

Beyond Temporariness: Policy Options for Ukrainians Under EU Temporary Protection in 2025

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Executive Summary

- > The European Union (EU) Temporary Protection Directive (TPD), activated for the first time in March 2022, marked a timely and effective response to the mass displacement triggered by Russia's full-scale invasion of Ukraine.
- > In light of the continuing uncertainty surrounding the cessation of the full-scale Russian invasion, the most viable options to address this issue include long-term residency and a coordinated transition to national and EU residence pathways, group-based international protection for those in need of protection, and voluntary return schemes supported by circular migration arrangements for those seeking to return to Ukraine.
- > On 4 June 2025, the European Commission introduced a three-part package to guide this transition. It includes: (1) a proposal to extend temporary protection until 4 March 2027; (2) a Council Recommendation promoting coordinated exit strategies centred on integration and return; and (3) a Communication outlining a strategic framework for managing the transition.
- > This policy brief argues that while the Commission's proposals offer initial direction, they fall short of providing legal certainty. A binding and harmonised EU-level roadmap is urgently needed to replace fragmented national approaches, ensure equal protection standards, and maintain the integrity of the EU's collective response.

unprecedented and collective response to mass displacement triggered by Russia's full-scale invasion of Ukraine. It granted more than 4.2 million persons fleeing Ukraine immediate access to residence, healthcare, education, and employment.

As the Directive was designed as an emergency measure to respond to mass influx situations, the expiry date set by the Council of the EU, which is currently March 2026, marks a significant legal and humanitarian crossroads. Over 4.26 million non-EU citizens who fled Ukraine continue to benefit from temporary protection in the EU. The largest numbers of those fleeing Ukraine were hosted by Germany (1,184,890 people), Poland (997,120 people) and Czechia (365,055 people) (Eurostat 2025). The decision to be taken at the Justice and Home Affairs Council on 12-13 June 2025 on whether to again extend temporary protection will directly shape the legal future and prospects of these more than four million Ukrainians currently residing under temporary protection in the EU.

On 4 June 2025, the European Commission proposed extending temporary protection for displaced persons from Ukraine by one additional year, until 4 March 2027. The Commission encourages Member States to facilitate transitions to national or EU legal statuses such as residence permits based on employment, education, or long-term residence for those who have integrated into their host societies. While the proposal sets out a common direction, it leaves significant discretion to Member States, potentially resulting in diverging national exit strategies. The Council is very likely to extend temporary protection until 2027. Such an extension would mean that temporary protection, originally conceived as a short-term emergency response, could span a full five years, thereby undermining its temporary nature.

This policy brief offers a preliminary analysis of the Commission's June 2025 proposals and outlines policy options for the EU to transition towards sustainable, rights-respecting solutions. It calls for coordinated EU-level action to avoid protection gaps and reinforce legal certainty.

The European Union (EU) activated the Temporary Protection Directive (TPD) in March 2022 as an

An overview of the Temporary Protection's application

What was done right?

When the TPD is activated, the Council decides which groups of displaced persons qualify for the temporary protection status in the EU, as per Article 5 of the Directive. The Council did this by adopting the Implementing Decision (EU) 2022/382 on 4 March 2022 (Carrera/Ineli-Ciger 2023). According to Article 2(1) of the Implementing Decision, the following categories of persons displaced from Ukraine on or after 24 February 2022, as a result of the military invasion by Russian armed forces that began on that date, are eligible for temporary protection: a) Ukrainian nationals residing in Ukraine before 24 February 2022 and their family members; and b) stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022, and their family members. Besides the outlined groups, according to Article 2(2) of the Implementing Decision, Member States should grant either temporary protection or a national protection status to stateless persons, and nationals of third countries other than Ukraine, who can prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit issued in accordance with Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin.

