



# **Mass influx of people from Ukraine: social entitlements and access to the labour market**

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# Mass influx of people from Ukraine: social entitlements and access to the labour market: Portugal.

Ana Teresa Ribeiro\*

1. General framework. 2. Personal scope of applicable support measures. 3. Social policy measures for Ukrainians: financial support, housing, access to healthcare and education. 4. Social policy measures for Ukrainians: supporting professional activity. 5. Final considerations.

## 1. General framework.

Despite the geographical distance and the linguistic differences, Portugal has had, since the 1990s, a significant Ukrainian community. Therefore, it is not surprising that, following the beginning of the war, the country became a destination to several thousands of Ukrainian war migrants.<sup>1</sup> In fact, according to the United Nations High Commissioner for Refugees,<sup>2</sup> as of 4/06/2023, 56.995 Ukrainian war migrants came to Portugal (all of which applied either to asylum, temporary protection, or another similar protection scheme). The Government even expressed the country's willingness and interest in receiving them, given the available

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<sup>1</sup> Since the early 2000s, Ukrainians have been one of the most relevant migrant groups present in the Portuguese territory. In 2021, there were 27.195 Ukrainian residents in Portugal – see Oliveira C.R. (coord.), *Indicadores de Integração de Imigrantes, Relatório estatístico anual 2021*, Alto Comissariado para as Migrações, Lisbon, December 2021, 53-54, available at:

<https://www.om.acm.gov.pt/documents/58428/383402/Relat%C3%B3rio+Estat%C3%ADstico+Anual+2021.pdf/e4dd5643-f282-4cc8-8be1-92aa499bb92f> (last accessed 19 August 2023); Oliveira C.R. (coord.),

*Indicadores de Integração de Imigrantes, Relatório estatístico anual 2022*, Alto Comissariado para as Migrações, Lisbon, December 2022, 57-59, available at:

<https://www.om.acm.gov.pt/documents/58428/383402/Relatorio+Estatistico+Anual+-+Indicadores+de+Integracao+de+Imigrantes+2022.pdf/eccd6a1b-5860-4ac4-b0ad-a391e69c3bed>

(last accessed 19 August 2023). Still, Portugal is not one of the main destinations for international protection. In 2021, of the 27.1 million refugees existing in the world (according to the UN Refugee Agency), only 2.9 million were in EU countries, and, of those, only 2.700 were in Portugal – see Oliveira C.R., *Requerentes e beneficiários de proteção internacional em Portugal. Relatório estatístico do asilo 2023*, Alto Comissariado para as Migrações, Lisbon, June 2023, 29, available at:

[https://www.om.acm.gov.pt/documents/58428/1489887/Relatorio+Estatistico+Asilo+2023\\_CRO.pdf/faccca14-39ab-45f4-99cf-40c61d6fb308](https://www.om.acm.gov.pt/documents/58428/1489887/Relatorio+Estatistico+Asilo+2023_CRO.pdf/faccca14-39ab-45f4-99cf-40c61d6fb308) (last accessed 22 August 2023).

<sup>2</sup> See <https://data.unhcr.org/en/situations/ukraine> (last accessed 15 August 2023).

job positions and the highly valued contribution of migrants to the national social security system.<sup>3</sup>

Regarding the framework on temporary protection, Directive 2001/55/EC of 20 July<sup>4</sup> was transposed to the Portuguese legal regime through Act no. 67/2003, of 23 August.<sup>5</sup>

Furthermore, and even before the approval of Council Implementing Decision 2022/382,<sup>6</sup> Portugal had already approved Resolution of the Council of Ministers (RCM) no. 29-A/2022, of 1 March,<sup>7</sup> in which it determined the specific criteria for granting temporary protection to displaced people as a result of the war in Ukraine. This act was later adjusted to meet the stipulations of Council Implementing Decision 2022/382.

According to § 1 of said Resolution, temporary protection was conceded for the period of one year, with the possibility of renewal up to another year, by decision of the Council (of the European Union).

In the meantime, **and in accordance with the EU's intention of extending** the temporary protection of dislocated people from Ukraine until March 2024, the Government (through RCM<sup>8</sup> no. 22-D/2023) prolonged this protection for another six months. This solution stems from the regime enshrined in Article 7 of Act no. 67/2033, meaning that Portugal did not chose to implement a more favourable timeframe than the one resulting from the EU legislation.

