

Fundamental rights of children displaced in the EU following the Russian war of aggression

Malta

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1. Children fleeing Ukraine

1.1. Data on children fleeing Ukraine

Table 1 Children fleeing Ukraine

Category of child	Registration system Y/N	Number of children (as disaggregated as possible) (as of 30 th April 2023)
Overall number of children	Y	578
Arrived accompanied by mother, father or another legal guardian	Y	Temporary Protection Total: 560 Girls: 293 Boys: 267 International Protection Total: 11 Girls: 6 Boys: 5 The above were all Ukrainian nationals.
Arrived without parents, but with other family members, neighbours or family friends	N	N/A
Arrived unaccompanied	Y	7 males, all granted temporary protection. All Ukrainian nationals.
Arrived within a group of children, as an organised evacuation from Ukrainian institutions or foster carers (with or without an appointed legal guardian)	N	N/A
Arrived within a group of children, through private initiatives, such as football clubs (with or without an appointed legal guardian)	N	N/A

Source: International Protection Agency, Malta, 15th June 2023.

The International Protection Agency keeps a register of all individuals that have been granted International Protection and Temporary Protection. However, it should be noted that the International Protection Agency does not keep data of persons who were

deemed to be ineligible for Temporary Protection but were not provided any decision in writing¹. The data provided does not include Ukrainians, including Ukrainian children, who have not approached the International Protection Agency and those whose Temporary Protection was withdrawn, who were denied International Protection or given a Dublin decision.

¹ ECRE, aditus foundation, [Annex on Temporary Protection](#) of the Asylum Information Database [Country Report: Malta 2022 Update](#), April 2023. Information provided by the International Protection Agency further to a request for information on 15th June 2023.

2. Child protection – legal, policy framework and procedures in place

2.1. Responsibilities of child protection authorities

Child protection services for all children residing in Malta are the responsibility of the Directorate for the Protection of Minors² (CPS) and the Directorate for Alternative Care³ (DAC), that fall within the ambit of the Foundation for Social and Welfare services in Malta. The [Agency for the Welfare of Asylum Seekers](#)⁴ (AWAS) is the government agency tasked with the reception and welfare of all asylum seekers in Malta, including support related to families and unaccompanied and separated children.

2.1.1. Individual children, including unaccompanied and separated children

It should be noted that up until June 2023 there have not been any case of any Ukrainian unaccompanied child for which an application for a care order was initiated. All the cases that have been notified to CPS presented the necessary documentation to prove that the children were accompanied by a person with the permission of the child's parents⁵.

All unaccompanied and separated children of all nationalities who declare that they are children either on arrival or during the application procedure should be referred to AWAS for an age assessment, even if they are in possession of documents attesting to their age⁶. There is an obligation imposed on any person who comes into contact with

² Webpage of the [Directorate for the Protection of Minors](#).

³ Webpage of the [Directorate for Alternative Care](#).

⁴ Webpage of the [Agency for the Welfare of Asylum Seekers](#).

⁵ Information provided by a representative of the Directorate for the Protection of Minors on the 19th June 2023.

⁶ Article 13 of the [International Protection Act](#), CAP. 420 of the Laws of Malta.

any individual who claims to be an asylum seeker to refer such person to the Principal Immigration Officer, who is then obliged to notify the CPS. It should be noted that persons who, in the opinion of AWAS, are visibly under the age of 14 the vulnerability assessment begins immediately after arrival by the AWAS Assessment Team⁷.

Only those that are visibly under the age or 14 or confirmed children are issued with a protection order and accommodated in reception centre run by AWAS that is appropriate and licensed to provide alternative accommodation for children⁸. Unaccompanied children over the age of 16 may be accommodated in accommodation centres for adult asylum seekers⁹ with unrelated adults, usually at the Hal Far Tent Village, which is not licenced to provide alternative accommodation for children.

Those claiming to be children that are not, in AWAS's opinion, visibly under the age of 14 and the initial assessment was inconclusive, would be referred for other tests¹⁰. Although a provisional care order may have been issued unaccompanied children coming from countries of origin where returns are feasible are generally detained pending age assessment and the issuance of the protection order¹¹.

