

JUSTMIG

Sustainable and socially just transnational sectoral labour markets for temporary migrants

Background report

Ukraine

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Introduction

Recognising the increasing importance of temporary transnational labour migration, the JUSTMIG project aims to examine trends and patterns of temporary labour mobility and employment of migrant workers on fixed-term or outsourced temporary contracts in selected manufacturing and service sectors in 6 EU countries, as well as the adaptation of industrial relations structures in the same 6 EU Member States and 3 EU Candidate Countries that are source countries for workers.

The report is based on analysis of information gathered through desk research on key issues and challenges faced by workers in relation to the labour markets in Ukraine and in the EU and on transnational migration. It also uses an expert interview with an activist of a labour movement, and analysis of literature discussing relevant policies and regulation. Ukraine, which has a long labour migration history to the EU, stands out in this project as a sending country first of all due to the full scale invasion in February 2022 and ongoing military actions. Therefore the report will first describe the pre-2022 transnational migration trends from the EU, then look into the state of Ukrainian labour market under the martial law (as a possible push factor), describing the legislative changes and also regulation of transnational mobility from Ukraine. Lastly, it will touch upon the current situation of Ukrainians on the EU labour markets, with a special focus of JUSTMIG on the identified triadic connection: Ukraine, Estonia and Finland. Concluding remarks will summarise the main findings and identify further direction for research within the JUSTMIG agenda.

Brief overview of migration trends from Ukraine up to 2024.

At the end of 2022, Ukrainian citizens constituted the third largest group of the non-EU citizens present on the territory of the EU.¹ Before the full-scale invasion of Ukraine by Russia, when Ukrainians received an unprecedented in the EU status under the Temporary Protection Directive (TPD), Ukraine had a long history of outward labour migration to the EU. Since its independence in 1991, Ukraine had waves of various forms of migration: shuttle migration in the border regions, short-term and seasonal migration throughout the 1990s, more long-term, settlement-oriented migration of the the mid-2000s (see Pribytkova 2002; Pozniak 2007; Malynovska and Vollmer 2016). Since about 2010 there has been a gradual rise of the new forms of short-term and seasonal employment linked to the fixed-term and seasonal employment in the EU and the increasing role of the employment intermediaries and recruiters (Fedyuk and Volodko 2022). Beginning of the war in 2014 led to further re-orientation of labour migration flows towards the EU; besides the decrease in migration to Russia², the inflow of the internally displaced people from the regions of military actions in the East of Ukraine added up to the labour migrants to the EU (Fedyuk and Volodko 2022). In 2017, introduction of the 90-days long visa-free regime to the EU

¹ *Migration Data Portal*. (2024). "Migration Overview."
<https://www.migrationdataportal.org/ukraine/migration-overview>

² According to the State Statistics Service of Ukraine, in 2008, 48.1% of labour migrants went to Russia, while only 8% went to Poland. In 2012, the respective figures were 43.2% and 14.3%. However, by 2017, the percentage of labour migrants heading to Russia decreased to 26.3%, while those going to Poland increased to 42.4% (State Statistics Service of Ukraine 2017). (Fedyuk et al 2023)

made Ukrainian workers even better matching seasonal and just-in-time worker demand, giving space for temporary and on-probation contract employment under 90 days (Fedyuk and Volodko 2022). Thus, by 2019 the Institute of Demography of Ukraine estimated 4 million people employed abroad in general, with about 2,7 – 3 million working abroad at any given time (Libanova 2018). In 2021, with COVID-19 pandemic and consequent restrictions on mobility there has been some temporary return of the workers and a significant increase in the influence and role of migration intermediaries: the latter became crucial for navigating chaotic and increasingly limiting transnational border regimes (Andrejev and Borisov 2020).

