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WORKING DOCUMENT

From:	Presidency
To:	JHA Counsellors (Asylum)
N° prev. doc.:	11011/26
Subject:	Proposal for a Council Implementing Decision extending temporary protection, as introduced by Implementing Decision (EU) 2022/382, until 4 March 2028 - Presidency compromise text

Delegations will find attached a Presidency compromise text on a Proposal for a Council Implementing Decision extending temporary protection, as introduced by Implementing Decision (EU) 2022/382.

In comparison to the Commission proposal:

Text in ~~striketrough~~ has been moved.

Text in **bold underlined** has been added.

As there are outstanding questions on how the 'Reserv+' application will operate and how individuals, taking into account all categories of situations, will be able to provide proof to Member States' administrations of eligibility for temporary protection – the Presidency is not currently providing any suggestions to that part of the text. Additional clarification has been sought from the European Commission.

Proposal for a

COUNCIL IMPLEMENTING DECISION

**extending temporary protection, as introduced by Implementing Decision (EU) 2022/382,
until 4 March 2028**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof¹, and in particular Articles 4(2) **and 5(3)(a)** thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 4 March 2022, the Council adopted Implementing Decision (EU) 2022/382² establishing 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.
- (2) In accordance with Article 4(1) of Directive 2001/55/EC, temporary protection first applied for an initial period of one year, until 4 March 2023, and was then automatically extended for one additional year until 4 March 2024.
- (3) On 19 October 2023, the Council adopted Implementing Decision (EU) 2023/2409³ extending the temporary protection as introduced by Implementing Decision (EU) 2022/382 until 4 March 2025. On 25 June 2024, the Council adopted Implementing Decision (EU) 2024/1836⁴ extending the temporary protection as introduced by Implementing Decision (EU) 2022/382 until 4 March 2026. On 15 July 2025, the Council adopted Implementing Decision (EU)

¹ OJ L 212, 7.8.2001, p.12, ELI : <http://data.europa.eu/eli/dir/2001/55/oj>.

² Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection (OJ L 71, 4.3.2022, p. 1, ELI: http://data.europa.eu/eli/dec_impl/2022/382/oj).

³ Council Implementing Decision (EU) 2023/2409 of 19 October 2023 extending temporary protection as introduced by Implementing Decision (EU) 2022/382 (OJ L, 2023/2409, 24.10.2023, ELI: http://data.europa.eu/eli/dec_impl/2023/2409/oj).

⁴ Council Implementing Decision (EU) 2024/1836 of 25 June 2024 extending temporary protection as introduced by Implementing Decision (EU) 2022/382 (OJ L, 2024/1836, 3.7.2024, ELI: http://data.europa.eu/eli/dec_impl/2024/1836/oj).

2025/1460⁵, extending the temporary protection as introduced by Implementing Decision (EU) 2022/382 until 4 March 2027.

- ~~(5)~~(4) Given that a person can benefit from the rights attached to temporary protection in only one Member State at a time, to ensure that ~~this is the case~~ **this principle is respected**, and to avoid multiple registrations for temporary protection, Member States should reject residence permit requests made on the basis of Article 8(1) of Directive 2001/55/EC when it is apparent that the person concerned has already obtained a residence permit on that basis in another Member State ~~and therefore is enjoying the rights attached to temporary protection therein, including social assistance~~. This would be coherent with the judgment of the Court of Justice of the European Union in case C-753/23⁶ and in particular paragraph 30 thereof.
- ~~(5)~~(5) In the context of the activation of Directive 2001/55/EC, Member States agreed unanimously in a statement⁷ made on 4 March 2022 not to apply Article 11 of that Directive in relation to persons who enjoy temporary protection in a given Member State in accordance with Implementing Decision (EU) 2022/382, and who move to another Member State without authorisation, unless Member States agree otherwise on a bilateral basis.
- (6) To ensure a timely situational picture for operational purposes, coherent administration and oversight of the issuance of residence permits, Member States should regularly upload accurate and timely data in the Temporary Protection Registration Platform, including ~~figures regarding~~ **data on** inactive registrations.
- (6a) In that overall context, nothing should be construed as implying an obligation for a Member State to issue a residence permit for temporary protection to a person who received a residence permit for temporary protection in another Member State or in a third country.**
- (6b) Acknowledging that temporary protection does not prejudice recognition of refugee status under the Geneva Convention, it is recalled that, in accordance with international standards, desertion and draft evasion are not considered, by themselves, to be grounds for international protection.**

