

NGOs mark one year since activation of the Temporary Protection Directive and call for continued support to refugees from Ukraine

2 March 2023

On 4 March 2022, in the spirit of solidarity with the people of Ukraine, the Council of the European Union unanimously activated the Temporary Protection Directive (TPD) - for the first time since it was adopted in 2001. This landmark decision has allowed millions of refugees from Ukraine immediate and collective access to protection, rights and essential services in the EU Member States. Nearly 4.9 million people, mostly women and children, have benefited from temporary protection or similar national schemes across Europe.

We, organizations providing assistance inside Ukraine, to refugees who have fled the country, and to host communities, welcome the activation of the TPD and all practical steps undertaken by the governments, along with civil society and citizens, to welcome and support refugees from Ukraine. Among others, this includes adapting and scaling up Member States' reception capacities, providing public and privately-hosted accommodation, and introducing targeted financial assistance. Yet, ensuring all refugees from Ukraine enjoy the rights provided by the TPD has not been without challenges. We call on the EU and Member States to redouble efforts to ensure its effective, uniform and inclusive implementation by addressing the following issues:

Address barriers to enjoyment of status and rights

Inconsistent implementation of the TPD across Member States generates uncertainty among people about their status, rights and protection, especially those in vulnerable situations. Refugees face multiple practical, legal, and administrative barriers when trying to access rights and services. These include the limited scope of the TPD's application vis-a-vis third country nationals (TCNs) and stateless persons; obstacles for TCNs who are eligible for temporary protection to obtain this status; different interpretations of critical definitions (for example, "family" and "vulnerable persons") by various national authorities; difficulties re-entering EU countries after short-term visits to Ukraine (and maintaining legal status and related access to benefits); and limitations on free movement and transferring protection between Member States. Even in cases where protection has been granted, practical barriers to enjoying derived rights can range from unsanitary premises, incomplete information on available assistance, non-systematic referrals to specialized care, or lack of adequate translation support. Currently, 7 out of 10 refugees in countries neighbouring Ukraine report that they are unable to meet their basic needs on the basis of their income and support received. In addition, women and girls are at heightened risk of sexual exploitation and abuse especially in unvetted private accommodations and while seeking basic services. Adolescent girls, Roma women and LGBTQ+ persons reportedly also face additional GBV and trafficking risks, in addition to heightened challenges accessing basic needs and protection services.

Protect children and ensure they are in school

Children account for nearly 40% of refugees from Ukraine. Many have been exposed to high levels of stress and traumatic events and separation from loved ones requiring adequate mental health support. Moreover, a substantial number of children arrive without their parents, mostly accompanied by caregivers, and require adequate alternative care. Worryingly, despite the fact that the TPD guarantees the right for children from Ukraine to access national school systems, two out of three children are not currently enrolled in the host country's education system. Capacity issues in some EU countries are a key challenge, but also a perceived discrepancy between school attainment certifications, and the expectations of parents and children regarding the length of their stay in the host country. Ensuring these children are in school is essential for their sense of well-being and belonging. Targeted programming for children with disabilities needs to also be urgently scaled up within host countries.

Protect non-Ukrainians, stateless people and Roma fleeing Ukraine

TCNs fleeing Ukraine struggle to access the same rights and status as Ukrainians in Europe. TCNs who may have protection needs, particularly asylum seekers and many stateless people, are not eligible for protection under the current TPD scope. Discriminatory practices have been reported in relation to TCNs who previously benefited from international protection in Ukraine. Some wait up to five months to receive temporary protection, while Ukrainian nationals receive documents on the day of application in 17 countries. Some are misdirected to the asylum procedure in the EU despite being eligible for temporary protection. Roma refugees from Ukraine are also subject to exacerbated discrimination in EU host countries. They face additional barriers when accessing services, including housing, employment, information, legal aid and education.

Prevent backsliding of support

Despite the extension of the EU TPD until March 2024, some host countries introduced legislative changes in their national temporary protection schemes to shorten registration deadlines and reduce governmental support for refugees' accommodation. Such measures risk aggravating the precariousness and social isolation of refugees unable to work to cover these costs, be it because of their disabilities, vulnerabilities or competing responsibilities as heads of households. Further, there are tendencies in some Member States to lower standards of alternative care for children arriving without their parents to accommodate larger groups of children, jeopardizing standards of tailored community-based quality alternative care. We reiterate that the TPD gives the right to all people fleeing the conflict in Ukraine to immediately access residence permits, suitable accommodation, medical care and social welfare irrespective of their occupational status.