In terms of the sectors of employment, Ukrainian migration has always been attuned to the gendered and age-specific demands of the receiving states' labour markets, which absorbed the majority of people into low-waged jobs (Kupets 2016). Thus, migration to Southern Europe was driven by the need in care sectors, which created very particular feminised migration to countries like Italy and Greece (Vianello 2021, Nikolova 2015). A8 countries, as well as North European countries attracted male construction workers, food industry/agriculture workers and factory workers of mixed sexes. Hospitality sectors in various countries attracted Ukrainian students and young people for seasonal jobs. Overall, according to the 2016 International Organisation of Migration (IOM) study of the employment spheres of Ukrainian labour migrants abroad, **construction, agriculture, industry and domestic services** were top 4 occupations (Graph 1, Малиновська 2016). Further, the role of the temporary employment agencies recruiting specifically for the neighbouring, new accession countries gained such a prominence in the last 10 years, that it marked a new age in Ukrainian migration, in which often the workers no longer went abroad in search of jobs, but the employers came to Ukraine to search for workers, organising recruiting campaigns and even selection processes via Ukrainian recruitment intermediaries (Fedyuk and Volodko 2022).

Graph 1. Spheres of employment of Ukrainian labour migrants abroad.



Source: IOM household and labour migrants' survey in Малиновська 2016: 14.

The full scale invasion in 2022 became yet another breaking point in Ukraine's dynamic migration history. For one, the demographic profile, conditions of mobility, purpose, goals and the resources of the people on the move changed drastically. Second, the reception and legal status of Ukrainians in the receiving countries underwent a major change. Thus for the first time in its history the EU activated the Council Directive 2001/55/EC – the **Temporary Protection Directive** (TPD)- that was adopted in 2001 to guarantee minimum standards for giving temporary protection in the event of a mass influx of displaced persons. In addition, many countries responded with more specific but similar in coverage of protection national regulations of reception of Ukrainian citizens fleeing the war (e.g. Poland and Italy). In practice, TPD means that the individuals fleeing the war in Ukraine do not have to go through a complicated asylum seekers' application where the cases are considered on an individual basis. Instead, all Ukrainian citizens received temporary protection based on their collective belonging to the group. With various minor national variations, the scope of temporary protection granted access to residence, free travel within the EU, the right to work, education and social protection as well as to family reunification. Protection is granted on the strictly temporary terms for the sum of 2 years, and is a subject to extension (as it happened in March 2024). As war continues and intensifies, the further discussion of the TPD after its expiration date or in case of the end of the war remains largely ignored in the EU.

While TPD provided general legislative format, the practical implementation of the reception was pushed almost across the entire EU mainly onto the large international relief organisations as well as a wide network of solidarity, NGOs and grassroots networks, as well as on mobilisation of the previous labour migration networks (Fedyuk 2023). These dealt with solving daily logistics, housing, care, information, communication and transportation requests, and access to paid employment (Fedyuk, et al 2023, Krivonos 2022). Importantly, TPD allowed Ukrainians to join the workforce in the countries where there was already a long history of labour migration (Fedyuk et al. 2023). Thus in January 2024, 4 323 420 Ukrainians were TPD holders in the EU,³ which presents probably the most reliable numbers on the number of Ukrainians who left Ukraine. One of the main characteristics of this flow from Ukraine, is that more than 80% are women, and two thirds have children (Dutchak 2023).

Labour market situation in Ukraine: war-time economy, mobility limitations and deterioration of workers' rights.

In 2024 situation on the Ukrainian labour market is determined by the realities of the war, including: loss of lives and health due to the attacks on the civil population and infrastructures, military actions and their consequences, effects of the war and stress on the individual mental health and family lives, destruction and damage of various industries and

