de Subvenciones, y su Reglamento de desarrollo aprobado por Real Decreto 887/2006, de 21 de julio*).
- ▶ [Order ESS/1423/2012](#), of 29 June, which establishes the regulatory bases for the granting of subsidies in the area of integration of immigrants, applicants and beneficiaries of international protection, stateless status and temporary protection.

### 1.1.2 Beneficiaries (persons covered by temporary protection)

Type of beneficiary	National regime of temporary protection for displaced persons coming from Ukraine
<p>Ukrainian nationals</p> <ul style="list-style-type: none"> <li>▶ Residing in Ukraine</li> <li>▶ displaced from 24 February 2022</li> </ul>	<p><b>Yes</b></p> <p>Article 1 of the Order PCM/169/2022 and First of Instruction 2/2022.</p>
<p>Family members</p> <ul style="list-style-type: none"> <li>▶ of a Ukrainian national present or residing in Ukraine before 24 February 2022 and displaced from Ukraine on or after 24 February 2022</li> <li>▶ of third-country nationals and stateless persons, who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022 and were displaced from Ukraine on or after 24 February 2022</li> </ul>	<p><b>Yes</b></p> <p>Article 1 of the Order PCM/169/2022 and First of Instruction 2/2022.</p> <p>The definition of a family member is the same as in the Council Implementing Decision, as Article 1 of the Order PCM/169/2022 explicitly states that the subjective scope of protection is the one established by the Council Implementing Directive.</p> <p>The Instruction applied by the reception centres established by the Ministry of Inclusion, Social Security and Migration and the Provincial Police Offices for Immigration and Borders defines “family members” of the relevant beneficiaries as:</p> <ul style="list-style-type: none"> <li>▶ the spouse or their <i>de facto</i> partner;</li> <li>▶ their minor unmarried children or of their spouse, without distinction as to whether they were born in or out of wedlock or adopted;</li> <li>▶ other close relatives who were living together as part of the family unit at the time of the events related to the mass influx of displaced persons and who were totally or mainly dependent on them.</li> </ul>
<p>Third-country nationals and stateless persons beneficiaries of international or equivalent national protection in Ukraine until 24 February 2022</p>	<p><b>Yes</b></p> <p>Article 1 of the Order PCM/169/2022 and First of Instruction 2/2022.</p>
<p>Stateless persons and nationals of third countries, legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent resident permit and unable to return in safe and durable conditions to their country or region of origin</p>	<p><b>Yes</b></p> <p>Article 1 of the Order PCM/169/2022 and First of Instruction 2/2022.</p>

Type of beneficiary	National regime of temporary protection for displaced persons coming from Ukraine
<p>Other persons who are displaced for the same reasons and from the same country of region of origin (Article 7(1) of TPD), including</p> <ul style="list-style-type: none"> <li>▶ stateless persons and</li> <li>▶ nationals of third countries other than Ukraine,</li> </ul> <p>who are residing legally in Ukraine and who are unable to return in safe and durable conditions to their country or region of origin (Article 2(3) Council Decision).</p>	<p><b>Yes</b></p> <p>First Instruction 2/2022 and Point 2) of Order PCM/170/2022 explicitly cover third-country nationals or stateless persons who were legally residing in Ukraine on the basis of a valid legal residence permit (whether permanent or otherwise, e.g. students) issued in accordance with Ukrainian law and who cannot safely return to their country or region of origin.</p>
<p>Any additional category of beneficiaries (i.e. persons who arrived from Ukraine before 24 February 2022)</p>	<p><b>Yes</b></p> <p>First Instruction 2/2022 and Point 1) of the Order PCM/170/2022 explicitly cover Ukrainian nationals staying in Spain before 24 February 2022 who, as a result of the armed conflict, cannot return to Ukraine.</p> <p>First Instruction 2/2022 and Point 3) of the Order PCM/170/2022 explicitly cover Ukrainian nationals who were in an irregular situation in Spain before 24 February 2022 and who, as a result of the armed conflict, cannot return to Ukraine.</p> <p>First Instruction 2/2022 and Point 4) of the Order PCM/170/2022 explicitly cover also the family members of the categories identified, as well as the family members of third-country nationals or stateless persons who were legally residing in Ukraine on the basis of a valid legal residence permit (whether permanent or otherwise, e.g. students) issued in accordance with Ukrainian law and who cannot return to their country or region.</p> <p>The Instruction applied by the point of reception and provincial police offices defines that family members encompass:</p> <ul style="list-style-type: none"> <li>▶ their spouse or their de facto partner;</li> <li>▶ their unmarried minor children or their spouse's minor children, without distinction as to whether they were born in or out of wedlock or adopted;</li> <li>▶ other close relatives who were living together as part of the family unit at the time of the circumstances related to the mass influx of displaced persons and who were wholly or mainly dependent on them.</li> </ul>



## 1.2 Institutional framework

- a) National competent authority(ies) providing assistance to the persons enjoying temporary (or adequate) protection coming from Ukraine.

