

RESEARCH ARTICLES

Temporary Protection in the EU: A Legal Analysis of Labor Market Impact¹

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Abstract

This article examines the multifaceted impact of the Temporary Protection Directive (TPD) on the European Union (EU) labor market following the displacement of beneficiaries of temporary protection (BTPs) due to the 2022 Russian full-scale war against Ukraine. It analyzes how the TPD has facilitated labor market access for BTPs while also highlighting critical challenges, including underemployment, labor exploitation, and the need for further efforts to ensure consistent and equitable access to employment opportunities across all EU Member States. The analysis explores key factors influencing BTPs' labor market integration, such as their skills, qualifications, and the crucial need for effective recognition of professional qualifications across the EU.

The article emphasizes the importance of a long-term vision for the integration of BTPs. It advocates for a transition towards more durable, and predictable legal statuses beyond the temporary protection framework, addressing the limitations of the current EU framework.

Furthermore, the article examines the evolving situation in Ukraine and discusses the future of temporary protection, by considering the need for flexible and responsive policies that address the changing needs of BTPs. Finally, the paper acknowledges the crucial role of Ukrainian BTPs in Ukraine's post-war recovery and emphasizes the importance of creating conditions that facilitate safe, voluntary, and dignified returns for those who choose to return to their homeland.

Key Words:

Temporary Protection Directive; labor market integration; right to work; recognition of qualifications; human capital; Ukraine

1 Introduction

Ukraine, a state situated at the heart of Europe (according to some definitions, the center of Europe is located near the Ukrainian village of Dilove in the Zakarpattia region) (Zombory, 2018), has a long history of defending its freedom against non-democratic, totalitarian regimes, particularly Russia. Today, Ukraine strives to uphold European values

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while continuing to resist Russia's unprovoked aggression, which began in 2014 and escalated into a full-scale invasion in 2022.

The Russian aggression against Ukraine has had catastrophic humanitarian consequences, significantly impacting the lives of millions. Thousands of Ukrainian civilians and soldiers have been killed in the war, including many women and children (Statista, 2025). Russian forces have deliberately targeted critical infrastructure, such as power plants, water treatment facilities, and transportation networks. The destruction of infrastructure and the disruption of trade have further exacerbated the economic crisis. The Russian war against Ukraine has disrupted food production and distribution, leading to food shortages and price increases (Kortukova, 2023).

However, this article will focus on the millions of people who have been forced to flee from their homes to seek safety. As of late 2024, over 4.6 million individuals (ICC, n.d.) were officially registered as internally displaced persons (IDPs) within Ukraine, making it one of the ten countries most affected by internal displacement globally (IDMC, 2024). As of late 2024, 4.2 million persons fleeing Ukraine as a consequence of the Russian war of aggression, had temporary protection status in EU countries (Eurostat, 2024). Russia's full-scale invasion has triggered a humanitarian catastrophe, forcing millions to abandon their homes and seek refuge due to the constant shelling of civilian areas and the widespread destruction of cities and towns.

Amidst the large-scale humanitarian crisis, the European Union (EU) has demonstrated unprecedented solidarity, both with Ukraine and within the Union itself (Kortukova & Yemets, 2024). For the first time in its history, the EU has activated the Temporary Protection Directive (TPD) (Directive 2001/55/EC, 2021), implementing a range of supportive measures for beneficiaries of temporary protection (BTPs) in Member States, including the right to residence, employment, and social assistance. The legal basis for the common system of temporary protection in the EU is Article 78 para. 2 lit.c of the Treaty on the Functioning of the European Union (TFEU), which provides the legal foundation for the EU to take measures in cases of mass influx.

This unprecedented step, however, has significantly politicized the migration debate within the EU. As highlighted by Roßkopf (2024), the influx of Ukrainian refugees has intensified national and European discourses, impacting elections, government formations, and policy decisions.

The activation of the TPD can be viewed through the lens of rational-choice institutionalism. According to Thym (2022) EU institutions demonstrated a smart and pragmatic response by activating the TPD. As argued by scholars like Trauner and Wolff (2024) in the face of a massive refugee influx, EU institutions, recognizing the potential for social and political instability within Member States, opted for the TPD as the most pragmatic solution. This decision reflects a pragmatic approach to crisis management, prioritizing collective action and coordinated responses within the EU framework.

The swift and coordinated activation of the TPD demonstrated the potential for effective collective action within the EU. However, some challenges remain, including addressing potential integration challenges, ensuring the long-term sustainability of the response, the intended duration of temporary protection, rights of BTPs, which has been subject to extensive scholarly and judicial debate.

This article specifically analyzes the impact of the TPD on the EU labor market, examining the challenges and opportunities presented by the integration of BTPs into the workforce.

2 Results

The EU has long been a significant destination for Ukrainian workers. Before the full-scale war against Ukraine, an estimated 3 million Ukrainians were employed in EU countries, with Poland being the primary destination. This is evidenced by the high number of work permit applications, with approximately 1.3 million Ukrainians applying for work permits in Poland alone in 2020 (IOM, 2021).

The Russian aggression against Ukraine, starting in 2014 and escalating in 2022 has led to a significant influx of forced migrants, who have been granted temporary protection status by the EU. One of the advantages for BTPs is their expedited access to the labor market compared to asylum seekers. While asylum seekers typically face a waiting period before being authorized to work, the TPD allows beneficiaries to enter the workforce more quickly, often immediately or shortly after their arrival. This immediate access to employment plays a crucial role in their economic independence and social integration within host countries (Kortukova et al., 2022).

As a result, the influx of BTPs has had a notable impact on the Euro area labor market. In 2022, the labor force experienced an estimated increase of 0.3% to 0.5% due to their arrival. This impact is likely to intensify in the next years as the war continues (Botelho & Hägele, 2023).

