

# Temporary Protection Directive

## SUMMARY

Following Russia's invasion of Ukraine in February 2022, over 3.4 million people have already been forced to seek refuge, mostly in neighbouring countries. The European Commission estimates that Russia aggression may have displaced up to 6.5 million people. In response, the European Union swiftly decided to grant EU-wide temporary protection to people arriving from Ukraine.

The EU Temporary Protection Directive (Directive 2001/55/EC) enables EU Member States to move rapidly to offer protection and rights to people in need of immediate protection and to avoid overwhelming national asylum systems in cases of mass arrivals of displaced persons. Although invoked several times in the past, the directive has never been activated before. Russia's military aggression prompted a unanimous decision in the Council to grant temporary protection (for an initial period of one year) to people fleeing the war in Ukraine. This temporary protection may be extended automatically by two six-monthly periods, for a maximum of another year.

The EU's decision to grant temporary protection has been widely welcomed and the directive is considered the most appropriate instrument under the current exceptional circumstances. There are, however, still many open questions as to its practical implementation in the EU Member States. The scale of the arrivals entails many immediate as well as longer-term challenges. On the other hand, and in spite of accusations of double standards in favour of 'white' or ethnic European refugees, the demonstrations of EU-wide solidarity with the Ukrainian people raise hopes for concrete progress on overall reform of the EU's migration and asylum rules. At the time of writing, the conflict has already caused civilian casualties and the destruction of hospitals, schools and other civilian infrastructure, creating a humanitarian catastrophe both within Ukraine and beyond its borders.



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## Introduction

Most of the [3.4 million people](#) that have already been forced to seek refuge since Russia invaded Ukraine on 24 February 2022, have fled to neighbouring countries, such as Poland, Romania, Moldova, Hungary and Slovakia. The European Commission [estimates](#) that Russian aggression may have displaced up to 6.5 million people. Depending on how the conflict evolves, the European Union is likely to host a significant number of them. Ukrainian nationals are exempt from visa requirements when entering the EU and the Commission therefore expects that half of those coming to the EU, benefiting from visa-free travel, will join family members or seek employment in the EU, while the other half may seek international protection.

The EU and its Member States have strongly [condemned](#) the Russian aggression, stating that 'Russia is grossly violating international law and undermining European and global security and stability'. The EU has already adopted several [restrictive sanctions](#) against the Russian Federation in response. It has also mobilised aid to help Ukraine, including [emergency assistance](#) such as humanitarian aid and civil protection assistance; [guidelines](#) to help Member States' border guards to manage arrivals at the EU-Ukraine borders efficiently; support from specialised EU agencies, and on 2 March 2022, the European Commission [proposed](#) to grant EU-wide temporary protection to people arriving from Ukraine. Despite the international mobilisation to support people in need, the scale of the humanitarian situation is unprecedented.

Temporary protection is an emergency mechanism that can be used to offer swift protection and rights to mass arrivals of people in need and to avoid overwhelming Member States' asylum systems. It waives the need for the examination of individual applications and will allow 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.

## Temporary protection for people fleeing Ukraine

At a special meeting of the European Council, on 24 February 2022, the EU's Heads of State or Government [expressed](#) full solidarity with Ukraine and its people and invited the European Commission to put forward contingency measures. Three days later, on 27 February, the Justice and Home Affairs ministers indicated '[broad support](#)' during their extraordinary meeting for the idea of activating the Temporary Protection Directive ([Directive 2001/55/EC](#)). On 2 March, the Commission formally [proposed](#) to grant temporary protection in the EU to those fleeing the war in Ukraine. On 4 March, the Justice and Home Affairs Council unanimously adopted an [implementing decision](#) introducing temporary protection due to the mass influx of persons fleeing Ukraine due to the war.

## Temporary Protection Directive

### Background

[Council Directive 2001/55/EC](#) of 20 July 2001 (hereafter 'the Temporary Protection Directive' or 'TPD') was adopted in the aftermath of the conflict in the former Yugoslavia, when Europe was confronted – for the first time since World War II – with mass displacements of people across the continent. The legislation was conceived to 'promote a balance of efforts between the Member States in receiving displaced persons and to establish minimum standards for giving temporary protection in the event of a "mass influx"'. The 1999 Kosovo crisis and its unprecedented refugee flows highlighted the [need for a regulatory framework](#) for such situations of mass arrivals of displaced persons, as the response of Member States was uncoordinated and pressure unevenly distributed. Although the directive was invoked several times, such as in response to the migratory flows from North Africa in [2011](#) and the migration crisis in [2015](#), it has never been activated before.