Once the CPS has been notified of an arrival of an accompanied child it has 72 hours to register and issue an identification document for that child¹². In the carrying out of its duties CPS is obliged to require the cooperation of AWAS and may also delegate its duties to AWAS. Immediately after the registration of such child, the CPS must request to the Juvenile Court to provide any provisional protection order within 48 hours¹³ with regards to the care and custody of the child, including the appointment of a representative to assist the child in asylum related procedures. The care order usually

⁷ ECRE, aditus foundation, Asylum Information Database [Country Report: Malta 2022 Update](#), April 2023.

⁸ Ibid.

⁹ Regulation 15 of the [Reception of Asylum Seekers Regulations](#), Subsidiary Legislation 420.46.

¹⁰ ECRE, aditus foundation, Asylum Information Database [Country Report: Malta 2022 Update](#), April 2023.

¹¹ Ibid.

¹² Article 21 of the of the [Minor Protection \(Alternative Care\) Act](#), CAP 602 of the Laws of Malta.

¹³ Article 18(3) and 21(3) of the of the [Minor Protection \(Alternative Care\) Act](#), CAP 602 of the Laws of Malta.

appoints the CEO of AWAS as the legal guardian and the child will usually be put in the care of social workers of the UMAs Protection Unit at AWAS¹⁴.

After the issuing of the provisional protection order, CPS refers the child to the AWAS Assessment Team to carry out an assessment on whether the individual is an unaccompanied child and to try to trace any family members. It was noted that the age assessment procedures presented a number of shortcomings, amongst others the conflict of interest of AWAS as an entity acting as both the guardian and the assessor of the child¹⁵. After the AWAS team determines that the child is in fact an unaccompanied child, CPS has the obligation to file a request in the Juvenile Court for the issuance of a protection order and to prepare a care plan file with the application. The Court, on satisfaction that the child is an unaccompanied child and that the care plan is appropriate, shall authorise the protection order and may impose any other condition, including entrusting the child to AWAS. This process can be done without the need to appoint a hearing. The protection order will remain in force until the child reaches the age of 18.¹⁶

The Court can, if it is not satisfied that the individual is an unaccompanied child or that the care plan is appropriate, can appoint hearing and curators to represent the parents of the child. The Court will hear evidence from those with the care and custody of the child, the curators and any other person it deems appropriate. The Court can then issue a protection order entrusting the care and custody of the child to AWAS or any other authority or entity and must refer the case to the Review Board for revision. In the case where the care plan provides for the relocation of the child, CPS must file a request in Court to revoke the protection order and authorise the relocation or to refer to the Review Board for revision.¹⁷

¹⁴ ECRE, aditus foundation, Asylum Information Database [Country Report: Malta 2022 Update](#), April 2023.

¹⁵ Ibid.

¹⁶ Articles 21(3) - (6) of the of the [Minor Protection \(Alternative Care\) Act](#), CAP 602 of the Laws of Malta.

¹⁷ Articles 21(7) - (8) of the of the [Minor Protection \(Alternative Care\) Act](#), CAP 602 of the Laws of Malta.

The Temporary Protection for Displaced Persons (Minimum Standards) Regulations¹⁸, transposing the Temporary Protection Directive¹⁹, provide that the Chief Executive Officer of the International Protection Authority (IPA) must take measures to ensure the necessary representation of children enjoying temporary protection by a legal guardian or an organisation responsible for the care of children. The IPA must also ensure that all necessary steps are taken to enable the placement of the child, in consultation with the adult person or persons concerned, taking into account the views of the child in accordance with their age and maturity.

However, as noted above no child arriving from Ukraine have been issued with a care order or a legal guardian, as those arriving without their parents all had the necessary documentation to prove that they were travelling with an adult with the permission of their parents²⁰.

2.1.2. Children evacuated from Ukrainian institutions

There are no specific legal provisions or policies relating to children evacuated from Ukrainian institutions, the general provisions outlined in 2.1.1. would apply to any such children.

¹⁸ Regulation 17 of the [Temporary Protection for Displaced Persons \(Minimum Standards\) Regulations](#), Subsidiary Legislation 420.05.