## 2. Personal scope of applicable support measures.

In a first moment, before the approval of Decision 2022/382, and given the pressing war migrants' situation, Portugal approved, on 1 March 2022, RCM no. 29-A/2022. The original version of this act only granted temporary protection in Portugal (with automatic concession of a residence permit) to nationals of Ukraine and their family, with provenance from that country, and that could not return due to the war taking place therein. This protection was

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<sup>3</sup> *Ucrânia. Portugal tem capacidade e necessidade de acolher pessoas, diz Governo*, in RTP Notícias, 16 March 2022, [https://www.rtp.pt/noticias/pais/ucrania-portugal-tem-capacidade-e-necessidade-de-acolher-pessoas-diz-governo\\_n1391778](https://www.rtp.pt/noticias/pais/ucrania-portugal-tem-capacidade-e-necessidade-de-acolher-pessoas-diz-governo_n1391778); Pereira A.C., *Portugal entre os países que menos diferenciam nacionais de imigrantes na protecção social*, in *Público*, 16 February 2023, <https://www.publico.pt/2023/02/16/sociedade/noticia/portugal-paises-menos-diferencia-nacionais-imigrantes-proteccao-social-2039148> (last accessed 19 August 2023). This is, in great part, explained by the low birth rate and the migratory habits of the Portuguese population – on this subject, as well as on the positive impact migration has had regarding the decrease of the effects of this phenomena, *see* Oliveira C.R., 2021, nt. (1), 58 ff. and Oliveira C.R., 2022, nt. (1), 62 ff.

<sup>4</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 (later on as: Directive 2001/55).

<sup>5</sup> Law no. 67/2003 of 23 August, available at [https://files.dre.pt/StaticContent/Lei\\_67\\_2003\\_EN.pdf](https://files.dre.pt/StaticContent/Lei_67_2003_EN.pdf) (last accessed 19 August 2023).

<sup>6</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 (later on as: Decision 2022/382).

<sup>7</sup> Resolution of the Council of Ministers no. 29-A/2022, [https://files.dre.pt/StaticContent/RCM\\_29-A\\_2022\\_\\_EN.pdf](https://files.dre.pt/StaticContent/RCM_29-A_2022__EN.pdf) (last accessed 5 September 2023).

<sup>8</sup> Resolution of the Council of Ministers no. 22-D/2023 of March 13, available at <https://diariodarepublica.pt/dr/detalhe/resolucao-conselho-ministros/22-d-2023-208581828> (last accessed 15 August 2023). This transposition was, therefore, in violation of the deadline established in Article 32 of Council Directive 2001/55.



also extended to their family members with different nationality, as long as they proved such relation regarding Ukrainian citizens and were also unable to return to the country due to the war.<sup>9</sup>

Following the approval of Decision 2022/382, the aforementioned act was amended by RCM no. 29-D/2022, of 11 March,<sup>10</sup> in order to bring it up to speed with the options made at EU level.

Subsequently to this change, § 1 of RCM no. 29-A/2022 now reads that Portugal grants temporary protection, with automatic concession of a residence permit, to nationals of Ukraine and to foreign citizens of other nationalities or stateless persons entitled to international protection in Ukraine with provenance from that country and who are unable to return to Ukraine as a result of the war taking place therein.

In addition, § 2 of RCM no. 29-A/2022 was also changed. As previously noted, in its original version, this act merely extended this protection to family members of Ukrainian citizens with a different nationality. Following the approval of RCM no. 29-D/2022, it was determined that this protection should encompass not only citizens of other nationalities, but also stateless persons who:

- are family members of Ukrainian citizens or
- who prove to hold the right to permanent residence in the Ukraine or
- who possess an authorization for temporary residence or who benefit from a long-term visa, aiming at obtaining such kind of authorization, and whose safe and long lasting return to their country of origin is not possible.

This second category of beneficiaries was once again changed, on 28 December 2022, through RCM no. 135/2022,<sup>11</sup> which determined the final and current version of § 2 of RCM no. 29-A/2022. This provision currently states that the temporary protection afforded by Portugal also covers:

- foreign nationals of other nationalities who prove to be family members of the citizens referred to in the preceding paragraph (that is, Ukrainian citizens, or foreign nationals or stateless people who benefited, until then, from Ukrainian international protection) or who prove that they are permanent residents in Ukraine and whose safe and durable return to their country of nationality is not possible;
- stateless persons who prove to be family members of the citizens mentioned in the preceding paragraph (that is, Ukrainian citizens, or foreign nationals or stateless people who benefited, until then, from Ukrainian international protection) or who prove that they are permanent residents in Ukraine.

