

IMPLEMENTATION OF THE EU TEMPORARY PROTECTION DIRECTIVE FOR UKRAINIAN REFUGEES: A COMPARATIVE ANALYSIS OF MEMBER STATE RESPONSES

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I. Introduction

Russia's military invasion of Ukraine, which began on the 24th of February 2022, triggered widespread political, economic and social changes that extended beyond Ukraine's borders, especially affecting neighbouring countries. The immediate challenge confronting European Union member states was managing the massive influx of Ukrainian refugees seeking safety, a situation that continues today, though with reduced intensity.

Following Russia's invasion, the European Union implemented a significant policy decision regarding the protection of refugees. Notably, the EU activated Directive 2001/55/EC, which establishes temporary protection measures (referred to as the Temporary Protection Directive). This directive had remained unused since its creation, even during previous situations involving large-scale population movements.¹

The Temporary Protection Directive's Article 2 (d) characterizes "mass influx" as the substantial arrival of displaced individuals from a particular nation or region, occurring either through spontaneous migration patterns or organized evacuation efforts. Nevertheless, quantifying "mass influx" remains challenging due to the absence of precise

¹ Kortukova et al., 668.

legal definitions in EU legislation and the lack of interpretive guidance from the Court of Justice of the European Union.²

The temporary protection framework emerged from the European Union's response to refugee emergencies during the late 1990s, establishing a vital safeguarding mechanism for war survivors,³ in particular it established reception procedures for displaced populations, with its conceptual foundation rooted in the Yugoslav conflicts. During that period, several European nations extended protection to individuals fleeing conflict zones while circumventing traditional refugee status procedures. Building on this approach, the European Union developed this legal framework through the Temporary Protection Directive, enabling individuals to obtain temporary sanctuary without navigating the complex and time-intensive refugee status determination process.

Currently, the Temporary Protection Directive creates a transnational framework for coordinated responses when sudden, large-scale displacement occurs. This means temporary protection applies when substantial numbers of people enter the European Union fleeing armed conflict, civil warfare, or widespread systematic human rights violations, particularly when standard asylum procedures cannot be implemented due to time constraints or practical limitations.⁴ The temporary protection system aims to prevent EU asylum frameworks from becoming overwhelmed, as they lack the capacity to rapidly handle hundreds of thousands or millions of cases.

Remarkably, from its establishment in 2001 until recently, the European Union had never implemented the Temporary Protection Directive, but Russia's military aggression altered this precedent. The EU Council formally activated the Temporary Protection Directive for Ukrainian nationals on March 4, 2022.⁵ From February 24, 2022 on-

² Sybirianska et al., 86.

³ Genç, Öner, 9.

⁴ Vitiello, 21.

⁵ 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

ward, approximately 8 million individuals have departed Ukraine, representing roughly 17% of the country's total population. The vast majority of Ukrainians seeking refuge from Russian military actions in foreign countries consist primarily of women and children. Data from the UNHCR indicates that around 8 million Ukrainian refugees have been documented throughout Europe, with close to 5 million enrolled in Temporary Protection programs or equivalent national protection frameworks across European nations.⁶

The Temporary Protection Directive and especially its lack of earlier activation has been widely criticized.⁷ While some EU states like Hungary and Croatia had built fences and used force to repel Syrian asylum seekers in 2015, and others like Germany welcomed them through standard asylum procedures, the EU never activated temporary protection for Syrians. However, the present research contends that several interconnected elements influenced the European Union decision to adopt a distinct approach during Ukraine's 2022 crisis. Contributing factors included Ukraine's close geographic location, the view of the conflict as a temporary cross-border military intervention, the refugee population being primarily comprised of women, the presence of established Ukrainian communities within EU territories, existing visa-free movement arrangements for Ukrainian citizens across the European Union. These combined elements generated an extraordinary demonstration of public solidarity and citizen involvement, which subsequently enabled the successful implementation of the EU's temporary protection initiative.

The present research seeks to analyze EU migration policy and its capacity to address humanitarian emergencies. It will examine the legal framework governing temporary protection across the EU, investi-

Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32022D0382>.

⁶ Kuzmenko et al., 225.

⁷ Tottos, 186.

gating its implementation within EU member states. Additionally, the article will evaluate the obstacles and prospects related to implementing temporary protection systems. This encompasses concerns including service accessibility, community integration within host nations, and potential system misuse. A thorough examination of these elements will allow policymakers to pinpoint improvement opportunities and guarantee that temporary protection continues serving as a practical and successful instrument for safeguarding displaced individuals in years to come.