This influx is particularly significant given the broader demographic trends within the EU. Aging populations, driven by increasing life expectancy and declining birth rates, pose significant challenges to social security systems and healthcare. Low fertility rates persist across many Member States, influenced by factors such as delayed childbearing, economic uncertainties, and changing societal norms (Eurostat, 2023). Consequently, migration plays a crucial role in mitigating the effects of these demographic shifts.

The BTPs are characterized by a unique demographic profile, with a significant female majority. This demographic composition is largely attributable to martial law restrictions in Ukraine, which prevent most men of conscription age from leaving the country. Consequently, the majority of BTPs are women and children, often accompanied by elderly dependents (OECD, 2024). This specific demographic composition has significant implications for the labor market integration of BTPs. A large proportion of the population comprises women of working age, many of whom may be seeking employment while also caring for children or elderly relatives.

According to the report of the International Organization of Migration, Ukrainian refugees demonstrate a high level of economic activity worldwide, with 66% of working-age individuals (18-64) employed (IOM, 2023). Within the EU the integration into the workforce varies across countries. For example, in Estonia and Lithuania, a significant portion of working-age BTPs have found employment, with rates around 55% and 50% respectively. However, labor market integration presents challenges. In Ireland, where BTPs constitute 1.3%, only 20.7% of working-age BTPs reported employment income in 2023 (Botelho & Hägele, 2023). This disparity highlights the need for targeted support measures to facilitate the successful integration of BTPs into the labor market across the EU.

While the short-term fiscal implications of Ukrainian migration may pose challenges for some European countries, the IMF projects a positive long-term impact, contingent upon the successful integration of Ukrainian migrants into the labor market (Bird & Amaglobeli, 2022). This positive outlook is also supported by evidence from Poland, where Ukrainian migrants have made substantial tax contributions, estimated at 10 billion Polish złoty (approximately \$2.4 billion) by the Center for Migration Research at the University of Warsaw (Ukrainian World Congress, 2022).

2.1 Right to work for BTP under EU LAW

Article 12 cl. 1 of the TPD grants beneficiaries the right to work:

The Member States shall authorize, for a period not exceeding that of temporary protection, persons enjoying temporary protection to engage in employed or self-employed activities, subject to rules applicable to the profession, as well as in activities such as educational opportunities for adults, vocational training and practical workplace experience.

However, the implementation of this article varies across Member States. While the EU law establishes a common framework for this policy across Member States, Member States retain considerable discretion in their interpretation and application, leading to diverse national approaches in practice.

The Explanatory Memorandum (Proposal for a Council Decision granting temporary protection to displaced persons from Ukraine and amending Council Decision (EU) 2022/382) to the TPD, underscores that its implementation should prioritize the protection of fundamental rights while enabling Member States to effectively manage the integration of displaced persons. This necessitates a balanced approach that ensures both the protection of beneficiaries and the effective functioning of host societies.

The TPD grants beneficiaries the right to work, but the extent of this right is not explicitly defined within the Directive itself. This necessitates an interpretation of the TPD within the broader legal framework of the EU, including the Charter of Fundamental Rights (adopted 7/12/2000, entered into force 1/12/2009, 2000/C 364/01, 2000 CFR).

Inter alia, Article 15 para. 3 of the Charter provides that nationals of third countries who are authorized to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union. This article enshrines the principle of equal treatment for non-EU nationals and EU citizens regarding working conditions. This principle emphasizes equivalence rather than absolute equality, recognizing that some minor differences may be justifiable. Crucially, it safeguards against the exploitation of non-EU workers through the importation of cheap labor that could undermine established labor standards within the host country.

This provision aims to ensure that all workers, regardless of their nationality, have access to fair and equitable working conditions. It serves to prevent situations where non-EU nationals are subjected to lower wages, poorer working conditions, or discriminatory practices compared to their EU citizen counterparts. By upholding the principle of equivalent treatment, the Charter of Fundamental Rights seeks to promote social justice, and to ensure a level playing field for all workers within the EU labor market.

The right to work, as enshrined in the Charter of Fundamental Rights, is intrinsically linked to the right to fair and just working conditions, as outlined in Article 31 of the Charter. This connection has gained significant prominence in recent case law.

In the *Bauer* case (Judgment of 6/11/2018, C-569/16 and C-570/16), the Court of Justice of the European Union (CJEU) significantly shifted its approach by recognizing for the first time the horizontal direct effect of Article 31 para. 2 of the Charter of Fundamental Rights. This landmark decision is notable because it involved a dispute between a worker and their employer, marking a departure from the *Egenberger* case (CJEU, Judgment of 17/4/2018, C-414/16), where the right to paid annual leave was considered applicable only in vertical relationships between individuals and public authorities.

The *Bauer* judgment signifies a crucial development in the application of the Charter, expanding the scope of its direct effect to encompass horizontal relationships between private parties. This has significant implications for the enforcement of fundamental rights within the EU, empowering individuals to directly rely on Charter provisions in their interactions with private entities. Moreover, the *Bauer* judgment further clarified the *Dominguez* case (CJEU, Judgment of 24/1/2012, C-282/10), which had previously established that the entitlement of every worker to paid annual leave constitutes a "particularly important principle of European Union social law" (para. 16). The *Bauer* judgment significantly strengthened this position by emphasizing that paid leave is not only a provision enshrined in the Charter, but also an "essential principle of EU social law" (para. 39).

The *Max Planck* case (CJEU, Judgment of 6/11/2018, C-684/16) involved an employee who accumulated 51 days of unused annual leave. The CJEU was asked whether an employee is entitled to be paid in lieu of unused leave. The Court turned to Article 31 para. 2 of the Charter, affirming that the right to paid annual leave is mandatory and unconditional. It emphasized that this right is an "essential principle of EU social law" (para. 69), derived from both EU and international instruments. The Court concluded that national legislation contrary to this principle must be disapplied.