Comparing the categories enshrined in Article 2, nos. 1 and 2, of Decision 2022/382, with the ones contained in §§ 1 and 2 of RCM no. 29-A/2022, it is clear that the latter went generally beyond the requirements of the first (even with the latest amendment that narrowed its scope).

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<sup>9</sup> The original version of this act is available at: <https://diariodarepublica.pt/dr/detalhe/resolucao-conselho-ministros/29-a-2022-179802560> (last accessed 16 August 2023).

<sup>10</sup> Available at: <https://files.dre.pt/1s/2022/03/05001/0000200003.pdf> (last accessed 16 August 2023).

<sup>11</sup> Available at: <https://diariodarepublica.pt/dr/detalhe/resolucao-conselho-ministros/135-2022-205378560> (last accessed 16 August 2023).

In fact, while Decision 2022/382 specifies that the connection between the displaced people and the Ukrainian territory must predate 24 February 2022, Portuguese legislation does not make such demand. Furthermore, before the amendment introduced by RCM no. 29-D/2022, the Portuguese regime also encompassed the categories of foreign and stateless persons with temporary residence, following the permission enshrined in Article 2, no. 3, of Decision 2022/382.

However, it should be noted that RCM no. 29-A/2022 does not expressly allude to foreigners and stateless persons benefiting from national protection provided by the Ukrainian State (equivalent to international protection), diverging from what is established in Article 2, no. 1, *b)* of Decision 2022/382.

Finally, it is worth mentioning that the notion of family members eligible to temporary protection has also changed over time. In its pre-Council Implementing Decision 2022/382 version, RCM no. 29-A/2022 alluded to foreign citizens who proved to be blood-relatives, in-laws, spouses, or part of an unmarried couple (living in a way comparable to a married one) of or with a Ukrainian national. After the change introduced by RCM no. 29-D/2022, this definition was expanded to also include stateless persons.

Finally, with the last amendment, § 3 of RCM no. 29-A/2022 now states that family members are:

- a) spouses;
- b) persons who have been living with the person referred to in paragraph 1 under similar conditions as spouses since more than two years;<sup>12</sup>
- c) minor children of the person referred to in paragraph 1 or of his or her spouse or unmarried partner, including adoptive children;
- d) other close relatives who live together under the same roof and who are totally or largely dependent on the person referred to in paragraph 1 above.

It is noticeable that this last change narrowed the scope of those who shall be considered family members and are, therefore, entitled to benefit from these measures. In fact, Portuguese legislation now only encompasses minor children and close relatives (living under the same roof and totally/largely dependent), whereas, before December, it did not make such demands. Nevertheless, this curtailment does not encroach on the EU provisions on this matter. In fact, it is heavily inspired by Article 2, no. 4, of Decision 2022/382 (while, previously, the scope of the Portuguese legislation went beyond it).

These criteria were reviewed to adjust the protection mechanism to those who still require help and also to the outline of the persisting armed conflict. One can discern an approximation to the rules of most EU countries, with greater restraint regarding the granting of temporary protection to non-Ukrainian persons.<sup>13</sup>

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<sup>12</sup> This stipulation is in line with Article 2, no. 4, a), of Decision 2022/382, since it covers an “unmarried partner in a stable relationship, where the legislation or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its national law relating to aliens”. In fact, under Portuguese law, unmarried couples are considered to be in a situation comparable to married ones when their relation has lasted for more than two years (see Article 1, no. 2, Act no. 7/2001, available at [https://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=901&tabela=leis](https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=901&tabela=leis)).

<sup>13</sup> See Oliveira C., 2023, nt. (1), 89-90. It should be noted that, in 2022, Portugal was the second State, in the EU, to receive more displaced persons, from Ukraine, without Ukrainian nationality (following Germany).

In order to achieve the status of displaced person, pursuant to RCM no. 29-A/2022, any means of proof are admitted<sup>14</sup> and the request can be made either in-person or digitally, from within or outside the national territory.<sup>15</sup> Afterwards, the beneficiaries of temporary protection shall be issued a temporary protection document.<sup>16</sup>

Persons eligible, in principle, to this protection may be excluded from it:<sup>17</sup>

- a) when there are strong reasons to believe that:
  - i. they have committed a crime against peace, a war crime, or a crime against humanity, as defined in domestic law and international instruments of which Portugal is a party;
  - ii. they have committed a serious non-political crime outside the Portuguese territory before they can be admitted in Portugal as beneficiaries of temporary protection;
  - iii. they have committed acts contrary to the purposes and principles of the United Nations;
- b) when there are serious reasons to consider them a danger against national security, or when they have been convicted, by a final decision, of a serious common law crime,<sup>18</sup> or when they constitute a serious threat to the national community.

