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Application of the Temporary Protection Directive: challenges and good practices in 2023

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Explanatory note

This inform was prepared on the basis of national contributions from 25 EMN NCPs (AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK) collected via a Common Template developed by the EMN NCPs to ensure, to the extent possible, comparability. The information contained in this inform refers to the situation in the abovementioned EMN Member up to 1 July 2023.

National contributions were largely based on desk analysis of existing legislation and policy documents, reports, academic literature, internet resources, reports and information from national authorities. Statistics were sourced from Eurostat.

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1. KEY POINTS TO NOTE

- Extensions of validity of temporary protection ran smoothly, using a variety of approaches, while registration of new arrivals continued in a phased manner. Determining the eligibility of beneficiaries of temporary protection (BoTP) remained a challenge.
- In most EMN Member Countries it is possible for BoTP residing in the country to apply for residence permits, visas, or other forms of authorisation of their stay. To obtain residence status, beneficiaries must typically fulfil the conditions of the permit in the same manner as other third-country nationals. All EMN Member Countries reported that BoTP can also seek international protection, irrespective of whether or not they have already registered for, or been granted, temporary protection.
- BoTP were not restricted from travelling, but their social benefits could be affected by short-term or long-term travel.
- In most EMN Member Countries linguistic and cultural differences were the most common barriers to the provision of services. Additional challenges in facilitating access to services were posed by the pre-existing limited capacities in housing, education and healthcare across EMN Member Countries.
- The majority of people fleeing Ukraine are women and children, with heightened vulnerability to exploitation, discrimination and trafficking in human beings. EMN Member Countries provided tailored support and protection for unaccompanied minors, separated children, and children accompanied by guardians fleeing Ukraine. EMN Member Countries also adopted a range of tailored measures to protect, identify and support potential victims of trafficking in human beings fleeing Ukraine.



2. INTRODUCTION

This inform presents the main findings of the European Migration Network (EMN) study on the application of the Temporary Protection Directive (TPD) in 2023. The study explores some developments, challenges, and good practices relevant to the application of the TPD in 25 EMN Member Countries from January to July 2023.

Since 24 February 2022, Russia's military aggression on Ukraine has created a situation of mass arrivals of displaced people from Ukraine to the EU and other countries surrounding Ukraine. The war caused large flows of people to leave Ukraine in search of safety, with border crossings of EU external borders peaking at 800 000 weekly entries from Ukraine and Moldova into the EU during the early months of the war.¹ The EU Member States bordering Ukraine and Moldova were the first to respond to the crisis.

On 2 March 2022, the European Commission proposed to activate the TPD (2001/55/EC).² On 4 March 2022, of the European Union adopted an Implementing Decision³ establishing temporary protection for displaced persons from Ukraine, whereby the TPD was activated. After a first

automatic extension until March 2024, the Council of the European Union announced on 28 September 2023 that temporary protection would be prolonged until 4 March 2025 and on the 25 September 2024 another extension was granted until 4 March 2026.⁴

Complementing information collected in earlier publications from the EMN and other sources, the study looked at registration and extension of stay after the first year, the possible pathways available for BoTP to transition to other types and forms of legal residence or protection statuses, tracking beneficiaries travelling to other Member States and outside the EU, and registration and extension of stay after the first year. It also examined challenges and good practices in accessing rights provided by the TPD in relation to accommodation, the labour market, healthcare, education, and social assistance/welfare. Finally, it outlined the supports available for vulnerable groups, specifically unaccompanied minors and victims of trafficking in human beings.



3. LEGAL STATUS AND REGISTRATION

Registration

In 2023, while a general decrease in new arrivals from Ukraine was noted, registration systems in some cases became more established as countries had time to

adjust and streamline their operations. Some EMN Member Countries reported the introduction of new legislation or legislative amendments⁵ to extend the validity of documents based on temporary protection after the first year.⁶

1 Commission Communication "Temporary protection for those fleeing Russia's war of aggression against Ukraine: one year on", available at: <https://home-affairs.ec.europa.eu/system/files/2023-03/Temporary%20protection%20for%20those%20fleeing%20Russia%E2%80%99s%20war%20of%20aggression%20against%20Ukraine%20one%20year%20on.pdf>, last accessed 13 March 2023.