II. The Temporary Protection Directive – Development and Activation

1. Historical Basis of TPD

The European Union's asylum framework has been and continues to be founded upon the international legal obligations of its Member States, requiring that EU asylum policy "must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties".⁸ Nevertheless, EU Member States gradually realized that apart from refugees fulfilling the criteria set out in the Geneva Convention, there are other groups of people that may require different forms of international protection based on different types of recognition.⁹ Such alternative protection mechanisms may differ from refugee status either through subsidiary criteria or through temporal limitations in the duration of protection provided.

The concept of temporary protection emerged during the Balkan conflict of the 1990s. In the early 1990s, EU member states processed 674,000 asylum applications.¹⁰ Following the commence-

⁸ Treaty on the Functioning of the European Union, 25 March 1957, Article 78(1).

⁹ Tottos, 186–187.

¹⁰ Koo, 103.

ment of hostilities in the former Yugoslavia, the UNHCR instituted temporary protection as a humanitarian response mechanism and advocated for state implementation of protective frameworks. Subsequently, European nations initiated diverse schemes for the provisional admission of displaced populations throughout the former Yugoslav conflict.¹¹ Consequently, no harmonized regulations or methodologies existed for temporary protection provision during this period. The European Commission therefore established the objective of coordinated collective action regarding the conflict. During 1992–1993, European ministerial consultations addressed displaced persons' circumstances and the imperative to formulate resolution strategies. These deliberations culminated in Council Resolution No 3195Y1007(01) (1995) concerning burden-sharing mechanisms for temporary admission and residence of displaced persons, and the Council Decision of 4 March 1996 establishing alert and emergency procedures for burden-sharing regarding temporary admission and residence of displaced persons. These instruments defined the categories of individuals EU member states would provisionally accept during armed conflicts or civil wars: prisoners-of-war, wounded persons, those with severe illnesses, victims of sexual violence, and individuals arriving directly from conflict zones.¹²

However, the temporary protection instruments introduced within the EU lacked coherence, resulting in divergent policy implementations across EU Member States. The Treaty of Amsterdam served as a pivotal agreement that established the foundation for harmonization in migration and asylum matters. Under the provisions of Title IIIa concerning visas, asylum, immigration and related policies governing freedom of movement, specifically Article 73k, the EU Council is mandated to establish “minimum standards for giving temporary protection to displaced persons from third countries who cannot return to their

¹¹ Genç, Öner, 7.

¹² Malynovska, 59.

country of origin and for persons who otherwise need international protection".¹³

As a result, Council Directive 2001/55/EC was specifically designed to foster equitable burden-sharing in managing large-scale displacement within Europe by providing immediate protection to individuals fleeing armed conflict, thereby preventing the saturation of Member States' asylum frameworks. The Directive establishes an exceptional mechanism whereby the existence of mass displacement must be determined through a Council Decision adopted by qualified majority voting upon the European Commission's proposal. Such Decisions are legally binding upon all Member States regarding the displaced populations within their scope. Upon adoption of the Council Decision, Member States must facilitate entry to their territories for individuals requiring temporary protection, minimizing administrative procedures due to the exigent nature of the circumstances. Following entry into the EU, any individual falling within the personal scope of the Council Decision receives temporary protection and is entitled to request official documentation confirming this status. Through this mechanism, the protracted application processes typically required for asylum claims can be circumvented.¹⁴

Under Article 1 of TPD, "the purpose of this Directive is to establish minimum standards for giving temporary protection in the event of a mass influx of displaced persons from third countries who are unable to return to their country of origin and to promote a balance of effort between Member States in receiving and bearing the consequences of receiving such persons".¹⁵ Considering the extraordinary nature of the measures established under this Directive to address mass dis-

¹³ Treaty of Amsterdam, 2 October 1997.

¹⁴ 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, Article 9.

¹⁵ Ibid.

placement or the imminent prospect of large-scale displacement of third-country nationals unable to return to their countries of origin, the protection provided should be temporally constrained.¹⁶

The TPD has remained unactivated throughout its existence. The two institutions responsible for its activation – the Commission and the Council – have frequently faced criticism for failing to utilize this mechanism despite encountering substantial asylum-seeker influxes. Academic scholars contend that justifications for reluctance to activate the Directive, including concerns about creating attraction factors or arguments regarding insufficient displacement volumes, lack adequate foundation. Thielemann observes that migration patterns are predominantly influenced by expulsion factors rather than attraction factors,¹⁷ while Ineli-Ciger maintains that individuals escaping armed conflict or violence are not necessarily seeking optimal conditions, but rather any location offering safety.¹⁸

2. Activation of TPD

In the aftermath of Russia's military aggression against Ukraine, millions of individuals, predominantly women and children, entered the EU during the initial months of conflict. The four EU Member States sharing borders with Ukraine (Poland, Slovakia, Hungary and Romania) along with Moldova prioritized addressing the immediate accommodation and protection requirements of refugees. As a result, these nations opened their eastern frontiers and facilitated unrestricted yet regulated entry into their territories. The Commission similarly recognized their contributions upon directly observing the extensive support initiatives these countries implemented.¹⁹

¹⁶ Tottos, 187.