The activation of the TPD allowed persons who fled the war in Ukraine to get immediate access to legal residence, healthcare, education, and employment without the need for individual asylum status determination. This ensured timely protection and helped prevent the collapse of national asylum systems of EU Member States. A particularly notable feature of the Council's application of the Temporary Protection Directive was its recognition of the agency of displaced Ukrainians: beneficiaries were not bound by the Dublin Regulation's allocation rules but were instead permitted to choose the Member State in which to seek protection. This enabled many to reunite with family, join existing diaspora communities, and maintain a degree of autonomy amidst displacement.

The Court of Justice of the European Union (CJEU) confirmed this special feature of the TPD in its *Krasiliva (C-753/23)* judgment (Ineli-Ciger 2025b), stating that Member States cannot reject a residence application simply because the individual previously applied for temporary protection in another Member State but had not yet received it. This affirms the right of displaced persons from Ukraine to choose the country of protection, a right already recognised in the Council Implementing Decision of March 2022 (Ineli-Ciger 2025b).

Legal limits of temporary protection

Article 4 of the TPD limits the protection duration to a maximum of three years, and the Member States are expected to transition beneficiaries into other forms of protection or residency once that period ends (Ineli-Ciger 2024a). The CJEU's recent *Kaduna* decision (Joined Cases C-244/24 and C-290/24) addressed the status of persons granted temporary protection under national discretionary measures. The Court clarified that while Member States may terminate such discretionary national protection schemes before the EU-wide regime ends, they must do so in full compliance with the principles of legal certainty, procedural safeguards, and legitimate expectations (Ineli-Ciger 2024b). This ruling reinforces the need for a lawful and predictable approach to ending national temporary protection statuses.

Fragmentation of national approaches

In the absence of an EU-wide exit strategy, Member States have adopted varied national approaches to post-TPD planning. As analysed by Wagner and Grama (2025), several Member States have introduced mechanisms allowing temporary protection status holders to regularise their stay through national legal channels: for instance, Poland is enacting legislation in 2025 that allows individuals with at least one uninterrupted year under temporary protection to apply for a national residence permit valid for three years. Italy now permits temporary protection status holders to transition to any standard work-related residence permit for which they qualify, whereas Estonia and Latvia allow individuals to apply for other types of residence permits from within the territory, avoiding re-entry requirements. This pragmatic but fragmented approach contradicts the original aim of harmonised protection standards, undermining equal treatment and increasing the likelihood of secondary movements and protection gaps in the future.

Viable legal and policy options for managing the transition from temporary protection to durable solutions

This section offers an updated analysis of potential legal and policy pathways for managing the transition from temporary protection to more durable solutions for displaced Ukrainians in the EU (building on Ineli-Ciger 2023).

Access to residency pathways and Long-term resident status

Access to secure, long-term legal status is the cornerstone of a sustainable and rights-based integration strategy. The EU Long-term Residents (LTR) Directive provides an established pathway to permanent residence for third-country nationals legally residing in a Member State for at least five years. However, it is not clear whether time spent under temporary protection currently counts towards this 5-year threshold,

and it is not possible for temporary protection beneficiaries to apply for this status. This exclusion creates a significant legal and policy gap. Unless the LTR Directive is amended, many individuals will be left without viable residence options once temporary protection ends in 2027, even though they may have satisfied core integration criteria. To close this gap, the LTR Directive should be amended to: count time under temporary protection toward the five-year threshold; include temporary protection beneficiaries among those eligible to apply; adjust eligibility criteria, including income and insurance requirements, to reflect socio-economic realities; and integrate gender-sensitive indicators, such as caregiving and community participation, as valid forms of integration.

At the same time, national regularisation schemes such as those adopted in Poland offer useful complementary models. Yet, without EU-level guidance and common benchmarks, such initiatives risk deepening legal fragmentation and reinforcing unequal treatment. If amending the LTR Directive proves politically unfeasible, the European Commission must take the lead in issuing clear guidance. This guidance should define inclusive residency options that may apply to temporary protection beneficiaries, clarify the expected duration of permits, and outline the minimum rights they must guarantee.