## Legal basis

Title V of the Treaty on Functioning of the European Union ([TFEU](#)) on the Area of Freedom, Security and Justice confers certain powers to the EU, when exercised in accordance with Article 5 of the Treaty on European Union ([TEU](#)). The latter says that **'the use of Union competences is governed by the principles of subsidiarity and proportionality'**.

[Article 78\(2c\) TFEU](#) states that the European Parliament and the Council of the EU 'shall adopt measures for a common European asylum system comprising: **a common system of temporary protection for displaced persons in the event of a massive inflow**'.

[Article 78\(3\) TFEU](#) states that, when one or more Member States are confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, **the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned**, after consulting the European Parliament.

[Article 80 TFEU](#) furthermore says that the policies of the Union stated in Title V TFEU and their implementation 'shall be governed by **the principle of solidarity and fair sharing of responsibility**, including its financial implications, between the Member States'.

To activate the TPD, the existence of a mass influx situation needs to be established by Council Decision, after a proposal from the Commission, which must also examine any requests from Member States. Once activated, the directive provides for harmonised rights for the beneficiaries of temporary protection, and a solidarity mechanism to attain a 'balance of efforts'. The solidarity mechanism consists of both financial solidarity and of solidarity when it comes to the reception of displaced persons (i.e. the rule of '[double voluntarism](#)'). The Commission coordinates cooperation and exchange of information among Member States.

## First ever activation of the directive

[Council Implementing Decision \(EU\) 2022/382](#) of 4 March 2022 – which [entered into force](#) the same day – established the **existence of a mass arrival of displaced persons from Ukraine** and activated the first-ever use of the Temporary Protection Directive. The Council also acknowledged that the scale of the influx would likely be such that there is a **clear risk that the Member States' will be unable to process the arrivals without adverse effects on their asylum systems**, on the interests of the persons concerned and on those of other persons requesting protection.

The Council thus acknowledged that temporary protection is the most appropriate instrument in the current extraordinary and exceptional situation. It believes that temporary protection will facilitate a balance of efforts between Member States, limit the number of displaced persons seeking immediate international protection, and thereby reduce pressure on national reception systems.

### Glossary

**Temporary protection:** a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection;

**Displaced persons:** third-country nationals or stateless persons who have had to leave their country or region of origin, or have been evacuated, in particular in response to an appeal by international organisations, and are unable to return in safe and durable conditions because of the situation prevailing in that country, who may fall within the scope of Article 1A of the Geneva Convention or other international or national instruments giving international protection;

**Mass influx:** arrival in the Community of a large number of displaced persons, who come from a specific country or geographical area, whether their arrival in the Community was spontaneous or aided, for example through an evacuation programme.

Source: [Council Directive 2001/55/EC](#).

**The decision applies to:**

- Ukrainian nationals, as well as their family members, who resided in Ukraine before or on 24 February 2022;
- stateless persons and nationals of third countries other than Ukraine who benefited from international protection or equivalent national protection in Ukraine before or on 24 February 2022, as well as their family members;
- nationals of third countries other than Ukraine and stateless persons who can prove that they were legally residing in Ukraine before or on 24 February 2022, on the basis of a valid **permanent residence permit** issued in accordance with Ukrainian law **and who are unable to return in safe and durable conditions to their country (of origin) or region (within their country) of origin**, are eligible for either EU temporary protection or adequate national protection, depending on the EU country to which they travel.

**Member States may also apply this decision to other persons**, including stateless persons and any third-country nationals residing legally in Ukraine on a short-term basis before 24 February 2022. It may also apply to Ukrainians, stateless persons or nationals of third countries other than Ukraine who benefited from international protection or equivalent Ukrainian refugee protection and who fled Ukraine not long before 24 February 2022, or who found themselves on EU territory just before that date, for example for holiday, study or work. It may also apply to stateless persons and nationals of third countries other than Ukraine legally residing in Ukraine before 24 February 2022, on the basis of a valid permanent residence permit issued in accordance with Ukrainian law and who might be able to return in safe and durable conditions to their country or region of origin. In its [operational guidelines](#) to support Member States to apply the directive, the Commission strongly encourages Member States to consider extending temporary protection – in particular to those who fled Ukraine not long before 24 February 2022. The Commission insists that it may be to Member States' advantage to grant these people temporary protection, given the simplicity of the procedure. All persons fleeing Ukraine should in any event be admitted into the EU on humanitarian grounds, without requiring, possession of a valid visa (where applicable), or sufficient means of subsistence, or valid travel documents, to ensure safe passage with a view to returning to their country or region of origin, or to provide immediate access to asylum procedures.

