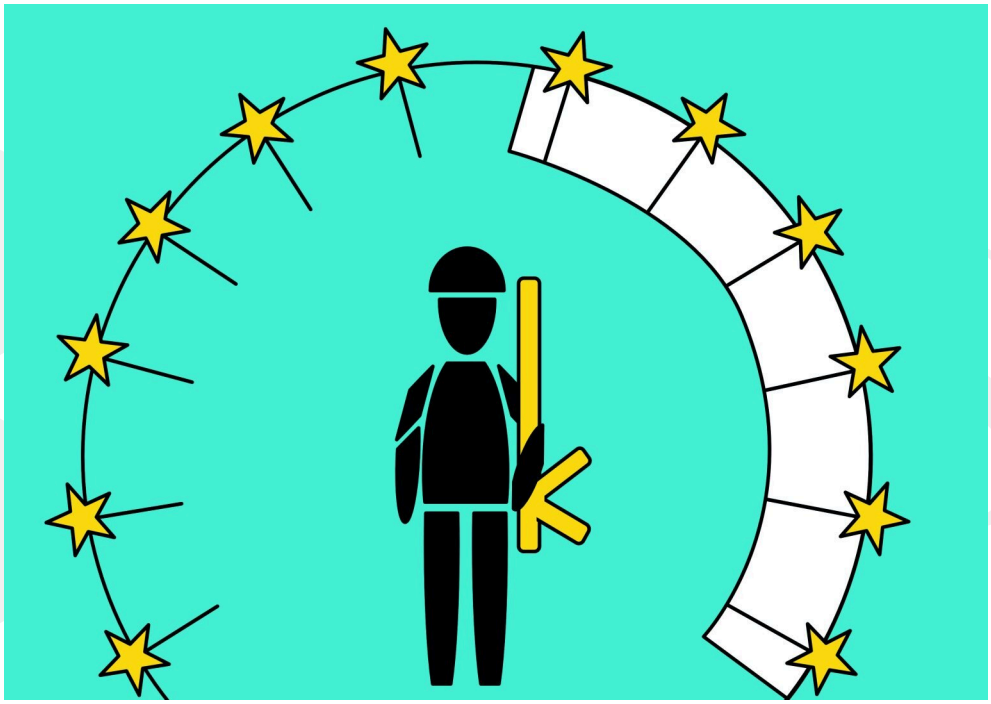
Short Term Protection, Long Term Struggles

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Short Term Protection, Long Term Struggles: What More Can the European Union Do for Ukrainian Refugees?

1. Temporary Protection Directive: The "Sleeping Beauty" of the EU

The Russian full-scale invasion of Ukraine that started in February 2022 not only brought war back to Europe's borders, but also its devastating consequences on areas such as the economy and society. The invasion has led to one of the worst refugee crises in recent history with roughly 10 million Ukrainians being displaced that gained refugee status (United Nations High Commissioner for Refugees, 2022). Compared to other crises, the European Union (EU) arguably had a rather swift response. In March

2022, the Temporary Protection Directive (TPD) was finally set in motion for the first time after its adoption in 2001 (European Council, n.d.).

This policy brief aims at answering the following questions: How effective is the European Union's Temporary Protection Directive in managing large-scale refugee crises, such as the Ukrainian refugee crisis? and What reforms are necessary to address its limitations and ensure long-term protection and integration for displaced populations?

The structure of the policy brief is as follows. First, a short introduction into the TPD will shed light into this protection instrument. Second, the brief addresses its limitations. Third, another policy option – the Long-Term Residents Directive – is being assessed. Fourth, several challenges in the EU's response are being addressed, e.g. financial shortcomings, the role of civil society and EU agencies, concerns about human rights, double standards in EU responses to crises and integration challenges. Finally, the policy brief proposes key recommendations, before ending with a conclusion.

While this action was widely welcomed and praised, it is relevant to note the shortcomings of this instrument, mainly its temporary aspect. The TPD was initially implemented as a forceful reaction to the refugee issue that was brought about by the dissolution of former Yugoslavia and the wars that followed in the 1990s (Motte-Baumvol et al., 2022). The Directive only comes into effect when a large number of displaced people from third countries enter an EU Member State and are unable to return home, although the Council of the European Union (hereinafter: the Council) is the sole actor deciding what amounts to such a "mass influx" (Motte-Baumvol et al., 2022, p. 12). In this context, a third country national is a person that comes from a "country that is not a member of the European Union, as well as a country or territory whose citizens do not enjoy the European Union right to free movement [...]" (European Commission, 2024). The objectives of this instrument are twofold: firstly, it aims at setting minimum requirements for providing temporary protection and, secondly, ensuring balanced efforts among Member States (Kerber, 2022). Within the TPD, temporary protection, as outlined in Article 2(a), entails immediate protection to displaced people from third countries during mass influxes, ensuring the asylum system can handle the influx effectively, benefiting affected individuals and others seeking protection (European Parliament & Council of the European Union, 2001).

