

Canoas, v. 13, n. 3, 2025

Artigos

Recebido: 28.02.2025

Aprovado: 12.09.2025

Publicado: 12.2025

DOI <http://dx.doi.org/10.18316/REDES.v13i312449>



Legal Regulation Provision of temporary protection of citizens of Ukraine in the member states of the European Union

Yuliia Shestakova

Organization Taras Shevchenko National University of Kyiv, Ukraine
<https://orcid.org/0000-0003-1060-4521>

Volodymyr Dryshliuk

Odessa State University of Internal Affairs, Ukraine
<https://orcid.org/0000-0002-2274-441X>

Alla Zhuravel

Odessa State University of Internal Affairs, Ukraine
<https://orcid.org/0000-0001-9557-1655>

Olha Kulinich

Dnipro State University of Internal Affairs, Ukraine
<https://orcid.org/0000-0002-0603-0513>

Tetiana Zhuravlova

Dnipro State University of Internal Affairs, Ukraine
<https://orcid.org/0000-0002-1030-2745>

Abstract: The article examines the legal prospects of the international mechanism of temporary protection for citizens of Ukraine in the member states of the EU. The issue of temporary protection is regulated by Directive 2001/55/EC dated July 20, 2001, which was activated for the first time in history by EU Council Decision 2022/382 dated March 4, 2022, which provides immediate protection and access to rights in the EU, including the right to residence, access to housing, access to the labor market, access to education for children, the right to medical and social assistance. The Directive 2001/55/EC was activated for the first time in history for Ukrainians who are fleeing war masses after the full-scale invasion of the Russian army in Ukraine, and the 3-year period is the maximum for its effect. However, the war in Ukraine continues and the EU Council decided to extend temporary protection for Ukrainian citizens in the member states of the European Union until March 4, 2026. Forecasts by experts regarding when the war in Ukraine will end vary greatly (from this year to decades), and therefore the issue of the legal status of Ukrainian citizens in the member states of the European Union becomes relevant and needs to find options for its solution. However, temporary legal status for an indefinite period is not the best solution; citizens of Ukraine found themselves in EU member states in waiting mode without a time frame. This does not contribute either to the full integration of Ukrainians into European society or to their

decision to return to Ukraine. The purpose of the article is to analyze possible legal options for solving this issue based on the complex use of such methods of scientific knowledge as historical, formal-legal, comparative-legal and prognostic. It was concluded that in modern political conditions it is necessary to look for a permanent legal mechanism for the stay of citizens of Ukraine in the EU member states, rather than a temporary one.

Keywords: international protection, long-term EU resident status, refugees, rights of EU citizens, temporary protection.

Regulamentação Legal Provisão de proteção temporária de cidadãos da Ucrânia nos estados-membros da União Europeia

Resumo: O artigo examina as perspectivas legais do mecanismo internacional de proteção temporária para cidadãos da Ucrânia nos estados-membros da UE. A questão da proteção temporária é regulamentada pela Diretiva 2001/55/EC datada de 20 de julho de 2001, que foi ativada pela primeira vez na história pela Decisão do Conselho da UE 2022/382 datada de 4 de março de 2022, que fornece proteção imediata e acesso a direitos na UE, incluindo o direito de residência, acesso à moradia, acesso ao mercado de trabalho, acesso à educação para crianças, o direito à assistência médica e social. A Diretiva 2001/55/EC foi ativada pela primeira vez na história para ucranianos que estão fugindo da guerra em massa após a invasão em grande escala do exército russo na Ucrânia, e o período de 3 anos é o máximo para seu efeito. No entanto, a guerra na Ucrânia continua e o Conselho da UE decidiu estender a proteção temporária para cidadãos ucranianos nos estados-membros da União Europeia até 4 de março de 2026. As previsões de especialistas sobre quando a guerra na Ucrânia terminará variam muito (desde este ano até décadas) e, portanto, a questão do status legal dos cidadãos ucranianos nos estados-membros da União Europeia se torna relevante e precisa encontrar opções para sua solução. No entanto, o status legal temporário por um período indeterminado não é a melhor solução; os cidadãos da Ucrânia se encontraram em estados-membros da UE em modo de espera sem um prazo. Isso não contribui nem para a integração total dos ucranianos na sociedade europeia nem para sua decisão de retornar à Ucrânia. O objetivo do artigo é analisar possíveis opções legais para resolver esta questão com base no uso complexo de métodos de conhecimento científico como histórico, formal-legal, comparativo-legal e prognóstico. Concluiu-se que nas condições políticas modernas é necessário buscar um mecanismo legal permanente para a permanência de cidadãos da Ucrânia nos estados-membros da UE, em vez de um temporário.

Palavras-chave: proteção internacional, estatuto de residente de longa duração na UE, refugiados, direitos dos cidadãos da UE, proteção temporária.

Introduction

According to UNHCR (the UN Refugee Agency) statistics, as of July 2024, there were about 6 million forcibly displaced persons (refugees) from Ukraine in European countries.¹ The vast majority of

¹ UKRAINE REFUGEE SITUATION, THE OPERATIONAL DATA PORTAL, UNHCR (THE UN REFUGEE AGENCY), accessed August 21, 2024. <https://data.unhcr.org/en/situations/ukraine>.

them have the status of temporary protection in accordance with the Directive 2001/55/EC of 07/20/2001, which provides for the automatic granting of asylum on the territory of the European Union in the event of a massive and sudden influx of displaced persons from third countries.² The EU directive was adopted in 2001, in the aftermath of the large-scale displacement experienced in Europe due to the armed conflicts in the Western Balkans, in particular from Bosnia and Herzegovina and Kosovo.³ However, for the first time in history this Directive was activated for a period of one year by the EU Council Decision 2022/382 of 03/04/2022 to protect persons fleeing Ukraine due to a large-scale attack by the Russian army on February 24, 2022.⁴

Then, the Directive was automatically extended for another year until March 4, 2024. The next decision on the extension of the Directive was made in the European Union in the autumn 2023. On 27 September 2023, ministers reached a political agreement on the extension of the temporary protection until 4 March 2025. The decision was adopted on 19 October 2023. Therefore, in the member states of the European Union, temporary protection will be provided to Ukrainians until March 4, 2025, that is, within three years from the moment of activation of the Directive 2001/55/EC of 07/20/2001, which is the maximum possible period of its validity. According to Article 4 of the Directive, the duration of temporary protection shall be one year. It may be extended automatically by six monthly periods for a maximum of one year. Where reasons for temporary protection persist, the Council may decide by qualified majority, on a proposal from the Commission to extend that temporary protection by up to one year.⁵

At the same time, the war in Ukraine continues and on 25 June 2024 the Council of the EU adopted a decision to extend the temporary protection until 4 March 2026 for the more than 4 million Ukrainians fleeing from Russia's war of aggression⁶. The maximum possible validity period of the Directive 2001/55/EC dated July 20, 2001 was 3 years, i.e. until March 4, 2025. It should be noted that the issue of termination of temporary protection is regulated by Article 6 of the Directive.⁷ Temporary protection shall come to an end: (a) when the maximum duration has been reached; or (b) at any time, by Council Decision adopted by a qualified majority on a proposal from the Commission. The Council Decision shall be based on the establishment of the fact that the situation in the country of origin is such as to permit the safe and

² COUNCIL DIRECTIVE 2001/55/EC OF 20 JULY 2001 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. <https://eur-lex.europa.eu/eli/dir/2001/55/oj>.

