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From:	Presidency
To:	Strategic Committee on Immigration, Frontiers and Asylum
Subject:	Future of the temporary protection in the EU - Discussion paper

More than 3 years ago, on 24 February 2022, Russia started an unprovoked and unjustified war of aggression against Ukraine that resulted in the highest migratory flows within Europe since World War II. Just a few days later, on 4 March 2022, in accordance with Article 5 of Directive 2001/55/EC, the Council, unanimously adopted Implementing Decision (EU) 2022/3822. The Implementing Decision established the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, with the effect of introducing temporary protection (TP). The decision allowed to ensure the same, harmonised standards of protection for millions of people fleeing the war in Ukraine to the EU. It also allowed for some extent of flexibility for the Member States, thus minimising the risk of overburdening the asylum systems.

It provided a sound legal framework for protecting and integrating displaced persons in national systems, which was crucial in these circumstances. The TP was triggered on 4 March 2022 – only a few days after Russian armed forces entered Ukraine. The duration of temporary protection has already been extended three times. The current decision, which the Council adopted on 25 June 2024, has extended the TP until 4 March 2026.

As reported by the Blueprint Network, the estimated number of active registrations for TP in 27 Member States, Norway, Iceland, Switzerland, and Liechtenstein according to data uploaded to the Temporary Protection Platform has been slowly growing in recent weeks. The current trends show stable and gradual growth since April 2024, resulting in the total number of active registrations for temporary protection, reaching 4 714 794 as of 1 April 2025. At the same time, since the start of the Russian war in Ukraine over 79 000 asylum applications lodged by the displaced persons from Ukraine. There has been a significant increase in asylum applications during the first weeks of this year compared to the same period last year (as reported by EUAA over 84% for the period until 1 April 2025).

On various occasions the Member States hosting the largest populations of beneficiaries of temporary protection (BTPs) (and the largest numbers per capita) indicated that their capabilities with regard to providing protection and support in line with the requirements stemming from the TPD are strained. Difficulties occur in particular when it comes to the continuous provision of collective accommodation and adequate access to all public services.

The Presidency believes that three years after initiating TP and one year before the current decision expires, it is important to have a strategic discussion on the future of TP. In this regard, we note that the level of uncertainty amongst displaced persons from Ukraine in the EU concerning their future situation is increasing in the absence of a clear indication of the EU's intentions on the next steps. If this situation persists, BTPs may attempt to secure their future legal stay in the EU in different ways, including through applying for asylum or moving within the EU in an attempt to obtain a more favourable status. That may result in blocking the already overburdened asylum systems and possibly in an increase of movements from one Member State to another.

At the same time, the situation in Ukraine remains volatile and may evolve in several directions with diverse consequences. Under the Blueprint Network, the Commission regularly assesses the possible scenarios for the next six months, indicating their impact on the situation of temporary protection beneficiaries in the EU and IDPs in Ukraine on the one hand, as well as indicating possible additional inflow to (or going back from) the EU on the other hand. But even with our best efforts, it is difficult to single out the most probable scenario.

Notwithstanding the uncertainty surrounding the future situation in Ukraine, a proposal for a way forward should already be envisaged. It could include a further extension of the temporary protection and a set of coordinated transitional measures for a gradual phase out if circumstances allow. In order to provide clarity to the displaced persons from Ukraine residing in the EU and to enable the Member States to make necessary adjustments and preparations, the Presidency believes that we should conclude this process as soon as possible. That would also allow the Council to adopt the necessary decisions before the summer break.

To make our discussions as efficient as possible, a questionnaire on the exit strategy for TP beneficiaries has been shared with the Member States and results were analysed by the Presidency. Moreover, on 27 March 2025, the Commission organised a meeting of the Solidarity Platform dedicated to contingency planning and the future of TP asking the Member States a separate set of questions. The presentation of the questionnaire and an initial discussion on measures for a possible coordinated transition from TP was held on 4 April 2025 during IMEX (Admission) Working Party meeting.

Temporary protection

The replies to the questionnaire and the outcome of the discussion at the Solidarity Platform on 27 March 2025 showed that the majority of the Member States could agree to a further extension of TP, while none indicated that the EU should lift the TP before March 2026. But also, a scenario of relative stability in Ukraine, in which a further extension of TP as it is now could be difficult to justify, is one for which the EU should be prepared. A possible solution might involve extending TP status while already initiating a phase-out from that status with a set of coordinated transition measures and support for going back home. Such a phase-out could entail a restriction of the scope of the Council implementing decision (EU) 2022/382 e.g. by excluding new arrivals from the scope of TP after a cut-off date. That would avoid abusing any transition measures, i.e. taking advantage of going home support measures or using the transition period as a way to facilitate settling in the EU for reasons other than the need for protection. Any such limitation could be removed in case of ongoing hostilities, including attacks targeting the civil population, resulting in a significant additional influx of displaced persons from Ukraine still in need of protection.