³ EUROSTAT. "Beneficiaries of temporary protection at the end of the month by citizenship, age and sex - monthly data." Last viewed: 21.04.2024. Available at: https://ec.europa.eu/eurostat/databrowser/view/MIGR_ASYTPSM/default/table?lang=en

infrastructures of social reproduction, displacement of the population, military conscription and redistribution of caring obligations within the families. The Ukrainian state responded with many legislative and regulatory norms for the martial law time and war-time economy. In particular there is a new regulation of the labour market and localised practical implementations of these regulations. In this short format of the background report it is hard to summarise the effects of the war on the Ukrainian labour market and to make further analytical and causal connections with how it can potentially act as a push factor for labour mobility from Ukraine. It is important to keep in mind that the war has unhinged trajectories and paths of many families, usual socio-economic statuses, and personal motivations to the degree where it's hard to make reliable analytical predictions on individual choices (on fragmentation of experiences also see Fedyuk and Riabchuk 2024). Overall, post 2022 mobility from Ukraine is a mobility of millions of working age women with children and other dependents. At the same time, the prohibition for men of military service age to leave Ukraine (with several exceptions), mostly defines the (im)mobility of certain Ukrainian workers.⁴

It is not so much the external migration as the loss of lives and working capacity, internal displacement, destruction of the industries and infrastructure, mobilisation for the military service as well as the re-orientation of the economy towards military production that defines the state of the labour market in Ukraine. In April 2023 Office of the High Commissioner for Human Rights (OHCHR) recorded 22,734 civilian casualties in Ukraine: 8,490 killed and 14,244 injured⁵, emphasising that these are approximate numbers. World Bank suggests that "8.1 million displaced across European countries, and 5.4 million internally displaced⁶ (UNHCR, Feb 2023). The proportion of Ukrainians living in poverty increased from 5.5 percent to 24.1 percent in 2022.⁷ In June 2022, about 20 % of Ukrainian territory was occupied by the Russian Federation.⁸ Deaths of civilians, military casualties, and migration has led to general decline in the population of Ukraine by 24-34%.⁹ For February 2023, the total aggregate economic, social, and other monetary loss is calculated at almost US\$290 billion (Graph 3, World Bank Group 2023), with main losses (up to 30%) born in commerce and industry.

⁴ The trends in fact are much more diverse, but less significant for the purpose of our study on the labour migration from Ukraine. They include the return of men from migration in early 2022, and the consequent gradual return of the TPD holder after the summer 2022 and throughout the 2023.

⁵ <https://www.ohchr.org/en/news/2023/04/ukraine-civilian-casualty-update-10-april-2023>

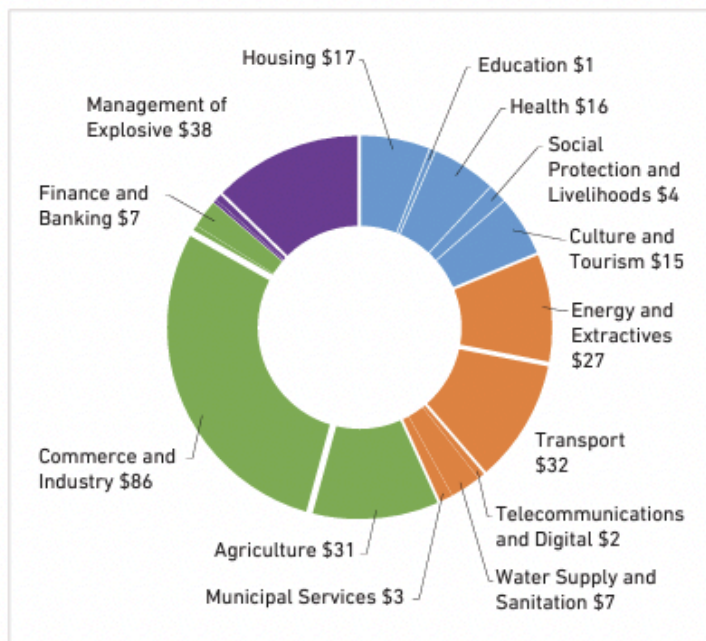
⁶ <https://www.worldbank.org/en/results/2023/11/30/the-world-bank-and-ukraine-laying-the-groundwork-for-reconstruction-in-the-midst-of-war#:~:text=With%20the%20support%20of%20the,to%20finance%20social%20assistance%20programs>.

⁷ Ibid.