³ EU RESPONSE TO RUSSIA'S WAR OF AGGRESSION AGAINST UKRAINE", COUNCIL OF THE EUROPEAN UNION, accessed August 21, 2024. https://www.consilium.europa.eu/en/policies/eu-response-ukraine-invasion/refugee-inflow-from-ukraine/?utm_source=twitter.com&utm_medium=social&utm_campaign=20231019-jha-temporary-protection-ukraine&utm_content=visual-card/.

⁴ COUNCIL IMPLEMENTING DECISION (EU) 2022/382 OF 4 MARCH 2022 ESTABLISHING THE EXISTENCE OF A MASS INFLUX OF DISPLACED PERSONS FROM UKRAINE WITHIN THE MEANING OF ARTICLE 5 OF DIRECTIVE 2001/55/EC, AND HAVING THE EFFECT OF INTRODUCING TEMPORARY PROTECTION, **Council of the European Union**, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32022D0382>.

⁵ COUNCIL DIRECTIVE 2001/55/EC OF 20 JULY 2001 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. accessed July 24, 2024, <https://eur-lex.europa.eu/eli/dir/2001/55/oj>.

⁶ UKRAINIAN REFUGEES: COUNCIL EXTENDS TEMPORARY PROTECTION until March 2026, **Council of the European Union**, accessed July 24, 2024. <https://www.consilium.europa.eu/en/press/press-releases/2024/06/25/ukrainian-refugees-council-extends-temporary-protection-until-march-2026/>.

⁷ VOLOSHANIVSKA, Tetiana. POZIHUN, Inna. LOSYCH, Serhii. MERDOVA, Olha. LEHEZA, Yevhen. Administrative and Criminal Law Aspects of Preventing Offenses Committed by Minors in the Sphere of Illegal Circulation of Narcotic Drugs, Psychotropic Substances and Precursors. **Journal of Drug and Alcohol Research**, v. 12, n. 10, 2023. <https://doi.org/10.4303/JDAR/236269>

durable return of those granted temporary protection with due respect for human rights and fundamental freedoms and Member States' obligations regarding non-refoulement.⁸ However, today no one has an answer to the following questions. How long will the war continue in Ukraine? How many more times will the EU Council have to decide on the extension of temporary protection for Ukrainian refugees? According to the authors of the article, in modern political realities, it is worth looking for a fundamentally different approach regarding the further legal status of Ukrainian citizens in the EU member states. The purpose of the article is to analyze possible legal options for solving this issue

Methodology

This research is based on formal-legal, comparative-legal, historical and prognostic methods. With the help of the formal-legal method, the texts of international legal acts, other sources of legal information were studied and analyzed using formal-logical methods, legal techniques and legal systematics. The comparative legal method made it possible to compare relevant legal norms regarding the legal status of forcibly displaced Ukrainians who need temporary protection and, for example, the legal status of refugees, and to reveal their essential differences and perspectives. Using the historical method, the previous experience of solving the problem of a massive and sudden influx of refugees from third countries in the member states of the European Union was considered. The use of the prognostic method made it possible to make assumptions (forecasts) about the legal options for solving the issue of Ukrainian refugees in the European Union after March 4, 2026.

The information and analytical base of the study consists of international legal documents, in particular, legal acts of the European Union, as well as scientific works, analytical publications on the issue of temporary protection of Ukrainians in the member states of the European Union. The main international acts analyzed in the article are: Council Directive 2001/55/EC of 20 July 2001 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 thereof⁹; Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection¹⁰; UN Convention Relating to the Status of Refugees of 1951 - Geneva Convention of 1951¹¹; Dublin Convention of 1990¹²; Council Directive

⁸ COUNCIL DIRECTIVE 2001/55/EC OF 20 JULY 2001 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. <https://eur-lex.europa.eu/eli/dir/2001/55/oj>.

⁹ COUNCIL DIRECTIVE 2001/55/EC OF 20 JULY 2001 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, <https://eur-lex.europa.eu/eli/dir/2001/55/oj>.

¹⁰ COUNCIL IMPLEMENTING DECISION (EU) 2022/382 OF 4 MARCH 2022 ESTABLISHING THE EXISTENCE OF A MASS INFLUX OF DISPLACED PERSONS FROM UKRAINE WITHIN THE MEANING OF ARTICLE 5 OF DIRECTIVE 2001/55/EC, AND HAVING THE EFFECT OF INTRODUCING TEMPORARY PROTECTION, Council of the European Union. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32022D0382>.

¹¹ UN CONVENTION RELATING TO THE STATUS OF REFUGEES of 28 July 1951 (Geneva Convention), United Nations, <https://www.unhcr.org/media/convention-and-protocol-relating-status-refugees>.

¹² CONVENTION DETERMINING THE STATE RESPONSIBLE FOR EXAMINING APPLICATIONS FOR ASYLUM LODGED IN ONE OF THE MEMBER STATES OF THE EUROPEAN COMMUNITIES dated June 15, 1990 (Dublin Convention of 1990), Council of Europe, 2024. <https://eur-lex.europa.eu/legal->

2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents¹³; Charter of Fundamental Rights of the European Union.¹⁴

Results and discussion

The concept of temporary protection and its characteristics

Therefore, until March 4, 2026, Ukrainian refugees in the member states of the European Union will use temporary protection. The concept of temporary protection is defined in Article 2 (a) of the Directive 2001/55/EC of 07/20/2001: “temporary protection” means a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons.¹⁵ Therefore, temporary protection has a collective nature and is granted immediately after crossing the border on general grounds to all persons who are masse forced to seek temporary protection in the EU countries, and who applied for such protection. The grounds for obtaining the status of a person in need of temporary protection are external: external aggression, foreign occupation, civil war, ethnic conflicts, natural or man-made disasters.¹⁶ The purpose of the temporary protection mechanism is to provide immediate and collective (that is, without the need to consider individual applications) protection of displaced persons who are unable to return to their country of origin. The main rights of Ukrainians who are receiving temporary protection are: *residency rights and access to housing; access to the labour market; social welfare and medical assistance; access to education for children and teenagers.*

Xhardez and Soennecken (2023) write that the Russian invasion of Ukraine in February 2022 triggered a major displacement crisis. In an unprecedented move, the European Union activated the 2001 Temporary Protection Directive to give those fleeing the conflict temporary protection, marking the first use of the directive in 20 years. Meanwhile, Canada announced its readiness to accept an unlimited number of Ukrainians and launched the Canada-Ukraine Authorization of Emergency Travel to fast-track their arrival.¹⁷

The authors compare the policy responses of the EU and Canada to the crisis in Ukraine, focusing on the two temporary protection schemes and differentiating between their overarching goals, policy instruments, and settings.¹⁸ Bauloz and Ruiz (2016) note that since the 2004 Qualification Directive (Council

[content/EN/ALL/?uri=CELEX%3A41997A0819%2801%29](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A41997A0819%2801%29).

