

## Temporary protection of Ukrainians – an uncertain model

This short blog considers what could happen to Ukrainians protected in the EU if the conflict in their country following the Russian invasion in February 2022 becomes protracted. It considers what can be thought of as three models of long-term protection and which of these would be the more likely future for Ukrainians if the conflict does indeed become protracted.

In response to the [huge and sudden numbers](#) of people from Ukraine crossing the EU's eastern border fleeing the conflict in that country caused by the invasion of the Russian military forces on 24th of February 2022, the EU [implemented](#) an emergency response to provide immediate protection. This is known as temporary protection. This is based on [EU instruments](#) which being new and untested will give rise to [further](#) implementation issues. The EU's open borders and the unprecedented unanimous support for measures to welcome and support millions of refugees from Ukraine, of which temporary protection is a part, can be seen as part of broader coalition of legal and political measures against the Putin regime in Moscow.

While the EU's eastern states are most immediately affected because they share an extensive land border with Ukraine, other parts of the world have also implemented forms of temporary protection provisions to support Ukrainians. The UK has implemented two (criticised) schemes both of which provide protection for up to three years: the family [visa](#) scheme and the [sponsorship](#) scheme. The United States of America has implemented temporary protection [status](#) (TPS) for Ukrainians for eighteen months who are in effect stuck in the USA unable to return safely.

These new millions of refugees increase further the number of refugees under temporary protection which was even before this crisis already by far the most [widely](#) implemented form of protection across the globe although it lacks a solid and secure legal basis in international law. The UNHCR has only [guidelines](#) to support good practices. Some commentators have previously sought to justify it normatively including identifying it with the objectives of the [Refugee Convention](#) on the basis that refugee status should be a temporary interlude to the normal status of a citizen protected by their own state. The reasoning is that refugees will cease to be such as they return home and resume their lives. But, this is premised on the assumption that the causes of flight are also of a temporary, by this it is meant short, duration.

This has not been the typical character of conflicts in the 21st-century. Conflicts are typically [protracted](#) and long.

In developed states this has led out of legal necessity, not least because of the practice of human rights, of providing refugees with a pathway to integration and permanent residence. A myopic political class and electorates susceptible to anti-immigrant rhetoric have reacted against admitting refugees with the implementation of non-entrée policies and practices to resist what are constant flow of refugees from the constantly present conflicts which affects so many civilian populations. In poorer parts of the world with fewer resources and permeable borders, refugees have, under forms of temporary protection, been kept in indefinite limbo, usually in camps hugely reliant on donor funding.

Between the richest and poorest states there has developed a third way as exemplified by the response to Syrian refugees. In countries around Syria, refugees are given temporary protection status of one sort or another. Given the length of time that they have been outside their country and the uncertainty about when they will be able to return in safety, temporary protection is reframed in terms of [resilience](#) policies directed towards enabling Syrians to become self-sufficient, for

example, through permission to work and through provision of education for their children. That is the idea at least. Syrians are not principally in camps but are urban dwellers. They mix with locals but in the impoverished quarters and struggle in many cases to make ends meet. They are protected, they can in principle become self-sufficient, but for most, their circumstances are hard and there is no legal pathway to permanent residency and to certainty.

The heroic resistance of the Ukrainians and the inspiration of President Zelensky has given rise to speculation of both a long [drawn out](#) conflict and some [hope](#) that it could be a short one. If the war proves to be drawn out, then the EU will face a challenge on a scale that it has never seen. EU temporary protection can last up to three years. If EU solidarity were to hold up to this point, it would be under severe strain thereafter. It is not obvious given the long-standing tensions in developed states around refugee protection, that many, let alone all EU states would open paths to permanent residency. These tensions would find their expression in the emotional swings of the populist voice, which swings from intolerance to tolerance and back to intolerance. In such a case, it would not be surprising that EU states transition from temporary protection, to forms of tolerance and then to policies of intolerance.

In short, one hopes a swift end to this conflict so Ukrainians can return home and rebuild their country and their lives. One hopes for justice for Ukraine. One hopes then that the need to offer protection proves to be temporary. If this is not the case, then after three years, when EU temporary protection must end, EU states face the prospect of offering permanent residency to millions of refugees. A cold assessment of EU states' weariness to long term commitment to refugees suggests that they will be looking to avoid permanent commitments. Temporary protection is a bitter pill for the Ukrainian refugees. To the extent that it supports the EU's open-door policy and has offered immediate protection, it must surely be welcomed. But very soon minds will turn to what happens next and all the uncertainty. Ukrainians will need to be resilient.