The decision of exclusion from the temporary protection mechanism belongs to the Minister of Internal Affairs and is subject to appeal.<sup>19</sup>

In turn, the application of the temporary protection mechanism will end when it reaches its maximum period of duration, or anytime, following a decision of the Council (of the EU), based on the assessment that the situation in the country of origin allows a safe and lasting return of the beneficiaries of this measure.<sup>20</sup>

### **3. Social policy measures for Ukrainians: financial support, housing, access to healthcare and education.**

All the information concerning these (and other) support measures regarding displaced persons from the conflict in Ukraine were made available on an online platform (<https://portugalforukraine.gov.pt/>) in three languages (Portuguese, English, and Ukrainian).

Being awarded temporary protection means that Ukrainian displaced persons will be provided with suitable accommodation,<sup>21</sup> insofar as they lack their own necessary resources.<sup>22</sup> Still, while Directive 2001/55 enshrines the right to access to suitable accommodation or, if

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While Germany received 31.300 non-Ukrainians, Portugal welcomed 11.695. The Netherlands followed with 7000 non-Ukrainians – *see* Oliveira C.R., 2023, nt. (1), 85-86.

<sup>14</sup> *See* § 4 of RCM no. 29-A/2022.

<sup>15</sup> *See* § 7 of RCM no. 29-A/2022.

<sup>16</sup> *See* Article 10, no. 1, of Act no. 67/2003.

<sup>17</sup> *See* Article 6, no. 1, of Act no. 67/2003.

<sup>18</sup> Which are crimes punishable with a prison sentence superior to three years – *see* Article 6, no. 5, of Act no. 67/2003.

<sup>19</sup> *See* Article 6, nos. 6 and 7, of Act no. 67/2003.

<sup>20</sup> *See* Article 8 of Act no. 67/2003.

<sup>21</sup> *See* Article 15, no. 1, of Act no. 67/2003.

<sup>22</sup> *See* § 12 of RCM no. 29-A/2022.

necessary, to receive the means to obtain housing, Act no. 67/2003 only expressly refers the right to adequate housing.<sup>23</sup>

Additionally, Article 5 of Decree-law no 24-B/2022,<sup>24</sup> of 11 March (on exceptional measures regarding the concession of temporary protection of displaced persons from Ukraine), deemed applicable, in this context, a pre-existent urgent housing programme (“Porta de Entrada – Programa de Apoio ao Alojamento Urgente”<sup>25</sup>) to further assist displaced people with this matter.<sup>26</sup> Until the end of 2022, 109 municipalities had adhered to this mechanism and 2.372 accommodations were signalled as available. By the end of the year, 683 people (that is, 1.2% of the dislocated persons from Ukraine) benefited from this measure.<sup>27</sup>

Furthermore, the High Commission for Migrations (“Alto Comissariado para as Migrações”), working with national and local authorities, as well as the civil society, tried to ensure other urgent housing solutions. These avenues (which included housing in youth hostels, municipal housing, among others) encompassed 3.671 people (that is, 6.7% of the dislocated persons from Ukraine).<sup>28</sup>

Beneficiaries of temporary protection are also provided with the necessary support in terms of social benefits and means of subsistence, whenever lacking such resources.<sup>29</sup> In fact, beneficiaries of temporary protection shall be treated as beneficiaries with refugee status for the purposes of access to social benefits under the non-contributory regime.<sup>30</sup> This means that they will, namely, be entitled, when the legal conditions are met, to the Social Integration

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<sup>23</sup> See Article 13, no. 1, of Directive 2001/55 and Article 15, no. 1, of Act no. 67/2003.

<sup>24</sup> Available at <https://diariodarepublica.pt/dr/detalhe/decreto-lei/24-b-2022-180398387> (last accessed 22 August 2023).

<sup>25</sup> This programme was established through Decree-law no. 29/2018 (available at: [https://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=2889&tabela=leis&so\\_miolo=](https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=2889&tabela=leis&so_miolo=), last accessed 22 August 2023) and it applies to situations of urgent need for housing, when people are deprived, in a temporary or definitive way, of their permanent housing or when they are in imminent threat of such loss due to an unpredictable or exceptional event (Article 2 of Decree-law no. 29/2018, available at: [https://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?artigo\\_id=2889A0009&nid=2889&tabela=leis&fica=1&nversao=](https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=2889A0009&nid=2889&tabela=leis&fica=1&nversao=), last accessed 5 September 2023).