Scope of work	Name of the authority (in EN)	Name of the authority (in national language)	Hyperlink
<b>General (including status change in Section 2)</b>	Ministry Internal Affairs, Inter-ministerial Commission on Asylum and Refuge (CIAR)	<i>Ministerio del Interior, La Comisión Interministerial de Asilo y Refugio (CIAR)</i>	Article 23(2) of <a href="#">the Asylum Law</a>
	Asylum and Refugee Office	<i>Oficina de Asilo y Refugio</i>	<a href="https://www.interior.gob.es/opencms/es/servicios-al-ciudadano/tramites-y-gestiones/oficina-de-asilo-y-refugio/">https://www.interior.gob.es/opencms/es/servicios-al-ciudadano/tramites-y-gestiones/oficina-de-asilo-y-refugio/</a>
	Spanish Commission for Refugee Aid	<i>Comisión Española de Ayuda al Refugiado (CEAR)</i>	<a href="https://www.cear.es/">https://www.cear.es/</a>
	Ministry of Internal Affairs, General Directorate of Police, General Police Commissioner for Immigration and Borders	<i>Ministerio del Interior, Dirección General de la Policía, Comisaría General de Extranjería y Fronteras</i>	<a href="https://www.policia.es/es/index.php">https://www.policia.es/es/index.php</a>  <a href="https://www.interior.gob.es/opencms/gl/el-ministerio/funciones-y-estructura/secretaria-de-estado-de-seguridad/direccion-general-de-la-policia/">https://www.interior.gob.es/opencms/gl/el-ministerio/funciones-y-estructura/secretaria-de-estado-de-seguridad/direccion-general-de-la-policia/</a>
<b>Employment rights</b>	Ministry for Work and Social Economy, Secretary of State for employment	<i>Ministerio de Trabajo y Economía Social, Secretaría de Estado de Empleo y Economía Social</i>	<a href="https://www.mites.gob.es/es/sec_trabajo/index.htm">https://www.mites.gob.es/es/sec_trabajo/index.htm</a>

Scope of work	Name of the authority (in EN)	Name of the authority (in national language)	Hyperlink
	and social economy Ministry for Social Rights	<i>Ministerio de Derechos Sociales</i>	<a href="https://www.mdsocialesa2030.gob.es">https://www.mdsocialesa2030.gob.es</a>
<b>Social welfare and social security rights</b>	Ministry for Social Rights, State Secretary for Immigration  Ministry for Social Inclusion, Social Security and Immigration	<i>Ministerio de Derechos Sociales Secretaría de Estado de Migraciones</i>  <i>Ministerio de Inclusión, Seguridad Social y Migraciones</i>	<a href="https://www.inclusion.gob.es/web/guest/home">https://www.inclusion.gob.es/web/guest/home</a>

- b) Existence of a mechanism in place to coordinate the work of these national authorities with respect to persons enjoying temporary (or adequate) protection coming from Ukraine.

In order to request the temporary protection scheme there are special Reception, Attention and Referral Centres (CREADE) located in Madrid, Barcelona, Malaga and Alicante. In addition, the police stations in each provincial capital are also available and have received the above-mentioned coordination instruction.

The leading Ministry, designing the system and ensuring coordination with other authorities, is the Ministry for Internal Affairs involving the following units: Secretary of State for Security, Sub-Secretary for Internal Affairs with the Asylum and refuge office, General Commissioner for Immigration and Borders.

This Ministry for Internal Affairs has created an Inter-ministerial Committee for Asylum and Refuge (CIAR) involving relevant Ministries such as the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Inclusion, Social Security and Immigration, and the UNHCR representatives.

## 2.0 Possibility of changing the status

- a) Difference between temporary protection status and other forms of adequate protection<sup>3</sup> under national law, in respect of third country nationals and stateless persons coming from Ukraine.