¹⁷ Thielemann, 22.

¹⁸ Ineli-Ciger, 234.

¹⁹ European Commission, "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, European Solidarity with Refugees and Those Fleeing War in Ukraine," COM(2022) 107 final, March 8, 2022, 4.

A significant proportion of arrivals benefited from visa-free movement within the Schengen zone, while national immigration legislation of pertinent EU Member States also established various pathways for obtaining residence permits, grounded in either humanitarian considerations or legal migration frameworks (such as employment or family reunification). During an extraordinary Justice and Home Affairs Council session on 27 February 2022, Home Affairs Ministers assessed responses to the consequences of the Ukrainian conflict. To facilitate situation monitoring, coordinate solidarity initiatives, and engage all relevant stakeholders, the Presidency subsequently implemented full activation of the EU Integrated Political Crisis Response (IPCR) mechanisms following these discussions. As arrivals increased, Member States continued receiving individuals fleeing the Ukrainian war, though the reception capacities of primary host countries, particularly Poland, progressively reached saturation. Ministers also deliberated the establishment of suitable temporary protection arrangements for receiving these nationals, which garnered widespread endorsement.

This development provided the Commission with the impetus to propose TPD mechanism activation for the inaugural time on 2 March 2022.²⁰ Subsequently, during their Council session on 3 March, Home Affairs Ministers formally endorsed the Temporary Protection Directive activation through the adoption of a Council Decision.²¹ The primary objective was to enable EU Member States to furnish individuals escaping the Ukrainian conflict with an adequate response tailored to their circumstances by providing EU-harmonized status while simultaneously supporting Member States experiencing strain. Additionally,

²⁰ European Commission, "Proposal for a Council Implementing Decision establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Council Directive 2001/55/EC of 20 July 2001, and having the effect of introducing temporary protection," COM(2022) 91 final.

²¹ 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, ST/6846/2022/INIT.

this action carried symbolic significance, illustrating European unity and solidarity in addressing this crisis unfolding within the continental heartland. As a result, from the initial conceptualization on 27 February 2022 to its publication in the EU Official Journal on 4 March 2022, the TPD mechanism activation required merely five days.

III. The scope and main concepts of TPD

The Council determined to establish three distinct categories of eligibility for temporary protection:

- a) Ukrainian citizens who were resident in Ukraine prior to 24 February 2022;
- b) stateless individuals and third-country nationals other than Ukraine who received international protection or comparable national protection within Ukraine before 24 February 2022;
- c) family members of individuals specified in categories (a) and (b).

In contrast to the Commission's initial proposal, category (b) underwent substantial restriction, as it was originally intended to encompass all third-country nationals or stateless individuals with legal residence in Ukraine who were unable to return safely and sustainably to their countries or regions of origin. The criterion of inability to return safely and sustainably to their country or region of origin would not apply to third-country nationals or stateless persons with established long-term legal residence in Ukraine. Reports indicate that this modification occurred at Poland's request along with several other nations, and the narrowing of personal scope through the Council Decision may be attributed to both political and legal considerations. Regarding TPD application to non-Ukrainian nationals, this matter may invoke recent troubling memories of irregular migration being weaponized by Belarus at the EU's eastern frontiers. This hybrid warfare strategy may have influenced Member States' cautious stance when limiting mandato-

ry TPD application to those who had previously received international protection or equivalent national protection in Ukraine prior to 24 February 2022.

In implementing this scope limitation consistent with EU *acquis*, the degree of harmonization could have served as a valuable benchmark. Although the EU acknowledges various international protection statuses, no harmonized EU-level status exists for tolerated residence that should be granted to individuals who cannot be removed either due to the applicability of the non-refoulement principle²² or because certain factors impede their removal. Therefore, the Council Decision excluded such individuals from harmonized temporary protection coverage even when fleeing Ukraine, instead delegating this determination to Member States. However, the Council Decision further subdivides this category by establishing a mandatory protection obligation for those with permanent Ukrainian residence, while merely offering discretionary TPD application to those with temporary legal residence in Ukraine. It should be emphasized that where the non-refoulement principle applies, domestic legislation should permit affected individuals to remain even when the Council Decision does not mandate or authorize EU harmonized temporary protection status for that particular category. The second category, where the Council prioritizes protection substance over classification type, encompasses stateless individuals and third-country nationals other than Ukraine who can demonstrate legal Ukrainian residence prior to 24 February 2022 based on valid permanent residence permits issued under Ukrainian law, and who cannot return safely and sustainably to their countries or regions of origin. The third category, to whom TPD may be discretionally applied, includes stateless persons and third-country nationals other than