The Commission furthermore explains that '**adequate protection**' under national law (Article 2(2) of Council Implementing Decision (EU) 2022/382) means 'a possible alternative that may be offered by Member States to temporary protection' that 'does not have to entail benefits identical to those attached to temporary protection'. '**Equivalent national protection**' in Ukraine, the Commission adds, 'is an alternative to international protection and covers other forms of protection granted by Ukrainian authorities such as temporary protection or humanitarian protection'.

As the Council decision introduced an immediate temporary protection for the categories mentioned earlier, there is **no application process** and the persons wishing to avail themselves of the rights attached to temporary protection or adequate protection only have to demonstrate their nationality, international protection or equivalent protection status, residence in Ukraine, or family link, as appropriate. In its operational guidelines regarding implementation of the directive, the Commission furthermore insists that, when assessing whether a person is entitled to temporary protection or adequate protection under national law, Member States should base their decision solely on the general situation in the country of origin. Authorities should obtain individual evidence as to whether a person is unable to return in safe and durable conditions to his/her country of origin, as well as assess their specific economic and social links with the country of origin and with Ukraine.

Ukrainian nationals holding biometric passports, or other third-country nationals who are exempt from the short-stay visa requirement to enter the EU, are able to **move freely within the EU once admitted to EU territory**. They are therefore able to choose the Member State in which they wish to enjoy the rights attached to temporary protection and to join their family and friends across the significant diaspora networks that currently exist across the EU. In practice, they have 90 days (the



length of their visa-free stay) to apply for temporary protection. Once they choose the Member State in which they want to apply for temporary protection, however, they will only be able to enjoy the rights attached to temporary protection in the Member State that granted the residence permit. That is, unless another Member State decides to issue another residence to the person concerned, on a discretionary basis. The Commission also recommends that Member States be flexible with those who are not exempt from visa requirements, or with those who arrive at the border of an EU Member State that does not apply the Schengen *acquis* in full.

The Council highlights the importance of **preserving family units**. The decision therefore also allows for temporary protection for family members, if the family was present and residing in Ukraine before 24 February 2022. The Council decision does not provide for family reunification for nationals of third countries other than Ukraine. Nor does it cover stateless persons who can prove legal residence in Ukraine before or on 24 February 2022, on the basis of a valid permanent residence permit issued in accordance with Ukrainian law, if they are unable to return in safe and durable conditions to their country or region of origin. However, the Commission encourages Member States to extend the application of temporary protection or adequate protection under national law to the family members of these persons. In any case, they might be able to benefit from family protection under other European directives, such as [Directive 2003/86/EC](#) or [Directive 2004/38/EC](#).

Those enjoying temporary protection will be entitled to **harmonised rights**, including a residence permit, the possibility to engage in employment or self-employment, access to suitable accommodation, welfare assistance, medical or other assistance, and means of subsistence. Unaccompanied minors should also enjoy legal guardianship and persons under 18 years should have access to education, under the same conditions as their own nationals and EU citizens.

To prepare for this extraordinary migratory pressure, the Commission will **coordinate cooperation and exchange of information among Member States** by means of a 'solidarity platform'. The solidarity platform will collect information, monitor reception capacities and identify all needs for support. It will also coordinate the transfer of persons between Member States on a general level and, where appropriate, to third countries, in cooperation with EU agencies and other relevant actors. In addition to the Commission's coordinating role, the Member States have appointed two representatives each to the platform, one as national contact point (with decision-making ability) and another at operational level. Several EU agencies – the European Border and Coast Guard Agency ([Frontex](#)), the European Union Asylum Agency ([EUAA](#)) and the European Union Agency for Law Enforcement Cooperation ([Europol](#)) – will monitor and review the situation by means of the [EU Migration Preparedness and Crisis Management Network](#) and will provide operational support to those Member States that request it. Member States should also contribute to common EU situational awareness by sharing the relevant information through the integrated political crisis response ([IPCR](#)) arrangements. On 4 March, [reception capacities](#), over and above the absorption capacity of the Ukrainian diaspora residing in the EU, exceeded 310 000 places. As of 6 March, reception capacity was still adequate to demand, according to the [Commission](#), mainly because many people fleeing Ukraine and arriving to the EU borders move on swiftly to join family or friends.