Furthermore, any failure to protect workers against unlawful dismissal, contrary to Article 30 of the Charter, can be considered a breach of Article 15. The right to protection from unjustified dismissal is essential for the effective exercise of the right to work. Firstly, dismissal directly deprives an individual of the ability to pursue their chosen occupation. Secondly, dismissal without good cause significantly diminishes the quality of the chosen work and undermines the individual's ability to maintain their chosen employment.

The Charter of Fundamental Rights plays a crucial role in safeguarding the rights of all workers within the EU, including BTPs. The *Bauer* judgment, along with other landmark rulings, has significantly strengthened the application and enforceability of the Charter, ensuring a higher level of protection for workers' rights and promoting social justice within the European Union.

Through its provisions and evolving jurisprudence, the Charter of Fundamental Rights provides a dynamic legal framework for protecting, *inter alia*, the rights of working BTPs. This framework, encompassing fair and just working conditions, paid leave, and protection from unjustified dismissal, is essential for their successful integration into the EU labor market and their overall social and economic well-being.

A significant majority of Member States have taken steps to facilitate the labor market integration of BTPs, *inter alia*, by minimizing the need for separate work permits, reflecting a general consensus on the importance of facilitating their labor market integration. For

instance, in France (Decree of 1 April 2022 on the right to work of beneficiaries of temporary protection), and Bulgaria, no specific work authorization is required.

However, notable variations exist in national implementations. For example, in Austria BTPs require a separate work permit which can only be requested by an employer, that place an employee in the dependent position (Gahleitner-Gertz, 2022). In contrast, Sweden requires only registration with the Swedish Tax Agency before employment.

In Germany, a special document called a “fictitious certificate” is needed to gain access to social benefits and work for the time between their application for a residence permit and its issuance. Many non-Ukrainians seeking temporary protection did not automatically receive this certificate, making it hard for them to find jobs. For example, there were court decisions about whether a letter from the government to the federal states with general guidelines, which was suggesting treating the case of BTPs accordingly was binding. A Regional Administrative Court confirmed that and ordered the government to issue the certificate (Administrative Court Aachen, Decision of 26/8/2022, 8 L 527/22). However, the Higher Administrative Court of Baden Wurttemberg disagreed, denying the letter had binding character. Additionally, the Court held in the individual case that the applicant, a Nigerian citizen, would have to prove that he qualifies as BTP for not being able to safely return to his home country to be eligible for the certificate and the right to work (Decision of 26/10/2022, 11 S 1467/22).

It highlights that while progress has been made in facilitating the labor market integration of BTPs, further efforts are needed to ensure consistent and equitable access to employment opportunities across all Member States. This includes harmonizing national approaches, addressing administrative challenges, and providing adequate support services to facilitate the successful integration of BTPs into the labor market.

For example, to improve the efficiency and consistency of the temporary protection system for the BTPs across the EU, it is crucial to establish common EU-wide standards and procedures for issuing documents confirming the status. This would ensure consistent information across Member States and facilitate smoother movement and access to the labor market within the EU.

It is also important to develop a secure, shared database for all individuals granted temporary protection status. This database would allow for real-time information sharing between Member States, improving data accuracy, preventing fraud, and enabling better coordination of support services.

2.2 Recognition of Qualifications

Effective labor market integration for non-EU nationals under temporary protection hinges on the timely and efficient recognition of their qualifications. While the right to work is crucial, without proper recognition, many are forced to accept underemployment, hindering their full economic and social participation.

While BTPs have demonstrated successful integration into the labor market, they are disproportionately affected by overqualification (Caselli et al., 2024). Despite over a third of BTPs currently being employed, a significant proportion are underemployed, working in positions below their pre-displacement skill level, according to a UNHCR report (UNHCR, 2023). Factors such as difficulties in obtaining professional recognition for their qualifications, a lack of decent work opportunities, limited language proficiency and skills

mismatches, constitute more significant barriers to full labor market integration. Consequently, a substantial proportion of BTPs seek employment in sectors that do not necessitate formal qualification verification, such as low-skilled or entry-level positions (Caselli et al., 2024).

For example, in Croatia the recognition of medical diplomas can take up to two years. This lengthy process, coupled with high costs associated with document translations and court interpreters, poses significant financial burdens. Some medical professionals have resorted to low-skilled jobs while awaiting qualification recognition. In Ireland, similar challenges have been observed, exacerbated by the inadequacy of existing language training programs, which fail to address the specific linguistic needs of medical professionals (Eurofound, 2024). These mismatches lead to underemployment, frustration, and a sense of wasted potential.

Good practices showed that several countries have temporarily waived qualification recognition requirements for BTPs in order to facilitate their labor market integration. For example, Latvia allows Ukrainian health professionals to practice under supervision up to one year. The German state of Saxony employs Ukrainian teachers who pass an initial assessment on probation. Some countries allow Ukrainian professionals to work at lower levels within their professions while they complete the full qualification recognition process (Desiderio & Hooper, 2023).

At the same time, the EU's 2021-2027 Action Plan on Integration and Inclusion emphasizes the importance of swift and equitable procedures for recognizing foreign qualifications. This is crucial for non-EU nationals under temporary protection, as their ability to access skilled employment is directly linked to the timely and effective recognition of their professional credentials.

In 2021, the European Parliament passed a resolution urging the EU to establish rules that facilitate the swift, equitable, and streamlined recognition of qualifications for migrant workers across all Member States (European Parliament, 2021).