¹⁹ 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.

²⁰ Information provided by a representative of the Directorate for the Protection of Minors on the 19th June 2023.

3. Guardianship/legal representation arrangements for unaccompanied and separated children fleeing Ukraine

3.1. Arrived unaccompanied

On application of a provisional care order by CPS, the Juvenile Court entrusts a person or entity with the care and custody of the child²¹. CPS has the obligation to appoint a representative to assist in the child with regards to the procedures to apply for international protection under the International Protection Act.

The person responsible for assisting and supporting the child has the obligation to:

- (a) identify the persons or entities which may be involved in the care, custody and protection of the child;
- (b) coordinate the efforts of such persons or entities as identified by them;
- (c) ensure that the child is offered care, accommodation, education and medical care, and whenever possible the child shall not be placed in detention or in accommodation with persons who are not children;
- (d) ensure that the child has suitable legal and judicial representation and assistance with regards to applications for residence status, for asylum, or for any other legal or administrative procedures;
- (e) ensure that all decisions in relation to the child are taken in his best interests;
- (f) submit the views of the child in any court or before any administrative authority;
- (g) provide explanations to the child on the procedures that would be underway and to provide the child with any other relevant information; and
- (h) accompany and / or represent the child during the age assessment process.

At this stage the Court usually appoints the CEO of AWAS as the legal guardian and the child will usually be put in the care of social workers of the UAMs Protection Unit at

²¹ Article 21 of the of the [Minor Protection \(Alternative Care\) Act](#), CAP 602 of the Laws of Malta.

AWAS²². The legal guardian acts as the representative of the unaccompanied child in asylum procedures with a view to ensuring the best interests of the child and exercising legal capacity for the child where necessary²³.

Once the age assessment procedure determines that the child is a minor and that the care plan is appropriate, the Court in issuing a protection order would impose conditions which it may deem suitable, including entrusting the child in the care and custody of AWAS. This procedure can be carried out with the need for a hearing.

After 30 days from the issuing of the care order, the child will be assisted and represented by AWAS during all phases of the asylum procedure, including interview preparation. The legal guardian, through AWAS social workers, may lodge an application for international protection on behalf of the unaccompanied child, if they are of the opinion that the child may be in need of protection²⁴.

Unaccompanied children are entitled to free legal representation and assistance for appeals relating to their asylum procedure or their age assessment procedure²⁵.

The Temporary Protection for Displaced Persons (Minimum Standards) Regulations²⁶ provides for the CEO of the IPA to ensure the necessary representative of unaccompanied children by a legal guardian or other appropriate representation. It further provides that for the period during which the child is covered by temporary protection they shall be placed with adult relatives, with a foster family, in reception centres with special provisions for children, or with the person who looked after the child when fleeing.

²² ECRE, aditus foundation, Asylum Information Database [Country Report: Malta 2022 Update](#), April 2023.

²³ Regulation 3(1) and [Procedural Standards for Granting and Withdrawing International Protection Regulations](#), Subsidiary Legislation S.L. 420.07.

²⁴ Regulation 5(1) and [Procedural Standards for Granting and Withdrawing International Protection Regulations](#), Subsidiary Legislation S.L. 420.07.

²⁵ Ibid, and Regulation 16(1) of the [Reception of Asylum Seekers Regulations](#), Subsidiary Legislation 420.46.

²⁶ Regulation 17 of the [Temporary Protection for Displaced Persons \(Minimum Standards\) Regulations](#), Subsidiary Legislation 420.05.

3.2. Arrived without parents, but with other family members, neighbours or family friends

In issuing protection orders and for the assignment of any parental responsibilities for all children on the basis of an application by the CPS, the Juvenile Court is under an obligation to give preference to the family of the child, unless the Court holds that it is reasonably clear that it would be against the best interests of the child²⁷.