The Commission also published [operational guidelines](#) to help Member States' border guards efficiently manage arrivals at the borders with Ukraine, while maintaining a high level of security. A Member State can **exclude a displaced person from temporary protection** when there is serious reason to believe that the person in question has committed certain crimes defined in international instruments, a serious non-political crime, or has been guilty of acts contrary to the purposes and principles of the United Nations.

The temporary protection will remain **in place for an initial period of one year – until 4 March 2023, regardless of when the residence permit was issued** – and can be extended up to three years. Unless the initial period of one year is terminated (Article 6 TPD), it may be extended automatically by two six-monthly periods for a maximum of another year. The Commission

therefore recommends that Member States grant residence permits for two years from the outset, knowing that the temporary protection can end at any time, in accordance with Article 6(1)(b) of the TPD. If the reasons for temporary protection persist after two years, the Council may decide by qualified majority – following a European Commission proposal – to extend the temporary protection by a third year.

Temporary protection does not prevent those concerned from **applying for international protection**. According to the TPD, people enjoying temporary protection must be able to lodge an application for asylum at any time. Inversely, those who are refused international protection should be able to continue to enjoy temporary protection for the remainder of the period of protection. The Commission has admitted that [Regulation \(EU\) 604/2013](#) (the Dublin III Regulation) applies in determining the Member State responsible for examining applications for international protection. However, given that a person who is entitled to temporary protection or adequate protection under national law can enjoy their rights in any Member State, the Member State where the application was lodged 'is strongly encouraged to take responsibility for examining the application pursuant to the discretionary clause set out in Article 17(1)' of the Dublin III Regulation.

When the temporary protection period ends, the general laws on protection and on aliens in the Member States apply, including on **return**.

Council Implementing Decision (EU) 2022/382 entered into force on 4 March 2022. It applies to all Member States, except for [Denmark](#). However, Denmark has introduced its own [law](#), which closely resembles the TPD. The decision is compatible, and can be applied in complementarity, with [national temporary protection schemes](#), as long as the national scheme is no less favourable than the arrangements set out in the TPD.

The Commission launched a [website](#) to inform people fleeing the war in Ukraine about their rights, including eligibility for temporary protection and their rights of travel inside the EU.

## EU funding and assistance

The EU has already activated several types of [assistance](#) to help those fleeing the war in Ukraine. The Commission proposal notes that it is impossible to estimate at this point in time what the budgetary impact of activating the TPD will be. In any case, EU funding will support Member States' efforts.

On 8 March 2022, the Commission [proposed](#) to prolong the implementation period for the money available to Member States under the 2014-2020 Home Affairs funding, which would release around €420 million in additional support. If the situation deteriorates further, funds available under the 2021-2027 multiannual financial framework (MFF) could also be redeployed. Finally, in case further exceptional need arises, the flexibility mechanisms within the 2021-2027 MFF could be activated. This is a political and budgetary process, which would need to involve both the Council and the [European Parliament](#). The Council adopted its [negotiating mandate](#) on the proposal on 16 March 2022. The Commission also made a legislative proposal on 8 March 2022 – [Cohesion's Action for Refugees in Europe](#) (CARE) – introducing the necessary flexibility in the 2014-2020 cohesion policy rules to allow Member States and regions to provide emergency support to people fleeing Russia's invasion of Ukraine. The 2022 envelope (€10 billion) in Recovery Assistance for Cohesion and the Territories of Europe ('[REACT-EU](#)') funding can also be used to address demands for emergency support. The Council [endorsed](#) these initiatives on 16 March 2022