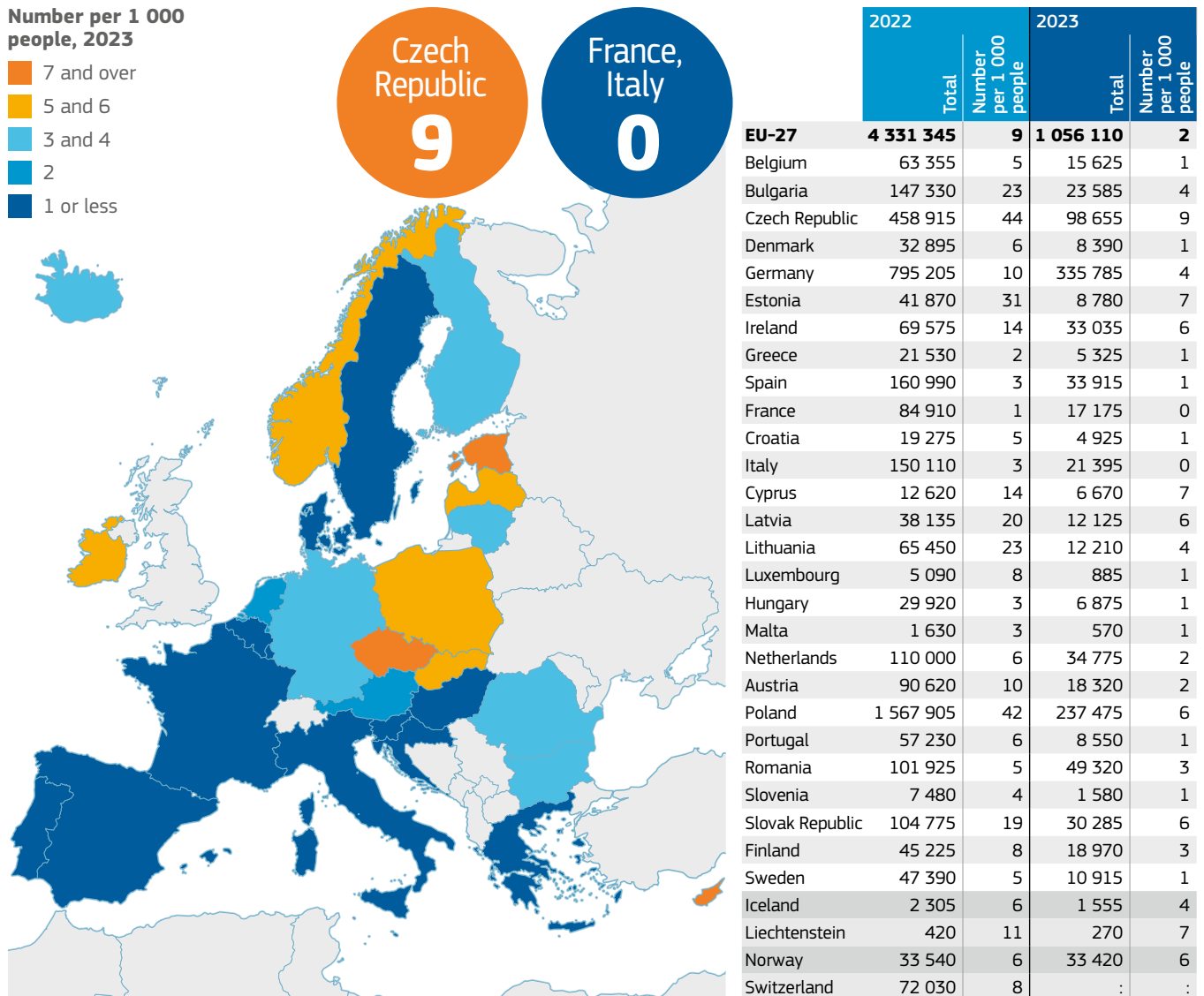
2 Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof: OJ L 212, pp. 12–23. Please note that in accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community. Denmark is not bound by the TPD but provided a parallel national framework/form of temporary protection very similar to the one Member States implement under the TPD.