In Letta's report (2024) "Much more than a market" it was mentioned that the extension of automatic recognition of professional qualifications and a comprehensive review of the need for and extent of professional regulation are crucial for facilitating labor mobility and addressing persistent labor shortages. In this context, it is imperative to enhance the capacity for effective labor market analysis to ensure a better alignment of workforce supply and demand (Letta, 2024).

Similarly, the Draghi (2024) report also emphasizes the need for a more streamlined framework for the recognition of professional qualifications within the EU. Access to many professions is regulated by Member States, requiring specific qualifications and several key challenges remain. Determining the necessity of regulating entry into specific professions, establishing effective and fair mechanisms for recognizing foreign qualifications, and streamlining occupational licensing procedures are still unresolved policy issues (Draghi, 2024).

Commission Recommendation (EU) 2022/554 outlines the importance of recognizing professional qualifications for individuals fleeing the war in Ukraine (Commission Recommendation (EU) 2022/554). For regulated professions, such as medicine, law, or teaching, individuals with temporary protection status must typically have their

qualifications formally recognized in the host Member State. This process varies across Member States and may involve specific procedures and assessments. Conversely, employment in non-regulated occupations generally does not require formal qualification recognition. The Recommendation emphasizes the need for a supportive framework to facilitate the labor market integration of all displaced persons. This includes minimizing bureaucratic barriers, providing guidance and support services, and addressing any potential obstacles to their professional advancement. In 2023, the European Commission issued a recommendation emphasizing the need for Member States to actively work towards reducing obstacles that hinder the recognition of skills and qualifications, thereby facilitating legal migration (European Commission, 2023). Currently, the recognition of professional qualifications for BTPs presents varying approaches across EU Member States. For example, in Germany, the Federal Recognition Act governs the recognition process, with timelines for evaluation typically ranging from three to four months. While the focus has been on streamlining procedures, no dedicated accelerated pathways for BTPs have been introduced.

Similarly, Denmark and Austria have not implemented specific accelerated recognition procedures for BTPs. Austria, however, has expanded the scope of its Law on Recognition and Assessment of Qualifications to include displaced persons from Ukraine, emphasizing the right to an assessment rather than automatic recognition. Poland has implemented more proactive measures, including exemptions from submitting original diplomas and streamlined procedures for specific professions. The Act of 12 March 2022 facilitates recognition for professionals, including simplified procedures, reduced fees, and expedited processing. Romania allows Ukrainian citizens to work for 12 months without formal qualification recognition, relying on an affidavit of qualifications. While this provides immediate labor market access, it may present long-term challenges for career progression and accessing certain professions that require formal qualification recognition (OECD, 2023).

To mitigate the underutilization of skilled BTPs and facilitate their smooth labor market integration, the implementation of structured internship programs is crucial. These programs should provide BTPs with valuable opportunities to showcase their skills and gain practical work experience within the host country. Concurrently, robust language training programs, ideally incorporating a mentorship component, should be offered. A team leader can effectively mentor a small group of BTPs, guiding them through the integration process while simultaneously enhancing their language proficiency.

It is also essential to implement comprehensive programs focused on the successful integration of skilled BTPs into the host country's labor market. These programs should include providing guidance on navigating the local job market, accessing essential services, and overcoming barriers, as well as offering intensive language courses that emphasize industry-specific vocabulary to enhance communication and employability (Litzkow, 2024).

2.2 Labor Exploitation

Some of the challenges faced by BTPs include labor exploitation and poor working conditions. Despite the EU providing a broad range of rights and support for BTPs, there have been cases of labor exploitation. This highlights the challenges of effectively protecting vulnerable individuals during times of mass displacement.

A confluence of factors, including difficulties in obtaining professional recognition, limited access to decent employment, language barriers, and skills mismatches, often forces BTPs into low-skilled jobs where exploitative practices are more common (Litzkow, 2024).

Further evidence of this alarming trend emerges from surveys conducted in Berlin, Bern, and Warsaw. These surveys reveal a concerning prevalence of labor law violations, with many BTPs reporting experiences of deception, underpayment, non-payment for work, and unsafe or strenuous working conditions (Litzkow, 2024).

Adding to this complex issue is the limited understanding of labor laws and rights among BTPs. This lack of knowledge significantly hinders their ability to protect themselves from exploitation and trafficking. Furthermore, a distrust of authority can prevent BTPs from seeking remedy or reporting abuse, leaving them trapped in exploitative situations (Litzkow, 2024).

Addressing this issue requires a multi-faceted approach. This includes strengthening labor inspections and raising awareness among BTPs about their rights and available support mechanisms. For instance, in Poland, new control measures were announced by the Labor Inspection in March 2022 to supervise whether working condition standards in workplaces hiring displaced persons from Ukraine were observed (European Labour Authority, 2023). The National Labor Inspectorate in Italy issued a circular on 8 March 2022, urging local inspectorates to give priority to regularizing the labor relations and status of displaced persons from Ukraine. Legislative initiatives in this regard have also been undertaken in Romania. The Portuguese labor inspectorate implemented a campaign of inspections to companies to monitor the situation of Ukrainian workers (European Labour Authority, 2023).

3 Quo Vadis

The TPD has played a crucial role in providing immediate protection and support to BTPs. However, the long-term implications of this unprecedented humanitarian crisis require careful consideration and ongoing efforts to ensure the successful integration of BTPs into EU societies while supporting Ukraine's post-war recovery.

3.1 The Future of Temporary Protection for BTPs in the EU

The TPD has likely contributed to the increase in the overall population of the EU. While the long-term demographic impact is difficult to quantify precisely, the influx of BTPs has undoubtedly contributed to a more diverse and dynamic population within the EU.