The [EU Civil Protection Mechanism](#) has also been activated, through which the Member States can request material necessary to cater for displaced persons from Ukraine. Moreover, [rescEU](#) medical stockpiles are being made available and include ventilators, patient monitors, masks and gowns, infusion pumps, ultrasound devices and oxygen concentrators. The Commission established [emergency logistical hubs](#) in Poland and Romania, with others being set up in Slovakia, to distribute the aid to Ukraine. On 28 February 2022, the Commission [announced](#) that €90 million would be made available for emergency aid programmes to help civilians in Ukraine and those displaced to

Moldova. This EU humanitarian aid will provide food, water, medical assistance, shelter and help cover people's basic needs. On 1 March 2022, the Commission [announced](#) an additional €500 million would be allocated from the EU budget for humanitarian aid in Ukraine and for refugees from Ukraine. EU agencies including Frontex, the EUAA and Europol, have provided extra staff and expertise to those Member States that requested assistance. The Commission's [website](#) offers help to citizens and the private sector to ensure that support for those fleeing the war is supplied by trusted organisations and matches their needs.

## Intra-EU solidarity

One of the major objectives of the TPD is to balance EU Member States' efforts to manage intra-European displacements jointly, given the mass arrival of displaced persons. According to Article 25(1) TPD, the **Member States must receive persons who are eligible for temporary protection 'in a spirit of Community solidarity'**. Solidarity should be understood as solidarity towards people in immediate need, as well as solidarity in terms of reception capacity and the transfer of persons enjoying temporary protection between Member States.

The need for solidarity is a [long-term issue](#) in European asylum policy. The Member States most affected by migrant arrivals have long called for a redistribution of efforts. The EU has provided significant [financial](#) and practical support, notably through the EU budget, the deployment of personnel and equipment and through emergency support. When large numbers of migrants flocked into the EU in 2015, the Commission set up two intra-EU relocation schemes, but these proved far from ambitious and some Member States even turned to the Court of Justice of the EU to annul the Council Decision establishing the [second relocation scheme](#). In an effort to resolve this solidarity crisis, the Commission included a system of permanent, effective solidarity to distribute asylum-seekers among EU countries in the proposed [asylum and migration pact](#). However, a European Parliament study on [the EU approach on migration in the Mediterranean](#) found that the pact 'establishes an intricate system which boils down to "half-compulsory" solidarity, rather than establishing "a binding mechanism for the distribution of asylum seekers among all the Member States", which is what the European Parliament has been calling for since [2009](#)'. Negotiations on the legislative proposals in the pact advance very slowly. There is hope that the current demonstrations of solidarity with the people of Ukraine [could provide the momentum](#) for further reform under the proposed asylum and migration pact. The Centre for European Policy Studies (CEPS) sees the activation of the TPD as 'a very positive step to ensuring solidarity and compassion towards those who are suffering and in need of protection'. CEPS [calls](#) on the EU to rethink the EU concept of solidarity, tailoring and implementing it 'in a way that upholds the notion of equal solidarity following a human-centric approach, putting every individuals' dignity, agency and the prohibition of discrimination at its heart'.

### Proposed crisis and *force majeure* regulation

As part of the pact on asylum and migration proposal, the Commission proposed a [regulation addressing situations of crisis and force majeure](#) in migration and asylum policy. The proposal aims at establishing a mechanism for dealing with mass influxes of third-country nationals or stateless persons, which might threaten the functioning of a Member State's asylum system, reception or return system, or the risk of such a mass influx. As this regulation would preserve the concept of temporary protection and address situations of migration and asylum crisis and *force majeure* more broadly, the Commission originally proposed to repeal the TPD. However, as adoption of the proposals currently under negotiation is not imminent, the Commission considered the TPD the most appropriate tool to address the current situation.

## European Parliament position

The European Parliament strongly condemns the Russian Federation's aggression and invasion of Ukraine. In a resolution adopted in April 2021, Parliament [expressed grave concern](#) about the large