However, it should be noted that care and custody can also be granted to family members that are already present in Malta, if the Court deems it be in the child's best interest²⁸. In fact, the Procedural Regulation provide that an unaccompanied child can be entrusted either to his adult relatives or a foster family.²⁹

The Temporary Protection for Displaced Persons (Minimum Standards) Regulations³⁰ provides for the CEO of the IPA to ensure the necessary representative of unaccompanied children by a legal guardian or other appropriate representation. It further provides that for the period during which the child is covered by temporary protection they shall be placed with adult relatives, with a foster family, in reception centres with special provisions for children, or with the person who looked after the child when fleeing.

²⁷ Article 19(4) of the of the [Minor Protection \(Alternative Care\) Act](#), CAP 602 of the Laws of Malta.

²⁸ Information given by a representative of an NGO providing legal assistance to migrants and asylum-seekers on the 16th June 2023.

²⁹ Regulation 18(3) and [Procedural Standards for Granting and Withdrawing International Protection Regulations](#), Subsidiary Legislation S.L. 420.07.

³⁰ Regulation 17 of the [Temporary Protection for Displaced Persons \(Minimum Standards\) Regulations](#), Subsidiary Legislation 420.05.

3.3. Arrived within a group, from Ukrainian institution or foster carers (with or without an appointed legal guardian)

There have been no such arrivals³¹. There are no specific legal provisions or policies relating to who arrived in groups through private initiatives, the general provisions outlined in 3.1 would apply to any such children.

3.4. Arrived within a group, through private initiatives, such as football clubs (with or without an appointed legal guardian)

There have been no group arrivals³² through private initiatives, the general provisions outlined in 3.1 would apply to any such children.

³¹ Information provided by the International Protection Agency on 15th June 2023.

³² Information provided by the International Protection Agency on 15th June 2023.

4. Information and practical challenges in access to basic services for children fleeing Ukraine

4.1. General information and challenges

Beneficiaries of international protection and asylum-seekers who are children have access to state education under the same conditions as Maltese nationals and are also entitled to receive state medical care and services³³. Children who enjoy temporary protection are entitled to state education. Medical or other necessary assistance, including psychological support³⁴, is provided for free in hospitals and health centres to persons enjoying temporary protection who have special needs, such as unaccompanied children³⁵. Vaccinations, when necessary to access education, are freely administered by the state and referrals for medical appointments for vaccinations were being sent by the International Protection Agency³⁶. The lack of health documentation was also raised as an issue and the Public Health authorities decided that in the absence of clear documents, vaccines will anyway be administered³⁷.

³³ Article 13 of the [International Protection Act](#), CAP. 420 of the Laws of Malta, Regulation 20 of the [Procedural Standards for Granting and Withdrawing International Protection Regulations](#), Subsidiary Legislation S.L. 420.07, and Regulation 9 of the [Reception of Asylum Seekers Regulations](#), Subsidiary Legislation 420.46.

³⁴ EUAA, [Malta Booklet for Ukrainians](#).

³⁵ Regulation 14(4) of the [Temporary Protection for Displaced Persons \(Minimum Standards\) Regulations](#), Subsidiary Legislation 420.05.

³⁶ EUAA, [Malta Booklet for Ukrainians](#). Maltese Association of Parents of State School Students, [Schooling for Ukrainian Children Fleeing War](#).

³⁷ Malta Refugee Council, [Ukraine Info: Updated info re. health issues for persons coming to Malta from Ukraine](#), 2022.

During the COVID-19 pandemic all arrivals from Ukraine had to be screened for COVID-19 and other diseases and all arrivals, including children, were obliged to quarantine for 7 days if vaccinated, and 14 days if not vaccinated³⁸.

However, it was reported that in practice access to education proved difficult for those children arriving mid-way through the academic year. Furthermore, Ukrainian children faced lack of information or communication with the particular schools. The Migrant Learners' Unit, a unit under the ambit of the Ministry of Education is tasked with the inclusion of newly-arrived learners and offers language classes to prepare newly-arrived migrants for mainstreaming education³⁹. In 2022 it had stepped up its efforts due to the substantial increase of the registration of children further to the conflict in Ukraine⁴⁰. Any children with special needs would be treated in the same manner as Maltese children with particular educational needs⁴¹. The National Disability Policy provides that children with a disability must have access to primary, middle school, secondary, vocational and tertiary education on an equal basis to non-disabled peers. This means that all students with a disability benefit from inclusive formal and non-formal education as much as possible⁴².