²² Under international human rights law, the principle of non-refoulement guarantees that no one should be returned to a country where they would face torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm. This principle applies to all migrants at all times, irrespective of migration status.

Ukraine who maintained legal Ukrainian residence and cannot return safely and sustainably to their countries or regions of origin.

TPD sets out various forms of solidarity for the activation of the Directive. Within the contemporary framework of the ongoing Common European Asylum System (CEAS) reform spanning several years, the central inquiry concerned whether these solidarity measures should be implemented mandatorily or whether Member States retain discretionary authority over their application. To comprehend the legal framework, it is essential to recognize that the TPD represents the inaugural EU Directive enacted within the asylum domain. As it constitutes a Directive “belonging to a different era where the EU had different legal competences in the Treaties and migration priorities”,²³ the articulation of the Directive’s provisions remains relatively imprecise. Nevertheless, it establishes a repertoire of solidarity instruments that may be implemented should Member States elect to do so upon Directive activation. Accordingly, the mechanisms employed during specific activations and their legal character depend upon Council determination.

Multiple assistance instruments are available, including operational support from pertinent EU agencies. On 7 March 2022, the EU Agency for Law Enforcement Training (CEPOL), situated in Budapest, Hungary, issued a declaration on behalf of the consortium of nine EU Agencies operating within the freedom, security and justice framework.²⁴ According to this statement, EU Justice and Home Affairs Agencies support EU institutional and Member State efforts in

²³ Carrera et al., 16.

²⁴ The European Institute for Gender Equality (EIGE), the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), the EU Agency for Asylum (EUAA), the EU Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), the EU Agency for Criminal Justice Cooperation (Eurojust), the EU’s Law Enforcement Agency (Europol), the EU Agency for Fundamental Rights (FRA), the European Border and Coast Guard Agency (Frontex) and the EU Agency for Law Enforcement Training (CEPOL).

assisting Ukraine and its population as conflict has once again reached European territory. Through collaborative efforts and leveraging each agency's specialized expertise, they respond urgently to assist EU Member States regarding humanitarian support, fundamental rights observance, EU external border management, visa measures, hybrid threat anticipation, and reception of war refugees.

Subsequently, three principal forms of assistance established and provided at EU level merit emphasis:

- **Financial Support** – Article 24 of the TPD establishes financial assistance provisions for Member States. While the Directive originally referenced the European Refugee Fund (now the Asylum, Migration and Integration Fund – AMIF), this does not encompass all available financial support mechanisms. Through its Communication, the Commission articulated objectives to facilitate rapid and flexible EU fund utilization by Member States, enabling tailored funding to expeditiously support Member State, organizational, and civil society efforts in actualizing temporary protection rights.

On 4 April 2022, the Council enacted legislative amendments to EU funds, demonstrating sustained EU solidarity with Ukrainian refugees and hosting Member States, particularly those bordering Ukraine. These modifications ensure adequate resources for addressing escalating housing, education, and healthcare requirements by providing enhanced flexibilities for both cohesion policy and home affairs funds while redirecting resources to assist individuals escaping Russian military aggression.²⁵

Regarding cohesion policy, the Council adopted the Cohesion's Action for Refugees in Europe (CARE) Regulation, amending the 2014–2020 European Structural and In-

²⁵ Tottos, 192–193.

vestment Funds (ESIF) and Fund for European Aid for the Most Deprived (FEAD) frameworks. These changes introduce exceptional flexibility for resource transfers between European Regional Development Fund and European Social Fund programs to address refugee influx, including reallocating infrastructural project resources for Ukrainian refugee healthcare and education. Member States can access up to EUR 9.5 billion through REACT-EU's 2022 allocation and unallocated 2014–2020 cohesion resources, with CARE extending 100% EU budget financing for cohesion programs by one accounting year, potentially releasing approximately EUR 17 billion.²⁶

- **Monitoring and coordination** – Article 25 of the Directive emphasizes Member States' capacity to accommodate individuals benefiting from the Directive's activation. The TPD theoretically requires Member State reception capacity to be specified in the Council Decision through numerical or general terms. However, current practice renders this potentially impractical or ineffective, as certain Member States may expand capacities when necessary, while other Member States' available capacities could become occupied by non-Ukrainian asylum-seekers. Consequently, rather than adhering strictly to the Directive's provisions, the Council Decision adopted an alternative approach by establishing a 'Solidarity Platform' where Member States share information regarding reception capacities and the number of individuals enjoying temporary protection within their territories, enabling Union coordination and close monitoring to provide additional support as required.