¹³ COUNCIL DIRECTIVE 2003/109/EC CONCERNING THE STATUS OF THIRD-COUNTRY NATIONALS WHO ARE LONG-TERM RESIDENTS. 25 November 2003, **Council of the European Union**, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02003L0109-20110520&qid=1472219910415&from=EN>.

¹⁴ EU CHARTER 2012/C 326/02 OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION, EUROPEAN UNION, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>.

¹⁵ COUNCIL DIRECTIVE 2001/55/EC OF 20 JULY 2001 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. <https://eur-lex.europa.eu/eli/dir/2001/55/oj>.

¹⁶ CLARIFICATION REGARDING TEMPORARY PROTECTION AND OBTAINING REFUGEE STATUS. **Human Rights Ombudsman of Ukraine**, March 17, 2022, https://ombudsman.gov.ua/news_details/rozyasnennya-shchodo-timchasovogo-zahistu-ta-otrimannya-statusu-bizhencya.

¹⁷ LEHEZA, Yevhen. YUROVSKA, Viktoriia. ZAMRYHA, Artur. ULOZHENKO, Vadym, BOHDAN. Bohdana Administrative and legal regulation of the status of internally displaced persons in ukraine during the war. **University of western Australia law review**. v. 51, n. 2, p. 297-313, 2024. <https://www.uwa.edu.au/schools/-/media/documents/uwa-law-review/volume-51-issue-2/leheza-et-al-formatted.pdf>.

¹⁸ XHARDEZ, Catherine. SOENNECKEN, Dagmar. Temporary Protection in Times of Crisis: The European Union, Canada, and the **Invasion of Ukraine, Politics and Governance**, v. 11.3, p. 264-275, 2023. <https://doi.org/10.17645/pag.v11i3.6817>.

Directive 2004/83/ EC of 29 April 2004), international protection in the European Union is of a double nature. It not only relies on the refugee status, but also entails the granting of another form of protection: subsidiary protection.

The latter builds on Member States' non-refoulement obligations under international human rights law - more particularly the 1950 European Convention on Human Rights. However, these two types of international protection have not been conceived on an equal footing. Subsidiary protection has been instituted as complementary to the refugee status, that is, subsidiarily granted when the latter cannot be conferred.¹⁹ Peers (2012) points out that the Commission planned to propose an EU immigration code in 2013. This is an opportunity to revise the existing EU legislation in order to enhance standards and procedural rights for migrants, as well as to improve its clarity and coherence.²⁰

If we turn to historical experience, temporary protection was first applied by the states of the European Union in the 1990s in relation to war refugees from the former Yugoslavia.²¹ At that time, there was no the Directive 2001/55/EC and the common approaches developed by the EU countries had the character of recommendations. After the end of the special regime of temporary protection, each EU member state decided the issue of refugees from Yugoslavia separately. Some asylum countries, primarily Germany, where the number of refugees from Yugoslavia was the largest, offered them to return home, in particular, announcing that they could resort to forced eviction if necessary.²² Of the approximately 320,000 refugees from the former Yugoslavia who were in Germany, the majority either returned to their homeland or left for other countries. Only 22,000 users of temporary protection received permits to stay on other grounds.²³ At the same time, other states, in particular Austria, the Scandinavian countries, gave the opportunity for the majority of refugees to transform their temporary status into a permanent one. In some countries, this happened through the procedure of granting them refugee status in accordance with the UN Convention of 1951, in others, the government was guided by the level of integration of the new arrivals and granted long-term residence permits to those who were employed, paid for housing independently, and had no serious offenses.²⁴ Also, a number of scientific studies have analyzed changes in Europe's immigration policy in comparison with the Syrian refugee crisis in 2015-2016, for example Näre, Abdelhady and Irastorza (2022)²⁵, Pepinsky, Reiff and Szabó (2024)²⁶. The general conclusion of these studies is the statement that the Ukrainian refugee crisis is

¹⁹ BAULOZ, Céline. GÉRALDINE, Ruiz. Refugee Status and Subsidiary Protection: Towards a Uniform Content of International Protection? In **Reforming the Common European Asylum System**, (Leiden, The Netherlands: Brill | Nijhoff, 2016), https://doi.org/10.1163/9789004308664_010.

²⁰ PEERS, Steve. An EU Immigration Code: Towards a Common Immigration Policy. *European Journal of Migration and Law*, 14, 1 (2012): 33-61, <https://doi.org/10.1163/157181612X627661>.

²¹ LEHEZA, Yevhen. YEROFIEIENKO, Larysa. KOMASHKO, Volodymyr. 'Peculiarities of Legal Regulation of Intellectual Property Protection in Ukraine under Martial Law: Administrative and Civil Aspects'. *Revista Justiça Do Direito*, v. 37, n. 3, p. 157-72, 2023. <https://doi.org/10.5335/rjd.v37i3.15233>.

²² PERSPECTIVES OF THE LEGAL STATUS OF UKRAINIAN REFUGEES IN EUROPE AFTER THE EXPIRATION OF TEMPORARY PROTECTION. *The National Institute for Strategic Studies*, October 20, 2023, <https://niss.gov.ua/news/komentari-ekspertiv/perspektyvy-pravovoho-statusu-ukrayinskykh-bizhentsiv-u-yevropi-pislya>.

²³ VALENTA, Marko. STRABAC, Zan. The dynamics of Bosnian refugee migrations in the 1990s, current migration trends and future prospects. *Refugee Survey Quarterly*, v. 32, n. 3, p. 1-22, 2013. <http://www.jstor.org/stable/45054962>.

²⁴ PERSPECTIVES OF THE LEGAL STATUS OF UKRAINIAN REFUGEES IN EUROPE AFTER THE EXPIRATION OF TEMPORARY PROTECTION. *The National Institute for Strategic Studies*, October 20, 2023, <https://niss.gov.ua/news/komentari-ekspertiv/perspektyvy-pravovoho-statusu-ukrayinskykh-bizhentsiv-u-yevropi-pislya>.

²⁵ NÄRE, L., ABDELHADY, D. IRASTORZA, N., What Can We Learn from the Reception of Ukrainian Refugees?. *Nordic Journal of Migration Research*, v. 12, n. 3, p. 255-258, 2022. <https://doi.org/10.33134/njmr.620>.