However, it is important to note that the long-term demographic impact of temporary protection on the EU remains uncertain. While the eventual return of many BTPs to Ukraine is likely, a significant portion may choose to remain in EU Member States, particularly those who have successfully integrated into the labor market and have established social networks. This could have long-term implications for the demographic composition and future labor force of EU countries. Factors such as access to education and work, family reunification, and the evolving security situation in Ukraine will significantly influence the likelihood of long-term integration and, consequently, the demographic impact of the TPD on the EU.

The future of temporary protection for BTPs is uncertain despite the recent extension of the directive until March 4, 2026, by the Council Implementing Decision (EU) 2024/1836

of 25 June 2024. This extension, following the initial implementation through Implementing Decision (EU) 2022/382, provides crucial temporary relief, but long-term solutions must be explored.

Two conditions could be defined under which temporary protection shall come to an end, based on Article 6 of the TPD, *inter alia*: automatic termination and termination by Council Decision.

Temporary protection automatically ends when the maximum duration is reached. This duration is initially set at one year, with the possibility of extensions, resulting in a maximum of three years.

Temporary protection can be terminated at any time by a decision of the Council, when adopted by a qualified majority. This decision must be based on a proposal from the European Commission, which considers any requests submitted by Member States. This termination requires a determination that the situation in the country of origin has improved to the point where the safe and durable return of those granted temporary protection is possible. This return must be ensured with due respect for human rights, fundamental freedoms, and the Member States' obligations regarding *non-refoulement* (the principle of not returning individuals to a country where they face a risk of persecution or other serious harm).

The European Commission defines "safe and durable return" as the return of displaced persons in a secure and dignified manner to a stable environment where their life and freedom are not at risk due to factors such as race, religion, nationality, or political affiliation, and where they will not face torture, inhuman, or degrading treatment (Commission of the European Communities, 2000).

The ongoing war against Ukraine presents significant obstacles to the safe and durable return of those granted temporary protection in the EU. Widespread destruction of infrastructure, including homes, schools, and hospitals, coupled with ongoing hostilities and the threat of further escalation, create a volatile and unpredictable environment. This is why, as the war continues, many BTPs may face prolonged displacement and are unable to return home.

This necessitates a reassessment of the current framework and a proactive approach to long-term integration. Moreover, the abrupt cessation of temporary protection could overwhelm national asylum systems with a surge of applications for international protection, potentially hindering efficient processing and creating logistical challenges (Proposal for a Council Implementing Decision extending temporary protection as introduced by Implementing Decision [EU] 2022/382, 2024).

In a significant ruling, the CJEU in the joined cases C-244/24 and C-290/24 Kaduna delivered a landmark judgment (19/12/2024). This judgment provided crucial clarifications on the duration and termination of temporary protection, particularly for individuals who qualify for protection under optional categories.

The Dutch authorities initially extended temporary protection beyond the scope of the TPD to include individuals who did not strictly meet the eligibility criteria. However, they subsequently narrowed this scope. The CJEU ruled that Member States retain the discretion to withdraw such extended protection before the end of the temporary protection period granted under EU law. However, it emphasized that individuals whose

optional protection is withdrawn cannot be subject to return measures while that optional protection remains in effect.

In the analysis of Joined Cases C-244/24 and C-290/24, Ciğer (2024) observed that both the Advocate-General's Opinion and the CJEU's Judgment tacitly acknowledge the extension of temporary protection for BTPs until 2026 without any critical examination of its legality under Article 4 of the TPD and EU law. According to Ciğer, this omission in both the Advocate-General's Opinion and the Court's Judgment is significant. The lack of legal scrutiny suggests a potential avenue for future legal challenges before the CJEU to address the legality of this extended protection period (Ciğer, 2024).

In any case, ensuring a sustainable and dignified future for BTPs requires ongoing dialogue and cooperation among the EU Member States, international organizations and Ukraine. This dialogue must prioritize individual needs, evolving circumstances on the ground, and the overarching goal of supporting the safe and inclusive integration of BTPs into European societies. The future of temporary protection in the EU will depend on a confluence of factors, including the evolving situation in Ukraine, the continued solidarity and cooperation among Member States, and the EU's capacity to adapt its policies and mechanisms to effectively address the challenges of large-scale displacement.

Another critical challenge for the EU presents the transition from the current temporary protection regime for BTPs to other legal statuses. As the initial protection period nears its conclusion, ensuring a smooth and predictable transition towards sustainable pathways for long-term residence and continued access to rights, including the right to work, is paramount. However, following the activation of the TPD several Member States exhibit uncertainties regarding the transition pathways available to BTPs upon the expiration of temporary protection. This lack of clarity can create legal uncertainty and hinder the long-term integration of BTPs (European Labour Authority, 2023).

Ciğer (2023) proposes several pathways for Ukrainians to remain in the EU after the expiration of temporary protection, including access to international protection, access to long-term resident status, and access to citizenship.

The large-scale displacement of Ukrainians presented a significant challenge to the EU asylum system. The unprecedented number of individual applications could place a considerable strain on existing resources and procedures.

Secondly, the Long-Term Residents Directive presents a significant barrier to the long-term stay of Ukrainian refugees. The Directive, in its current form, does not explicitly cover individuals granted temporary protection. Consequently, Ukrainian refugees cannot currently apply for long-term resident status, and the time spent under temporary protection is not counted towards the five-year residency requirement.

However, the European Commission's recent proposal to recast the Directive offers a potential pathway forward. This proposal aims to improve access to long-term resident status by allowing third-country nationals to cumulate residence periods across different Member States and by clarifying that all periods of legal residence, including those under temporary protection, should be fully counted towards the residency requirement.

Thirdly, Ukrainians should be also eligible to apply for resident permits in Member States based on various grounds, including employment, education, and family reunification, at least after the expiration of their temporary protection status (Ciğer, 2023).