⁵ [Council Implementing Decision \(EU\) 2025/1460 of 15 July 2025 extending temporary protection as introduced by Implementing Decision \(EU\) 2022/382 \(OJ L, 2025/1460, 24.7.2025, ELI: \[http://data.europa.eu/eli/dec_impl/2025/1460/oj\]\(http://data.europa.eu/eli/dec_impl/2025/1460/oj\)\).](http://data.europa.eu/eli/dec_impl/2025/1460/oj)

⁶ Judgement of the Court of Justice of 27 February 2025, A. N. v Ministerstvo vnitra, C-753/23, ECLI:EU:C:2025:133

⁷ [Proposal for a COUNCIL IMPLEMENTING DECISION establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Council Directive 2001/55/EC of 20 July 2001, and having the effect of introducing temporary protection - Statement of the Member States](#).

- (7) There are almost 4.4 million displaced persons from Ukraine currently benefitting from temporary protection in the Union. The overall number of registrations of persons enjoying temporary protection has remained relatively stable at around 4.3 million, with a slight overall upward trend and with few persons reporting going home back to Ukraine on a permanent basis. The situation in Ukraine does not allow for the majority of displaced people's return to Ukraine in safe and durable conditions. As of December 2025, the IOM estimates that there are 3 712 000 internally displaced persons (IDPs)⁸ in Ukraine. Three-fourths (71%) of IDPs had been displaced for over two years, and 82% had been displaced for over a year. The share of internally displaced persons who had been displaced for more than two years was highest among internally displaced persons who resided in the West of the country. The United Nations Office for the Coordination of Humanitarian Affairs estimates that approximately 10.8 million people are in need of urgent humanitarian assistance in Ukraine in 2026.
- (8) Moreover, further arrivals at scale cannot be excluded due to the difficult humanitarian conditions, broader volatility and the uncertainty of the situation in Ukraine as a result of Russia's war of aggression, including intensified repeated air attacks across the country against civilians. The risk of escalation remains. At the same time, the risk to the efficient operation of the national asylum systems remains if temporary protection were to cease soon with all beneficiaries applying for international protection at the same time.
- (9) Since the high number of displaced persons in the Union benefitting from temporary protection is not likely to decrease as long as the war against Ukraine continues, extending temporary protection is necessary to address the situation of persons currently benefitting from temporary protection in the Union or who will need such protection as from 5 March 2027, as it provides for immediate protection and access to a harmonised set of rights, while reducing formalities to a minimum in a situation of mass influx to the Union. Extending temporary protection should also help in ensuring that the asylum systems of the Member States are not overwhelmed by a significant increase in the number of applications for international protection that could be lodged by persons benefitting from temporary protection until 4 March 2027, were temporary protection to cease by then, or by persons fleeing the war in Ukraine and arriving in the Union after that date and before 4 March 2028.
- (10) Therefore, considering that the reasons for temporary protection persist, temporary protection for the categories of displaced persons referred to in Implementing Decision (EU) 2022/382 should be extended until 4 March 2028.