⁸ Voytyuk, T. (2022, June 2). About 20% of Ukraine's territory is currently under occupation - Zelensky. Suspilne | News. <https://suspilne.media/245956-rosia-zalucila-vsi-svoi-boezdatni-vijska-dla-napadu-na-ukrainu-zelenskij/>

⁹ Demographic consequences of the war: Ukraine's population is sharply declining. 'We will have to attract foreigners' - Special topic. (n.d.). Express online. Retrieved 20 June 2023, from <https://expres.online/spetstema-2/demografichni-naslidki-viyini-naseleennya-ukraini-rizko-skorochuetsya-dovedetsya-zaluchati-inozemtsiv>

Graph 3. Total loss (US\$ billion): US\$290 billion. Source: World bank : UKRAINE RAPID DAMAGE AND NEEDS ASSESSMENT



Source: Assessment team.

Note: Loss includes an additional 18 months beyond the 12 months between February 24, 2022, and February 24, 2023. Under social protection and livelihoods, household income loss valued at US\$61.5 billion is not included to avoid potential double-counting in relation to other sectors.

Ukrainian labour market in the times of war is characterised by somewhat contradictory trends: labour shortages, mostly due to internal and transnational mobility and mobilisation of men, but also, unemployment due to the destruction of businesses, evacuation of the population and changes in the production structure. There is also a marked decline in wages linked to inflation, hard to regulate, reduced volume of production, unpredictable availability of work or business activities and consequent reduced and unpredictable pay. By May 2022 up to 5 million people had lost their jobs due to Russian aggression¹⁰ as workers experienced displacement, restriction on their work capacity due to power outages and other numerous safety hazards at work. Further advance of Russian forces will only increase displacement and migration. Furthermore, the latest mobilisation law (law passed in April 2024) caused serious concerns by Ukrainian business, that the new law will paralyse the economy¹¹ and importantly, opened a question of possible forced return of male migrants back to Ukraine. It is not surprising then that the main format of discussing emigration from Ukraine these days is framed with particular sternness around the issue of the return of

¹⁰ ILO News. (2022). "Nearly 5 million jobs have been lost in Ukraine since the start of the Russian aggression, says ILO." 11 May 2022 https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_844625/lang-en/index.htm

¹¹ "Український бізнес побоюється, що новий закон про мобілізацію паралізує економіку – Reuters". Available at: <https://www.epravda.com.ua/news/2024/02/20/710168/>

migrants, as: "Bringing its citizens back home is the main task of Ukraine's recovery policy" (Razumkov Center 2022: 21).

The Ukrainian government has responded to these drastic changes by passing a series of laws and codes that aimed at reorganisation of labour relations in martial times, justifying it by the need to optimise and simplifying the regulation of labour relations, and to bring the legislation in line with the EU standards and direct EU requirements (EBA 2023). These measures, that have been gradually adopted since March 2022 (e.g. Law 2035¹², Law 2136¹³) resulted in major deregulation of the labour relation and effectively stripping the workers of basic labour rights (expert interview). The new labour regulation has established "an almost completely deregulated labour market in Ukraine and set a new low standard for labour rights and working conditions in the whole of Europe."¹⁴ These are just some changes that came into power since March 2022 and for the length of the martial law:

- employers can fire certain categories of workers during sick leave, maternity leave or vacation,
- zero hour contracts were legalised,
- employers can freeze the contract and salary payment for the times of inactivity of the business, without any warning or informing the worker;
- the length of the legal working week is increased to 60 hours a week and the limit of 120 hours per year for overtime is cancelled.¹⁵