<sup>26</sup> As denoted in Literature, another mechanism was the spontaneous mobilization of civil society entities or individuals, finding accommodation in the real estate market directly, or using their own network of contacts with individuals, especially with members of the Ukrainian community previously resident in Portugal. “In the initial phase of the invasion and the massive displacement of people from Ukraine, there was a remarkable mobilization of both civil society organizations and private individuals. There were several offers of accommodation – some of which free of charge – from private individuals to displaced persons from Ukraine, either in their own (permanent home) or in a second home. However, there was the expectation that this situation would merely be short-term, which led to the loss of housing and, consequently, to the removal of war migrants from the places where they had already begun creating a social network – see De Angelis G., Challinor E., de Oliveira E., Lemos M., *The reception of displaced persons from Ukraine in Portugal*, NOVA Asylum Policy Lab, Lisbon, Policy Brief no. 1, January 2023, 11-13, <https://novaasylumclinic.fcsh.unl.pt/wp-content/uploads/sites/118/2023/03/Policy-Brief-Ukraine-EN-COMplete.pdf> (last accessed 22 August 2023). Furthermore, problems related to housing do not affect all dislocated persons in the same way. For people coming from Ukraine who are originally from Asian and African countries, this is a more sensitive issue. These persons are more likely to stay for an extended time in reception centres, and there have been reports of municipalities and individuals refusing to provide accommodation to them since they do not fulfil the phenotype of what is expected to be a Ukrainian national.

<sup>27</sup> See Oliveira C.R., 2023, nt. (1), 216.

<sup>28</sup> *Ibidem*.

<sup>29</sup> See Article 15, no. 2, of Act no. 67/2003 and § 12 of RCM no. 29-A/2022.

<sup>30</sup> See § 13 of RCM no. 29-A/2022.

Income (a *Rendimento Social de Inserção*) and to the Social Inclusion Benefit, respectively, aimed at situations of poverty and disability.<sup>31</sup>

In accordance with Article 13, no. 3, of Directive 2001/55, Article 15, no. 3, of Act no. 67/2003, points out that the possibility of providing for their own subsistence through professional activity is taken into account when determining the envisaged level of aid.

In addition, Ukrainians benefiting from temporary protection are also entitled to medical assistance as regards emergency care and basic treatment of illness, and medical or other assistance shall be provided to those who have special needs, such as unaccompanied minors or persons who have been victims of torture, rape, or other forms of moral, physical, or sexual violence.<sup>32</sup> This means that, when enjoying temporary protection, displaced persons from Ukraine will have access to the Portuguese National Health System in the same conditions as Portuguese citizens (namely, the vaccination programme and the assignment of a family doctor).<sup>33</sup>

Regarding access to education, minors enjoying temporary protection are granted access to the public education system under the same conditions as nationals.<sup>34</sup> In practice, this has led to the concession of equivalencies of foreign qualifications and/or the positioning within a certain school year, with simplified procedures, and the attendance, in a first moment, of the subjects that the school deems adequate. Multidisciplinary school teams were created, with the aim of devising and proposing adequate strategies to the specific situation of these students, among other measures, and Portuguese was taught as a non-native language.<sup>35</sup> During this time, several recommendations have been issued with the purpose of helping teachers and teaching staff adjust to these new students and their particular needs, in order to provide for a better and faster integration of these children in the Portuguese school system, ensuring their well-being, safety, and quality learning.<sup>36</sup>

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<sup>31</sup> For more information on these benefits, their amounts, and their legal requirements, see Ministério do Trabalho, Solidariedade e Segurança Social, <https://en.seg-social.pt/citizen> (last accessed 22 August 2023). For detailed information on the number of assigned social benefits and their amounts, see Oliveira C.R., 2023, nt. (1), 209 ff.

<sup>32</sup> See Article 15, nos. 4 and 5, of Act no. 67/2003.

<sup>33</sup> See <https://portugalforukraine.gov.pt/en/faqs-en/#a6> (last accessed 22 August 2023). For more details regarding access to vaccination, see Oliveira C.R., 2023, nt. (1), 205-206.

<sup>34</sup> See Article 16 of Act no. 67/2003.