The ongoing conflict between Ukraine and Russia led to more than 6 million (Frontex, 2022) displaced and vulnerable persons that, in their search for security and stability, sought refuge in the EU neighbouring countries, which bear the highest cost from this influx of migrants. Nevertheless, the activation of the TPD might be considered a success. Not only it established a precedent for migration-related issues and lessons to be taken for the future, but it showed that the EU can speak with one voice and it ensured that limited administrative resources were not overextended.

However, despite its advantages, this is just the tipping point of the Ukrainian refugee crisis, and the EU officials should not pat themselves on the back and consider this job done. They should rather insist on a long-term and proactive mechanism for future refugee crises and for the integration of the current Ukrainian migrants. Because of the current limitations of the TPD, the EU should focus on forward looking policies by stressing the following aspects: (i) capacity-building; (ii) integration and social cohesion; and (iii) inclusive protection.

2. Critique of the Temporary Protection Directive

The TPD is Running Out of Time

In order to understand what other policy options for the protection of Ukrainian refugees there are, it is important to look at the TPD more in depth. The purpose of this Directive is, among other things, to prevent overburdening a country's asylum system and to streamline procedures (Trauner & Valodskaite, 2022). Additionally, as the name suggests, it is a temporary mechanism that will come to an end, eventually, under the following conditions laid out in Article 6(1) of the Directive: a) the maximum extension has lapsed; b) before the expiration deadline, the European Commission (hereinafter: the Commission) submits a proposal that the Council shall approve through qualified majority voting (European Parliament & Council of the European Union, 2001). The Council has already extended the TPD to the fullest extent allowed by law, thus this system is set to end on the 4th of March 2025, yet the most important aspect is that the TPD, under no circumstance can last more than three years. Therefore, the EU cannot and should not wait until the TPD expires, which is why I recommend considering a more future oriented policy option.

The second option is that the Union decides to end the TPD before the deadline, should the war end or the parties agree to ceasefire. However, there are other conditions that must be fulfilled. For instance, for the return of the person that received such temporary protection, the country of origin must be considered a safe destination, according to international accords, such as the European Convention on Human Rights or the Refugee Convention (Ineli-Ciğer, 2023). Unfortunately, there are no reasons that suggest the necessary developments for the activation of the second clause as of now. Also, the political environment is not yet suitable to amend the TPD to extend it beyond its legal limit, which only makes it more important that the EU looks at the future integration of Ukrainians.

3. What Will the EU Do Now?

The European Union has already prepared some scenarios, although there should also be a strong political will to implement them. For instance, the three current scenarios entail amending, extending or even re-activating

the TPD, creating a new protection or residence status under EU law or amending other EU legal migration laws (European Parliament, May 2024). Such a policy that could and should be amended is the Long-Term Residents Directive (LTRD). Shortly, this Directive allows persons to become long-term residents if they have been lawfully residing in an EU Member State for five continuous years. According to Articles 5 and 6 of the Directive, this can be achieved if the person in question has a reliable source of income, health insurance, has complied with the relevant integration procedure mandated by the MS and does not pose a public threat (European Parliament & Council of the European Union, 2003). Some of the biggest benefits of this Directive are the permanent residency permit and the equal treatment that allows them to access services, rights and privileges, ensuring a smoother integration process (Ineli-Ciğer, 2023).

3.1. The Illusion of Protection?

Despite its advantages, the current setting of the LTRD has the immense disadvantage of not protecting any Ukrainian refugees because, as of March 2025, not a single refugee will have spent the required time on EU territory. Even though the LTRD is not applicable now, it is still relevant to discuss its shortcomings, should it be amended soon or enforceable in a couple of years.

This Directive requires people to live continuously in one EU country for five years to be eligible for long-term residency. However, according to data from the OECD and the EU Asylum Agency, only 66% of those surveyed applied for temporary protection in the country they preferred. This means that if someone is not in their preferred country yet and does not plan on staying there, the time spent there will not count towards the five-year requirement. As a result, some people have to spend extra time and resources before benefiting from the Directive. Additionally, many families travel back and forth between the EU and Ukraine. Although the Directive allows for short absences (Article 4(3)), the allowed time away is often too short, forcing Ukrainians to make difficult choices.