²⁶ PEPINSKY, Thomas B., ÁDÁM Reiff, KRISZTINA Szabó, The Ukrainian Refugee Crisis and the Politics of Public Opinion: Evidence from Hungary, *Perspectives on Politics*, 2024. <https://doi.org/10.1017/S1537592724000410>.

accompanied by a significant increase in tolerance towards refugees in EU member states.²⁷

It should be noted that not only the member states of the European Union have the experience of activating the legal regime of temporary protection. Temporary protection has long been a state response to mass influx situations offering persons seeking refuge immediate protection from refoulement and basic minimum treatment. Since 2011, Syrians in Turkey have been protected under a temporary protection regime.²⁸ The Syrian civil war prompted a large number of people to flee their country and seek asylum in other countries, making Turkey a leading host country with around 3.6 million of asylum seekers. Syrian asylum seekers in Turkey are under temporary protection regime under Turkish Temporary Protection Regulation²⁹. Also, for example, Freier and García (2022) note that the Temporary Protection Status (TPS) for Venezuelan citizens announced by the Colombian government in February 2021. The Colombian TPS grants Venezuelan citizens regular status and documentation for 10 years, the opportunity to integrate into the formal job market, and full access to public services (Directiva Presidencial 05 de 2022).³⁰

At the same time, regarding the issue of ending temporary protection, the Directive contains the following important points. In article 21 it is written that the Member States shall take the measures necessary to make possible the voluntary return of persons enjoying temporary protection or whose temporary protection has ended. The Member States shall ensure that the provisions governing voluntary return of persons enjoying temporary protection facilitate their return with respect for human dignity. Article 22 states that the Member States shall take the measures necessary to ensure that the enforced return of persons whose temporary protection has ended and who are not eligible for admission is conducted with due respect for human dignity.³¹ In cases of enforced return, Member States shall consider any compelling humanitarian reasons which may make return impossible or unreasonable in specific cases. And finally, according to Article 23 the Member States shall take the necessary measures concerning the conditions of residence of persons who have enjoyed temporary protection and who cannot, in view of their state of health, reasonably be expected to travel; where for example they would suffer serious negative effects if their treatment was interrupted. They shall not be expelled so long as that situation continues. The Member States may allow families whose children are minors and attend school in a Member State to benefit from residence conditions allowing the children concerned to complete the current school period.³²

²⁷ LEHEZA, Yevhen, YANKOVYI, Mykola. MEDVEDENKO, Nadiia. VAIDA, Taras. KOVAL, Marat. Application of Artificial Intelligence in Motivating Court Decisions: Legal Basis and Foreign Experience. *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, v. 24, n. 1, p. 58–69, 2024. <https://doi.org/10.30631/alrisalah.v24i1.1531>

²⁸ INELI-CIGER, Meltem. A Temporary Protection Regime in Line with International Law: Utopia or Real Possibility? *International Community Law Review*, v. 18, n. 3-4, p. 278-316, 2016. <https://doi.org/10.1163/18719732-12341332>.

²⁹ ZENGINKUZUCU. Dikran M. A Comparative Analysis on International Refugee Law and Temporary Protection in the Context of Turkey. *The Age of Human Rights Journal*, n. 17, p. 385-410, 2021. <https://doi.org/10.17561/tahrj.v17.6297>.

³⁰ FREIER, Luisa Feline. GARCÍA, Lucas SEBASTIÁN, Gómez, Temporary protection for forced migrants: a commentary on the Colombian temporary protection status, *International Migration*, v. 60, n. 5, p. 271-275, 2022. <https://doi.org/10.1111/imig.13056>.

³¹ KORNIENKO, Maksym, DESYATNIK, Anatolii DIDKIVSKA, Galina LEHEZA, Yevhen and TITARENKO Oleksiy. 'Peculiarities of Investigating Criminal Offenses Related to Illegal Turnover of Narcotic Drugs, Psychotropic Substances, Their Analogues or Precursors: Criminal Law Aspect'. *Khazanah Hukum* 5, n. 3, p. 205–15, 2023. <https://doi.org/10.15575/kh.v5i3.31742>.

³² COUNCIL DIRECTIVE 2001/55/EC OF 20 JULY 2001 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, <https://eur-lex.europa.eu/eli/dir/2001/55/oj>.

Legal perspectives of the legal status of Ukrainian citizens in EU member states in the context of Ukraine's future membership in the EU

Thus, despite the maximum possible period of validity of Directive 2001/55/EC of 20.07.2001 – 3 years, i.e. until March 4, 2025, The Council of the EU decided to extend temporary protection for citizens of Ukraine in the member states of the European Union until March 4, 2026. However, if the reasons for temporary protection will remain in the future, what are the possible options for the legal status of citizens of Ukraine in the EU member states? In particular, the aim of the research of Buzarov (2023) is to identify new qualitative aspects and specific features of the integration processes of Ukrainian migrants, which are characteristic of the social situation in the European Union that has developed after the aggression of the Russian Federation.³³

Particular attention is paid to the new components of social relations, the accumulation of knowledge, which will make it possible to respond to new conflict factors, to develop inclusiveness and tolerance in accordance with the qualitative specificities of refugees arriving in the EU countries as a result of the war. As a result of the study, the author writes that the integration of those groups of migrants from Ukraine who plan to stay permanently in European countries should take into account their language, age, educational, labour and social characteristics.³⁴ Kratz (2024) writes that in line with the modernization hypothesis, research shows that worldviews on immigration have become more liberal across generations in Western societies over the last century.³⁵

Different ideas are being discussed in the European Union. In particular, there is a proposal to extend the temporary protection of Ukrainian refugees for the period necessary for the reconstruction of the country, for example, for ten years. However, staying in such a long waiting period will have a negative impact on both Ukrainian refugees and the member states of the European Union.³⁶

A long temporary legal status and an uncertain future will discourage Ukrainian refugees from integrating into local society, learning the language of the host country, joining serious and long-term training or retraining programs, and effectively using their labor and intellectual potential. In turn, employers will not be in a hurry to hire and invest in workers who are in the country for an indefinite period of time and only temporarily.³⁷ Dobiášová (2024) expresses a similar opinion. While the first months of the war were in the spirit of providing the necessary assistance to Ukrainian refugees, now it is necessary to focus

³³ LEHEZA, Yevhen, SHCHERBYNA, Bogdan. LEHEZA, Yulia. PUSHKINA, Olena. MARCHENKO, Olesia. 'Features of Applying the Right to Suspension or Complete/ Partial Refusal to Fulfill a Duty in Case of Non-Fulfilment of the Counter Duty by the Other Party According to the Civil Legislation of Ukraine'. *Revista Jurídica Portucalense*, no. Sp, p. 340–58, 2023. [https://doi.org/10.34625/issn.2183-2705\(ne\)2023.ic-17](https://doi.org/10.34625/issn.2183-2705(ne)2023.ic-17).

³⁴ BUZAROV, Andrii. Tendencies of adaptation and integration of immigrants from Ukraine in the European Union after the aggression of the Russian Federation against Ukraine. *Baltic Journal of Economic Studies*, v. 9, n. 2, p. 73-90, 2023. <https://doi.org/10.30525/2256-0742/2023-9-2-73-90>.

³⁵ KRATZ, Fabian. Socialism and the Modernization Hypothesis: Changes in Attitudes toward Immigration across Birth Cohorts by Type of Welfare State, *Communist and Post-Communist Studies*, v. 57, n. 1, p. 19–44, 2024. <https://doi.org/10.1525/cpcs.2024.2046013>.