3 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, 4 March 2022: OJ L 71, pp. 1–6.

4 Council of the European Union, "Ukrainian refugees: Council extends temporary protection until March 2026" <https://www.consilium.europa.eu/en/press/press-releases/2024/06/25/ukrainian-refugees-council-extends-temporary-protection-until-march-2026/>, last accessed on 17 October 2024

5 These include legal amendments to existing legislation, ministerial decisions, resolutions or communications.

6 AT, BG, CY, CZ, EL, FI, LV, PL, PT, SK.

Figure 1: Decision providing temporary protection in 2022 and 2023


Source: Eurostat, Decisions granting temporary protection by citizenship, age and sex - annual aggregated data [migr_asytprfm], extracted on 4 March 2024.

The procedures employed by EMN Member Countries to extend the validity of temporary protection can be grouped into three categories: (i) those opting for automatic extension; (ii) those requiring re-registration online or in person, or through both steps sequentially, and (iii) those introducing different requirements depending on the status of the beneficiary.

The main challenges reported by EMN Member Countries related to: (i) difficulties in determining whether persons were eligible for temporary protection in order to register them; (ii) problems for people with poor computer literacy to access newly introduced automated registration systems; and (iii) lack of trained staff.

Transition from temporary protection to residence permits or other types of protection

In most EMN Member Countries⁷ BoTP residing in the country can apply for residence permits, visas, or other forms of authorisation of their stay for other purposes than the temporary protection (such as work, family, study). However, in four EMN Member Countries,⁸ it is not possible for beneficiaries to apply for other types of residence permits.

To be granted a residence permit for family or work purposes, BoTP must typically fulfil the conditions of the permit in the same manner as other non-EU nationals. Several EMN Member Countries⁹ have special procedures and lower requirements to make it easier for BoTP to access other residence statutes. In some EMN Member

⁷ BE, CY, CZ, DE, EE, EL, FI, FR, HR, HU, IE, IT, LT, LU, LV, NL, PL, PT, SK.

⁸ AT, BG, SE, SI. In AT, Article 1(2)1 of the Settlement and Residence Act does not apply if the person concerned is 'entitled to residence (...) under the Asylum Act 2005'. The Regulation on Displaced Persons was adopted on the basis of Article 62 of the Asylum Act 2005, and, in the view of the Federal Office for Immigration and Asylum, the resulting right of residence constitutes a residence permit for exceptional circumstances, i.e. a permit regulated by the Asylum Act 2005. Accordingly, it is not possible to transfer to the Settlement and Residence Act.

⁹ BE, LT, LV, NL, PL.

Countries,¹⁰ the residence permit on other grounds is seen as an alternative to temporary protection and beneficiaries will have to renounce/lose their temporary protection status to receive it.

Possibilities and procedures for BoTP to submit an application for international protection

All EMN Member Countries reported that BoTP applies can also seek international protection, irrespective of whether or not they have already registered for, or been provided with, temporary protection.¹¹

Broadly speaking, EMN Member Countries apply three different practices in respect of their procedure for registered and unregistered BoTP applies and who apply for

international protection: (i) suspending the international protection claim until temporary protection ceases; (ii) processing both claims simultaneously; and (iii) revoking the temporary protection status when an application for international protection is lodged.

Challenges for EMN Member Countries

The challenges most frequently mentioned by EMN Member Countries in relation to people claiming to be fleeing the war in Ukraine who may not fall under the scope of the temporary protection related to difficulties in establishing whether they would be eligible for the status (including due to lacking documentation), as well as cases of potential misuse of the temporary protection system by people falling outside its scope.