Recently, various platforms have been created to facilitate Member State cooperation, with the EU Migration Prepared-

²⁶ Ibidem.

ness and Crisis Blueprint Network (Blueprint Network)²⁷ being the most recent initiative from the Commission's Asylum and Migration Pact Communication. This framework aims to monitor and anticipate migration flows and situations, build resilience, and organize crisis responses. Member States also contribute to collective situational awareness through integrated political crisis response (IPCR) arrangements.

The new European response and Solidarity Platform specifically monitors the Ukrainian war situation and Member State capacities, while the Blueprint Network and IPCR continue collecting information. The Solidarity Platform gathers information, examines Member State needs, and coordinates operational responses, while the Blueprint Network shares situational information and consolidates migration management data related to Russian aggression against Ukraine, including Directive 2001/55/EC implementation. Although parallel networks with overlapping information collection, analysis, and coordination functions may create duplicative processes, Member State officials are encouraged to regularly share and assess information through these networks.²⁸

- **Assistance related to intra-EU mobility** – A crucial question concerns why certain Member States' capacities become exhausted. The answer may be found in Article 26 of the TPD, which stipulates that "for the duration of temporary protec-

²⁷ European Commission, "Commission Recommendation (EU) 2020/1366 of 23 September 2020 on an EU mechanism for preparedness and management of crises related to migration (Migration Preparedness and Crisis Blueprint)," C/2020/6469.

²⁸ 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 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, and having the effect of introducing temporary protection, Article 3.

tion, Member States shall cooperate regarding transferal of residence of persons enjoying temporary protection from one Member State to another, subject to the consent of the persons concerned.”²⁹

The Directive employs the term “transferal of residence,” potentially synonymous with the contemporary term “relocation.” In ongoing CEAS reform debates, the key issue is whether this constitutes an obligation or option. The Directive only mandates Member States to communicate transfer requests and inform requesting states of their reception capacity, while no distribution mechanism is envisioned, though it does not prohibit establishing one for this specific situation.

However, a different legal context must be considered. Ukraine is listed in Annex II to Regulation (EU) 2018/1806,³⁰ exempting Ukrainian nationals from visa requirements for stays up to 90 days within any 180-day period. Therefore, Ukrainian citizens with biometric passports enjoy visa-free Schengen travel for three months, enabling many Ukrainian refugees to practice short-term free movement within the EU.

Commission Guidelines emphasize that TPD beneficiaries also enjoy movement rights after Member States issue residence permits under Article 8, allowing travel to other Member States for 90 days within 180-day periods. However, double statuses must be avoided; when individuals move to another Member State, the initial residence permit and associated rights must expire and be withdrawn according to

²⁹ 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, Article 26(1).

³⁰ Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

Articles 15(6) and 26(4) of Directive 2001/55/EC. While the Eurodac Regulation does not cover temporary protection beneficiaries' data, Member States and the Commission are developing an ad hoc scheme compliant with EU data protection provisions for regular data exchange to identify potential double statuses.³¹

Importantly, it is the Council Decision, not Member State-issued residence permits, that creates temporary protection rights for those within the personal scope categories. Consequently, while Article 11 requires Member States to take back temporary protection persons who remain or seek unauthorized entry into another Member State's territory, this is hardly implementable given residence permits' declarative nature.

Therefore, applying the provision allowing Member States to decide bilaterally not to apply this Article was logical. Supporting Member States serving as main entry points for Ukrainian mass arrivals, Member States agreed not to apply Article 11 when activating the TPD through the Council Decision.³² This approach proves practical for two reasons: first, it allows Ukrainian nationals to find optimal Member States providing ideal family, friend, employer, or state support crucial for integration during longer stays; second, it alleviates pressure on EU Member States bearing disproportionate burdens from Ukrainian mass influx. Rather than artificial relocation schemes where Member States decide transfers, this Article 11 disapplication allows situations more focused on Ukrainian refugees' needs. Nevertheless, this approach was only possible because it extends solely to those enjoying temporary protection from their initial EU territory entry, distinguishing them from other international protection seekers.

³¹ Tottos, 195.

³² *Ibidem*, 196.