3.2 Rebuilding Ukraine: Addressing the Demographic Challenges of War

The Russian invasion has had a devastating impact on Ukraine's demographic landscape. The war against Ukraine has exacerbated many challenges, such as that of a declining population due to factors including depopulation, high mortality rates and low birth rates, as well as population ageing. The war has also triggered mass displacement, with millions of Ukrainians forced to flee their homes, leading to depopulation in heavily impacted regions and disrupting social and economic structures. The destruction of critical infrastructure, including homes and essential services, has further compounded this displacement.

The loss of human capital has been substantial. The displacement of skilled professionals, from doctors and teachers to engineers and IT specialists, has created significant gaps in critical sectors and threatens to hinder Ukraine's post-war recovery. The displacement of large segments of the population, particularly younger and more economically active individuals, has altered the age and gender composition of affected communities, impacting long-term development.

The Institute of Demography and Quality of Life Problems of the National Academy of Sciences of Ukraine has projected a significant population decline, potentially reaching 28.9 million by 2041 and 25.2 million by 2051, if current trends continue. However, these projections are subject to significant uncertainty due to the ongoing nature of the conflict and the evolving humanitarian situation. Accurately forecasting future population trends is further complicated by the lack of reliable demographic data from temporarily occupied territories, making it difficult to assess the full extent of population losses and displacement (Cabinet of Ministers of Ukraine, 2024).

That is why, the return of BTPs to their homeland is crucial for the economic recovery of Ukraine, as it would contribute significantly to filling critical labor shortages, boost productivity and innovation, mitigate the demographic challenges facing Ukraine and help reverse the "brain drain" that has occurred since the start of the war, ensuring that Ukraine retains its human capital for future development.

However, in the context of BTPs, the principle of *non-refoulement* remains paramount. This principle prohibits the return of any person to a country where they face a serious risk of persecution, torture, or other forms of irreparable harm. This principle applies to all individuals, regardless of their migration status, and is enshrined in various international and regional human rights instruments, including the 1951 Refugee Convention (Convention relating to the Status of Refugees, adopted 28/07/1951, entered into force 22/04/1954), and the European Convention on Human Rights (The Convention for the Protection of Human Rights and Fundamental Freedoms, adopted 4/11/1950, entered into force 3/10/1953).

Returning BTPs to a country where they would face active hostilities, ongoing violence, or a risk of persecution would constitute a clear violation of the principle of *non-refoulement*. According to a January 2024 report by the Center for Economic Strategy, a key factor preventing the return of many Ukrainian refugees is security concerns. The ongoing war, including the threat of continued hostilities and the ongoing impact of the war, remains a significant barrier to return for a large portion of the displaced population (Center for Economic Strategy, 2024).

It is important to emphasize that the return must be voluntary and based on the individual circumstances and choices of BTPs. The conditions for return must be safe and sustainable, with adequate security, access to essential services, and opportunities for reintegration. Efforts should also focus on supporting the successful reintegration of returning BTPs, including providing access to employment, housing, education, and social services. By prioritizing the safety, security, and well-being of returning BTPs and providing comprehensive support for their reintegration, Ukraine can facilitate a sustainable and dignified return for those who choose to rebuild their lives in their homeland.

However, the biggest challenge is that Russia's continued aggression and military actions against Ukraine directly impede safe and sustainable returns. The constant threat of shelling, missile attacks, and the presence of Russian forces in occupied territories create an environment of fear and insecurity that discourages BTPs from returning. Russia's deliberate targeting of critical infrastructure, such as energy, water, and transportation systems, hinders the ability of BTPs to return and reintegrate. The destruction of homes, schools, and hospitals makes it impossible for many to return to their previous lives as well.

It is crucial to understand that Russia's actions directly contribute to the displacement of Ukrainians and create significant obstacles to their safe and sustainable return. Ending the war and establishing a lasting peace are essential preconditions for the voluntary and dignified return of all BTPs.

4 Conclusion

The influx of Ukrainian refugees has significantly impacted the EU labor market, presenting both challenges and opportunities. The activation of temporary protection has had a significant impact on the demographic landscape of the EU. By providing a pathway for safe and legal entry and residence, the TPD has mitigated the potential for irregular migration and eased the burden on national asylum systems. This has contributed to a more orderly and predictable influx of refugees, allowing host countries to better plan and allocate resources for their integration.

The activation of TPD has facilitated the labor market entry, with many BTPs demonstrating high levels of economic activity. However, disparities in integration outcomes exist across Member States, highlighting the need for targeted support measures.

The successful integration of Ukrainian refugees into the EU labor market requires a coordinated and comprehensive approach. Harmonizing national approaches to temporary protection by establishing common EU-wide standards and procedures for issuing documents will enhance efficiency and consistency across Member States. Furthermore, developing a secure, shared database for all individuals granted temporary protection status is crucial for improving data accuracy, preventing fraud, and enabling better coordination of support services. It is also essential to simplify administrative processes, including work permit applications that allow BTPs to quickly access the labor market and to contribute to the economy.

Importantly, the successful labor market integration of BTPs hinges on the effective recognition of their professional qualifications. However, significant disparities exist across EU Member States in the speed and efficiency of the recognition process. While

some countries have implemented measures to streamline qualification recognition for BTPs, such as temporary exemptions and expedited procedures, many challenges remain. These include lengthy processing times, high costs associated with recognition procedures, and limited access to accelerated pathways for specific professions.

To facilitate the swift and efficient labor market integration of BTPs, the implementation of temporary exemptions from certain qualification recognition requirements must be considered. This could include allowing BTPs to practice their professions under supervision. For example, allowing BTPs professionals to practice under the supervision of licensed professionals within their respective fields. Also, it could be important to implement probationary periods. Employing BTPs on a probationary basis allows them to demonstrate their skills and competencies while fulfilling remaining qualification requirements.