4. MOBILITY OF BENEFICIARIES OF TEMPORARY PROTECTION

The majority of EMN Member Countries observed no significant outflows of BoTP during the reporting period.¹²

While the systematic tracking of short-term and long-term movements of BoTP to other Member States and outside the EU is not common practice,¹³ some tracking is employed through border control¹⁴, self-reporting¹⁵ and notifications related to other services (e.g., checks on accommodation or reception centres, or by State-sponsored service providers can obtain information on the movement of beneficiaries¹⁶).

Most EMN Member Countries¹⁷ do not restrict the movements of BoTP, who can therefore travel within the EU for short periods of (up to 90 days within a 180-day period), provided they have the necessary documentation, without impacting their temporary protection status or related benefits. Travel, however, may affect some social benefits of beneficiaries in most countries. Benefits can be lost or suspended, depending on the number of days the person travels outside of their resident country.



5. ACCESS TO RIGHTS PROVIDED BY THE TEMPORARY PROTECTION DIRECTIVE

The Temporary Protection Directive¹⁸ lists the rights of beneficiaries of temporary protection, including access to **suitable accommodation**, access to **employment**, access to **medical care**, access to **education** for persons under 18 years, and assistance in the form of **social welfare** and means of subsistence if necessary.

Most EMN Member Countries did not implement any major changes in the provision of services to BoTP. Linguistic and cultural differences were the most common barriers to the provision of services, as well as limited national capacities.

Accommodation

In 2023, the main reported changes linked to accommodation provision included adjustments to the

different financial schemes for private property owners hosting beneficiaries or for BoTP themselves. While the aim was to support the transition of beneficiaries of temporary protection into more sustainable housing, a number of EMN Member Countries are experiencing persistent challenges in providing such forms of housing.

The most common challenge in providing accommodation was the overall lack of available housing in some EMN Member Countries,¹⁹ especially in urban areas. This was already an issue pre-2022, compounded by a lack of sufficient affordable social housing, or a shortage of housing generally.²⁰ The saturated rental market poses a challenge, sometimes resulting in BoTP living in areas with limited access to services or employment opportunities, which

10 CY, CZ, DE, EE, EL, HR, HU, IE, LT, LU, LV, PL, PT, SK.

11 In NL, there is a distinction: temporary protection is transposed as part of the asylum procedure, thus in order to receive temporary protection, beneficiaries must formally submit an asylum application. After meeting the requirements of the TPD and submitting the asylum application, beneficiaries are granted temporary protection. All beneficiaries of temporary protection arriving in NL must follow the application process of temporary protection and cannot opt for the regular asylum procedure instead.

12 AT, BG, CZ, ES, FI, FR, HU, LT, LU, NL, SI, SK.

13 Tracking of movement is not a common practice in BE, BG, CY, CZ, HU, IE, IT, LT, LU, LV, MT, PT, SI, SK.

14 BE, BG, CY, CZ, ES, HR.

15 AT, BE, CY, CZ, DE, EE, FI, LU, SE.

16 AT, CZ, FI, IE, NL, SE.

17 AT, BE, BG, CY, CZ, DE, EE, EL, FI, FR, HU, IE, IT, LT, LU, LV, MT, NL, PT, SE, SI, SK.

18 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, <https://eur-lex.europa.eu/legal-content/EN/TX/?uri=celex%3A32001L0055>, last accessed on 25 October 2023.

19 BE, CY, CZ, DE, ES, FR, IE, IT, LT, LU, NL, SK.

20 DE, IE, SK.

at times reportedly also resulted in beneficiaries refusing housing offered for free.²¹ Long-term accommodation solutions remain scarce and difficult to achieve as long as BoTP are not fully integrated into the labour market.

Labour Market

Five EMN Member Countries²² introduced changes to facilitate access to the labour market for BoTP in 2023. For others, the existing measures remained the same as in 2022.

The main three challenges hindering beneficiaries taking up employment include difficulties with recognition of qualifications,²³ language barriers,²⁴ and a lack of access to childcare,²⁵ as many arrivals are single women with children. This was confirmed in a survey conducted by the European Union Agency for Asylum (EUAA) in 2023.²⁶

EMN Member Countries noted particular issues with the recognition of professional qualifications in regulated professions. Lack of proper recognition contributes to BoTP remaining in low-skilled labour. In response, EMN Member Countries have measures in place to try to facilitate the process. Examples include different pilots to provide beneficiaries with the possibility to partially practice in a regulated profession without meeting the usual additional conditions.

