Russia's war on Ukraine: Assisting Ukrainians at the EU's borders

Russia's military invasion of Ukraine has already pushed over a million people to seek refuge in neighbouring countries. The EU and its Member States have strongly condemned the aggression and mobilised to aid Ukraine. The EU has also adopted measures to help people, mostly women and children, fleeing Russian aggression, while ensuring proper management of the EU's external borders. These measures include a proposal to grant EU-wide temporary protection to people arriving from Ukraine, guidelines to assist border guards carrying out checks at the EU-Ukraine borders, and support from specialised EU agencies.

Situation at the EU borders with Ukraine

As of 3 March 2022, the United Nations refugee agency, UNHCR, estimated that about 1 million people had fled Ukraine to neighbouring countries, mainly Poland, Hungary, Moldova, Slovakia and Romania. The European Commission estimates that up to 6.5 million persons may be displaced by the conflict, leading to as many as 3.5 million people seeking international protection in the EU in the next two years. With 4 million people expected to seek protection in neighbouring countries and further 12 million people inside Ukraine in need of relief and protection, this is rapidly unfolding into a major humanitarian crisis.

EU response

The EU and its Member States have strongly condemned the 'unprovoked and unjustified military aggression against Ukraine' and swiftly agreed on sanctions against the Russian Federation. They also stepped-up assistance to Ukraine and increased humanitarian aid to refugees in Moldova (in cooperation with UN humanitarian agencies). On 24 February 2022, the European Council called for progress on preparedness and readiness at all levels and invited the Commission to put forward contingency measures. On 27 February, the Presidency of the Council decided to activate fully the EU integrated political crisis response arrangements for monitoring and operational coordination.

Temporary protection for people fleeing Ukraine

As requested by the Council, on 2 March 2022, the Commission proposed to activate the application of the Temporary Protection Directive (Directive 2001/55/EC) to grant immediate temporary protection in the EU to people fleeing the war in Ukraine. This will allow displaced persons to enjoy harmonised rights across the EU, including a resident permit, the possibility to work, housing, and access to social welfare, medical assistance and means of subsistence. Temporary protection does not equal refugee status, but it will not prevent the people concerned from applying for international protection. The measures will also allow Member States to manage the influx of people efficiently, coordinate with the other Member States (through the EU Migration Preparedness and Crisis Management Mechanism Network), and reduce the immediate impact on their asylum systems.

The Temporary Protection Directive enables Member States to provide protection and rights to people in need of immediate protection (for two years maximum). The Council can establish the existence of a mass influx of displaced persons by Council decision, adopted by a qualified majority, upon a proposal from the Commission. The European Parliament must be informed of the decision. Although the directive was invoked several times in the past (e.g., in 2011 and 2015), it has never been activated. Under the new pact on migration and asylum, the Commission proposed to replace the Temporary Protection Directive with a regulation addressing broader situations of force majeure in the field of migration and asylum. The proposal has yet to be adopted.

Management of EU external borders

As beneficiaries of EU visa-free travel, Ukrainian nationals can enter and stay in the EU for 90 days without a visa. On 2 March, the Commission put forward operational guidelines on external border management at

EPRS | European Parliamentary Research Service
Author: Costica Dumbrava, Members' Research Service
PE 729.288 – March 2022

EN

EU-Ukraine borders, to help Member States' border guards to manage arrivals efficiently and assist people in need, whilst maintaining a high level of security checks. The guidelines clarify the facilitation available to border guards under the Schengen Borders Code, in particular:

- ➤ **simplification of border controls** for certain categories of persons (e.g., vulnerable persons);
- ➤ the possibility to organise border **controls outside border crossing points;**
- ➤ special derogation from the fulfilment of entry conditions based on **humanitarian grounds;**
- ➤ special arrangements for **rescue services**, police, fire brigades, border guards and seafarers to cross the borders, regardless of their nationality;
- ➤ the establishment of **emergency support lanes** to ensure access and return of organisations providing humanitarian aid for people in Ukraine.

The Commission emphasised that this facilitation at the external borders should not come at the expense of Member States' internal security and public policy. For example, whereas Member States may suspend the application of entry bans (alerts in the Schengen Information System) based on migratory grounds, they should not disregard entry bans issued on the basis of security reasons.

> The Schengen Borders Code allows border guards to temporarily relax border checks at external borders 'as a result of exceptional and unforeseen circumstances' (Article 9). Member States can authorise non-EU nationals to enter their territory on humanitarian grounds (Article 6(5)(c)), even if they do not fulfil all entry conditions (e.g. people unable to present a valid passport or visa). They can also decide to perform border checks during or after the transport of the travellers to a safe location, and not at the border crossing point.

Support from EU agencies

As emphasised by the Commission's border guidelines, Member States can benefit from European Border and Coast Guard Agency (Frontex) support, including through the deployment of standing corps to assist with border checks (e.g. registration in Eurodac), and providing border monitoring (e.g. satellite imagery and aerial surveillance). Frontex has activated crisis response teams to coordinate its support for Member States in the event of increasing numbers of people fleeing Ukraine. As of 2 March 2022, it has already responded to a request for support from Romania. Member States can also request help from migration management support teams, made up of staff from Frontex, the EU Agency for Asylum (EASO), Europol and other agencies.

> The European Border and Coast Guard Regulation enables a Member State facing disproportionate migratory challenges at EU external borders to request technical and operational reinforcement from migration management support teams composed of experts from Union bodies, offices and agencies (Article 40).

Position of the European Parliament

In its resolution of 1 March 2022, the European Parliament strongly condemned 'the Russian Federation's illegal, unprovoked and unjustified military aggression against and invasion of Ukraine' and called on the Commission and the Member States to provide further emergency humanitarian assistance for Ukraine. Parliament welcomed the Council's commitment to activate the Temporary Protection Directive, having previously called for the Temporary Protection Directive to be triggered in relation to the mass influx of refugees from Syria and other conflict areas (e.g. in 2013 and 2015).

Parliament urged the Council to divide responsibility for the reception of the refugees who arrive at the EU's external borders equally among the Member States. It called on the Council and the Commission to provide extra funding for the frontline countries, as they are the primary points of entry for Ukrainian refugees. It also urged the Commission to establish a solidarity mechanism to relocate Ukrainian refugees from frontline EU countries to other Member States. Parliament reminded all Member States of their responsibility to uphold the fundamental rights of all asylum seekers. Parliament also called for the EU institutions to work towards granting EU candidate status to Ukraine, in line with Article 49 of the Treaty on European Union.