<sup>35</sup> For further developments, see Oliveira C.R., 2023, nt. (1), 210 ff. For a description of the educational measures and recommendations provided to schools, see Directorate-General for Education (DGE), *Crianças e Jovens Refugiados – medidas educativas*, available at:

[http://dge.mec.pt/criancas-e-jovens-refugiados-medidas-educativas#2\\_Medidas\\_de\\_Acolhimento](http://dge.mec.pt/criancas-e-jovens-refugiados-medidas-educativas#2_Medidas_de_Acolhimento)

(last accessed 22 August 2023); Direção-Geral da Educação, Agência Nacional para a Qualificação e o Ensino Profissional, I.P., *Crianças e jovens beneficiários ou requerentes de proteção internacional. Guia de Acolhimento: Educação Pré-Escolar, Ensino Básico e Ensino Secundário*, August 2020:

[https://www.dge.mec.pt/sites/default/files/Projetos/Criancas\\_jovens\\_refugiados/guia\\_acolhimento\\_requerente\\_de\\_asilo\\_e\\_beneficiarios\\_de\\_protecao\\_internacional.pdf](https://www.dge.mec.pt/sites/default/files/Projetos/Criancas_jovens_refugiados/guia_acolhimento_requerente_de_asilo_e_beneficiarios_de_protecao_internacional.pdf) (last accessed 22 August 2023).

<sup>36</sup> See Oliveira C.R., 2023, nt. (1), 210-211. For the recommendations for children in kindergartens: Direção-Geral da Educação, *Integração de crianças refugiadas na educação pré-escolar*, 2022, available at [https://www.dge.mec.pt/sites/default/files/Projetos/Criancas\\_jovens\\_refugiados/integracao\\_de\\_criancas\\_refugiadas\\_na\\_educacao\\_pre-escolar.pdf](https://www.dge.mec.pt/sites/default/files/Projetos/Criancas_jovens_refugiados/integracao_de_criancas_refugiadas_na_educacao_pre-escolar.pdf) (last accessed 22 August 2023), while for the recommendations for students in other school levels: Direção-Geral da Educação, *Orientações para o acolhimento, a integração e a inclusão de crianças e jovens ucranianos refugiados*, 2022, available at:

[https://www.dge.mec.pt/sites/default/files/Projetos/Criancas\\_jovens\\_refugiados/orientacoes\\_para\\_o\\_acolhimento\\_a\\_integracao\\_e\\_a\\_inclusao\\_de\\_criancas\\_e\\_jovens\\_ucranianos\\_refugiados.pdf](https://www.dge.mec.pt/sites/default/files/Projetos/Criancas_jovens_refugiados/orientacoes_para_o_acolhimento_a_integracao_e_a_inclusao_de_criancas_e_jovens_ucranianos_refugiados.pdf) (last accessed 22 August 2023).

In turn, Article 14, no. 2, of Directive 2001/55 allows Member States to limit this access to public school, which was done by the Portuguese legislator.

It also declares<sup>37</sup> that Member States may authorize the access of adults benefiting from temporary protection to the general education system. The Portuguese act that transposes this directive does not allude to this circumstance. However, Article 3 of Decree-law no 24-B/2022<sup>38</sup> determines that those who benefit from temporary protection may request the application of the status of students in an emergency situation due to humanitarian reasons, which allows Universities and other higher education institutions to receive students from Ukraine who wish to conclude their studies in Portugal.<sup>39</sup>

It should be noted that the statement that proves the application for temporary protection is communicated by the Portuguese **Immigration and Border Service** (“**Serviços de Estrangeiros e Fronteiras**” – SEF)<sup>40</sup> to the Social Security, the Tax and Customs Authority and the shared services of the Ministry of Health, for the purpose of automatic assignment of, respectively, a social security identification number, a tax identification number and a national user number.<sup>41</sup> This statement shall also be provided to the Institute of Employment and Vocational Training (“**Instituto do Emprego e da Formação Profissional**” – IEFPP), for the purposes of registration.<sup>42</sup>

From this analysis, it is clear that the Portuguese legal regime is, in what concerns access to financial support, housing, healthcare, and education, in line with the requirements enshrined in the EU legislation.

In practice, however, Ukrainian displaced persons have been facing some difficulties regarding the enjoyment of these rights. Concerning housing, the greatest challenges relate to the scarcity of available housing and the high prices practiced in the Portuguese rental market, which make finding permanent accommodations difficult.<sup>43</sup> In turn, access to

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<sup>37</sup> See Article 14, no. 2 of Directive 2001/55.

<sup>38</sup> Available at <https://diariodarepublica.pt/dr/detalhe/decreto-lei/24-b-2022-180398387> (last accessed 22 August 2023).