Russian military build-up at the border with Ukraine and in illegally occupied Crimea. In December 2021, Parliament [called](#) on Russia to withdraw its troops threatening Ukraine. Following the Russian invasion of Ukraine, Parliament [welcomed](#) the activation of the TPD in an extraordinary plenary session on 1 March 2022. Parliament also urged the Council to 'equally divide the responsibility for the reception of the refugees who arrive at the EU's external borders among the Member States' and called on the Commission to 'establish a solidarity mechanism to relocate refugees from Ukraine who have arrived in Poland, Hungary, Romania and Slovakia to other Member States'. Moreover, Parliament called for a halt to all return operations to Ukraine and for the prolongation of Ukrainian students and other Ukrainians' visas. In a plenary debate on [8 March 2022](#), Members welcomed the activation of the TPD, but also warned that sustained solidarity across the EU will be necessary in the long-term. Some speakers wished to see concrete progress on the reform of the EU's migration and asylum rules, with others stressing that all refugees, regardless of their ethnicity, need the same protection. [Parliament](#) furthermore made one of its [buildings in Brussels](#) available to a Ukrainian non-governmental organisation, to facilitate the coordination of Ukrainian civil society activities. Parliament is also [helping](#) the Ukrainian Parliament (Verkhovna Rada) with democracy support, information technology, cybersecurity and communication.

## Implementation of the directive

On 17 March 2022, the Commission presented [guidelines](#) to help Member States implement the TPD. These include the scope (persons covered/not covered by the Council Decision, family members), and how to provide for children, including unaccompanied minors. The guidelines – which still need to be formally adopted and which will be updated on a regular basis – also cover the question of the right to move freely between Member States, registration and provision of information. Under its legal obligation to monitor the Member States' implementation of the TPD, the Commission also announced its intention to meet the Member States every month to discuss issues related to the interpretation of the TPD and the Implementing Council Decision.

On 28 March, an [extraordinary meeting](#) of the Justice and Home Affairs Council is expected to focus on European coordination for the reception of people fleeing the war in Ukraine. During the week of 21-25 March 2022, the Commission is scheduled to present a further communication focusing on the application of the rights offered by the TPD, including rights to work, housing and schooling. This communication will also include information on how the Commission services can provide support to the Member States and will outline the funds available.

According to the EUAA, 23 Member States had adopted the temporary protection scheme by [17 March 2022](#). The EUAA publishes regular [situational updates](#) with information on the legislative measures that enable the activation of temporary protection at national level.

The Member States are obliged to keep the Commission informed, including regarding the numbers of persons enjoying temporary protection or other protection, requests and reception capacity for transfers and the possible extension of temporary protection to additional categories of displaced persons. Member States must communicate the first figures on the application of the TPD to Eurostat in June 2022. Eurostat is expected to publish a report in July 2022.

## Challenges

Despite the EU having reacted swiftly to deal with the consequences of the high numbers of arrivals of displaced persons from Ukraine, the unprecedented situation and scale of the sudden influx undoubtedly lead to many challenges. To name just some of the most pressing issues, these include: [trafficking of women](#) and [unaccompanied children](#); allegations of racism and discrimination between Ukrainian and other migrants; public service preparedness, including health services, education, housing and social protection; internal security concerns; registration and processing of people at the borders; the exclusion from the TPD of people with a short-term residence statute under Ukrainian law; support for civil society; long-term [funding](#); EU coordination; integration; etc.



## Vulnerable people

Given that, recent Ukrainian law forbids men between 18 and 60 years old to leave the country, 90 % of the more than 3 million people who have already fled to the EU are women and children. Although no official figures are yet available, on [16 March 2022](#), EU Commissioner for Home Affairs Ylva Johansson told Parliament's Civil Liberties, Justice and Home Affairs (LIBE) Committee that there are reports of women missing or being trafficked, and of sexual and labour exploitation. The risk of trafficking of women is huge, she said, while adding that the same may be true for unaccompanied minors. Commissioner Johansson underlined the need to raise awareness among law enforcement officers and border guards, including with regard to orphans. The Commissioner mentioned orphanages being 'emptied' by Russian forces, with a high risk of orphans being trafficked. In its [operational guidelines](#) to support Member States in applying the directive, the Commission encourages Member States to carry out the necessary checks and make the best use of the Schengen Information System ([SIS](#)). The SIS will soon be renewed and will then allow both reactive alerts (about vulnerable persons who have gone missing) and preventive alerts. In addition to trafficking of human beings, there are also reports of migrant smuggling, but mainly regarding men, given that most of them are forbidden from leaving the country. Commissioner Johansson furthermore noted changes in the situation of the people arriving at the EU borders. Where initially many displaced persons had relatives or contacts in the EU and often sufficient resources, this pattern is slowly changing. These people are inevitably also more vulnerable.