To counter the frequently cited barriers, including the lack of knowledge of the local language among BoTP, EMN Member Countries use communication in Ukrainian to raise awareness about the local labour market online²⁷ or by employing Ukrainian-speaking staff/beneficiaries of temporary protection in their employment services²⁸ and offering additional language classes.²⁹ Some of these measures are in place since 2022.

EMN Member Countries³⁰ also highlighted good practices in support programmes for labour market integration such as (language) training, job counselling, seminars, and other outreach activities, etc. Some have referred to using ESF+ funding to implement relevant projects.³¹

Healthcare

More than half of the EMN Member Countries³² reported no major legal, policy or practical changes in access to healthcare in 2023, instead maintaining the measures

already introduced in 2022. Only five EMN Member Countries reported introducing legal or policy changes in the provision of healthcare to BoTP, including new healthcare entitlements, changes to the way healthcare services are accessed, or additional measures to facilitate access to mental health.³³

Some of the most frequently reported challenges in the provision of healthcare to BoTP include language barriers, lack of familiarity with the local healthcare system, or low capacities of healthcare professionals in some countries. This is true even in countries which established ways of communication in 2022 to inform beneficiaries of temporary protection about their rights on arrival (see EMN inform 2022).³⁴

As an example of good practice in addressing these challenges, some EMN Member Countries have tried to facilitate the employment of Ukrainian and/or additional healthcare professionals in different ways.³⁵

Education

Half of the reporting EMN Member Countries did not report major changes³⁶ in facilitating access to education for children benefiting from temporary protection.

In 2022, several EMN Member Countries permitted Ukrainian children to participate in online classes offered by the Ukrainian educational system. By 2023, efforts were intensified to further integrate these children into mainstream education. While some national legal frameworks mandate the inclusion of children benefiting from temporary protection in compulsory education³⁷, other countries allow for the parents to choose between the national educational system and continuing education online in the Ukrainian system³⁸. In some cases, parents opt to keep their children in both systems simultaneously, creating additional burden on the children.

The most frequently reported challenge³⁹ is the overall lack of physical space and capacity in schools to accommodate the high number of students.⁴⁰ This is a particular issue in areas with a higher share of beneficiaries (e.g. main urban areas). Some EMN Member Countries are addressing these issues by increasing capacities in schools (including simplifying administrative procedures for hiring teachers/assistants,⁴¹ putting in place a system to allocate additional

21 CZ, LV.

22 AT, BE, DE, FI, IE.

23 AT, BE, CZ, DE, EE, FI, FR, LT, LU, NL, PL, SK.

24 CZ, BE, DE, EE, EL, FI, FR, IE, IT, LT, LU, LV, NL, PL, SE, SK.

25 BE, BG, CZ, DE, FR, IE, IT, LU, NL, SK.

26 Survey conducted between 9 February 2023 and 19 September 2023 (n=4 265). EUAA, 'Surveys with Arriving Migrants from Ukraine, Employment – Education', 2023, https://euaa.europa.eu/sites/default/files/publications/2023-10/2023_10_09_EUAA_SAM_UKR_Thematic_Fact_Sheet_Issue_2_EN_0.pdf, last accessed on 6 November 2023.

27 BE, BG, CZ, DE, EE, FI, FR, LT, SK.

28 BE, FI, IE, LT, SK.

29 BE, CZ, EE, FI, FR, LU, LV, NL.

30 BE, CY, CZ, DE, EE, EL, FI, IE, IT, LU, LV.

31 BE (Flemish Region, SE (SE allocated SEK 329 million in May 2023 to various labour market integration initiatives, including job matching, skills and competence assessments, and training), SK.