³⁶ LEHEZA, Yevhen. SHCHERBYNA, Bogdan. LEHEZA, Yulia. PUSHKINA, Olena. MARCHENKO, Olesia. Características de la suspensión o denegación total/parcial del cumplimiento de una obligación en caso de incumplimiento de la contraparte según la legislación civil de Ucrania. *Novum Jus*, v. 18, n. 2, p. 131–150, 2024. <https://doi.org/10.14718/NovumJus.2024.18.2.5>

³⁷ PERSPECTIVES OF THE LEGAL STATUS OF UKRAINIAN REFUGEES IN EUROPE AFTER THE EXPIRATION OF TEMPORARY PROTECTION, *The National Institute for Strategic Studies*, October 20, 2023, <https://niss.gov.ua/news/komentari-ekspertiv/perspektyvy-pravovoho-statusu-ukrayinskykh-bizhentsiv-u-yevropi-pislyu>.

on their integration into mainstream society. Only then can the migration process be completed successfully, and everyone can benefit from it.³⁸

According to the authors of this article, the most realistic option for solving the issue of the future legal status of Ukrainian refugees in the EU after the end of temporary protection is a legal mechanism related to the prospects of Ukraine's membership in the European Union. The official process of Ukraine becoming a member of the EU has already begun. On June 23, 2022, the leaders of 27 EU member states made a decision to grant Ukraine the status of a candidate for EU membership.³⁹ On December 14, 2023, the leaders of the European Union at the summit in Brussels approved the European Commission's recommendation to start negotiations on Ukraine's accession to the European Union.⁴⁰ And on 25 June, the first EU-Ukraine Intergovernmental Conference took place marking the official start of negotiations on Ukraine's accession to the European Union.

Our partners recognise that Ukraine has demonstrated unprecedented momentum in implementing key reforms.⁴¹ Formally, the process of starting negotiations is the second stage of the accession process of the candidate country to the EU, which includes adaptation and readiness to implement EU law, as well as readiness to implement administrative, economic and other reforms that are necessary to fulfill the criteria defined for the country, the so-called accession criteria. Conducting negotiations is a very long and complex process, which actually precedes the stage of signing the Treaty on accession to the EU.⁴²

Based on the above, it is worth focusing not on finding options for granting Ukrainians the right to stay in the EU for humanitarian reasons, but on expanding their access to the European labor market, ensuring freedom of residence and movement in Europe. On the one hand, this will meet the interests of those European countries that consider Ukrainian refugees as an additional human resource for their own development and are ready to promote their integration, but on the other hand, such a decision will also be useful for Ukraine. It will help preserve the model of circular migration, which is much more profitable for the country compared to emigration for long-term residence, which was inherent in the pre-war migration behavior of Ukrainians.⁴³ It should also be taken into account that forced migration from Ukraine is characterized by its distinctive demographic character: women, children, and the elderly. This distinctiveness is due to the sex-selective military recruiting law forcing Ukrainian men to stay in the country.⁴⁴ The research shows that most Ukrainians that have left their Motherland due to war have family members that remain in Ukraine.⁴⁵ That is, it is worth going along the path of providing citizens of Ukraine

³⁸ DOBIÁŠOVÁ, M., Status of Ukrainian refugees in Europe – case study of the Czech Republic and France. *In Political Science*, v. 27, n. 1, p. 43-62, 2024. <https://doi.org/10.24040/politickevedy.2024.27.1.43-62>.

³⁹ UKRAINE RECEIVED THE STATUS OF A CANDIDATE FOR EU MEMBERSHIP. *Government portal*, June 23, 2022, <https://www.kmu.gov.ua/news/ukrayina-otrimala-status-kandidata-na-chlenstvo-v-yes>.

⁴⁰ THE LEADERS OF THE EU SUPPORTED THE OPENING OF NEGOTIATIONS WITH UKRAINE AND MOLDOVA”, *European truth*, December 14, 2023, <https://www.eurointegration.com.ua/news/2023/12/14/7175588/>.

⁴¹ PRIME MINISTER: OUR GOAL IS TO COMPLETE THE NEGOTIATION PROCESS AND BECOME AN EU MEMBER AS SOON AS POSSIBLE. *Government portal*, June 28, 2024, <https://www.kmu.gov.ua/en/news/premier-ministr-nasha-meta-iajnaishvydshe-proity-perehovornyi-protses-ta-staty-chlenom-ies>.

⁴² BUKVYCH, Anna. On the way to the EU: before and after the start of negotiations. *LIGA ZAKON*, December 25, 2023, https://jurliga.ligazakon.net/news/224473_na-shlyakhu-do-s-do--pslyya-pochatku-peregovorv.

⁴³ PERSPECTIVES OF THE LEGAL STATUS OF UKRAINIAN REFUGEES IN EUROPE AFTER THE EXPIRATION OF TEMPORARY PROTECTION. *The National Institute for Strategic Studies*, October 20, 2023, <https://niss.gov.ua/news/komentari-ekspertiv/perspektyvy-pravovoho-statusu-ukrayinskykh-bizhentsiv-u-yevropi-pisly>.

⁴⁴ MICKELSSON, T. B., Safety, Shame, and Ambiguity — the Case of Ukrainian Male Refugees. *International Migration Review*, 2023. <https://doi.org/10.1177/01979183231216075>.

⁴⁵ GERLACH, I. RYNDZAK, O. Ukrainian Migration Crisis Caused by the War. *Studia Europejskie-Studies in European Affairs*, v. 26, n. 2, p. 17-29, 2022. <https://doi.org/10.33067/SE.2.2022.2>.

(as citizens of a country that will become a member of the EU in the future) part of the rights that citizens of the European Union have on a permanent basis (in particular, these are social and economic rights).⁴⁶

Basically, these are the rights that Ukrainians have today within the framework of temporary protection in the European Union. The document establishing the basic civil, political, economic and social rights of citizens of the European Union is the Charter of Fundamental Rights of the EU. These rights are guaranteed in the EU countries and wherever EU law is applicable.⁴⁷

First of all, it is about the right to move freely, live, work and study in any EU country. This right is enshrined in article 45 of the Charter of Fundamental Rights. Every citizen of the Union has the right to move and reside freely within the territory of the Member States. Freedom of movement and residence may be granted, in accordance with the Treaties, to nationals of third countries legally resident in the territory of a Member State⁴⁸. In particular, Zernova (2023), communicating with representatives of institutions dealing with refugees and migrants in the Republic of Austria, shares her conclusions. The level of education of Ukrainians turned out to be high compared to other countries. The presence of high soft skills among Ukrainians was a big surprise for Europeans. It took almost a year for the leadership of the EU countries to recognize that Ukrainians are not a burden for the EU countries. They became their opportunity to fill economies. In the countries of the European Union, Ukrainians currently have access to the labor market. In most cases, Ukrainians are offered work specialties that do not correspond to the high qualifications and work experience of Ukrainians. Integration into the labor market is complicated by the language characteristics of each country and the requirements for confirming qualifications.⁴⁹