Moreover, women are particularly vulnerable as the Directive requests a consistent income which might be lacking because of their caregiving responsibilities, especially when there are no such facilities (Ineli-Ciğer, 2023). Hence, I welcome the steps taken by the European Commission that is currently amending this Directive, albeit small.

3.2. Money, Money, Money

The Council of the EU announced that EU funds will be provided for all Member States for their efforts from the decision to activate TPD (Council of the European Union, 2022), but the question is whether these funds were enough to begin with. To mention just one, the Asylum, Migration and Integration Fund (AMIF) has around 10 billion euros available for a span

of seven years. The fund is supposed to be used for an effective control of migration flows, as well as for the establishment and development of immigration and asylum policies, which include integration too (Motte-Baumvol et al., 2022). Its shortcomings stem from the fact that 60% of the money has already been pre-assigned to Member States (Rasche, 2022), which not only means that frontline Member States are most likely underfunded, but also that the rest of the fund, circa one third, is allocated to emergency aid (Motte-Baumvol et al., 2022), which is insufficient.

The current financial arrangement makes people wonder whether there are enough resources available. Frontline Member States may face significant pressures if allotted aid is insufficient to address spikes in the number of refugees arriving or a prolonged humanitarian crisis. Moreover, the International Monetary Fund (IMF) predicted that the costs of supporting refugees might total between 30 and 37 billion euros only in 2022 across the Union, which usually is 0.2% of the GDP. Yet, in frontline states these costs could amount to 1% of their GDP (Bird & Noumon, 2022) and, while short-term, they still pose a significant burden on such states (Rasche, 2022).

4.1. The EU Needs People...

Besides financial aid, the Member States that border Ukraine also needed manpower, which in the early moments of the war, came from the civil society. At EU level, after the activation of the TPD, the European Commission created a Solidarity Platform in which Frontex, Europol and the European Union Asylum Agency (EUAA) are involved (Carrera et al., 2022). The purpose of the platform is more for monitoring and information exchange to avoid and prevent double registrations, as well as potential violations of the TPD (PubAffairs Bruxelles, 2022). As one can expect, the border crossings were flooded by migrants and in states such as Poland, the waiting time could reach a few hours. The Commission announced that Frontex and Europol staff were already present in some of the Member States (Carrera et al., 2022) , but there seems an overall belief that efforts could have stepped up.

There are reports of members from the civil society who may feel overworked or left on their own when state-run facilities that were supposed to house refugees were lacking (Rasche, 2022). These actors have already made it clear to these authorities that there is an urgent need for increased coordination and support (International Rescue Committee, 2022).

4.2. ...and the People Need the Help of the EU

Because the authorities and the civil society were at the forefront of the highest migration streams, they also witnessed the “dark face” of migration. Most of those that arrived are vulnerable and unaccompanied, without any means of help from friends and family (International Rescue Committee, 2022). Other vulnerable groups include unaccompanied and separated

children, children travelling with unrelated adults, disabled individuals, minorities like Roma and LGBTQI+ people, and those unable to obtain temporary protection due to incomplete or incorrect information (Näre & Tkach, 2024).

Although some people sought to take advantage of their vulnerabilities, authorities quickly discovered abuses of such kind and other human rights breaches happening at the borders. For instance, there were reports from the Polish and Romanian borders of men luring (young) women by promising them rides, shelter and work (The Associated Press, 2022). Experts warn of traffickers that profit from families' weaknesses, people who run the risk of being pushed into prostitution, forced begging, and forced criminality due to trafficking (Näre & Tkach, 2024). Psychologists stress the emotional strain and trauma that the refugees had to endure (The Associated Press, 2022), which shows the clear and urgent need for coordinated support between civil society, national authorities and EU agencies.

4.3. Everybody Is Welcome, Except Some More Than Others

In between the adoption of the TPD and the war on Ukraine, Europe has been hit by multiple migration waves, such as those following the "Arab Spring" and the conflicts in Libya, Syria, Afghanistan (Carrera et al., 2022). Yet, for neither of these, was the Directive set in motion. Some claimed that the reason for the non-activation was the unpreparedness of the Union or the existence of better suited tools (Trauner & Valodskaite, 2022), while others argue that the 2015 wave was mainly composed of people with whom Europeans do not share many similarities (e.g.: non-Europeans, Muslims, mostly men), which hindered the help. This double standard could also be seen during the 2022 wave, as Ukrainians were welcomed with open arms, while third country nationals (TCNs) coming from countries such as India, Nigeria or Sudan not so much (Busari et al., 2022, March 4). For Ukrainians, the TPD applies, while for TCNs, it is up to the MS whether to extend its application, as this process is voluntary (Ineli-Ciğer, 2022). When the war started, Ukrainians could enter the EU because of the visa-free agreements with the Union, while there have been reports of TCNs being stuck at borders, not being allowed to enter. In light of such abuses, some have been very vocal about "the discriminatory and xenophobic life-threatening treatment of non-white third country nationals and asylum seekers from African, Asian and Middle East countries" (Carrera et al., 2022, p. 2).