<sup>39</sup> This provision deemed Article 8-A of Decree-Law no. 36/2014 applicable to these cases (available at: <https://diariodarepublica.pt/dr/legislacao-consolidada/decreto-lei/2014-115919453>, last accessed 5 September 2023). The General Direction of Higher Education released an information notice in Portuguese, English, and Ukrainian, clarifying how this access takes place and all the required steps – see Direção-Geral do Ensino Superior, *Situações de emergência humanitária decorrentes do conflito militar na Ucrânia*, 9 December 2022, <https://www.dges.gov.pt/pt/noticia/estudantes-em-situacoes-de-emergencia-humanitaria-nacionais-da-ucrania> (last accessed 22 August 2023). For more developments on this matter, see Oliveira C.R., 2023, nt. (1), 211-213.

<sup>40</sup> This service will be, in the meantime, replaced by another (regarding its administrative tasks), the Agency for **Integration, Migrations, and Asylum** (“**Agência para a Integração, Migrações e Asilo, I.P.**”), created through Decree-Law no. 41/2023 of June 2, 2023, available at: <https://diariodarepublica.pt/dr/detalhe/decreto-lei/41-2023-213881448> (last accessed 5 September 2023).

<sup>41</sup> See § 8 of RCM no. 29-A/2022.

<sup>42</sup> See § 9 of RCM no. 29-A/2022. These communications are preferably made by electronic data transmission (in respect of the general data protection scheme) – see § 10 of RCM no. 29-A/2022.

<sup>43</sup> *Acesso a habitação e saúde são principais dificuldades para refugiados, diz associação*, in *Observador*, 20 February 2023, <https://observador.pt/2023/02/20/acesso-a-habitacao-e-saude-sao-principais-dificuldades-para-refugiados-diz-associacao/>; A.C. Pereira, *Só 382 famílias ucranianas beneficiam do Programa de Apoio ao Alojamento Urgente*, in *Público*, 1 March 2023, available at <https://www.publico.pt/2023/03/01/sociedade/noticia/so-382-familias-ucranianas-beneficiam-programa-apoio-alojamento-urgente-2040187>; *Habitação é o maior desafio para pessoas refugiadas em Portugal*, in *Público*, 22 February 2023, available at <https://www.publico.pt/2023/02/22/sociedade/noticia/habitacao-maior-desafio-pessoas-refugiadas-portugal-2039772> (all last accessed 18 August 2023).

healthcare is sometimes hampered by linguistic barriers.<sup>44</sup> And it has been reported that many Ukrainian children still do not attend Portuguese schools since their families have preferred to enrolled them on online classes provided by Ukrainian schools.<sup>45</sup>

#### **4. Social policy measures for Ukrainians: supporting professional activity.**

Following Article 12 of Directive 2001/55, Act 67/2003 expressly states that beneficiaries of temporary protection on national territory may engage in employed or self-employed activities and participate in vocational training activities (for a period not exceeding that of the aforementioned protection).<sup>46</sup>

Also, in accordance with the regime enshrined in Directive 2001/55, the aforementioned legal diploma further states that the beneficiaries' access to such activities cannot prejudice the priority given to nationals of the European Union and of the States bound by the Agreement on the European Economic Area, and to foreigners who reside in the national territory and who enjoy unemployment benefits.<sup>47</sup> In addition, as previously noted, the declaration providing temporary protection is communicated to the Employment and Vocational Training Institute.<sup>48</sup>

This Institute makes the connection between employers and prospective employees. That means that employers can send demonstrations of interest, regarding the employment of Ukrainian displaced persons and the IEFP will make the connection. The Institute also provides courses of Portuguese to increase the integration of these potential workers. Furthermore, traineeship programmes, sponsored by the State, have more flexible rules regarding displaced persons<sup>49</sup> (among other categories), aiming at increasing the

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<sup>44</sup> *Acesso a habitação e saúde são principais dificuldades para refugiados, diz associação*, in *Observador*, 20 February 2023, <https://observador.pt/2023/02/20/acesso-a-habitacao-e-saude-sao-principais-dificuldades-para-refugiados-diz-associacao/> (last accessed 18 August 2023).

<sup>45</sup> *Habitação é o maior desafio para pessoas refugiadas em Portugal*, in *Público*, 22 February 2023, <https://www.publico.pt/2023/02/22/sociedade/noticia/habitacao-maior-desafio-pessoas-refugiadas-portugal-2039772>; A.C. Pereira, *Crianças ucranianas entre dois mundos: quase dez mil fora do ensino português*, in *Público*, 21 February 2023, <https://www.publico.pt/2023/02/21/sociedade/reportagem/criancas-ucranianas-dois-mundos-quase-dez-mil-ensino-portugues-2039631> (last accessed 18 August 2023). According to the news, in February 2023, almost 4.500 Ukrainian children were enrolled in Portuguese schools, while almost 10.000 were not. Most of these are attending the Ukrainian distance learning system. In Oliveira C.R., 2023, nt. (1), 211, the author questions whether this scenario is also due to mental health reasons, difficulties regarding the application to the Portuguese school system, or irregular housing situations.