It is the permanent, not the temporary character of the right to freely move, live, work and study in any EU country for citizens of Ukraine that will ensure the effectiveness of the integration of Ukrainians into European society; will provide an opportunity for Ukrainians to fully live, study and work in the European Union or Ukraine, to secure a future for themselves and their children in the conditions of the ongoing war in Ukraine.⁵⁰

Refugee status and its difference from temporary protection

Another mechanism for the protection of persons who are forced to leave their homes for the sake of personal safety and the safety of their children, which is currently regulated by international law, is the submission of a request for asylum and the acquisition of refugee status in accordance with the UN Convention of 1951. The Article 1 of the UN Convention of 1951 defines the concept of "refugee": the term "refugee" shall apply to any person who owing to well-founded fear of being persecuted for reasons of race,

⁴⁶ LEHEZA, Yevhen. PISOTSKA, Karina. DUBENKO, Oleksandr. DAKHNO, Oleksandr. SOTSKYI, Artur. The Essence of the Principles of Ukrainian Law in Modern Jurisprudence. *Revista Juridica Portucalense*, n. 3, p. 342-363, 2022. DOI: [https://doi.org/10.34625/issn.2183-2705\(32\)2022.ic-15](https://doi.org/10.34625/issn.2183-2705(32)2022.ic-15)

⁴⁷ THE EUROPEAN UNION: WHAT IT IS AND WHAT IT DOES", European Commission, Directorate-General for Communication, **Publications Office of the European Union**, 2022, <https://data.europa.eu/doi/10.2775/17968>.

⁴⁸ EU CHARTER 2012/C 326/02 OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION, European Union, 2012, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>.

⁴⁹ ZERNOVA, Anastasiia. What should Ukrainians living in Europe do? *Liga.net*, February 8, 2023, <https://blog.liga.net/user/azernova/article/49282>.

⁵⁰ VOLOBUEVA, Olena, LEHEZA, Yevhen. PERVII, Vita. PLOKHUTA, Yevhenii. PICHKO, Roman. Criminal and Administrative Legal Characteristics of Offenses in the Field of Countering Drug Trafficking: Insights from Ukraine. *Yustisia Jurnal Hukum*, v. 12, n.3, p. 262–77, 2023. <https://doi.org/10.20961/yustisia.v12i3.79443>

religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country⁵¹. Of course, temporary protection in the EU member states does not exclude the possibility of the person who received it at any time to apply for refugee status. However, in contrast to immediate and collective interim protection, a refugee is an individual legal status that is granted after a long and complex administrative procedure (about six months), which determines whether a person is in reasonable danger of being persecuted, and ends with the acquisition of citizenship. In addition, according to the Dublin Convention of 1990, refugee status is granted in the first safe country after crossing the border.⁵² One of the authors of this article, Kozhura (2023), took part in a study that compared two different international protection mechanisms for people who are forced to leave their homes for their personal safety and the safety of their children: refugee status and temporary protection. In particular, it was concluded that temporary protection and refugee status provide almost the same range of rights during the stay in the EU. These are the right to residence and housing, access to education for children, the right to medical and social assistance, and access to the labor market.⁵³

The main difference is that with temporary protection, these rights become available immediately from the moment of data registration and confirmation that the person is covered by temporary protection. When a person applies for refugee status, certain rights are unavailable or limited for approximately 6 months while the application is being considered and a decision is made (in particular, the right to work).⁵⁴

In particular, the Head of the State Migration Service of Ukraine, Naumenko (2023), emphasizes that the circumstances that force a person to receive refugee status in another country are purely individual. The status of "refugee" is protection from the country from which one has fled. A person who receives refugee status is "afraid of his country", "afraid of persecution by his country" and cannot return to his country in any way, even for a short period of time. In order to obtain international protection - the status of a refugee - long-term checks of the circumstances that forced a person to flee his country are carried out.⁵⁵ Considering the above, it is unlikely that such a legal mechanism of international protection can be realistic for about 6 million Ukrainians who are currently in the member states of the European Union. All the more so, as the European Commission clearly states: determination of international protection status (refugee status) does not depend on temporary protection; it is the subject to a different procedure in the competent public authorities in the EU country and the outcome is determined on the basis of the specific personal situation.⁵⁶

⁵¹ UN CONVENTION RELATING TO THE STATUS OF REFUGEES OF 28 JULY 1951 (GENEVA CONVENTION), United Nations, <https://www.unhcr.org/media/convention-and-protocol-relating-status-refugees>.

⁵² CONVENTION DETERMINING THE STATE RESPONSIBLE FOR EXAMINING APPLICATIONS FOR ASYLUM LODGED IN ONE OF THE MEMBER STATES OF THE EUROPEAN COMMUNITIES dated June 15, 1990 (Dublin Convention of 1990), Council of Europe, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A41997A0819%2801%29>.

⁵³ LEHEZA, Yevhen Oleksandrovysh. FILATOV, Viktor. VARAVA, Volodymyr, HALUNKO, Vira. KARTSYHIN Dmytro. 'Scientific and Practical Analysis of Administrative Jurisdiction in the Light of Adoption of the New Code of Administrative Procedure of Ukraine'. *Journal of Legal, Ethical and Regulatory*, v. 22, n. 5, p. 1-8, 2019. <https://dspace.oduvs.edu.ua/items/8756f8b6-59a2-4d6b-920c-b68d55efae0e>.

⁵⁴ KUZMENKO, O. RYNDIUK, V. KOZHURA, L. CHORNA, V. TYTYKALO, R. Legal aspects of temporary protection for ukrainians in the member states of the European Union, *Juridical Tribune*, v. 13, n. 2, p. 224-240, 2023. <https://doi.org/10.24818/TBJ/2023/13/2.04>.

⁵⁵ NAUMENKO, Nataliya. **Why Ukrainians who fled the war abroad are not refugees** - the Migration Service explains Ukrinform, September 29, 2023, <https://www.ukrinform.ua/rubric-society/3767744-comu-ukrainci-aki-vtekli-vid-vijni-za-kordon-ne-e-bizencami-rozasnenna-migracijnoi-sluzbi.html>.

⁵⁶ TEMPORARY PROTECTION OF UKRAINIANS IS NOT ETERNAL - WHAT YOU NEED TO KNOW ABOUT ASYLUM IN EUROPE: CONDITIONS, TERMS AND ALTERNATIVES. *We are Ukraine*, August 22, 2023, <https://weukraine.tv/top/tymchasovyj-zahyst-ukrayintsiv-ne-vichnyj-shho-treba-znaty-pro-prytulok-v-yevropi-umovy-stroky->

The status of a long-term resident: legal prospects for citizens of Ukraine

Another option for solving the issue of the further stay of Ukrainian citizens in the EU member states after the expiration of the temporary protection period is the idea of revising Directive 2003/109/EU of November 25, 2003.⁵⁷ This Directive sets out the conditions under which third-country nationals can acquire EU long-term resident status. Arcarazo (2011) studies the implications for third-country nationals of the adoption of the Long-term Residence Directive. In his opinion, this Directive has the potential to become a subsidiary form of EU citizenship which escapes direct control by Member States⁵⁸. In particular, Weingerl and Tratnik (2022) discusses legal migration in the EU. In their opinion, there are convincing reasons for aligning the treatment of long-term resident migrant workers from non-EU countries (third-country nationals (TCNs)) with that of migrant workers from EU member states. Of the five categories of arguments, only the human and the economic unequivocally push in the direction of treating TCN migrant workers and EU national workers equally for the purpose of free movement of workers.