Trade unions seem to be seen as a particular obstacle in the time of wartime labour market transformation. For instance, the European Business Association (EBA) of Ukraine directly proposes "reducing the influence of trade unions on the regulation of labor relations in order to prevent trade unions from abusing their rights and powers" (EBA 2023) as one of the solutions to the workforce crisis. More materially, Law 2035 Amendments to Certain Legislative Acts regarding Simplification of Labour Relations Regulations for Small and Medium Business that was passed in July 2022 removed all union rights for 70% of Ukraine's workers employed in companies with 250 employees or less.¹⁶ The law, however, does not affect major trade unions that are traditionally very strong in Ukraine, like railroad, builders or crane-workers unions (confirmed by the interview discussion). Many trade unions and solidarity movements continue fighting for the rights of the workers through protests and court cases, like for instance *Be Like Nina* (trade union of nurses) or *Socialnyj Rukh* (general workers support network). Overall, Ukrainian trade unions often feel that now they are fighting 2 fronts, against external and internal threats: "There are many trade unionists fighting in the army and territorial defence forces, allowing for a daily [*sic*] contact with the unions, who provide them with ongoing material and psychological support. Additionally, in companies there is a daily struggle to defend social and trade union rights against

¹² https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=71653

¹³ <https://itd.rada.gov.ua/billInfo/Bills/Card/39225>

¹⁴ Novak, A. (2022). "European Network for Solidarity with Ukraine statement after Zelenskyy's ratification of Law" *Chang.Org*. Aug 24, 2022 5371 <https://www.change.org/p/demand-president-zelenskyy-veto-anti-worker-law-5371/u/30858652>

¹⁵ "ПРОБЛЕМА 7160. ЯК УСКЛАДНИТЬСЯ ЗАХИСТ ТРУДЯЩИХ ПІД ЧАС ВІЙНИ?" 25/03/2022 <https://rev.org.ua/problema-7160-yak-uskladnitsya-zaxist-trudyashhix-pid-chas-vijni/>

¹⁶ <https://www.change.org/p/demand-president-zelenskyy-veto-anti-worker-law-5371/u/30858652>

governmental measures that are exploiting martial law to undermine collective agreements, facilitate layoffs and diminish union rights” (Vogel, 2023).

Labour integration of TPD holders in the EU and barriers to the EU labour markets.

Studies indicate that those who left Ukraine right after the start of the full invasion in 2022, often had a higher socio-economic status compared to those who remained. They are also more likely to come from urban areas (nine in ten respondents in the Razumkov Center, 2022 study) and have higher education (86% have either completed or were in the process of obtaining higher education). A UNHCR survey¹⁷ of 34,145 Ukrainian war migrants found that 12% of them had relatives in receiving countries and that 56% already managed to find private housing for rent. They were more likely to have private vehicles (so could leave the country in the first days of the war), some prior contacts in receiving countries - either personal or professional, knowledge of at least one foreign language, higher education, etc. Razumkov Centre study found a higher percentage of managers (14% compared to 1.5% of the Ukrainian population as a whole) and private entrepreneurs (14% compared to 4% of the Ukrainian population as a whole), with a further 12% self-identifying as skilled workers, and another 11% as housewives (Riabchuk 2023, Fedyuk and Riabchuk 2024). And yet, it looks like most newly arrived Ukrainians get trapped in similar low-wage jobs like the previous migrants (Eurofound 2023). As Razumkov Center study of impact of emigration on the post-war reconstruction in Ukraine argues, the EU increasingly sees migration as “an instrument for EU’s long-term growth” (Razumkov Center 2022) and therefore, extension of TPD is directly in its interest. The study sums up that: “The right to employment is readily enjoyed by many Ukrainian migrants, as most of them are women of working age.” (Razumkov Center 2022: 21). This however raises an uneasy question, about the future return, as “emigration from Ukraine has a direct impact on national security, especially its economic and social components, as it raises the question of «who will rebuild the country after the war»” (Razumkov Center 2022: 21).