<sup>46</sup> See Article 14, no. 1, of Act no. 67/2003.

<sup>47</sup> See Article 14, no. 2, of Act no. 67/2003.

<sup>48</sup> See RCM no. 29-A/2022, § 9.

<sup>49</sup> In this act they are called “refugees”.

employability of these people.<sup>50</sup> To facilitate the understanding of these elements, the information is available, on the IEFP's website, in Portuguese and in Ukrainian.<sup>51</sup>

People encompassed by temporary protection may, therefore, engage in employed or self-employed activities, as well as in activities such as educational opportunities for adults, vocational training, and practical workplace experience.

According to the available data, at the end of 2022, there were 7,121 employment contracts entered into by workers displaced from Ukraine and 2,515 job offers.<sup>52</sup> However, one problem that has been detected consists in the mismatch between job-seekers' superior qualifications and the search for non-qualified workers.<sup>53</sup>

Finally, there are special rules for the recognition of degrees held by displaced persons from the war in Ukraine,<sup>54</sup> in the sense that they are given priority and are exempt from certain demands. In fact, they are not subject to formalities connected with the legalization of documents emitted by foreign entities; with the certification or authentication to Portuguese of documents in other languages; with the certification or authentication of copies of original documents; or with the payment of fees. And drivers who wish to exchange their driving licences for Portuguese ones are also exempt from certain formalities.<sup>55</sup>

## 5. Final considerations.

Despite the distance and the language barrier, Portugal has welcomed a significant number of displaced persons due to the war in Ukraine (namely non-Ukrainians).

In order to provide an adequate welcome and integration of these war migrants in the Portuguese community, several measures were enacted, which, from a legal standpoint, globally met the demands arising from the EU legislation (and, at in some aspects, even went beyond what was required).

Even so, there are some difficulties regarding the enjoyment of the conditions offered to these persons due to language-related obstacles, namely concerning access to health services and/or the housing market (the latter being further hindered by the difficult conditions that characterise the current Portuguese housing market).

Particularly with respect to this last issue, it is clear that social answers must be reinforced in order to allow a full integration of displaced persons in the national community (since such integration depends on stability regarding housing). However, since the housing crisis

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<sup>50</sup> This is achieved through the "ATIVAR.PT" programme – IEFP, *Estágios*, <https://www.iefp.pt/estagios?tab=estagios-ativar-pt> (last accessed 22 August 2023). Persons under temporary protection also qualify for other employability measures, such as a programme directed at increasing the employability of long-term unemployed people and another that aims to incentive the creation of employment in the country's interior zones (see IEFP, *Apoios à contratação*, <https://www.iefp.pt/apoios-a-contratacao?tab=compromisso-emprego-sustentavel>; IEFP, *Apoios à mobilidade geográfica*, <https://www.iefp.pt/apoio-mobilidade-geografica?tab=emprego-interior-mais>, respectively, last accessed 22 August 2023).

<sup>51</sup> See IEFP, *Portugal for Ukraine*, <https://www.iefp.pt/portugal-for-ukraine> (last accessed 22 August 2023).

<sup>52</sup> See Oliveira C.R., 2023, nt. (1), 218.

<sup>53</sup> *Ibidem*.

<sup>54</sup> See Article 6 of Decree-Law no. 24-B/2022.

<sup>55</sup> Article 4 of Decree-Law no. 24-B/2022.



is a problem currently felt across the whole Portuguese society,<sup>56</sup> this may hinder the efforts towards adequate responses in this domain. Nevertheless, any measures taken at this point must also consider the situation of war migrants and their particularly delicate situation.

Finally, it should also be noted that even though the Government has made an effort to provide information online in more than one language, some Literature reports that not all displaced persons are properly informed on the social benefits to which they are entitled.<sup>57</sup> It is, therefore, important to ensure that all the measures being put forward concerning these persons are being adequately divulged.

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<sup>56</sup> See, for instance, *Crise da habitação em Portugal chega ao The Guardian que fala em "loucura"*, in *Diário de Notícias*, 31 July 2023, <https://www.dn.pt/dinheiro/crise-da-habitacao-em-portugal-chega-ao-the-guardian-que-fala-em-loucura-16784606.html> (last accessed 5 September 2023).

<sup>57</sup> See De Angelis G., Challinor E., de Oliveira E., Lemos M., nt. (26), 18.