32 AT, BG, CZ, DE, EE, EL, ES, HU, IT, LV, MT, PL, SE, SI.

33 BE, FR, LT, NL, SK.

34 EMN, 'Access to services for beneficiaries of temporary protection', Inform, 2022, https://home-affairs.ec.europa.eu/system/files/2022-11/EMN_INFORM_services.pdf, last accessed on 08 March 2024.

35 For example, the Slovak Republic allows for health professionals from non-EU countries, whose diplomas have been recognised but not their professional qualifications, to be employed in a health facility in a temporary traineeship scheme. In 2023, the process of recognising the qualifications of Ukrainian paediatricians was simplified in the Slovak Republic. The Netherlands launched the Empatia project, which guides Ukrainian psychologists to find a suitable workplace. This project not only helps beneficiaries of temporary protection to practice their profession, it also ensures adequate mental and psychological support to beneficiaries of temporary protection in need.

36 CY, CZ, EE, ES, FI, HU, IE, IT, LT, SE, SI, SK.

37 AT, BE (French- and German-speaking communities), CY, CZ, DE (possible differences between federal states), EE, ES, FI (Once a beneficiary of temporary protection obtains a municipality of residence, they are obliged to attend compulsory education in FI), HR, IT, IE, LT, LU, MT, NL, SI.

38 BE (Flanders), BG, EL, FI, FR, HU, LV, PL (2023/2024), PT, SK, SE.

39 BE, CZ, EE, FR, IE, LU, NL, PL, SK.

40 BE, CZ, SK.

41 BE, CZ, DE, PL.

special education/special needs supports in mainstream schools with large enrolments of beneficiaries, providing additional national language support,⁴² and financial support to local municipalities and/or private educational facilities (schools and kindergartens)).⁴³

Linguistic barriers are a frequently cited challenge impacting the integration of children into mainstream education,⁴⁴ referring to the lack of host country language skills among BoTP and, in some cases, a lack of bilingual teaching materials. This can be compounded by local municipalities and schools' lack of experience in dealing with foreign students.⁴⁵ To tackle these issues, EMN Member Countries continue to offer different language support classes⁴⁶ and, in some cases, to employ Ukrainian and/or additional pedagogical assistants.⁴⁷

Among examples of good practice, EMN Member Countries reported on maintaining relations with Ukrainian authorities,⁴⁸ launching projects to support the adaptation and mental wellbeing of Ukrainian students,⁴⁹ voluntary

supplementary Ukrainian language programmes for BoTP provided by Ukrainian teachers/volunteers,⁵⁰ provision of enrolment and translation support to parents and schools at regional level,⁵¹ and additional training for teachers.⁵²

Social assistance/welfare

Several EMN Member Countries introduced changes to the types of social assistance available to BoTP, mainly introducing changes to how benefits are calculated or clarifying certain eligibility criteria and the types of benefits provided.⁵³ Around half of the reporting EMN Member Countries reported no major changes being introduced during the reporting period.⁵⁴

The most often reported challenges with the provision of social services include linguistic barriers and cultural differences. Beneficiaries' lack of awareness of the services available, and their unfamiliarity with the local system, was also cited as a challenge.⁵⁵

6. VULNERABLE GROUPS

The majority of people fleeing Ukraine hosted in the EU are women and children,⁵⁶ which poses a particular challenge, as they are more vulnerable to exploitation, discrimination and trafficking in human beings.

Providing assistance to vulnerable groups

Several EMN Member Countries⁵⁷ reported challenges in identifying vulnerable BoTP, primarily related to the fact that contact with authorities on registration is typically limited, reducing the opportunities for national authorities to identify all vulnerable people. Unlike persons seeking international protection, who undergo an interview with authorities and medical check-ups⁵⁸ - which provide an opportunity to identify vulnerable persons - there is no such interview and identification procedure for temporary protection. BoTP often stay in private accommodation and not in State-provided facilities, which again limits their contact with authorities. In many cases, the registration process is handled online or in a written procedure, further reducing opportunities for identification.

Some EMN Member Countries⁵⁹ reported specific challenges in providing vulnerable BoTP with the necessary assistance and support, typically relating to a lack of suitable accommodation and insufficient financial support.