Group-based international protection recognition

A second pathway involves adopting a group-based or *prima facie* approach to international protection status. This approach would allow Member States to grant refugee or subsidiary protection to large groups of displaced persons based on shared circumstances, without the need for full individual status determination. While the Qualification Regulation, due to enter into force in 2026, maintains the requirement of individual assessments, flexibility exists in how this can be applied and whether accelerated procedures for cases that are likely to be well-founded can be followed (Tan/Ineli-Ciger 2024). Given the ongoing war in Ukraine and the real risk of overstressing asylum systems, if temporary protection abruptly ends, group-based recognition would relieve pressure on administrative capacities while safeguarding essential procedural standards. Member States hosting large populations of displaced Ukrainians, such as Germany and Poland, are particularly likely to benefit from such an approach.

Eligibility criteria for group-based protection could be designed to account for vulnerability, region of origin (in view of those originating from non-safe regions (or oblasts) of Ukraine), special protection needs, and the absence of viable alternatives. For example, individuals from areas under active hostilities or those with specific protection risks, such as single women, children, persons with disabilities, or stateless

individuals, could be granted international protection through streamlined processes.

Circular migration options and Reconstruction Permit

A third policy option is the development of innovative legal statuses enabling circular migration and temporary return to Ukraine for reconstruction purposes. One such proposal is the “Reconstruction Permit” introduced by Special Advisor Lodewijk Asscher in his 2023 report to the European Commission (Asscher 2023). This permit would allow Ukrainians to return to contribute to rebuilding their country while retaining residence rights in the EU. Unlike Assisted Voluntary Return schemes, which support permanent return with reintegration assistance, the Reconstruction Permit enables circular migration, allowing temporary return to Ukraine while preserving lawful residence and re-entry rights within the EU. For the proposed Reconstruction Permit to be operationalised across the EU, a clear legal basis is needed within EU law. Without this, implementation would remain *ad hoc* and subject to national discretion, potentially undermining legal certainty.

Similar circular migration schemes exist in other contexts, such as labour migration, including Spain’s GECCO programme and the WAFIRA model (Commission 2025), and could be adapted to fit the post-TPD scenario. Spain’s GECCO programme facilitates seasonal employment for workers from countries like Morocco in agriculture, with legal return conditions, whereas the WAFIRA initiative supports women’s participation in seasonal work while offering reintegration training upon return. The EU can explore creating a harmonised legal framework for circular migration that links reconstruction objectives with stable residency rights, mobility guarantees, and reintegration support.

Assisted voluntary return programmes

Finally, voluntary assisted return programmes can be applied for those who wish to return. Return must never be coerced or induced through the threat of legal uncertainty. Instead, Member States and the EU should invest in comprehensive Assisted Voluntary Return and Reintegration (AVRR) programmes tailored to the specific needs of Ukrainians. Effective AVRR programmes require three elements: accurate and up-to-date country-of-origin information, targeted financial and logistical assistance, and safeguards to ensure that return remains reversible and non-binding. Individuals must retain the right to return to the EU if reintegration proves unsustainable.

In the 1990s, successful return programmes were implemented for Bosnians and Kosovars, including housing support and employment opportunities tied to reconstruction efforts. These models provide important

lessons for today's context (İneli-Ciger 2025a). Ukrainian returnees could similarly be employed in rebuilding efforts, including infrastructure, education, and healthcare services, turning the return into a process of empowerment.

Together, these options can offer a rights-based and coordinated roadmap to navigate the transition from emergency protection to durable solutions.

The Commission proposals of June 2025

Extension of the temporary protection to March 2027

The European Commission's proposal of 4 June 2025 aims to extend the Temporary Protection Directive until March 2027. This extension would push temporary protection to a total duration of five years, significantly exceeding the maximum three-year limit established by Article 4 of the Directive. The Commission argues this extension is justified by ongoing instability in Ukraine, the continuing necessity for protection, the risk of overwhelming Member States' asylum systems if protection abruptly ends, and the persistence of the conditions prompting the Directive's initial activation. While these reasons are compelling from a policy perspective, the legal basis for exceeding the Directive's clear temporal limit remains questionable. There is a broad consensus among EU legal scholars that Article 4 provides no authority for such an extension without formally amending the Directive. Furthermore, the Commission's Proposal for a Council Recommendation lacks definitive assurance that March 2027 will mark the regime's final expiration. Instead, it employs ambiguous language, suggesting that temporary protection will end "at some future point", contingent on uncertain conditions. This vagueness creates significant legal uncertainty and risks indefinitely extending a measure intended strictly for short-term emergencies.