IV. Temporary Protection in Practice

From the conflict's onset through 15 June 2022, over 7.7 million border crossings from Ukraine were documented, with more than 5 million Ukrainian refugees reaching Europe. Primary host nations included Poland (1170000) and Germany (780000), alongside additional neighboring countries such as Slovakia (78500), Hungary (24500), Romania (98000), and Moldova (85500).³³ Western European nations, including France, Italy, the UK, Spain, and the Netherlands, also served as significant host countries for refugee assistance, along with Bulgaria (80000) and Turkey (70000).³⁴

The circumstances on 19 July 2022 remained comparable, with 5988696 Ukrainian refugees documented across Europe. European "temporary protection" or equivalent national protection schemes registered 3709329 individuals. Border crossings from Ukraine between 24 February 2022 and 19 July 2022 reached 9567033, while border crossings into Ukraine since 28 February 2022 totaled 3793403.³⁵ Poland remained the primary destination for Ukrainian refugees on 19 July due to geographical and cultural proximity, with 1234718 individuals registered for temporary protection, followed by other neighboring Ukrainian countries including Slovakia (85771), Romania (45530), and Hungary (26932).³⁶

Following eight months of conflict, Russian aggression had displaced one-third of Ukraine's population. Nearly 7.8 million individuals had departed Ukraine for other European countries, while over 6.2 million were internally displaced within Ukraine. Among those who left Ukraine, more than 4 million enrolled in EU temporary protection or comparable national temporary protection programs. EU Member

³³ UNHCR, *Ukraine Situation: Global Report 2022* (Geneva: 2022).

³⁴ Koroutchev, 305.

³⁵ UNHCR, *Operational Data Portal: Ukraine Refugee Situation* (Geneva: 2022), <https://data.unhcr.org/en/situations/ukraine>.

³⁶ UNHCR, "Ukraine Situation: Global Report 2022" (Geneva: 2022).

States mostly bordering Ukraine, but not only, documented the highest registration numbers for temporary protection, in particular:

Country	Number of Persons registered for TP
Poland	1,470,000
Czech Republic	455,000
Slovakia	99,000
Romania	78,000
Hungary	31,000
Bulgaria	145,000
Lithuania	70,000
Latvia	42,000
Estonia	38,000
Germany	710,000
Italy	160,000
Spain	145,000
France	105,000

Based on Member State feedback regarding Council Decision and Temporary Protection Directive implementation, the Commission identified several areas requiring guidance and issued operational guidelines for Member States. The addressed issues primarily concerned the Council Decision's scope, including individuals excluded from coverage, child handling procedures (particularly for unaccompanied minors), questions regarding inter-Member State movement rights, registration processes, and information provision.

Commission Guidelines stipulate that no application procedure for temporary protection or equivalent national protection should occur, as these individuals' protection rights are immediate. Consequently, persons presenting themselves to authorities to access temporary protection rights need only demonstrate their nationality, international protection status, Ukrainian residence, or family connections as applicable. However, the Council Decision's special legal character

generates several practical concerns.³⁷ Primarily, declaratory documentation remains practical and is anticipated by Article 8 of the Directive to prevent questioning eligibility for additional temporary protection rights. Secondly, requirements persist despite the absence of application procedures, including evidence that individuals belong to specified Directive categories and verification that exclusion criteria do not apply. Therefore, Member States must organize proper administration and registration of concerned persons.

Another challenge for national legislators involves determining the Council Decision's personal scope. As previously discussed, the Council Decision provided Member States discretionary flexibility regarding the second and third beneficiary categories. Subsequently, this analysis examines EU harmonization's diverse effects on different member states.

Article 7 TPD permits Member States to extend temporary protection to additional displaced person categories beyond those specified in Article 5 of the Council Decision. Member States must immediately notify the Council and Commission upon applying this provision. According to Section 19 of Hungary's Act LXXX of 2007 on asylum,³⁸ Hungary grants temporary protection both under the TPD and through Government decision. Prior to 2014, Parliament held this authority, but competence transferred to the Government in 2014 – presumably following the Crimean conflict – to establish expedited activation procedures. Nevertheless, like the TPD, national application processes remained unactivated before the Ukrainian war.

On 24 February 2022, the Hungarian Government immediately activated national temporary protection mechanisms for Ukrainian refugees through Government Decree. The national activation's personal scope was remarkably broad, extending to all Ukrainian citizens arriving from Ukraine and all third-country nationals legally residing

³⁷ Tottos, 197.

