



Application of the Temporary Protection Directive (2011/55/EC) for Ukrainians Recent Updates

DECEMBER 2022

What is the Temporary Protection Directive (TPD)?

Purpose

Temporary protection is an exceptional measure which provides immediate but temporary protection in the event of a mass influx of displaced persons to the EU. The [Directive 2001/55/EC](#) aims to protect persons who cannot return to their country of origin especially in situations where there is a risk that the asylum system in member states will be unable to process this influx without adverse effects on its efficient operation.

Implementation

The Directive was first created in 2001, following the aftermath of the conflicts in the former Yugoslavia. However, it was only recently triggered into action following the Russian invasion of Ukraine on 24 February 2022. In an unprecedented act of solidarity, the Council unanimously adopted the decision to implement the Directive in March 2022 giving the right of temporary protection to those fleeing the Ukraine war ([Council Implementing Decision 2022/382](#)). As a result, all EU Member States have now implemented the Directive.

Scope

The TPD applies to Ukrainian citizens who have fled the war in their home country. It initially also applied to residents of Ukraine, who were nationals of other non-EU countries, and sought protection in a member state. To benefit from temporary protection, beneficiaries must have resided in Ukraine on or before **24 February 2022** and have since entered the EU.



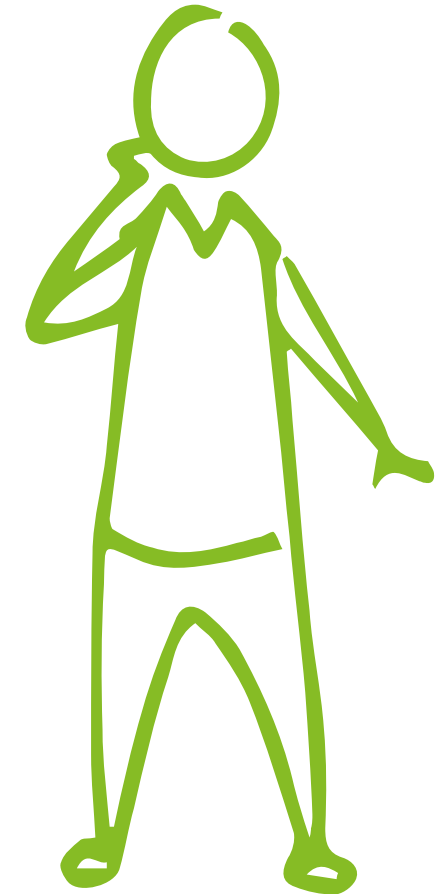
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Recent Changes



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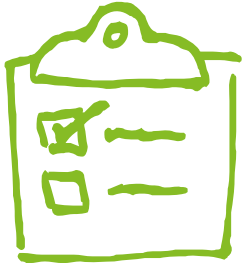
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Duration

The protection offered by the Directive is by its nature temporary and therefore initially lasted for one year (until March 2023). However, on the 14th October 2022 the Commission announced that the TPD will be extended for another year (until 4 March 2024). The maximum length of time the Directive can be extended is 3 years. After the maximum duration is reached, the general national law on entry and stay of foreign nationals applies.



Scope

From the 4th March 2023, the TPD will cease to apply to Ukrainian residence permit holders who are nationals of other non-EU states. Persons who were staying in Ukraine to work or study (based on a temporary residence permit for Ukraine) will therefore no longer be protected.



Returns

In October, the Commission also confirmed that temporary protection holders can now return to Ukraine without losing their protection. They can also keep their residence document – but they must inform the national or local authorities that they are returning to Ukraine. The EU stresses that any short visit to Ukraine should not be seen as a decision to return voluntarily and a waiver of the right to temporary protection. It is also mentioned that bank accounts should remain open for as long as the residence permits remain valid.

Obligations on Member States

Under the Directive, Member states must provide beneficiaries of protection with certain rights. In particular, they must provide **rights of entry and residence**. Member states should help facilitate visas for entry and provide residence permits for the duration of the protection. They must also register the personal data of protection holders and provide them access to the asylum system.

Further, beneficiaries of temporary protection are entitled to **social security, education, housing and healthcare** in the host state. Families already formed in the country of origin also have a right to family reunification.

Significantly, **access to employment and the labour market** should also be granted to temporary protection holders. This applies to both employees and self-employed persons. However, this access is subject to the general conditions of employment in the member state and the rules applicable to the profession or national labour market policies.



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National Variations and Processes

The Council Implementing Decision of March 2022 specifies how Member States are to apply the TPD, however it leaves Member States some discretion to include additional categories or expand the scope, where appropriate. The difference between the implementation and processes in the Netherlands and Belgium is assessed below:

The Netherlands

Broadened the temporal scope, providing temporary protection to persons who were resident in Ukraine before *27 November 2021*.

To qualify for protection, applicants must first register with their local municipality. They will also be placed in the asylum system, but a decision will not be made until after the expiration of the TPD. Persons who fall under the Directive can also now make an appointment to get proof of residence in the form of a sticker in their passport.

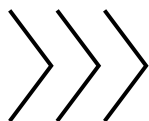
→ Persons entitled to temporary protection are allowed to work freely on the Dutch labour market. However, from 1 November 2022, it is mandatory to have the passport sticker or O-document to work in paid employment.

Belgium

Kept the same temporal scope as the Council decision, those who left Ukraine after *24 February 2022* are protected.

Upon registration with the Immigration Office, temporary protection is automatically granted. After registration, a Certificate of Temporary Protection is issued by the Immigration Office. The municipal administration can then issue A card (residence card).

→ With an A residence card, persons can access the Belgian labour market without restrictions.



More information on the application of the TPD in all member states can be found on the website of the [European Union Asylum Agency \(EUAA\)](#).



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Please reach out to us for further information on the topic.



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