Invest in refugee inclusion and longer-term solutions from the start

With no end to the war in Ukraine in sight, and though the vast majority of refugees have continuous hope to go back to their homes, the reality today is that voluntary, safe, and sustainable returns are far from possible. We welcome the extension of the TPD until March 2024. Member States must now ensure the timely renewal and/or issuance of residence permits, at least for the whole duration of the TPD regime, as provided in the European Commission's operational guidelines. Early investments into alternative clear pathways into other statuses for legal stay beyond the duration of the TPD are also key to enable refugees to plan ahead and to make informed and voluntary choices about their future. Alongside emergency assistance, support to refugees must now focus on their inclusion into host societies through access to housing, labour markets, education and other national systems, to help them become more self-reliant and promote their social participation. Special attention should be given to enabling swift and destigmatized access to mental health and psychosocial support in order to guarantee protection commensurate with the trauma experienced by refugees from Ukraine. To support future sustainable returns and reintegration, the needs and perspectives of refugees must be part of Ukraine's recovery and reconstruction agenda.

Promote equal treatment of refugees

Notwithstanding the challenges with the implementation of the TPD, its activation and the significant efforts by European governments to welcome refugees from Ukraine have had a hugely positive impact on millions of people's lives. It also puts in perspective Europe's unwillingness to extend this welcome to other refugees, as priority is placed on deterring them from arriving and containing them once they do. Children and their families from other conflict-affected countries face deadly journeys, closed borders and violence in their search for safety in Europe. Upon arrival, they are greeted with restrictions on movement, often in overcrowded camps or reception centers with inadequate access to protection and services. Europe has shown that it is possible to offer safe and legal routes to safety, freedom of movement, and support to refugees to rebuild their lives. Looking ahead, this must be the norm when there is significant displacement into Europe, not the exception.

We call on EU Member States to:

- Ensure that all people fleeing Ukraine continue to have access to the territory of the EU, swift registration for temporary protection without facing additional administrative burdens, and information about temporary protection and rights it provides in relevant languages and accessible formats.
- Provide access to legal remedies, when registration for temporary protection is denied, and access to fair and well-resourced asylum procedures alongside the temporary protection for those who request it.
- Expand the capacity of national education systems, and strengthen the capacity of teachers to support the integration of students from different backgrounds. Ensure

that refugees from Ukraine are aware of their right to access education in the local system.

- Strengthen the provision of mental health and psychosocial support services to refugees from Ukraine to enable them to overcome conflict-induced trauma.
- Guarantee that refugees receive support that addresses their immediate and longer-term needs through inclusion into national systems (such as healthcare, labor, education, social protection, etc.), tailored to identified vulnerabilities and empowering all refugees to make informed and voluntary decisions about their future.
- Ensure broad, inclusive and non-discriminatory application of the Temporary Protection Directive, in particular by extending its scope to all non-Ukrainians fleeing Ukraine who cannot safely return to their country of origin. Member States should ensure equal treatment for third country nationals eligible for temporary protection.
- Provide timely residence permits at least for the entire duration of the temporary protection regime to ensure additional security for the people concerned and to reduce the administrative burden on relevant government institutions.
- Protect people who return to Ukraine temporarily from deregistration of temporary protection and thus loss of status. Pendular movements should not impact people's access to related rights and benefits.

We call on the European Commission to:

- Closely monitor and promptly address any issues with the implementation of the Temporary Protection Directive, as well as provide clear guidance on the most identified gaps and divergences (such as in relation to pendular movements, definitions of “short-term visit” and “voluntary returns”, and measures requiring temporary protection beneficiaries to cover their accommodation costs).
- Guarantee the availability of up-to-date statistics on the number of applications introduced, accepted, and refused, disaggregated by country of origin, nationality, age, and gender, for data-driven policy and decision-making.
- Extend the Temporary Protection Directive beyond 2024 and begin investing now in options for legal stay beyond 2025 to enable people to plan and have certainty about their futures. These options should be tailored to the needs of vulnerable groups and might include labour mobility schemes and long-term residence opportunities, in addition to well-resourced asylum systems capable of processing a future rise in applications.
- Ensure that durable solutions for displaced populations are placed at the center of Ukraine's recovery and reconstruction planning, in order to enable sustainable and voluntary returns and reintegration of refugees once the situation allows.

Signatories:

1. Action against Hunger
2. Caritas Europa
3. CF «Right to Protection» (R2P)
4. Child Circle
5. Churches' Commission for Migrants in Europe (CCME)
6. Danish Refugee Council
7. EasyECO Association
8. E-Romnja - The Association for Promoting Roma Women's Rights
9. HIAS Europe
10. Immigrant Council of Ireland
11. International Rescue Committee
12. Jesuit Refugee Service Europe
13. Kids in Need of Defense (KIND)
14. Mercy Corps
15. Oxfam
16. Plan International
17. Save the Children
18. SOS Children's Villages
19. Fundacja Aktywizacji i Integracji Nowe