- (11) Notwithstanding the need to extend temporary protection for a further temporary period of one year, it is important that a common Union approach considers Ukraine's evolving defence needs.
- (12) In its conclusions, the European Council reaffirmed its continued firm and unwavering support for Ukraine's independence, sovereignty and territorial integrity within its internationally recognised borders, as well as the Union's commitment to continue to provide comprehensive political, financial, economic, humanitarian, military and diplomatic support to Ukraine and its people. The European Council supported a comprehensive, just and lasting peace in Ukraine based on the principles of the United Nations Charter and international law and underpinned by robust and credible security guarantees for Ukraine, underlying that it is critical to ensure that Ukraine has the budgetary and military means to continue to exercise its inherent right of self-defence and counter and deter Russia's aggression.
- (13) Pursuant to Council Directive 2001/55/EC, the temporary protection regime in the event of a mass influx of displaced persons represents a procedure of exceptional character, which may apply to specific groups of persons and which, at the same time, may also determine objective criteria for exclusion, in full respect of obligations stemming from international law, Union law and fundamental rights. In particular, a person should not be admitted to temporary protection if he or she is not authorised by the Ukrainian authorities to leave Ukraine because of the need to comply with his/her military obligations.
- (14) The evolving military needs of Ukraine to defend itself against the Russian illegal war of aggression and notably the conscription obligations as legitimately defined by Ukraine in its legal order require Union's full support. In that respect, these needs should be fully taken into account by Member States while providing, at the same time, full support to displaced persons from Ukraine by means of the temporary protection. It is therefore essential that the Union does not continue applying the temporary protection in a way that, while benefitting displaced persons, may negatively affect Ukraine's overall ability to best defend itself against the Russian illegal war of aggression and to decide freely on the organisation of its defence forces.
- (15) To this end, without prejudice to Union law and fundamental rights, temporary protection is not to be granted as a rule to persons who cannot provide evidence to national authorities that they are authorised by Ukrainian authorities, where applicable in Ukrainian law, to leave Ukraine in compliance with their military obligations. Considering the need to take into account the current defence needs as defined by Ukraine, while not affecting the situation of the persons to which the temporary protection already applies, the verification of

such requirement should start applying to the persons displaced from Ukraine from the day after the publication of this Decision in the Official Journal.

- (16) The right to temporary protection is immediate. While in order to ensure proper administration and registration of the individual concerned, the Member State may decide for the fulfilment of certain requirements such as a registration form and presenting evidence as provided for in the Council Decision (EU) 2022/382, one of the objectives of temporary protection is to ensure a rapid and easy to apply process by reducing formalities to a minimum. It is therefore important that Member State authorities are able to swiftly verify that the person concerned is authorised to leave the territory of Ukraine in compliance with their military obligations. In this context, Member States could for example have at their disposal the document that the Ukrainian authorities provide through the dedicated application Reserv+ that is being developed by Ukraine, confirming such authorisation.
- (17) On 16 September 2025, the Council adopted its Recommendation⁹ on a coordinated approach to the transition out of temporary protection for displaced persons from Ukraine. This extension is without prejudice to the continuation of the implementation of the measures provided for therein, which should remain a priority. In that regard, Member States should step up, in a coordinated manner, the transition of persons enjoying temporary protection to other legal statuses as well as voluntary returns and reintegration when the situation allows for it.
- (18) This Decision respects fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union.
- (19) The Council reconfirms its commitment to providing support to Ukraine and its people as long as it takes and reiterates its support for a comprehensive, just and lasting peace, based on the principles of the UN Charter and international law and in the event of a sustainable ceasefire, the Council stands ready to act in accordance with Article 6(1)(b) of Directive 2001/55/EC.
- (20) Ireland is bound by Directive 2001/55/EC and is therefore taking part in the adoption and application of this Decision.
- (21) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on the European Union and to the Treaty on the Functioning of the European

Union, Denmark is not taking part in the adoption of this Implementing Decision and is not bound by it or subject to its application.

HAS ADOPTED THIS DECISION:

Article 1

The temporary protection given to persons displaced from Ukraine referred to in Article 2 of Implementing Decision (EU) 2022/382, and extended by Implementing Decisions (EU) 2023/2409, (EU) 2024/1836 and (EU) 2025/1460 is extended for a further period of one year until 4 March 2028.

Article 2

Without prejudice to Union law and fundamental rights, the temporary protection in accordance with Article 1 of Implementing Decision (EU) 2025/1460 or as extended in accordance with Article 1, **in respect of persons aged between [18-60] shall be granted to all those who present proof that they satisfy their defence-related duties in Ukraine.** ~~shall not be granted to persons that are not in compliance with their military obligations as provided for in Ukrainian law, and for that reason are not authorised by Ukrainian authorities to leave Ukraine.~~

This Article does not apply to persons already enjoying temporary protection at the date of entry into force of this Decision.

Article 3

This Decision shall enter into force on the day after its publication in the *Official Journal of the European Union*.

It shall apply from 5 March 2027, with the exception of Article 2 which shall apply from the date of the entry into force of this Decision.

Done at Brussels,

For the Council

The President