Temporary protection is granted on two decisions with different legal basis:

- ▶ first, based on the general declaration of temporary protection adopted by the Council of the European Union or by the Spanish Government, which is based on the TPRD 1325/2003 (Articles 4 to 6 of the TPRD 1325/2003);
- ▶ second, based on that declaration, an individual decision on granting the benefits of the temporary protection regime is taken by the Ministry of Internal Affairs, upon the interested parties' request which is processed by the Asylum and Refuge Office, and at the proposal of the Inter-ministerial Commission for Asylum and Refuge, according to the terms and periods established by the **Organic Law 4/2000** of 11 January on rights and freedoms of foreigners in Spain and their social integration (**Immigration Organic Law**, as amended by the Organic Law 8/2000, of 22 December).

The TPRD provides for a standalone regime. Specifically for persons displaced from Ukraine, **Article 5(1) of the Order PCM/169/2022** of 9 March establishes that *“The Minister of the Interior shall decide whether or not to grant temporary protection on the basis of a proposal from the Inter-ministerial Commission on Asylum and Refuges. **The decision granting temporary protection shall include authorisation for residence and work. Regarding the work authorisation in the case of minors, the provisions of the applicable regulations shall apply.**”*

The **procedure for temporary protection is faster** than for other forms of protection.

- ▶ Applications for temporary protection can be submitted in the special Reception, Attention and Referral **Centres** (CREADE) located in Madrid, Barcelona, Malaga and Alicante and in all the Province Foreign and Border Police Brigades and in some [Local Foreign and Border Police Brigades](#). **The resolution period is 24 hours.**

Having applied for temporary protection does not preclude from applying for international protection, including asylum. In the case of persons who have suffered individual persecution and have been refused international protection, they may apply for temporary protection or re-apply for international protection, if necessary, given that there has been a change of circumstances in Ukraine that justify the risk in case of return. Further information can be found [here](#).

Persons benefiting from temporary protection may also apply for recognition of a refugee status. However, the benefits of temporary protection shall not be accumulated with the benefits of the asylum seeker when the application is being processed (RD 1325/2003, Article 22).

It should be noted that, under Spanish law, temporary residence may be granted on different grounds with different regimes being applicable.

<sup>3</sup> 'Adequate protection' under national law is referred to in Article 2(2) of the Council Decision as a possible alternative that may be offered by Member States to temporary protection and therefore does not have to entail benefits identical to those attached to temporary protection as provided for in Directive 2001/55/EC. Nevertheless, when implementing the Council Decision, Member States must respect the Charter of fundamental rights of the European Union and the spirit of Directive 2001/55/EC. The respect for human dignity and therefore a dignified standard of living (such as residency rights, access to means of subsistence and accommodation, emergency care and adequate care for minors) has to be ensured in respect of everyone.

**Temporary residence on grounds of international protection (asylum)** (Article 125 of the Immigration Regulation RD 557/2011)

- ▶ The process is longer, and harder as it is necessary to prove that the person is being persecuted for political, religious, ethnic, sexual or other reasons.
- ▶ The application must be submitted at the Spanish frontiers, in the authorised [Police stations, foreigners' offices or embassies](#), or in detention centres.
- ▶ During the first six months of the application process, the applicants do not have a work permit, unlike the temporary protection status which grants the right to work in Spain since its granted.
- ▶ However, it is not subject to a maximum protection term, it cannot be terminated by the Council Decision and it provides a more extensive regime of rights, which include:
  - ▷ the right to non-refoulement or expulsion from the territory of Spain after recognition of international protection;
  - ▷ residence and work authorisation;
  - ▷ issuance of identity and travel documents;
  - ▷ access to public employment services;
  - ▷ access, under the same conditions as Spaniards, to education, health care, housing, social assistance and social services, to the rights recognised by the legislation applicable to victims of gender violence, where appropriate, to social security and integration programs;
  - ▷ access, under the same conditions as Spaniards, to continuing or occupational training and internships, as well as to procedures for the recognition of academic and professional diplomas and certificates and other official qualification tests issued abroad;
  - ▷ freedom of movement.

The procedures for temporary protection and international protection are compatible. That means that a person from Ukraine may request an asylum status in parallel to the temporary protection one, but the benefits will not be accumulated.

**Temporary residence on humanitarian grounds** (Article 126 of the Immigration Regulation 557/2011)

- ▶ This permit guarantees the possibility to reside and work legally in Spain for a period of one year (and extendable for another year) in cases where international protection status has been denied ([Ministry of Interior, Note on the Proposal for Granting Temporary Residence Authorisation for Humanitarian Reasons](#), Article 37 of the Law 12/2009, of 30 October, regulating the right to asylum and subsidiary protection and Article 123 and subsequent of the Royal Decree 557/2011).
- ▶ This option has been used only once on the basis of a decision of 28 February 2019 in relation to Venezuelan nationals who had applied for asylum in Spain after January 2014.