The political, social and cultural considerations are to a large extent permeated with the national sovereignty (security) narrative, though this could soon change as a consequence of the negative demographic trend in the EU. However, if looked at through the lens of consistency and rationality (required by the principle of equality), the human rights and economic perspectives carry more persuasive legal and normative force⁵⁹. Danaj, Vah Jevšnik, Kielbasa and Szaraniec (2023) argue that the posting of TCNs might grow into an important intra-EU mobility channel, with the caveat that while certain EU countries will insist on restricting direct access to their national labour market for TCNs, other EU countries, especially those that so far have acted as labour or services suppliers, will lend themselves as gate-openers for the intra-EU mobility of TCNs.⁶⁰ Or, for example, the aim of the study Yaroshenko, Prokopiiev, Inshyn, Maliuha, and Hnidenko (2022) is a comprehensive analysis of the legislation on the fight against illegal employment both at the supranational level of the European Union and at the EU Member States level, inter alia, in Poland, France, and Germany. The authors argue that that illegal employment destroys legal jobs, leads to the increase in unemployment and deprives the state of revenues such as tax and social contributions, etc. That is why international declarations and conventions should guarantee the right to work in the European Union for the citizens of non-European states.⁶¹

In order to acquire EU long-term resident status, third-country nationals have to legally and continuously reside in a member state for at least five years. This EU status exists alongside national long-

[ta-alternatyva/](#).

⁵⁷ VOLOBUIEVA, Olena, LEHEZA, Yevhen. PERVII, Vita. PLOKHUTA, Yevhenii. PICHKO, Roman. Criminal and Administrative Legal Characteristics of Offenses in the Field of Countering Drug Trafficking: Insights from Ukraine. *Yustisia Jurnal Hukum* v. 12, n.3, p. 262–77, 2023. <https://doi.org/10.20961/yustisia.v12i3.79443>.

⁵⁸ ARCARAZO, Diego Acosta, Long-Term Residence Status as a Subsidiary Form of EU Citizenship: An Analysis of Directive 2003/109. Brill, Series “**Immigration and Asylum Law and Policy in Europe**”, v. 23, 2011. <https://brill.com/display/title/20055>.

⁵⁹ WEINGERL, Petra. TRATNIK, Matjaž Climbing the Wall around EU Citizenship: Has the Time Come to Align Third-Country Nationals with Intra-EU Migrants? *European Journal of International Law*, v. 33, n. 1, p. 15–38, 2022. <https://doi.org/10.1093/ejil/chac008>.

⁶⁰ DANAJ S., VAH JEVŠNIK M., KIELBASA M. SZARANIEC M. There and gone again? Migration to and posting of third-country nationals from Slovenia and Poland. *European Labour Law Journal*, v. 14, n. 3, p. 391-420, 2023. <https://doi.org/10.1177/20319525231165851>.

⁶¹ YAROSHENKO Oleg M., PROKOPIEV Roman Ye., INSHYN Mykola I., MALIUHA Lesya Ju. and HNIDENKO Viktoriia I., Combating the illegal employment of third-country nationals in the member states of the European Union. *Krytyka Prawa. Niezależne Studia Nad Prawem*, v. 14, n. 2, p. 202-218, 2022. <https://doi.org/10.7206/kp.2080-1084.531>.

term resident schemes. In accordance with the Council position, third-country nationals can cumulate residence periods of up to two years in other member states in order to meet the requirements of the five-year residence period. Certain conditions will apply in order for applicants to be able to acquire long-term resident status. For instance, third-country applicants must provide evidence of stable and regular resources that are sufficient to maintain themselves and the members of their family, as well as sickness insurance. Member states may also require third-country nationals to comply with integration conditions. Long-term resident status is permanent. However, it can be withdrawn in certain cases, for instance when a person has not had their main residence in the EU for a certain period of time.⁶² Long-term residents enjoy equal treatment with the country's nationals in areas such as employment, education, social security, taxation and freedom of association.⁶³

The objectives of the Directive on the status of non-EU nationals who are long-term residents are as follows: ensure that non-EU nationals who have lived in an EU country for at least five years have a permanent and secure residence status; grant these non-EU nationals a set of rights that are similar to those enjoyed by EU citizens, in terms of work, education, social security, access to goods and services; make it easier for these non-EU nationals to move to other EU countries to work and study⁶⁴. However, so far Ukrainians under temporary protection do not meet these requirements. It is important that, according to Article 3 of the EU Directive 2003/109/EC, it does not apply to persons who: reside in order to pursue studies or vocational training; are authorised to reside in a Member State on the basis of temporary protection; are authorised to reside in a Member State on the basis of a subsidiary form of protection in accordance with international obligations, national legislation or the practice of the Member States; are refugees.⁶⁵

Conclusions

Summing up this study, it should be noted that from March 4, 2022 to March 4, 2026, the Directive 2001/55/EC on temporary protection applies for Ukrainian refugees in the member states of the European Union, which provides immediate protection and access to rights in the EU, including the right to residence, access to housing, access to the labor market, access to education for children, the right to medical and social assistance. The Directive 2001/55/EC was activated for the first time in history for Ukrainians who are fleeing war masse after the full-scale invasion of the Russian army in Ukraine, and the 3-year period is the maximum for its effect. However, the war in Ukraine continues and the EU Council decided to extend temporary protection for Ukrainian citizens in the member states of the European Union until March 4, 2026. Forecasts by experts regarding when the war in Ukraine will end vary greatly (from this year to decades), and therefore the issue of the legal status of Ukrainian citizens in the member states of the European Union

⁶² THIRD-COUNTRY NATIONALS: EU UPDATES RULES FOR LONG-TERM RESIDENT STATUS. **Council of the European Union**, Press release 23 November 2023, <https://www.consilium.europa.eu/en/press/press-releases/2023/11/23/third-country-nationals-eu-updates-rules-for-long-term-resident-status/>.

⁶³ NON-EU NATIONALS — RULES FOR LONG-TERM RESIDENCE. **An official website of the European Union**, accessed August 21, 2024, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legisum%3A123034>.

⁶⁴ LONG-TERM RESIDENTS, **An official website of the European Union**, accessed August 21, 2024, https://home-affairs.ec.europa.eu/policies/migration-and-asylum/legal-migration-and-integration/long-term-residents_en.

⁶⁵ COUNCIL DIRECTIVE 2003/109/EC CONCERNING THE STATUS OF THIRD-COUNTRY NATIONALS WHO ARE LONG-TERM RESIDENTS. 25 November 2003, **Council of the European Union**, <https://eur-lex.europa.eu/eli/dir/2003/109/oj>.

becomes relevant and needs to find options for its solution.