An assessment of the circumstances limiting the scope of the decision may involve consultations with UNHCR, IOM and other relevant actors that can provide additional insights into the situation on the ground.

Transition measures

Measures to provide for a transition from TP may involve a number of avenues, including the provisions of the TPD, in particular Articles 21(3) and 23, that might be used to cover a number of BTPs after TP expires.

There are also possibilities to use existing national statuses for a smooth transition or to introduce dedicated national instruments. The solutions should provide for flexibility while avoiding that BTPs' stay in the EU would become irregular. This holds in particular to vulnerable groups that might have difficulties in obtaining national residence permits. However, such permits are of relevance, as asylum was indicated as a solution to be avoided by a significant number of Member States.

Replies to the abovementioned questionnaire indicated that most Member States provide for a transition out of TP. These solutions allow BTPs to apply for residence permits, visas or other forms of authorisations available to other third-country nationals (e.g. for the purpose of work, business activity, family reunification or studies). Some Member States have put in place procedural exemptions or lowered the eligibility requirements. Despite this, it seems that not many BTPs have transitioned into other legal statuses so far. One of the main obstacles identified is the difficulty often encountered for BTPs in meeting the eligibility conditions for those national residence permits.

Other Member States are still considering different national solutions including granting humanitarian status to BTPs during the validity of TP or up to one year after its expiry.

The third option mentioned by Member States is a possibility to obtain national temporary residence permits, with a defined duration and under strict conditions, that could serve as a reasonable alternative if the TP ends when a certain number of displaced Ukrainians still need protection or support.

The vast majority of Member States were in favour of coordinating already existing legal and institutional arrangements rather than introducing new legal instruments, in particular new uniform residence permits of a transitional nature. Similar views were expressed during the Solidarity Platform meeting on 27 March 2025 with some interventions highlighting that an adequate degree of coordination should reduce the risk of “status shopping” and consequently secondary movements. Measures for such coordination (e.g. Council Recommendations) need to be considered.

During the discussion held in the IMEX (Admission) Working Party, on 4 April 2025, most Member States highlighted that they have already envisaged the possibility to shift from TP status to national residence permits provided the beneficiaries meet the criteria. However, they do not see a significant interest into these possibilities among the BTPs. Next to avoiding status shopping, the Member States underlined the necessity to prevent overburdening the asylum systems, while designing future solutions. The discussion showed that the protection of vulnerable groups can be a great challenge, especially in the context of transitioning from one status to another. The Member States support a coordinated solution at the European level. This should also include voluntary returns particularly in the context of the reconstruction needs of Ukraine. The exit-strategy should offer flexibility to address the different needs and challenges. In case the situation so requires, Member States would be in favour of extending temporary protection, potentially changing the scope.

Support of sustainable returns in the context of reconstruction

In a scenario of increasing stability in Ukraine, supporting the return of displaced population back to Ukraine is an important area which - in the opinion of some Member States - also requires coordination. During the Solidarity Platform on 27 March 2025 a number of Member States expressed the view that the focus should be put on facilitation of going back home already now on voluntary basis, taking into account the reconstruction needs, but also the social cohesion in Ukraine. In this regard the need to cooperate with the Ukrainian government has been highlighted. It was also mentioned that sustainable returns would benefit from developing the Ukrainian government's capacity to support people going home. Vocational training in professions needed for reconstruction could contribute to increasing the human capital needed to reconstruct Ukraine. In her letter ahead of the March EUCO President von der Leyen announced support in setting up unity hubs to help Ukrainians in their choices. The Commission is working with Ukrainian and Member States' authorities as well as international organisations to support the operationalisation of the hubs. In fact, the Ukrainian Ministry of National Unity has already discussed and formalised agreements on unity hubs in several Member States.

Questions for discussion:

1. *If temporary protection was to be extended, do you agree that the Council should adopt a Council implementing decision before the summer break? If so, what should be the scope and duration of this extended decision?*
2. *If the circumstances allow, do you agree to limit the scope of the Council decision to cover only BTPs already present in the EU, to be applied before March 2026?*
3. *How to ensure a coordinated transition from TP to more EU-wide durable solutions? Would you support a Council Recommendation outlining the measures to be used by the Member States for such a transition?*
4. *Which possible transition measures should be coordinated – e.g. the use of national residence permits, dedicated national statuses available to BTPs, implementation of the possibilities under articles 21(3) and 23 TPD, support for going home in the context of reconstruction? How do Member States intend to respond to the unity hubs initiative?*