**Temporary residence authorisation for exceptional circumstances of collaboration with public authorities, reasons of national security or public interest** (Articles 127 and 129 of the Immigration Regulation 557/2011)

- ▶ Authorisation of residence can be:

- ▷ granted by the Secretary of State for Security when the authorisation is based on collaboration with police, prosecutorial and judicial authorities and in cases of national security;
- ▷ granted by the head of the Secretary of State for Immigration and Emigration in cases of collaboration with other administrative authorities and for reasons of public interest.
- ▶ Authorisation for residence gives access to the Foreigner Identity Card.
- ▶ Temporary residence authorisation due to exceptional circumstances is accompanied by a work authorisation in Spain during the validity of the former.

Relevant to note is also the regime established by the [Law 14/2013, of 27 September](#), which facilitates entry, residence and permanence in Spanish territory for reasons of economic interest. It is a business-friendly framework of visa and residence and work permits designed with the aim of attracting business related migration and highly skilled migrants such as: investors, entrepreneurs, highly qualified professionals, researchers, scientists and academics of universities and business schools, movement of persons related to trade of services: ICT, IP (independent professionals), CSS (contractor service suppliers) etc.

The main features are:

- ▶ fast track procedure
- ▶ no labour market test
- ▶ employer led system for highly qualified professionals
- ▶ facilities for family reunion (spouse with full access to labour market)
- ▶ intra EU mobility for ICT EU residence permits and business friendly framework.

- b) Possibility to file status change inside the territory without the requirement for the person to first leave the country or return to Ukraine from temporary protection or other forms of adequate protection to employment-based residence permit during the temporary protection regime and at the end of this regime (e.g. single permit for work, EU Blue Card for highly-qualified workers, seasonal workers, family reunification).

In principle, the protection is temporary and therefore once the conditions for protection expire, the beneficiaries should leave Spain. There is no possibility for remaining, working or having a reunification after the temporary protection is ended.

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

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

- d) Measures aiming to preclude registration of displaced persons in more than one Member State/EEA-EFTA country (see Article 26 of the Temporary Protection Directive).

Temporary protection in Spain grants the right to residence in Spain but not in other countries. This authorisation for residency has all the legal effects, including the possibility to come back to Spain from any EU Member

State where the person might have travelled for short periods (not as resident). However, to travel to other countries, the person needs to have a passport and fulfil the requirements in the country of destination.

Such persons cannot move to be residents in another Member State unless they renounce temporary protection in Spain. Freedom of movement only applies within the national territory (Article 14 TPRD 1325/2003). If persons renounce temporary protection in one Member State according to Article 24(1)d) TPRD 1325/2003, to apply for temporary protection in a second Member State, it is at the discretion of the latter to grant it or not and there might be additional requirements. Further information can be found [here](#).

### 3.0 Access to labour market (Article 12 of the Temporary Protection Directive)

- e) Overview on how equal treatment on the labour market as regards working conditions is ensured for persons enjoying temporary (or adequate) protection from Ukraine.

Once the work permit is granted, equal treatment is applied to all workers pursuant to Article 17(1) of the Worker's Statute which determines that any regulatory provisions, clauses of collective agreements, individual agreements and unilateral decisions of the employer which give rise to situations of **direct or indirect unfavourable discrimination**, including on grounds of **origin, including racial or ethnic origin**, shall be null and void and without effect.

Pursuant to **Article 5 of the [Order PCM/169/2022](#)** the decision of the Minister of Interior granting temporary protection shall include authorisation for residence and work. Thus, citizens who have been granted temporary protection have **the right to work under the same conditions as Spanish citizens**.

In addition, **Article 36 of the [Asylum Law 12/2009](#)** recognises:

- ▶ the right to work in the terms established by the Immigration Organic Law 4/2000;
- ▶ access to education, health care, housing, social assistance and social services, the rights recognised by the legislation applicable to victims of gender violence, where appropriate, social security and to integration programs, **under the same conditions as the Spanish citizens**;
- ▶ access, **under the same conditions as Spanish citizens**, to continuing or occupational training and internships, as well as to procedures for the recognition of academic and professional diplomas and certificates and other official qualification tests issued abroad.

- f) Conditions applicable to persons enjoying temporary (or adequate) protection from Ukraine, (including the procedure to be followed):

- I. The conditions regulating work permits/work authorisation, if required

The requirements for the work permit based on the residency authorisation for temporary protection are established in Article 64(3) of the [Immigration Regulation RD 557/2011](#).