At the end of summer 2022 FRA conducted a European online survey with 14,361 Ukrainians fleeing the war in the EU countries. By the time of the survey, 35% of all participants were in paid employment, with 60 % being employed on temporary contracts, with further 9% employed without a contract at all (Graph 2, Eurofound 2023). Eurofound study, that looks specifically into the barriers to employment indicated by TPD holders, show that while language barrier was indicated as the first barrier to employment the second main barrier among those seeking for jobs was irregular jobs (23%) and the second among those staying out of work was family and other care obligations (Eurofound 2023: 21). A European Commission study in 2023 found out that people displaced from Ukraine tend to be employed in sectors such as construction, hospitality, wholesale and retail trade where irregular/temporary jobs are overrepresented (Eurofound 2023: 18). Further, FRA study summarised that “issues with working conditions reported by women had occurred mostly in

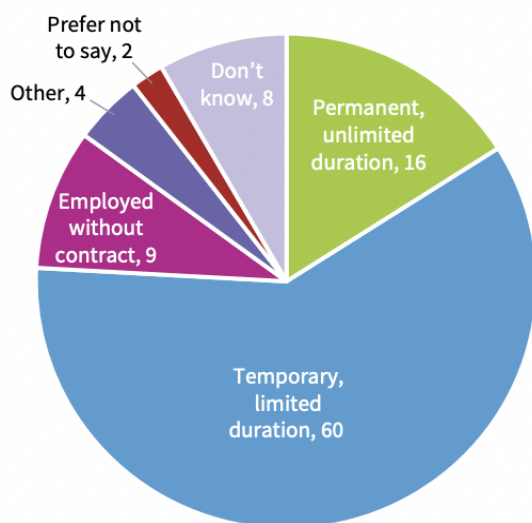
¹⁷ UNHCR, *Ukraine Situation: Regional Refugee Response Plan - March-December 2022*, 26 April 2022, available at <https://data.unhcr.org/en/documents/details/92257>.

manufacturing (26%) and tourism/hospitality (16%). Among men, these issues were most common in construction (26%), manufacturing (22%) and transport/logistics (16%)” (Eurofound 2023: 20). The most common challenges in the working conditions were: being underpaid, working without a contract or a contract not covering all working hours; and very long working hours.

Graph 2. Source:

<https://www.eurofound.europa.eu/en/publications/2023/barriers-employment-displaced-ukrainians>

Figure 2: Contract types among respondents in employment in their host country (% , weighted)



Notes: The question was phrased as follows: ‘What kind of contract do you have for your new job in your current country?’

Source: FRA, Ukrainian survey 2022

A qualitative paper that discusses employment of TPD holders in care sectors and food industry (Fedyuk et al. 2023) in Poland and Italy shows that despite higher qualifications and education, many arrivals from Ukraine after February 2022 had little options besides “typical” immigrant jobs occupied by previous waves of Ukrainian labour migrants (Ibid.). Despite some exceptions that simplified employment of Ukrainian nationals in industries connected to reception relief (e.g. simplified access to jobs for such professionals as medical nurses, psychologists, social workers and teachers) that was practised in both Italy and Poland, the new arrivals were pushed to low-waged, temporal jobs by both, path dependency on the previous migration networks and the limitations of the opportunities available for them on the labour markets (Ibid.). The study has also looked into the role of the trade unions and various organisations in supporting workers and persons fleeing the war in their labour market integration. It finds that like in the reception in general in the EU, various levels of international and local support organisations tried to provide various levels of the support, mostly oriented to training, accommodation and information. Trade unions’ response seems to be mostly limited with formal statements but with little practical response (Ibid.). However, this situation might differ significantly in some national and

industry contexts, which needs further and more thorough examination, which is beyond the scope of this report.

