



## Answer to the Ukrainian Refugee Crisis

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We are experiencing “the fastest growing refugee crisis in Europe since World War II.”<sup>i</sup> These are the words that Filippo Grandi, the UN refugee agency commissioner, used to describe the Ukrainian refugee crisis caused by Russia’s invasion of Ukraine.<sup>ii</sup> Because Ukraine is not a member of the European Union (“EU”),<sup>iii</sup> Ukrainian refugees do not have an inherent right to migrate to EU nations.<sup>iv</sup> Without EU action, each individual Ukrainian refugee would have to make legal asylum claims to enter an EU country.<sup>v</sup> The EU can address this Ukrainian refugee crisis by looking to a procedure called the Temporary Protective Directive.

The Temporary Protective Directive is a procedure that “provide[s] immediate and temporary protection to displaced persons from non-EU countries and those unable to return to

their country of origin.”<sup>vi</sup> If the Temporary Protective Directive (“TPD”) is triggered, all EU Member States are required “to provide persons enjoying temporary protection with residence permits for the entire duration of the protection.”<sup>vii</sup> The TPD also grants protected refugees “the means to housing” if they cannot afford housing.<sup>viii</sup> Member states are also required to give food and medical care to refugees protected under the TPD.<sup>ix</sup>

The TPD had never been used in its twenty-one years of existence.<sup>x</sup> But, the European Union has decided to implement the TPD in response to the Ukrainian refugee crisis.<sup>xi</sup> This means that Ukrainian refugees will have an easier time entering countries as refugees while also receiving housing, food, and medical care.<sup>xii</sup>

There was debate about whether or not to use TPD before it was eventually implemented. European Commissioner Ylva Johansson has advocated for using TPD in response to the Ukrainian refugee crisis.<sup>xiii</sup> But, others, such as Sweden’s Minister for Integration Anders Ygeman have expressed caution on relying on TPD.<sup>xiv</sup> In Minister Ygeman’s opinion, the TPD is not a “magic wand” that can fix all problems arising from the Ukrainian refugee crisis.<sup>xv</sup> Others have noted that the TPD appears to be “a possible step toward a mandatory relocation system – an idea previously rejected by countries like Poland and Hungary.”<sup>xvi</sup>

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<sup>i</sup> Sharon Braithwaite and Nadine Schmidt, “Fastest Growing Refugee Crisis in Europe Since World War II”: More than 1.5 Million People Have Crossed from Ukraine into Neighboring Countries, CNN (March 6, 2022), [https://www.cnn.com/europe/live-news/ukraine-russia-putin-news-03-06-22/h\\_034974d19d4beb9ae7c19069427d348d](https://www.cnn.com/europe/live-news/ukraine-russia-putin-news-03-06-22/h_034974d19d4beb9ae7c19069427d348d) [<https://perma.cc/6858-ZMRS>].

<sup>ii</sup> *Id.*

<sup>iii</sup> Rachel Treisman, *Ukraine Wants to Join the EU. Here’s how that Would Work*, NPR (Feb. 28, 2022), <https://www.npr.org/2022/02/28/1083528087/ukraine-european-union> [<https://perma.cc/5TG6-TP7J>].

<sup>iv</sup> *Origins and Destinations of European Union Migrants within the EU*, PEW RESEARCH CENTER (June 19, 2017), <https://www.pewresearch.org/global/interactives/origins-destinations-of-european-union-migrants-within-the-eu/> [<https://perma.cc/L9JT-GFZP>].

<sup>v</sup> *See News Comment: UNHCR Welcomes EU Decision to Offer Temporary Protection to Refugees Fleeing Ukraine*, UNHCR (March 4, 2022), <https://www.unhcr.org/news/press/2022/3/6221f1c84/news-comment-unhcr-welcomes-eu-decision-offer-temporary-protection-refugees.html> [<https://perma.cc/MZR4-TD3Q>] [hereinafter *UNHCR News Comment*].

<sup>vi</sup> Temporary Protection, European Commission, [https://ec.europa.eu/home-affairs/policies/migration-and-asylum/common-european-asylum-system/temporary-protection\\_en](https://ec.europa.eu/home-affairs/policies/migration-and-asylum/common-european-asylum-system/temporary-protection_en) [<https://perma.cc/FQ9F-Q3R2>].

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vii Council Directive 2001/55, ch. 3 art. 8, 2001 O.J. (L 212/12) (EC).

viii *Id.* at ch. 3 art. 13(1).

ix *See id.* at ch. 3 art. 13(2, 4).

x Jacopo Barigazzi and Suzanne Lynch, *EU Debates Granting Temporary Protection to Refugees from Ukraine*, POLITICO (Feb. 27, 2022), <https://www.politico.eu/article/ukraine-refugees-european-union-war-russia-temporary-protection-debate/> [<https://perma.cc/Z5QZ-AEHY>].

xi *See UNHCR News Comment, supra* note v.

xii Council Directive 2001/55, ch. 3 arts. 8 and 13(1, 2, and 4), 2001 O.J. (L 212/12) (EC).

xiii *See id.*

xiv *See id.*

xv *See id.*

xvi *Id.*