³⁸ Act XVI of 2014 on the Amendment of Certain Acts Related to the Reinforcement of the Effectiveness of Procedures Related to Immigration, Section 277(2).

in Ukraine, including those with temporary legal residence. However, following EU-level TPD activation, a new Government Decree repealed the previous one, significantly narrowing eligible temporary protection categories.³⁹

Regarding the second personal scope category, Section 2(2) declares Hungary's decision not to apply the Council Directive to stateless persons and third-country nationals with valid permanent Ukrainian residence permits who cannot safely return to their origin countries. Section 2(3) stipulates that immigration authorities shall apply general national rules instead of EU harmonized temporary protection status. Hungary's humanitarian legislation provides ample protection alternatives, including Section 13(2) of Act II of 2007, which permits exceptional entry and residence for international obligations, urgent humanitarian reasons, or national interests.

Concerning optional personal scope extension, while national activation initially covered third-category persons with temporary Ukrainian legal status regardless of return ability, the Hungarian Government subsequently excluded such persons from temporary protection eligibility. Although not contrary to EU law, this results in rejection of temporary protection applications submitted between 24 February and 7 March 2022 under the initial Government Decree. However, immigration authorities issue temporary stay certificates, allowing adequate time for residence decisions and subsequent Hungarian residence permit applications.

Ireland and Denmark maintain opt-outs from EU home affairs harmonization. While Ireland is bound by the Temporary Protection Directive and participated in the Council Decision's adoption, Denmark, pursuant to Articles 1 and 2 of Protocol No 22 concerning Denmark's position (annexed to the TEU and TFEU), does not participate

³⁹ Decree N56/2022 (II. 24.) of the Government of Hungary on the different application of the transitional rules of the asylum procedure set out in Act LVIII of 2020 on transitional rules and epidemiological preparedness related to the cessation of the state of emergency.

in Council Decision adoption and remains unbound by its provisions or application. However, Denmark unilaterally demonstrated solidarity by enacting special legislation on temporary residence permits for Ukrainian displaced persons.⁴⁰ The new Danish provisions enable Ukrainians to apply for Danish residence permits. Individuals may obtain temporary residence permits under the Ukrainian displaced persons law if residing in Denmark and holding either Ukrainian citizenship or recognized refugee status in Ukraine. Close family members of persons in Denmark who have received residence permits under this Special Act are also eligible for residence permits.

Romania encountered significant implementation challenges across multiple sectors while applying the Temporary Protection Directive for Ukrainian refugees. The labor market integration proved particularly problematic despite being relatively faster compared to other refugee groups. Language barriers constituted a primary obstacle, with Romanian language courses available only through territorial employment agencies and select NGOs, limiting accessibility for many refugees. Additionally, childcare responsibilities prevented many Ukrainian women from entering the workforce, as children under six years could not enroll in kindergartens due to linguistic barriers and insufficient information regarding diploma recognition procedures.⁴¹

Healthcare access presented equally formidable challenges, primarily stemming from systemic inefficiencies within Romania's healthcare infrastructure. The national digitalized system failed to accommodate Ukrainian citizens, preventing their registration with family doctors. Although authorities established a free Ukrainian-language medical telephone hotline, its practical effectiveness remained limited.⁴²

⁴⁰ Act on Temporary Residence Permits for Displaced Persons from Ukraine (Special Act), adopted by the Danish Parliament on 16 March 2022, entered into force on 17 March 2022.

⁴¹ UNHCR, "Situation Ukraine Refugee Situation," January 3, 2025, <https://data.unhcr.org/en/situations/ukraine>.

⁴² Raluca Tudor, 62.

Educational system constraints further complicated the integration process, particularly in large urban centers where state kindergartens and schools faced severe overcrowding. This situation became so acute that Romanian parents occasionally relocated to secure preschool places for their own children. The shortage of Ukrainian-speaking teachers and inadequate teaching methodologies in Ukrainian language created additional barriers for refugee children's educational integration, while communication difficulties between educational institutions and Ukrainian families persisted throughout the implementation period.⁴³

Administrative and social challenges compounded these sectoral difficulties. Bureaucratic delays plagued the 50/20 financial assistance program, causing months-long payment delays to beneficiaries. Information dissemination proved inadequate, with few Ukrainians accessing official platforms like dopomoha.ro, instead relying on unofficial sources such as Facebook groups for crucial information. Moreover, populist narratives and discriminatory attitudes emerged within Romanian society, particularly targeting perceived wealthy Ukrainian refugees, creating additional social integration obstacles.