Lastly, even if the war would end soon, the reconstruction of Ukraine would still be a long and costly project, thus one can expect Ukrainians and TCNs to stay in the EU longer than anticipated. Some might not even go back (Ho et al., 2022), which only reinforces the need for social cohesion and integration of migrants. Migration is not an easy process for either migrants or the host countries and this wave is particularly important to look at because of its composition of "elderly, children and women of working

age" (Botelho, 2022). Moreover, according to Eurostat (2024), out of all TPD beneficiaries, women make up 46.2%, while children 33.2%, the two categories that need the most support.

Firstly, the need to integrate is the most difficult for females because of their responsibilities, which are obstacles to obtaining necessary services, as well as to their chance for respectable and safe employment. Reports have shown that integration into a host country's labour market depends on whether there is a skill mismatch. Therefore, these are real concerns for the Ukrainian migrants, who typically already completed their higher education, might land low-paying positions that do not align with their background or abilities (Bird & Noumon, 2022). Other obstacles are language, lack of facilities/services or accreditations, as well as bureaucratic differences (Botelho, 2022).

Secondly, as already mentioned, the border Member States will bear the most costs in the short term because of government spending on essential services, such as education, health care and housing, while in the long run, migrants will help with the economic growth (Pogarska et al., 2023). Thus, it is important to understand that these short-term costs, but long-term benefits are closely connected.

5. Key Recommendations

All things considered, the EU took some positive steps towards migration, if there is political will. However, the relative success coming from the activation of the TPD and its possible continuation through the LTRD are not without flaws. One should not look only at the LTRD as it is, but in order for the refugees to truly benefit from these policies, there is a need for a comprehensive approach, that should include the elements listed below. Thus, considering the previous arguments, I argue for the following...

Firstly, the current design of the LTRD does not allow the beneficiaries to make use of it to the fullest extent. For that I suggest the following:

Secondly, we have seen that the European Union is not fully equipped to financially sustain either the Member States or the refugees, as illustrated by the Commission scrambling for funds, which ultimately came from various places. For that, I recommend streamlining the available funds, so that they are easy and ready to be accessed.

Thirdly, as previously argued, there is a need for support at reception centres. Hence, I believe that the Solidarity Platform should be boosted from information to personnel exchange. Members of Frontex and Europol would be mandated to help the national authorities to conduct checks at the borders and ease the burden in the neighbouring Member States.

Lastly, I urge the Commission and the Member States to not apply double standards, but to award fair and equal treatment to all refugees, regardless of their "citizenship, nationality, religion, or ethnicity" (International Rescue Committee, 2022).

Conclusions

The TPD can be seen as a necessary change in the context of how the EU responds to the influx of Ukrainian refugees, providing millions with shelters and rights. It has to be said that the shortness of the TPD shows that there are limitations as to how such instruments can be useful in long-term crisis management.

There is a recognition that moving forward there has to be a more sustained approach, such as legal instruments that can assist long-term refugees. The current or future policy options are worrying because of their limitations on the movement of people and financial or logistical constraints on the frontline Member States.

Taking all these issues into consideration, the EU needs to take a further step and quickly revise its legal framework in order to form more effective and protective options when dealing with refugees. This includes loosening residency requirements, raising the level of financial support and strengthening collaboration of civil society, local governments, and EU agencies. Additionally, the EU must ensure that issues of discrimination will be addressed and that equitable status for all refugees, irrespective of their nationality will be provided.

All in all, what this paper attempts is to transform and appropriate the experience of the Ukrainian crisis by projecting it onto other policy challenges having more to do with solidarity, planning and adjustments, in the face of neverending wars.

Visualisations

Figure 1 – Refugees from Ukraine at the main railway station in Rzeszow, Poland (EU Civil Protection and Humanitarian Aid, 2022)

Figure 2 – Ukrainian refugees in European countries (own work based on Statista, 2024)

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