- ▶ The employer needs to present a work contract signed by the worker and by itself that guarantees the worker a continued activity during the period of validity of the initial authorisation for temporary residence and employment.

- ▶ The conditions established in the employment contract need to be adjusted to those established by current regulations and the applicable collective agreement for the same activity, professional category and location.
- ▶ The requesting employer needs to formalize the registration in the corresponding regime of the social security system and should be up to date with the fulfilment of its tax and social security obligations.
- ▶ The employer needs to have sufficient economic, material or personal means for the business project and to meet the obligations assumed in the contract with the worker.
- ▶ The worker has the training and, where appropriate, the professional qualification legally required for the exercise of the profession.

The work permit gives the right to work under the same conditions as for Spanish citizens.

## II. Recognition of qualifications/diplomas

The recognition of diplomas in Spain is regulated by the [Royal Decree 104/1988](#) of 29 January 1988 on the recognition and validation of foreign qualifications and studies in non-university education. This Royal Decree has been amended to allow persons benefiting from the temporary protection to exceptionally, and for the purposes of initiating the procedure, replace the required documentation referred to in the Royal Decree with a declaration of responsibility with temporary validity ([Royal Decree-Law 6/2022 of 29 March](#) adopting urgent measures within the framework of the National Response Plan to the economic and social consequences of the war in Ukraine (second final provision and second transitional protection)).

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

Assistance for job seekers is provided to beneficiaries of temporary protection entitled to social assistance (Article 3 of the Order PCM/169/2022 in relation to Article 20 TPRD 1325/2003). This applies to persons without sufficient resources to meet their needs and the needs of their family.

This assistance entails the following services (Section C.2.9 of the [Management Handbook](#)).

- ▶ Training for employment aimed at providing the theoretical and practical knowledge required for the performance of a specific profession.
- ▶ Training activities for employment are developed to enable the recipients to access the labour market, giving priority to training for employment recognised in the corresponding Public Employment Services of each Autonomous Community.
- ▶ Information on courses, course enrolment and preparation for tests - especially courses aimed at obtaining certificates.

More detailed information on specific actions can be found in the Management Handbook.

**Pre-employment training:** It is aimed at the acquisition of linguistic skills and social skills for development in the host society and environment of the recipients of the project and includes the following activities:

- ▶ courses in Spanish and, where appropriate, regional languages



- ▶ workshops and seminars to access the socio-labour context
- ▶ social and personal skills development workshops
- ▶ introductory courses to computer science and use of new technologies
- ▶ other workshops other than those listed, that respond to the new needs that are detected.

**Training for employment:** It is aimed at facilitating the theoretical-practical knowledge demanded by the business fabric for the performance of a specific profession. For this, the following activities can be carried out.

- ▶ Training activities for employment will be developed that allow recipients access to the labour market, giving priority to training for employment recognised in the corresponding Public Employment Services (PES) of each Autonomous Community.
- ▶ Information on courses, enrolment in them and the preparation of access tests will be provided. Access to courses aimed at obtaining Certificates of Professionalism will be especially reinforced.
- ▶ Advice will be provided for access to regulated professional training.

**Internship training:** Conventions and agreements may be made with companies to allow the incorporation in non-labour internships or in the internship contracting regime of the recipients of employment training activities.

The **job placement** itinerary will also include the following activities:

- ▶ analysis of the skills profile in relation to the needs of the labour market
- ▶ advice and monitoring for job search
- ▶ labour mediation
- ▶ monitoring and accompaniment in the workplace
- ▶ social, family and/or intercultural mediation interventions
- ▶ referrals to other entities and external resources
- ▶ detection and action of possible cases of trafficking in human beings
- ▶ application of the SGIE Protocol
- ▶ other activities that facilitate the provision of the action.

However, no information could be found on the actual implementation of this support.

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

Vocational training and educational opportunities are available for job seekers beneficiaries of temporary protection **entitled to social assistance** (Article 3 of the Order PCM/169/2022 in relation to Article 20 RD 1325/2003). This applies to persons without sufficient resources to meet their needs and the needs of their family ([Management Handbook Section C.2.9](#)).



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

No exceptions have been found.

## 4.0 Social security, social welfare and means of subsistence assistance, as well as medical care (Article 13 of the Temporary Protection Directive)

- I. Types of benefits with description and coverage

### Social security

The main applicable legislation is the [Social Security General Law](#) adopted by the Royal Legislative Decree 8/2015 of 30 October, which entered into force on 2 January 2016 in relation to the Law 4/2000 and the Immigration Regulation RD 557/2011.