Bulgaria faced several key challenges while implementing the Temporary Protection Directive for Ukrainian refugees that mirror broader European integration difficulties. The primary obstacle centered on economic factors, as most available employment opportunities offered only minimum wage compensation, which proved insufficient to cover the monthly living expenses of refugees, particularly women with children who comprised the majority of arrivals. This economic constraint was compounded by significant childcare complications, as working mothers encountered substantial difficulties due to the nationwide shortage of municipal nurseries and kindergartens, creating a barrier to workforce participation that ultimately contributed to massive outflows from the country.⁴⁴

⁴³ Ibidem, 63.

⁴⁴ Koroutchev, 307.

Labor market integration presented additional structural challenges despite Bulgaria's cultural and linguistic similarities with Ukraine that theoretically should have facilitated smoother adaptation. While approximately 7,400 Ukrainian refugees had secured employment by July 2022, representing 11.4% of working-age temporary protection recipients, the concentration of opportunities remained heavily skewed toward the hospitality sector (64%) and coastal regions, particularly around resort areas like Nessebar, Varna, and the Black Sea coast. This geographic concentration reflected both the seasonal nature of available work and the presence of established Russian and Ukrainian-speaking communities that could provide linguistic support, but it also highlighted the limited diversification of employment opportunities across different sectors and regions.⁴⁵

The implementation process revealed significant administrative and institutional weaknesses that hindered effective integration. Despite the government's initial humanitarian response program providing accommodation support of 40 BGN per day per refugee for shelter and food, bureaucratic barriers prevented optimal labor market entry for skilled refugees. The ongoing issues with skills assessment and recognition of qualifications, a problem that extends across Europe but was particularly relevant in Bulgaria's case given the high educational background of many Ukrainian refugees. Additionally, the uncertainty surrounding long-term accommodation arrangements with the transition from hotel accommodation to recreational facilities in June 2022 created instability that encouraged many refugees to leave the country, with departure numbers initially exceeding arrivals until the situation stabilized. These challenges underscore the complexity of implementing temporary protection measures even in countries with favorable cultural conditions for integration.

⁴⁵ Ibidem, 306.

V. Conclusion

The temporary protection framework, though a relatively contemporary development within international legal doctrine, has established itself as an essential instrument for preserving the fundamental rights of forcibly displaced populations during humanitarian emergencies. This distinctive protection mechanism functions as an expedited collective response designed to furnish immediate interim safeguards for individuals experiencing large-scale displacement events. In contrast to conventional refugee determination procedures, which operate through individualized assessments requiring comprehensive evaluation of persecution claims or substantiated fears thereof, temporary protection constitutes a group-based intervention applicable to populations fleeing specific armed conflicts or humanitarian crises. The mechanism distinguishes itself from traditional refugee status through divergent legal architectures, beneficiary categories, and procedural methodologies. This structural differentiation facilitates accelerated administrative processes, thereby enabling state authorities to deliver critical services and assistance to displaced populations with enhanced efficiency.

Nevertheless, the directive's operationalization has encountered significant implementation obstacles. Concerns regarding discriminatory practices and differential treatment standards, particularly affecting third-country nationals, have emerged as prominent issues. Additionally, the lack of harmonized implementation across EU member states has generated procedural inconsistencies and disparate protection outcomes. Such disparities compromise the effective safeguarding of displaced persons while undermining the European Union's coordinated approach to migration governance. These implementation deficiencies highlight the imperative for systematic refinement and standardization of the temporary protection legal framework.

Addressing these institutional deficiencies there is a need for reinforcement of the legal architecture underpinning temporary pro-

tection mechanisms, advancement of standardized implementation protocols, and assurance of equitable application across all beneficiary categories. Drawing upon the analytical findings presented herein, this study proposes several strategic recommendations to enhance the operational efficacy of temporary protection within the European Union framework and preserve its viability as a rights-protective instrument for displaced populations:

- European Union should undertake a revision of the Temporary Protection Directive, incorporating empirical insights and institutional knowledge acquired through its implementation during the Ukrainian displacement crisis. Such reforms may encompass the clarification of beneficiary eligibility parameters, expansion of service accessibility provisions, and consolidation of compliance enforcement mechanisms.
- Member states should collaborate in establishing harmonized standards and operational guidelines governing temporary protection implementation. This standardization process will facilitate uniform and equitable treatment of displaced persons throughout EU territories.
- Member states must intensify their collaborative frameworks and coordination mechanisms in administering temporary protection programs. This encompasses enhanced information sharing protocols, dissemination of best practices, resource pooling arrangements, and collective problem-solving approaches to address shared implementation challenges.

Through the operationalization of these strategic recommendations, the European Union can optimize the effectiveness of temporary protection mechanisms while ensuring their continued utility as essential instruments for displaced persons' rights protection during humanitarian emergencies.

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