Cases of labor exploitation, including underpayment, long working hours, and unsafe working conditions, have been reported, highlighting the need for stronger enforcement of labor laws and improved protection mechanisms for vulnerable workers.

TPD has provided crucial support for BTPs, but its future and the long-term integration of this population remain uncertain. The continued extension of the TPD highlights the need for a long-term vision for the integration of BTPs. While the TPD has provided necessary short-term relief, a transition towards more durable and predictable legal statuses is crucial. This requires addressing the limitations of the current Long-Term Residents Directive, which includes ensuring that periods of temporary protection are counted towards long-term residence requirements.

At the same time, mass displacement, driven by the ongoing war against Ukraine and the destruction of critical infrastructure, has led to significant depopulation in many regions and disrupted social and economic structures. The loss of human capital, particularly among skilled professionals, poses a significant threat to Ukraine's post-war recovery. This is why the return of Ukrainian BTPs is crucial for the country's economic and social recovery. However, the ongoing war, including the continued threat of hostilities and the destruction of critical infrastructure, presents significant obstacles to safe and sustainable returns. Russia's continued aggression directly impedes the return of BTPs and creates an environment of fear and insecurity. It is crucial to emphasize that any return must be entirely voluntary and based on the individual circumstances and choices of each BTP.

While discussions surrounding a ceasefire are ongoing, the issue remains highly complex and uncertain. Though the nature of a ceasefire is paramount, a durable and stable agreement is essential, contrasting sharply with fragile, temporary truces. The Khasavyurt Accord, for instance, exemplifies the dangers of unreliable ceasefires, ultimately leading to the Second Chechen War and exacerbated consequences. Regardless, a sustained peace would necessitate the reevaluation of temporary protection. In such a scenario, diverse legal statuses within the EU would be required, accommodating individual circumstances. This could include transitions to long-term residency, alternative forms of protection, or facilitated returns to Ukraine.

References

- Bird, N., & Amaglobeli, D. (2022). Policies to address the refugee crisis in Europe related to Russia's invasion of Ukraine. *IMF Note 2022/003*, 1-10.
- Botelho, V., & Hägele, H. (2023, March 1). *Integrating Ukrainian refugees into the euro area labour market*. European Central Bank. <https://www.ecb.europa.eu/press/blog/date/2023/html/ecb.blog.230301~3bb24371c8.en.html>
- Cabinet of Ministers of Ukraine (2024). *Про схвалення Стратегії демографічного розвитку України на період до 2040 року: Order No. 922-r*. Government of Ukraine. <https://zakon.rada.gov.ua/laws/show/922-2024-%D1%80#n12>
- Caselli, F., Lin, H., Toscani, G. F., & Yao, J. (2024). Migration into the EU: Stocktaking of recent developments and macroeconomic implications. *Working Paper No. 2024/211*, 1-44. <https://doi.org/10.5089/979840028952.001>
- Center for Economic Strategy (2024). *Українські біженці. Майбутнє за кордоном та плани на повернення. Аналітична записка*. <https://ces.org.ua/wp-content/uploads/2024/03/ukra%D1%97nski-bizhenczi-%E2%80%8Bmajbutn%D1%94-za-kordonom-ta-plani-na-povernennya.-tretya-hvilya-doslidzhennya.pdf>
- Ciğer, M. I. (2023). *When temporary protection ends: Longer-term solutions for refugees from Ukraine*. Swedish Institute for European Policy Studies. https://www.sieps.se/globalassets/publikationer/2023/2023_11epa.pdf
- Ciğer, M. I. (2024, December 12). *No surprises here: What is discretionary?* EU Law Analysis. <http://eulawanalysis.blogspot.com/2024/12/no-surprises-here-what-is-discretionary.html>
- Desiderio, M. V., & Hooper, K. (2023). *Displaced Ukrainians in European Labour Markets: Leveraging innovations for more inclusive integration*. Migration Policy Institute Europe. https://www.migrationpolicy.org/sites/default/files/publications/mpie_ukrainians-europe-labour-markets_final.pdf
- Draghi, M. (2024). *The future of European competitiveness (Part A): A competitiveness strategy for Europe*. European Commission.
- Eurofound. (2024). *Social impact of migration: Addressing the challenges of receiving and integrating Ukrainian refugees*. Publications Office of the European Union.
- European Commission. (2020). *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Action plan on integration and inclusion 2021-2027 (COM/2020/758 final)*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0758>
- European Commission. (2023). *Recognition of qualifications of non-EU third-country nationals: Commission recommendation*. https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13965-Recognition-of-qualifications-of-non-EU-third-country-nationals-Commission-recommendation_en
- European Labour Authority (2023). *Report on the overview of the measures taken by EU and EFTA countries regarding employment and social security of displaced persons from Ukraine: Comparative summary report*. <https://www.ela.europa.eu/sites/default/files/2023-06/Report-on-the-Overview-of-the-measures-taken-by-EU-and-EFTA-countries-regarding-employment-and-social-security-of-displaced-persons-from-Ukraine.pdf>