Applicable is also, Article 36 of the [Asylum Law 12/2009](#), which states that the protection covers:

- ▶ the permanent residence and work authorisation, in the terms established by the Organic Law 4/2000, of 11 January, on the rights and freedoms of foreigners in Spain;
- ▶ access to public employment services;
- ▶ access to education, health care, housing, **social assistance and social services, social security and access to integration programs, under the same conditions as for Spaniards;**
- ▶ access, under the same conditions as for Spaniards, **to continuing or occupational training and internships**, as well as to procedures for the recognition of academic and professional diplomas and certificates and other official qualification tests issued abroad.

As mentioned, **Article 19** of the **TPRD 1325/2003** refers to the work permit stating that the **administrative authorisation to work** shall be granted to beneficiaries of **temporary protection** in accordance with the immigration legislation. Article 129 recognises that temporary residence is accompanied by work permit.

Article 3 of the [Order PCM/169/2022](#) establishes that the request for temporary protection enables the person to remain in the Spanish territory and to benefit from **the social aid** provided by Article 20 of the TPRD 1325/2003 which states that beneficiaries of temporary protection who do not have sufficient resources may benefit from social and health services in accordance **with asylum regulations**.

Social assistance: beneficiaries without sufficient resources, are also able to benefit from social services, in accordance with asylum legislation.

### Social welfare

Persons who have been granted temporary protection are entitled to:

- ▶ access to social benefits (reception, legal and psychological care, social support, language learning, etc.)

- ▶ access to healthcare
- ▶ access to education for children under 18 years of age under the same conditions as nationals
- ▶ validity of the Ukrainian driving license to drive in Spain for one year.

More information could be obtained [here](#) and [here](#).

### Health

The public health system in Spain is called the “universal health system”. This means that the entire population of the country, including foreigners, refugees, asylum seekers and stateless persons, can access free medical or health care through the National Health System (SNS), in certain circumstances that are explained later.

The public health system is based on the Foreign Identity Card (TIE). The health card is requested at the health centre. To apply, there is a need to have a Social Security Number. The card takes about a month to arrive.

### Housing

Temporary protection grants access to housing to individuals or families without economic resources for a maximum period of 18 months, which can be extended to 24 months in vulnerable situations. Ministerial Order of 13 January 1989 regulates the Reception Centres for Refugees and Asylum seekers. These centres are public establishments intended to provide accommodation, maintenance and emergency and primary psychosocial assistance, as well as other social services aimed at facilitating coexistence and integration into the community of people who request asylum in Spain or obtain refugee or displaced status in Spain and who lack the financial means to attend to their needs and those of their family.

The programme to support Ukrainians also includes social care, psychological support, support in the search for employment and aid for training and language classes (more information [here](#) and [here](#)).

### Reception System

The Reception System provides for an intervention methodology by phases, depending on the degree of autonomy of the recipients. The first phase offers coverage of basic needs, helping the beneficiaries to acquire the necessary skills for the development of an independent life. The second phase begins when people require further support through economic aid for rent and attention to other basic needs.

These actions are carried out through a state network made up of Refugee Reception Centres dependent on the Ministry of Inclusion, Social Security and Migration (more information [here](#)). The system of aids is regulated by the [Resolution of 27 February 2015](#), of the General Secretariat of Immigration establishing for the year 2015 the maximum and minimum amounts of economic aid for the beneficiaries of the Refugee Reception Centres integrated in the network of Migration Centres of the Ministry of Employment and Social Security.

The system of aids cover the following expenses.

#### Aid to cover essential personal expenses:

- ▶ individual: EUR 51.60 per month
- ▶ children under 18: EUR 19.06 per month per person
- ▶ expenses for the birth of a child: EUR 181.70 per child.

#### Transportation aids:

- ▶ cost of the monthly subscription or any other type of proof of payment for public transport within the province in which they reside;
- ▶ trips to another city in the case of a transfer to another reception centre: amount of the transport ticket (bus or train);
- ▶ transfers to carry out an inexcusable duty, to obtain the documentation and procedures related to the application for international protection, to attend job interviews, due to force majeure and to receive treatment or medical consultations when there are none in the place of residence and/or were offered free of charge by an institution;
- ▶ taxis, in an extraordinary way and whenever public transport cannot be used.

#### **Aid for the acquisition of clothing:**

- ▶ clothing and footwear: EUR 181.70 per season per person (maximum two seasons per year).