Regarding the two triad countries identified by JUSTMIG as possible transition (Estonia) and final destination countries (Finland), in spring 2024 they had respectively 67 thousand and 58 thousand Ukrainians registered for TPD and other forms of refugee protection (UNHCR 2024¹⁸). While Finland boasts a rather efficient system of reception and status granting, Estonia reports major backlogs of processing the paperwork (Rosin and Kärkkäinen 2024, Tavits 2024). In both countries, TPD holders follow the same demographic characteristics as in the EU in general and according to the EU umbrella directive (TPD) they have access to national labour markets on the same conditions as citizens. Estonia sees the arrival of Ukrainians as a positive move: Estonian labour market has been characterised by labour shortage for a long time, and the persons benefiting from temporary protection are seen "as helping to change" that (Tavits 2024: 165). Higher level of education of the displaced people from Ukraine may give them an advantage in the Estonian labour market, particularly lacking specialists in the fields of healthcare and education (Ibid. 2024: 165). In line with the findings as to the barriers to employment in the EU, in both Estonia and Finland the main barrier to employment seems to be the lack of language skills and care obligations for dependents and family members. Both countries seemed to confirm predominance of the temporary employment (as reinforced by the the temporariness of the protection status as well), with Finland adding a possibility of posted work options (Rosin and Kärkkäinen 2024). However, the time of posting period is limited by the TPD free travelling in the Schengen area restriction: 90 days during the 180-day period. Both Estonia and Finland seem to confirm the general trend from other parts of the EU that places the problems faced by TPD holders not so much in their status, as rather entrenched in the given sectors. This means that to change the working conditions of TPD holders, one needs to change the working conditions in the respective sectors. The problems are usually aggravated when we consider intersectionality of vulnerabilities; persons fleeing the war are likely to have anxiety about those stayed at home, mental health issues, and experience other forms of insecurities (Fedyuk and Ryabchuk 2024).

Conclusions

Ukraine stands out as a JUSTMIG sending country due to full scale war, which tremendously changed the state of national demographics as well as labour market and participation, demographics and patterns of mobility from Ukraine and the legislative and practical response of the receiving countries in the EU. Overall, deregulation of the labour market during martial law in Ukraine seems to aggravate the situation of Ukrainian workers already made difficult by the destruction of industries, displacement, attack on critical infrastructures and reorientation of economy to the military needs. Often the programs and funds set up to provide support by the Ukrainian government fall short of making amendments in such difficult times.¹⁹

¹⁸ <https://data.unhcr.org/en/situations/ukraine>

¹⁹ "ПРОБЛЕМА 7160. ЯК УСКЛАДНИТЬСЯ ЗАХИСТ ТРУДЯЩИХ ПІД ЧАС ВІЙНИ?" 25.03.2022
<https://rev.org.ua/problema-7160-yak-uskladnitsya-zaxist-trudyashhix-pid-chas-vijni/>

TPD gave the main frame of reference to the reception of Ukrainians after 2022 in the EU stipulates full access to labour markets and varying levels of social support. Yet, many studies indicate that despite the comparatively high educational and professional level of the persons fleeing the war, in most places they become employed on temporary and seasonal contracts in low wage sectors, where labour migrants from Ukraine were overrepresented before 2022. Furthermore, TPD raises questions as to the temporality of Ukrainians abroad and how it affects temporal or seasonal work or settlement prospects. Language skills and family care obligations seem to be the main obstacles to better employment, with situations enhanced by temporality of the temporary protection status itself (Eurofound 2023, Fedyuk et al. 2023).

The return of Ukrainians from abroad, steps of financial and other incentives on the part of the Ukrainian state almost monopolises the discussion about Ukrainian emigration in Ukraine (see details in Razumkov Center study 2022). Public discussions of this topic are heavily politicised and very few actors in Ukraine dare to publicly challenge this narrative. Additionally, from the anecdotal evidence we know that the social divide between “those who left” and “those who stayed” lead to already tangible tension and social intolerance. The most recent discussions about possible repatriation of Ukrainian men from abroad into military service further aggravates the situation²⁰. This makes conducting research into these topics particularly difficult and requires high ethical sensitivity and reflexivity.

²⁰ Walker, Sh. “Poland and Lithuania pledge to help Kyiv repatriate Ukrainians subject to military draft”. The Guardian. 25 Apr 2024. Available at: <https://www.theguardian.com/world/2024/apr/25/poland-and-lithuania-pledge-to-help-kyiv-repatriate-ukrainians-subject-to-military-draft>

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