- European Parliament (2021). *Report on new avenues for legal labour migration (2020/2010(INI))*. Committee on Civil Liberties, Justice and Home Affairs. https://www.europarl.europa.eu/doceo/document/A-9-2021-0143_EN.pdf
- Eurostat (2023). *Demography of Europe: 2023 edition*. European Union. <https://ec.europa.eu/eurostat/web/interactive-publications/demography-2023>
- Eurostat (2024). *Temporary protection for persons fleeing Ukraine: Monthly statistics*. European Union. https://ec.europa.eu/eurostat/statistics-explained/index.php/Temporary_protection_for_persons_fleeing_Ukraine_-_monthly_statistics
- Gahleitner-Gertz, L. (2022). *Country Report: Austria*. AIDA Asylum Information Database. https://asylumineurope.org/wp-content/uploads/2023/05/AIDA-AT_2022-Update.pdf
- ICC (n.d.). *Internally displaced persons*. ICC of the Ministry of Social Policy of Ukraine. <https://www.ioc.gov.ua/analytics/dashboard-vpo>
- IDMC (2024). *2024 Global Report on Internal Displacement*. Norwegian Refugee Council. <https://www.internal-displacement.org/global-report/>
- IOM (2021). *Migration in Ukraine: Facts and figures*. https://ukraine.iom.int/sites/g/files/tmzbd1861/files/documents/migration_in_ukraine_facts_and_figures_2021-eng_web-1.pdf
- IOM (2023). *Access to labour markets and employment in Europe for refugees from Ukraine*. <https://dtm.iom.int/reports/ukraine-response-regional-quarterly-overview-access-labour-markets-and-employment-europe>
- Kortukova, T. (2023). International legal framework for the protection of global food security. *Foreign trade: economics, finance, law*, 4, 16-27.
- Kortukova, T., & Yemets, Y. (2024). Temporary protection in the European Union: A legal analysis. *Legal Horizons*, 21(2), 36-45. <https://doi.org/10.54477/LH.25192353.2024.2>
- Kortukova, T., Kolosovskiy, Y., & Korolchuk, O. L. (2022). Peculiarities of the legal regulation of temporary protection in the European Union in the context of the aggressive war of the Russian Federation against Ukraine. *International Journal for the Semiotic of Law*, 36, 667-678. <https://doi.org/10.1007/s11196-022-09945-y>
- Letta, E. (2024). *Much more than a market: Speed, security, solidarity*. European Commission. <https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf>
- Litzkow (2024). *Vulnerability and resilience to exploitation and trafficking among people fleeing Ukraine*. Mixed Migration Center. https://mixedmigration.org/wp-content/uploads/2024/09/345_Vulnerability-and-resilience-to-exploitation-and-trafficking-among-people-fleeing-Ukraine.pdf
- OECD (2024). *Labour market integration of beneficiaries of temporary protection from Ukraine*. European Migration Network. https://www.oecd.org/content/dam/oecd/en/topics/policy-issues/migration/OECD-EMN%20Inform_%20Labour-market-integration-of-beneficiaries-of-temporary-protection-from-Ukraine.pdf
- OECD (2023). *Improving the assessment, recognition and validation of qualifications and skills of beneficiaries of temporary protection from Ukraine in France*. <https://www.oecd.org/content/dam/oecd/en/topics/policy-issues/migration/Improving%20the%20assessment%20recognition%20and%20validation%20of%20qualifications%20and%20skills%20of%20beneficiaries%20of%20temporary%20protection%20from%20Ukraine%20in%20France.pdf>

- Roßkopf, R. (2024). Rejections at the Border: A Derailed Debate with the Potential to Destroy the European Union. *Quarterly on Refugee Problems*, 63(3), 239-251. <https://doi.org/10.57947/qrp.v63i3.197>
- Thym, D. (2022, March 7). *Temporary protection for Ukrainians: The unexpected renaissance of free choice*. Migration Law Blog. <https://eumigrationlawblog.eu/temporary-protection-for-ukrainians-the-unexpected-renaissance-of-free-choice/>
- Trauner, F., & Wolff, S. (2024). The impact of the Russian war against Ukraine on the reform of the common European asylum system. *European Politics and Society*, 1-17. <https://doi.org/10.1080/23745118.2024.2435401>
- Statista (2025) Number of civilian casualties in Ukraine during Russia's invasion verified by OHCHR from February 24, 2022 to January 31, 2025 <https://www.statista.com/statistics/1293492/ukraine-war-casualties/>
- Ukrainian World Congress (2022, November 9). *Ukrainian refugees uphold rather than burden Polish economy*. <https://www.ukrainianworldcongress.org/ukrainian-refugees-uphold-rather-than-burden-polish-economy>
- UNHCR (2023). *Lives on hold: Intentions and perspectives of refugees from Ukraine #3*. UNHCR Regional Bureau for Europe. <https://data.unhcr.org/en/documents/details/99072>
- Zombory, M. (2018) Centers of Europe. In: M. Moskalewicz, & W. Przybylski (Eds.), *Understanding Central Europe* (pp. 32-43). Routledge.

Legal Materials

- Charter of Fundamental Rights of the European Union, 2000/C 364/01. https://www.europarl.europa.eu/charter/pdf/text_en.pdf
- Commission Recommendation (EU) 2022/554 of 5 April 2022 on the recognition of qualifications for people fleeing Russia's invasion of Ukraine. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32022H0554>
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Action plan on Integration and Inclusion 2021-2027 (COM/2020/758 final). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0758>
- Council Implementing Decision (EU) 2024/1836 of 25 June 2024 extending temporary protection as introduced by Implementing Decision (EU) 2022/382 <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32024D1836>
- Decree of 1 April 2022 on the right to work of beneficiaries of temporary protection. <https://bit.ly/3ZuhEhh>
- Directive (EU) 2001/55/EC of 20 June 2001 on minimum standards for providing 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 thereof. CELEX: 32001L0055. eur-lex.europa.eu
- Proposal for a Council Decision granting temporary protection to displaced persons from Ukraine and amending Council Decision (EU) 2022/382 [CELEX: 52022PC0091]. eur-lex.europa.eu
- Proposal for a Council Directive 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 thereof. Brussels, 24 May 2000, COM(2000) 303 final 2000/0127 (CNS).

Proposal for a Council Implementing Decision extending temporary protection as introduced by Implementing Decision (EU) 2022/382 (2024). [Council document ST 10709 2024 INIT]. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CONSIL:ST_10709_2024_INIT