**Aid of a health nature:** All of them on a one-off basis and for the amounts that cover the cost of goods or provision of services upon presentation of three budgets, except for pharmacy expenses and children's food and hygiene products:

- ▶ pharmacy: by prescription, except in cases of medical emergency
- ▶ glasses: by prescription
- ▶ prosthesis: by medical prescription
- ▶ children's food and hygiene products motivated by paediatric needs.

#### **Grants for educational, training and leisure activities**

- ▶ **Educational aid**, in the amount of the cost of goods or provision of services, provided that the beneficiary does not receive aid for the same concept through another public administration or organisation:
  - ▷ nursery: depending on the cost/child
  - ▷ school uniforms, school insurance, fees for parents/mothers of students associations, school canteen, extracurricular activities including extended hours, as well as recreational-educational or therapeutic (self-esteem workshops, support groups or similar): actual cost of acquisition of the good or provision of the service
  - ▷ school teaching material (nursery/preschool/primary/ESO): cost per course/child
  - ▷ Baccalaureate/FP school material: cost per course/student
  - ▷ University study material: EUR 250.13 per course/student
  - ▷ enrol university studies for the real amount of the credits in the first call according to MEC criteria.
- ▶ **Aid for training**, to cover the costs of goods or provision of services, as long as the same resource does not exist within the public offer, with the following concepts and maximum amounts per person throughout their participation in the program, regardless of the financial year:
  - ▷ pre-training: training in language learning, computer literacy, contextualisation and social skills, technical skills

- ▷ enrolment and/or monthly fee: maximum EUR 1 364.31 per person
- ▷ course material: maximum EUR 250.13 per person
- ▷ training: occupational training and professional retraining
- ▷ enrolment and/or monthly fee: maximum EUR 1 364.31 per person
- ▷ course material: maximum EUR 250.13 per person
- ▷ compulsory insurance to carry out the training practices (insurance cost).
- ▶ **Aid for leisure and free time activities:** real cost of acquiring the good or providing the service:
  - ▷ recreational-educational activities
  - ▷ cultural activities
  - ▷ excursions and summer camps for children and youth
  - ▷ sport activities.

#### **Aid for obtaining administrative documentation:**

- ▶ issuance of documents: cost of fees and processing
- ▶ trips and stays in another city to carry out procedures related to the beneficiary's asylum application: amount of the transport ticket (bus or train) and, where appropriate, accommodation and meals in an amount equivalent to group III of officials in agreement with the norms of indemnities by reason of the service.

#### **Interpretation and translation:**

- ▶ translation and interpretation: cost of providing the service.

#### **Expenses derived from cases of deaths:**

- ▶ expenses caused by the burial or cremation of a resident, according to the corresponding City Council rate, provided that there is no public coverage for this need.

#### **Aid to facilitate the autonomy of the beneficiaries when leaving the centre**

- ▶ Applicants for international protection are excluded from these grants when a Member State has accepted the examination of their asylum application under the Regulation (EC) 343/2003.
- ▶ The receipt of this aid is incompatible with the simultaneous receipt of the "Subsistence aid to cover the basic needs people who, having started training courses as residents, have completed their period of residence in a centre".
- ▶ Perception period: single payment grants.
- ▶ Maximum amounts: to calculate the amount, the length of stay in the centre will be counted, and the maximum amount can be offered after three months of stay.
- ▶ In the event that the beneficiary resides in the centre for a shorter period, the proportional part of the period of stay in the centre will be paid:

- ▷ individual: EUR 347.60
- ▷ coexistence unit made up of two members: EUR 520.73
- ▷ coexistence unit made up of three members: EUR 557.73
- ▷ coexistence unit made up of four members: EUR 594.73
- ▷ coexistence unit made up of five or more members: EUR 792.73
- ▷ single-parent cohabitation unit or one in which one of its members has a disability: the maximum amount may be that of the section higher than that corresponding to the number of its members.

### Subsistence aid

- ▶ To cover the basic needs of people who, having started training courses as residents, have completed their period of residence in a centre. These grants can be received until the end of the training.
- ▶ Attention to basic needs: maximum monthly amounts:
  - ▷ individual: EUR 347.60
  - ▷ coexistence unit made up of two members: EUR 520.73
  - ▷ coexistence unit made up of three members: EUR 557.73
  - ▷ coexistence unit made up of four members: EUR 594.73
  - ▷ coexistence unit made up of five or more members: EUR 792.73
  - ▷ single-parent cohabitation unit or in which one of its members has a disability: the maximum amount may be that of the section higher than the one corresponding to the number of its members.
- ▶ Local and/or provincial transportation: transport aid for people who are taking training courses and have completed their period of residence in a centre under the terms indicated in “Transport aid” above.
- ▶ Nursery school, school canteen and extension of school hours for the beneficiary's children: actual cost of the good or provision of the service.