## Public service preparedness

With many public services already under strain from the coronavirus pandemic, and the increasing number of refugees without relatives or contacts in the EU, many such services will come under pressure to respond to the new demands. The Commission is [aware](#) that 'Europe needs to harness all available tools, but also the compassion and welcome of its citizens, to ensure that the promise of welcome to refugees is met'.

## Limited scope of temporary protection

During the LIBE Committee meeting of 16 March 2022, some Members of European Parliament expressed concern that not all displaced persons from Ukraine receive the same level of protection. Indeed, several categories of persons, including third-country nationals legally residing in Ukraine on the basis of a short-term residence permit, such as students, cannot apply for temporary protection, even though Member States can decide autonomously whether or not to include them. Following a European Parliament [plenary debate](#) on Ukrainian displaced persons, Commission Vice-President for Promoting our European Way of Life Margaritis Schinas and Commissioner Johansson said that students are not in need of international protection because they can return to their homes. The EU will provide 'a first refuge' if necessary and will contact their countries of origin to help them return to their countries. During her appearance at the LIBE Committee meeting of 16 March 2022, Commissioner Johansson furthermore insisted that, of the 3 million people that are already in the EU, only 160 000 are third-country nationals and a majority of them have already been repatriated to their countries of origin. What is more, only 13 000 have so far applied for asylum. Even though the number of third-country nationals arriving at the EU borders is currently falling, Commissioner Johansson does not exclude a new increase in third-country nationals if the war encroaches on Western Ukrainian cities, where many are currently internally displaced.

## Allegations of discrimination

The exclusion of non-Ukrainian nationals with short-term residence permits has already led to the EU being accused of discrimination in favour of ['white Christian Ukrainians'](#), to the disadvantage of Syrians, Afghans and other non-white, non-ethnic European asylum seekers. In response to the allegations of discrimination, Vice-President Schinas [insisted](#) that 'skin colour is not a criterion for EU policy'. There have also been [reports](#) of discriminatory policy against third-country nationals of non-European ethnicity fleeing Ukraine at EU border crossings. The International Organization for Migration's Director General, António Vitorino, called on Ukraine's neighbouring states to 'ensure

that all those fleeing Ukraine are granted unhindered access to territory, regardless of status and in accordance with International Humanitarian Law'. Moreover, he urged the EU Member States to ensure the inclusion of third-country nationals in their temporary protection measures. Besides politicians, law enforcement officers and border guards, European journalists and media outlets have also been [accused](#) of racist discourse.

### Internal security concerns

The crisis puts pressure on the EU border with Ukraine. With so many people arriving in such a short time frame, registration and security checks need to happen very quickly. This raises concerns regarding the efficacy of security checks, as well as regarding the personal risks to those seeking refuge in the EU. The most vulnerable may fall victim to human trafficking or sexual and labour exploitation, or they may suffer physical abuse. [Europol](#) also warns that conflict creates opportunities for organised crime to flourish and amplifies the threat that criminal groups may pose to internal security. Europol is already providing support with secondary security checks at European external borders, aiming to identify criminals and terrorists trying to enter the EU and assists in collecting and assessing information to detect criminal offences and threats, mainly in the areas of migrant smuggling and trafficking in human beings. European civilian experts previously deployed in Ukrainian cities under the EU Advisory Mission ([EUAM](#)) will be [advising and helping](#) the Ukrainian security forces at 11 border points on the Ukrainian side of the borders with Poland and Romania.

### Integration

No one knows at this point how many Ukrainians will come to the EU (some are already [returning](#) to help or fight in the conflict), nor how many will seek work. It also remains to be seen how long they will stay and whether they will eventually return to Ukraine. The International Centre for Migration Policy Development believes this will depend on the [duration](#) of the crisis: 'If rapid return to Ukraine is possible, this has implications for the allocation of major EU resources to help rebuild the country, rather than support front-line EU states in integrating long-term refugees. In any case, the economic damage caused by the war will take at least a decade to undo, keeping outward migration high as in recent years. Ukrainian men currently fighting may choose to rejoin exiled family in the EU after the conflict, rather than the other way around'. [Rand Corporation](#) believes that 'one way of improving conditions for Ukrainians who flee would be considering them as an economic asset'. According to a recent [Rand study](#), '10 years after a conflict's end, less than a third of refugees return'.

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