In accessing the healthcare system, Ukrainians were faced with long delays, language difficulties, lack of information and expensive medicine and services⁴³. Although no significant challenges were reported, issues relating to inaccessibility due to waiting lists or lack of specialisation in mental health services were noted⁴⁴.

³⁸ Malta Refugee Council, [Ukraine Info: Updated info re. health issues for persons coming to Malta from Ukraine](#), 2022.

³⁹ Web page [Migrant Learner's Unit](#).

⁴⁰ Malta Refugee Council, [Ukraine Info: Registering children at the Migrant Learners' Unit](#), March 2022.

⁴¹ ECRE, aditus foundation, [Annex on Temporary Protection](#) of the Asylum Information Database [Country Report: Malta 2022 Update](#), April 2023.

⁴² Ministry for Inclusion and Social Wellbeing, [Freedom to Live - Malta's 2021 – 2030 National Strategy on the Rights of Disabled Persons](#), 2021; Parliamentary Secretariat For Rights Of Persons with Disability and Active Ageing in collaboration with the National Commission Persons With Disability and Kumitat Azzjoni Lejn Soċjetà Ġusta, [National Disability Policy](#), 2014.

⁴³ Malta Refugee Council, [SOS Malta Survey](#), 2022.

⁴⁴ ECRE, aditus foundation, [Annex on Temporary Protection](#) of the Asylum Information Database [Country Report: Malta 2022 Update](#), April 2023.

4.2. Challenges for children at multiple risk/disadvantage

Both the International Protection Act and the Temporary Protection Regulations provide that stateless unaccompanied children are entitled to protection if they fulfil certain requirements laid down in law⁴⁵. However, it should be noted that Malta does not have a mechanism to identify and determine statelessness and it does not have a stateless protection status⁴⁶. Although Stateless children may regularise their stay by applying for international protection or temporary protection, they may still run the risk of remaining unidentified and at risk of violation of their fundamental rights⁴⁷.

⁴⁵ [International Protection Act](#), CAP. 420 of the Laws of Malta and [Temporary Protection for Displaced Persons \(Minimum Standards\) Regulations](#), Subsidiary Legislation 420.05.

⁴⁶ Statelessness Index, [Country Report: Malta](#), 2022.

⁴⁷ aditus foundation, [Briefing note calling for the introduction of a statelessness determination procedure in Malta](#), December 2021.

5. Policies in place

5.1. Dedicated action plan and/or integrated measures

There is no dedicated state action plan or integrated measures addressing children fleeing Ukraine.

In February 2022, the Ukrainian community in Malta with the support of its Honorary Consulate of Ukraine in Malta set up a Ukrainian Community Crisis Centre⁴⁸. The centre had its dedicated 24-hour hotline, and provided information on arriving in Malta, quarantine rules and practical assistance during quarantine, and other information⁴⁹.

In March 2022, the Malta Refugee Council urged the government to coordinate its response to Ukrainian refugees. It urged the Government to establish, under auspices a Humanitarian Coordination Committee composed of representatives of relevant stakeholders, including government agencies and departments, service providers, and civil society, in order to agree upon protocols, guidelines and procedures⁵⁰.

5.2. European Child Guarantee

The Malta Action Plan for a Child Guarantee was not adapted to include measures to address the basic need for protection and access for services for children fleeing Ukraine⁵¹.

⁴⁸ Facebook page: [Ukrainian Community Crisis Centre](#).

⁴⁹ Malta Refugee Council, [Ukraine Info: Ukraine Community Crisis Centre Malta](#), March 2022.

⁵⁰ Malta Refugee Council, [Malta needs to coordinate its response to Ukrainian refugees](#), 21 March 2022.

⁵¹ Ministry for Social Policy and Children's Rights, [National Action Plan for a Child Guarantee 2022- 2030](#), 2022.

5.3. Budget

There is no specific budget allocated for displaced children from Ukraine in the current 2023 budget. The 2024 budget has not been published⁵².

⁵² Ministry for Finance and Employment, [Budget 2023](#), 2022.