### Aid for families not included in the Reception System

- ▶ With the [Royal Decree 673/2022](#) of 1 August 2022, the government approved a [measure](#) so that vulnerable families from Ukraine (displaced persons from Ukraine who were residents in Ukraine) residing in Spain and benefiting of temporary protection and without sufficient economic resources receive monthly allowances of EUR 400 per adult and an additional EUR 100 for each dependent minor under the adult's care. This benefit is targeting those Ukraine families who do not have access to the above-mentioned benefits because they are outside of the Reception System. Financial support is provided through the regional governments (Autonomous Communities).

## II. Eligibility conditions

### Social security

- ▶ The public social security system in Spain is called the “universal health system”. This means that the entire population of the country, including foreigners, displaced persons, asylum seekers and stateless persons, can access free medical or health care through the National Health System (SNS), in certain circumstances that we explain later.
- ▶ The main applicable legislation is the Social Security General Law adopted by the Royal Legislative Decree 8/2015 of 30 October, which entered into force on 2 January 2016 in relation to the Law 4/2000 and the Immigration Regulation RD 557/2011 and whose Article 63 establishes that the initial authorisation for temporary residence and paid employment requires the foreign persons to have been registered in the corresponding social security regime within a period of three months from their arrival date. The beneficiaries should also apply for the corresponding Foreigner Identity Card within one month from their registration in the corresponding Social Security system, in accordance with the provisions of this chapter.
- ▶ The temporary protection is granted within 24 hours from the submission of the request and involves initial authorisation for temporary residence and employment for a duration of one year, extendable up to three without the need to request asylum, but not preventing it (Article 7 Orden PCM/169/2022). It is limited to the geographical area and a specific occupation.
- ▶ Based on the Social Security Number the person may benefit from the social system as established in the law.
- ▶ Registration in the corresponding social security regime gives effect to the initial authorisation for temporary residence and employment. The employers are required to formalise the registration in the corresponding regime of the social security system and to ensure the fulfilment of their tax and social security obligations. On that basis the social security rights will cover the beneficiary of temporary protection.
- ▶ The Foreign Identity Card is needed to obtain the Social Security Number which opens the possibility for getting the health card to benefit from the public health system. The card takes about a month to arrive.

### **Social welfare**

Eligibility conditions are as follows:

- ▶ having requested or benefiting from temporary protection or international protection;
- ▶ not having sufficient resources;
- ▶ not having been recipient of the benefits offered in the Reception System for the maximum period stipulated, except duly authorised.

Displaced persons from Ukraine as of 24 February 2022 as a result of the Russian invasion that began on that date and persons residing in Ukraine who were in Spain when the conflict broke out and they have not been able to return to their country, in the case of lack of economic resources, may request access to the Reception System.

The aid that the Ministry of Inclusion, Social Security and Migration [announced in June was adopted on 1 August 2022 to support families not included in the public Reception System](#) and:

- ▶ who have a lack of financial resources;
- ▶ are registered in a Spanish municipality;

- ▶ and have a Social Security number (NISS).

- III. Any exceptions to the general law in force in the country to access to social security systems or social welfare system relating to employed or self-employed activities

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

## 5.0 Public support instruments

Overview of other public support instruments facilitating labour market participation, information about and enforcement of rights and entitlements for displaced persons.

The Ministry of inclusion, Social Security and migration has established a website to provide information of the public support instruments, including a specific [hotline](#) only for displaced persons from Ukraine. The phone number is +3491 399 00 09. A [Q&A webpage](#) has also been put in place. The whole webpage exists in Ukrainian and key sections in English.

The foundation CEOE (Spanish Confederation of Business Organisations) created the platform '[Companies for Ukraine](#)' to help the integration of people from Ukraine through training and employment.

Since 2020, the UNHCR Office in Spain, together with the [DLA Piper](#) law firm, has been organising the “Know Your Rights” annual training. The program, completely free, is aimed at displaced persons, asylum seekers and stateless persons in Spain with sufficient level of Spanish and being at least 18 years old.

There is an [Integration plan for displaced persons from Ukraine](#) to which displaced persons from Ukraine residing in Madrid could apply between 29 November 2022 and 31 December 2022.

The tax authority has in place a [helpline](#) to provide information and assistance to people affected by the war in Ukraine.

Catalonia has in place a [system of assistance](#) to beneficiaries of the temporary protection scheme affected by the conflict in Ukraine.