Providing assistance to unaccompanied minors, separated children and children accompanied by a guardian appointed in Ukraine

Several EMN Member Countries⁶⁰ reported a range of challenges in providing assistance to unaccompanied minors, separated children, and children accompanied by a guardian appointed in Ukraine. The main challenges include recognition of guardianship in the absence of official documents, the guardian leaving the country without notifying relevant authorities, lack of housing capacity for unaccompanied minors, and challenges related to children's welfare and safety.

42 BE, IE.

43 BE (local municipalities), EE (March and May 2023).

44 BE, CZ, EE, FR, HR, HU, IE, LT, NL, SI, SK.

45 FI (especially smaller municipalities with less experience with foreign students), SK.

46 BE, CY, CZ, DE, EE, FR, HR, HU, IE, PL, SK.

47 BE, CZ, DE, EE, FR, IE, LT, LV, LU, NL, PL.

48 FI, FR.

49 EE.

50 DE, PL, SI.

51 IE, SK.

52 LT.

53 CZ, DE, FI, IE, LU, NL.

54 EE, ES, FR, IE, IT, LT, LV, PL, PT, SE, SI, SK.

55 BE, FI, LT.

56 Eurostat data on temporary protection decisions by gender, https://ec.europa.eu/eurostat/databrowser/view/migr_asytpsm__custom_9006449/default/table?lang=en, last accessed on 20 December 2023.

57 BE, CY, FI, FR, IE, LV, SE, SI.

58 In FI, a voluntary medical check-up is available for all Ukrainian beneficiaries of temporary protection.

59 AT, EE, EL, FI, HR, IE, IT, LT, LU, SK.

60 BE, CZ, DE, EE, FI, FR, HR, IE, LV, LT, SE.

Prevention of trafficking in human beings

In addition to general measures in place to protect, identify and support all victims of trafficking in human beings, the majority of EMN Member Countries reported specific measures to protect people fleeing Ukraine from trafficking in human beings.

The majority of these measures were already established by 2022. However, during the research period in 2023, additional steps were taken to protect individuals fleeing Ukraine from trafficking in human beings. These included: awareness-raising and information campaigns;⁶¹ advice, counselling and/or assistance for potential victims;⁶² capacity-building and interinstitutional cooperation;⁶³ and identification measures⁶⁴ (e.g. police checks).

61 AT, BE, BG, CZ, DE, ES, FI, FR, HR, IT, LU, LV, SI, SK.

62 AT, BE, BG, CZ, DE, EE, EL, HU, LV, PL, SI, SK.

63 BE, CZ, DE, EE, EL, ES, FI, FR, HU, IE, IT, LT, LU, LV, MT, PL, SK.

64 BE, CY, CZ, EE, FI, LV, PL, SE.



For more information

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France www.immigration.interieur.gouv.fr/Europe-et-International/Le-reseau-europeen-des-migrations-REM3/Le-reseau-europeen-des-migrations-REM2

Germany www.bamf.de/EN/Themen/EMN/emn-node.html

Greece <https://migration.gov.gr/emn/>

Hungary www.emnhungary.hu/en

Ireland www.emn.ie/

Italy www.emnitalyncp.it/

Latvia www.emn.lv

Lithuania www.emn.lt/

Luxembourg emnluxembourg.uni.lu/

Malta emn.gov.mt/

The Netherlands www.emnnetherlands.nl/

Poland www.gov.pl/web/european-migration-network

Portugal rem.sef.pt/en/

Romania www.mai.gov.ro/

Spain www.emnspain.gob.es/en/home

Slovak Republic www.emn.sk/en

Slovenia emnslovenia.si

Sweden www.emnsweden.se/

Norway www.udi.no/en/statistics-and-analysis/european-migration-network---norway#

Georgia migration.commission.ge/

Republic of Moldova bma.gov.md/en

Ukraine dmsu.gov.ua/en-home.html

Montenegro www.gov.me/mup

Armenia migration.am/?lang=en

Serbia kirs.gov.rs/eng