Narrow interpretation of the Krasiliva Judgment (C-753/23)

Another critical issue lies in the Commission's restrictive interpretation of the Court of Justice of the European Union's Krasiliva judgment (C-753/23). According to the Commission's Recommendation, Member States should avoid granting residence permits or social assistance to individuals already benefiting from temporary protection elsewhere in the EU to prevent overlapping entitlements. Although presented as safeguarding administrative coherence, this approach arguably misinterprets Krasiliva.

The CJEU's judgment specifically addressed a narrower scenario: it clarified that Member States could not refuse residence permits solely because an application for temporary protection had been submitted in another Member State. Crucially, the Court did not explicitly prohibit the issuance of permits by a second Member State where

temporary protection had already been granted. Thus, the Commission's interpretation overly restricts Member States' discretion, going beyond what Krasiliva mandates and potentially limiting the rights and agency of displaced persons from Ukraine.

Structured yet ambiguous pathway towards post-temporary protection

The Commission proposes a coordinated transition from temporary protection toward national residence pathways, suggesting permits for employment, education, research, and family reunification, as well as statuses accessible through EU migration instruments, including the Blue Card, Single Permit, and Students and Researchers Directives. Additionally, the Commission's proposal includes a robust framework for voluntary returns. It recommends establishing multi-purpose Unity Hubs, financed by the Asylum, Migration and Integration Fund (AMIF), to guide displaced Ukrainians through integration and return options, providing tailored assistance, especially for vulnerable individuals and families.

However, an underlying concern is the Commission's implicit discouragement of asylum applications from temporary protection beneficiaries. The Recommendation explicitly suggests that Member States should highlight the advantages of national residence permits over temporary and international protection. This strategy aims to alleviate pressure on national asylum systems but raises questions regarding the effective access to international protection for those whose protection needs extend beyond temporary grounds.

Conclusions and policy recommendations

Extending temporary protection until 2027 arguably undermines the Directive's essential temporariness and conflicts with Article 4, creating significant legal uncertainty and institutional credibility concerns. The absence of an unequivocal commitment against further extensions exacerbates this ambiguity. Nonetheless, after prolonged uncertainty, the Commission's proposal provides necessary initial guidance, suggesting integration via national residence permits or assisted voluntary returns as viable trajectories. However, implicitly discouraging asylum applications to alleviate asylum systems' burdens raises concerns regarding sufficient access to international protection.

A deeper structural issue lies in the fragmented implementation of national residence statuses, potentially causing disparities in rights and residency pathways, and fostering secondary movements as beneficiaries pursue more favourable frameworks. This fragmentation underscores the urgent need for stronger EU-level coordination.

To mitigate these risks, the EU must promptly adopt a coherent, legally sound, and rights-respecting strategy that includes:

- Coordinated termination of temporary protection, establishing clear EU-wide minimum standards.
- Prioritising uniform integration pathways by providing consistent access to employment, education, and stable housing, explicitly recognising that large-scale forced returns are neither practical nor lawful.
- Reforming the Long-term Residents Directive to recognise residence time under temporary protection and address socio-economic and gender-specific barriers.

- Developing robust Assisted Voluntary Return programmes, tailored, well-resourced, and reversible.

Only a unified, comprehensive, and binding EU-wide roadmap can safeguard humanitarian standards, reinforce solidarity, and uphold the integrity of the EU's response to mass displacement from Ukraine. Non-binding recommendations alone will not suffice.

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