One year of temporary protection for people displaced from Ukraine

Russia’s unprovoked and unjustified invasion of Ukraine on 24 February 2022 has forced millions of people to flee Ukraine and seek refuge in the EU and neighbouring countries. Reacting swiftly, the European Union (EU) decided to grant these refugees EU-wide temporary protection; by the end of December 2022, 3.8 million third-country nationals were benefiting from this possibility. This first-ever activation of the Temporary Protection Directive has generally met with a very positive response, as it has avoided extreme pressure on national asylum systems and offered security to the people affected.

Temporary Protection Directive

According to United Nations data, Russia’s invasion of Ukraine has caused more than 8 million refugees to seek refuge elsewhere in Europe. The EU strongly condemned the aggression and moved quickly to grant protection to people fleeing Ukraine. Council Implementing Decision (EU) 2022/382 of 4 March 2022 – which entered into force the same day – took account of the mass arrival of displaced people from Ukraine and activated Council Directive 2001/55/EC of 20 July 2001 (the Temporary Protection Directive (TPD) for the first time ever. The TPD enables EU Member States to move rapidly to offer protection and rights to people in need of immediate protection to prevent national asylum systems from being overwhelmed. Although the directive had been invoked several times before, in response to the migratory flows from North Africa in 2011 and the migration crisis in 2015, it had never actually been activated.

Temporary protection waives the need to examine individual applications and allows Ukrainian nationals – as well as other third-country nationals or stateless persons benefiting from international protection in Ukraine and their family members – to enjoy harmonised rights across the EU. These rights include access to a residence permit, education, medical care, housing, the labour market and social welfare assistance.

Once admitted to EU territory, these people can move freely within the EU, choose the Member State in which they wish to enjoy the rights attached to temporary protection, and join family and friends in the numerous diaspora networks across the EU. Temporary protection does not prevent these people from applying for international protection. When the temporary protection period ends, the general laws on protection and on return will apply, including on return. A new European Commission website informs people fleeing the war in Ukraine about their rights, including their eligibility for temporary protection and their rights of travel within the EU.

By the end of December 2022, 3 826 620 displaced people from Ukraine were benefiting from temporary protection in the EU, with Germany (967 715), Poland (961 340) and Czechia (432 415) being the main host countries, according to Eurostat. These numbers may differ from the operational data collected by EU agencies, such as the European Union Asylum Agency (EUAA), or by international ones such as the United Nations High Commissioner for Refugees (UNHCR). The Member States hosting the highest numbers per 1 000 inhabitants were Czechia (41.1), Estonia (28.8), Poland (25.5) and Lithuania (23.3). Over 98 % of the people fleeing the war were Ukrainian citizens, the vast majority of them female (65 %); 14 % of the male refugees were boys aged 0 to 14. This substantial difference in numbers is owing to the fact that most men aged 18 to 60 are banned from leaving the country. Eurostat data nonetheless show an increase in the share of adult men since the start of the war (from 7 % in March 2022 to 26 % in December 2022). Moreover, men aged 18 to 64 represent 15 % of all beneficiaries of temporary protection in the EU. Temporary protection was initially granted for one year but was later prolonged until March 2024. Another extension of one year is possible, depending on how the situation evolves.
Implementation of the Temporary Protection Directive

The Commission, which coordinates cooperation and the exchange of information among the Member States through a ‘solidarity platform’, has produced operational and other guidelines to help them apply the directive. As this is the first time the directive has been activated and given the speed with which it had to be implemented and applied, from day one it has come under a lot of scrutiny. EU agencies, such as the EUAA and the Agency for Fundamental Rights (FRA), the intergovernmental Organisation for Economic Co-operation and Development (OECD) and the European Council on Refugees and Exiles (ECRE) – a network of non-governmental organisations – are among those who have analysed the measures taken by the Member States to address the arrival of displaced people from Ukraine. Despite the emergence of divergent practices and policies because of different interpretations of the TPD – such as its scope and eligibility; reception support; access to rights; freedom of movement in the EU; and how to deal with circular movements to and from Ukraine – overall, assessment of the implementation has so far been positive.

During a November 2022 public hearing in the European Parliament on the TPD’s implementation, promising practices highlighted included enhanced and quicker registration and information provision, a more flexible approach to assessing documents and an integrated system covering various service providers. Things that could be done to improve the TPD’s implementation include applying the TPD more consistently; eliminating the practical, administrative and legal barriers to accessing rights; ensuring early and systematic identification of people with specific needs; and applying the lessons learned and good practices more broadly for the benefit of asylum management in the EU.

The FRA is monitoring the broader fundamental rights impact on the EU of the Russian war, paying specific attention to aspects such as the situation at the borders, the situation of children and of non-Ukrainian nationals fleeing the war to the EU, as well as the challenges of human trafficking, sexual and gender-based violence and xenophobic disinformation and hate speech.

Some claim that the EU is offering people displaced from Ukraine preferential treatment compared with nationals fleeing the war to the EU, as well as the challenges of human trafficking, sexual and gender-based violence and xenophobic disinformation and hate speech.

Lessons for the future

Potential impact on the EU asylum system

The 2015 migration crisis exposed a number of deficiencies and gaps in the EU’s policies on asylum. To address the situation, the Commission proposed a regulation addressing situations of crisis and force majeure in migration and asylum policy. The proposal – which would repeal the TPD – would address situations of migration and asylum crisis and force majeure more broadly, and grant those affected immediate protection status. The Commission insists that the crisis and force majeure proposal will give a solid response to needs on the ground while also catering to different situations. Despite this, it has received criticism, not least because of the narrow personal scope of immediate protection as compared to temporary protection, and because immediate protection, unlike temporary protection, would have a one-year duration, without the possibility of extension.

Proposed crisis and force majeure regulation

As part of the proposal for an EU pact on migration and asylum, the Commission proposed a regulation addressing situations of crisis and force majeure in migration and asylum policy. The proposal – which would repeal the TPD – would address situations of migration and asylum crisis and force majeure more broadly, and grant those affected immediate protection status. The Commission insists that the crisis and force majeure proposal will give a solid response to needs on the ground while also catering to different situations. Despite this, it has received criticism, not least because of the narrow personal scope of immediate protection as compared to temporary protection, and because immediate protection, unlike temporary protection, would have a one-year duration, without the possibility of extension.

EPRS One year of temporary protection for people displaced from Ukraine