

EU response to displacement from Ukraine

Updated recommendations April 2022

Implementation of the Council Decision on temporary protection following operational guidelines

- ECRE calls on Member States to swiftly operationalise temporary protection, using [the European Commission's operational guidelines](#) to ensure uniform application across the EU.
- In particular, Member States should:
 - Provide detailed information on accessing the Temporary Protection Directive (TPD) in relevant languages and in an easily accessible form
 - Facilitate movement within the Schengen area, including issuing visas where needed and providing free transport
 - Make use of discretionary powers under Article 2(3) of the Council Decision to extend temporary protection to the following categories of people:
 - People who fled Ukraine before 24 February 2022
 - Third country nationals, irrespective of whether they can return to their countries
 - Stateless persons and nationals of third countries who cannot return in a safe and durable way irrespective of their residence or migration status in Ukraine
 - Ensure that registration takes place in an efficient, dignified and expedient manner, including using online registration options. Extensive human resources should be channeled into registration, with EU support requested wherever needed
 - Treat documents available in digital format (e.g. via the Diia app) of those fleeing Ukraine as equivalent to documents issued by Ukraine in paper format. The two types of documents hold equal status under Ukrainian law
 - Ensure that a lack of documentation does not prevent people from accessing international protection and that it does not lead to detention
 - Recognise travel documents issued in Ukraine for beneficiaries of international protection (both for refugees and holders of complementary protection statuses)
 - Provide residence permits for two years
 - Minimise administrative requirements and expedite processes to facilitate immediate access to the rights provided for in the temporary protection status
 - Recognise the validity of driving licenses issued by Ukraine and held by TP beneficiaries for the duration of their status and related residence permit
 - Clarify that neither registration for TP nor residence permits will be affected should a beneficiary return to Ukraine temporarily
- The EUAA should publish relevant statistics including detailed data on the number of applications introduced, accepted and refused, where possible disaggregated by country of origin/nationality, age and gender based on data that should be made available by Member States.
- The triggering of the TPD is without prejudice to the prerogative of Member States to provide more favourable protection statuses should they so wish. It should not be excluded that people leaving conflict and violence may be fleeing situations with characteristics and circumstances that qualify them as refugees under the 1951 Convention, or that other protection statuses may be appropriate. Thus, the TPD safeguards allowing access to asylum procedures should be respected and rights under the TPD should not be waived until the final decision on international protection is taken.
- The TPD provides minimum standards so Member States should consider more favourable protection conditions for the people covered, including taking particular vulnerabilities and needs into consideration.

Responses for people fleeing Ukraine who are beyond the scope of temporary protection

- Options should be made available to third country nationals who fall outside the scope of the TPD. This could include access to asylum, leave to remain or other temporary residence permits.

- There are particular categories of people at risk following the invasion of Ukraine, including Belarussians and Russians in Ukraine who do not have the relevant documents to fall under the TPD; defectors from the Russian army in Ukraine;
- For people who can return safely to their home countries, residence permits that allow time to make travel arrangements, access to embassies and support for return travel are crucial.

Responses for people fleeing Russia

- Those at risk of persecution in Russia, including human rights defenders, journalists, lawyers and men fleeing military conscription may be in need of international protection. They should benefit from all relevant safeguards under international refugee law and CEAS and be potentially considered as *prima facie* refugees.
- Member States should support them with means of safe and legal pathways and provision of information on how to access protection.

Access at the EU's borders

- All people fleeing Ukraine who are entitled to leave under national law must be able to leave the country and access the EU and other neighbouring countries. Thus, borders must remain open despite pressures.
- Member States should make use of the EC's [guidelines for external border management](#) to reduce congestion by relaxing border checks and authorising entry on humanitarian grounds, including when third country nationals do not fulfill entry conditions. Detention on arrival should be limited and may only be used in compliance with EU law.

Adequate funding and distribution to those best placed to respond

- Funding mobilised under the Asylum, Migration and Integration Fund (AMIF) should be focused on reinforcing reception capacity, staffing in asylum systems, and for civil society service provision of support in the Member States most affected, especially at the point of immediate arrival;
- AMIF national programmes for the current funding period (2021-2027) should be amended to guarantee resources for information provision, legal aid, and social, medical and psychological support.
- Funding modalities of both AMIF and Cohesion funds must be simplified to ensure that funding is accessible to civil society. Where relevant, the Partnership Principle should be applied so that civil society can play a role in assessing funding needs at the national and EU level.
- The European Commission should retain significant amounts of both AMIF and Cohesion funding in order to ensure that it can respond swiftly and directly support service providers, including civil society and international organisations, in the countries most affected, especially given longstanding questions about the absorption capacity and management of funds by Member States, as well as the rule of law debate.

EU agencies' support for access to territory and for protection in the EU

- All Member States bordering Ukraine are likely to require support from the EU Asylum Agency (EUAA), including deployment of operations, to ensure registration, to put in place reception systems, to manage and share information, and for other technical and operational expertise.
- If Member States remain reluctant to request the support of the EUAA, they should be able to demonstrate to the European Commission the alternative response mechanisms they foresee.
- Within the context of the European Commission's [guidelines](#) on external border management aimed at guaranteeing access at EU's border, the support from and deployment of Frontex should be considered, always to include the deployment of fundamental rights monitors.

Focus on inclusion/integration from the outset

- Given that immediate protection is being provided, meaning that access to asylum and rights within the asylum system are not primary considerations, the focus should switch immediately to inclusion. The principle of inclusion/integration from day one comes into play.
- The money set aside under AMIF, Cohesion Funds (CARE) and REACT-EU must be distributed rapidly, with both Member States and European Commission investing in staffing, project

management and coordination mechanisms. The existing structures in ministries, agencies and civil society, where there is considerable expertise on inclusion and social cohesion need to be mobilised and rapidly scaled up, including:

- Extensive reinforcement of staffing in the units within the European Commission leading on inclusion of refugees at DG Home and DG Employment and Social Affairs;
- The activation of inclusion-related policy and coordination mechanisms (e.g. European Integration Network) including coordination with private sector (e.g. European Partnership for Integration).
- At the national level, Ministries in charge of social affairs, employment, housing and education need to play a central role in the response as soon as registration has taken place, including deciding on the allocation of EU funding and other support and managing the funds themselves;
- Direct capacity support and training in the special call under the Technical Support Instrument (TSI) to support Member States welcoming refugees from Ukraine should also cover expertise provided by civil society actors.

Solidarity contributions from across the EU

- All Member States should offer support, including relocation when relevant, via the Solidarity Platform;
- As set out in the TPD, relocation should be available for all persons covered under temporary protection and take into consideration the preferences of the individuals concerned. Safe passage within Europe is essential.

Invest in wider asylum systems

- All Member States should prioritise preparations for an increased number of people arriving by strengthening their asylum and reception capacities, including the provision of information and legal aid.
- Member States should remove Ukraine from Safe Country Lists.
- The wider asylum systems will still need to function, despite the challenge of the Ukraine displacement.

Support humanitarian relief, peace and justice in Ukraine

- Humanitarian support must be provided to Ukraine and Moldova, and other neighbouring countries as required, alongside an insistence on humanitarian access and respect for international humanitarian law.
- The EU should support all forms of dialogue that may contribute to ceasefires and eventually to settlements.
- Governments should support efforts to collect evidence and testimonies relating to crimes under international law that are being committed in Ukraine. This includes providing the services and infrastructure to collect and where relevant verify information.
- Support for international and domestic justice mechanisms should be explored.