Another existing mechanism of international protection in the form of refugee status is unlikely to be applied to Ukrainian citizens in EU member states. First, in contrast to immediate and collective temporary protection, a refugee is an individual legal status that is granted after a fairly long and complex administrative procedure that determines whether a person is at a reasonable risk of being persecuted. Secondly, the refugee status is obtained by a person who is afraid of persecution by the country of which he is a citizen and cannot return to his country even for a short period of time. Ukrainians who found themselves outside of Ukraine due to Russian armed aggression are not fleeing from their state, but on the contrary, are under its protection.

Another option for solving the issue of the future legal status of Ukrainian citizens in EU member states is the revision of Directive 2003/109/EC, which defines the conditions for obtaining the right to long-term residence within the EU. However, so far, Ukrainians under temporary protection do not meet the requirements for obtaining the status of long-term EU residents. In particular, it is to legally and continuously reside in a certain EU country for 5 years, as well as to have a stable and regular income sufficient to support yourself and your family (without receiving social assistance).

However, the most promising option for solving the issue of the future legal status of Ukrainian refugees in the EU after the end of temporary protection is a legal mechanism related to the future membership of Ukraine in the European Union. In the conditions of the ongoing war in Ukraine, legal mechanisms should be sought not for granting Ukrainians the right to stay in the EU on humanitarian grounds, but the legal mechanisms for granting citizens of Ukraine (as citizens of a candidate state for EU membership) part of the rights that citizens of the European Union have on a permanent basis (in particular, these are social and economic rights). These are exactly the rights that Ukrainians have today within the framework of temporary protection in the European Union.

References

ARCARAZO, Diego Acosta, Long-Term Residence Status as a Subsidiary Form of EU Citizenship: An Analysis of Directive 2003/109. Brill, Series “**Immigration and Asylum Law and Policy in Europe**”, v. 23, 2011.

<https://brill.com/display/title/20055>.

BAULOZ, Céline. GÉRALDINE, Ruiz. **Refugee Status and Subsidiary Protection: Towards a Uniform Content of International Protection?** In *Reforming the Common European Asylum System*, (Leiden, The Netherlands: Brill | Nijhoff, 2016), https://doi.org/10.1163/9789004308664_010.

BUKVYCH, Anna. On the way to the EU: before and after the start of negotiations. **LIGA ZAKON**, December 25, 2023, https://jurliga.ligazakon.net/news/224473_na-shlyakhu-do-s-do--pslyya-pochatku-peregovorv.

BUZAROV, Andrii. Tendencies of adaptation and integration of immigrants from Ukraine in the European Union after the aggression of the Russian Federation against Ukraine. **Baltic Journal of Economic Studies**, v. 9, n. 2, p. 73-90, 2023. <https://doi.org/10.30525/2256-0742/2023-9-2-73-90>.

CLARIFICATION REGARDING TEMPORARY PROTECTION AND OBTAINING REFUGEE STATUS. **Human Rights Ombudsman of Ukraine**, March 17, 2022, https://ombudsman.gov.ua/news_details/rozyasnennya-shchodo-timchasovogo-zahistu-ta-otrimannya-statusu-bizhencya.

CONVENTION DETERMINING THE STATE RESPONSIBLE FOR EXAMINING APPLICATIONS FOR ASYLUM LODGED IN ONE OF THE MEMBER STATES OF THE EUROPEAN COMMUNITIES dated June 15, 1990 (Dublin Convention of 1990), **Council of Europe**, 2024. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A41997A0819%2801%29>.

COUNCIL DIRECTIVE 2001/55/EC OF 20 JULY 2001 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. <https://eur-lex.europa.eu/eli/dir/2001/55/oj>.

COUNCIL DIRECTIVE 2003/109/EC CONCERNING THE STATUS OF THIRD-COUNTRY NATIONALS WHO ARE LONG-TERM RESIDENTS. 25 November 2003, **Council of the European Union**, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02003L0109-20110520&qid=1472219910415&from=EN>.

COUNCIL IMPLEMENTING DECISION (EU) 2022/382 OF 4 MARCH 2022 ESTABLISHING THE EXISTENCE OF A MASS INFLUX OF DISPLACED PERSONS FROM UKRAINE WITHIN THE MEANING OF ARTICLE 5 OF DIRECTIVE 2001/55/EC, AND HAVING THE EFFECT OF INTRODUCING TEMPORARY PROTECTION, **Council of the European Union**, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32022D0382>.

DANAJ S., Vah JEVŠNIK M., KIEŁBASA M. SZARANIEC M. There and gone again? Migration to and posting of third-country nationals from Slovenia and Poland. **European Labour Law Journal**, v. 14, n. 3, p. 391-420, 2023. <https://doi.org/10.1177/20319525231165851>.

DOBIÁŠOVÁ, M., Status of Ukrainian refugees in Europe – case study of the Czech Republic and France. **In Political Science**, Vol. 27, no. 1 (2024): 43-62, <https://doi.org/10.24040/politickevedy.2024.27.1.43-62>.

EU CHARTER 2012/C 326/02 OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION, EUROPEAN UNION, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>.

EU RESPONSE TO RUSSIA'S WAR OF AGGRESSION AGAINST UKRAINE”, COUNCIL OF THE EUROPEAN UNION, accessed August 21, 2024. https://www.consilium.europa.eu/en/policies/eu-response-ukraine-invasion/refugee-inflow-from-ukraine/?utm_source=twitter.com&utm_medium=social&utm_campaign=20231019-jha-temporary-protection-ukraine&utm_content=visual-card/.

FREIER, Luisa Feline. GARCÍA, Lucas SEBASTIÁN, Gómez, Temporary protection for forced migrants: a commentary on the Colombian temporary protection status, **International Migration**, v. 60, n. 5, p. 271-275, 2022. <https://doi.org/10.1111/imig.13056>.

GERLACH, I. RYNDZAK, O. Ukrainian Migration Crisis Caused by the War. **Studia Europejskie-Studies in European Affairs**, v. 26, n. 2, p. 17-29, 2022. <https://doi.org/10.33067/SE.2.2022.2>.

INELI-CIGER, Meltem. A Temporary Protection Regime in Line with International Law: Utopia or Real Possibility? **International Community Law Review**, v. 18, n. 3-4, p. 278-316, 2016. <https://doi.org/10.1163/18719732-12341332>.

KORNIENKO, Maksym, DESYATNIK, Anatolii DIDKIVSKA, Galina LEHEZA, Yevhen and TITARENKO Oleksiy. ‘Peculiarities of Investigating Criminal Offenses Related to Illegal Turnover of Narcotic Drugs, Psychotropic Substances, Their Analogues or Precursors: Criminal Law Aspect’. **Khazanah Hukum** 5, n. 3, p. 205–15, 2023. <https://doi.org/10.15575/kh.v5i3.31742>.

KRATZ, Fabian. Socialism and the Modernization Hypothesis: Changes in Attitudes toward Immigration across Birth Cohorts by Type of Welfare State, **Communist and Post-Communist Studies**, 57 (1) (2024): 19–44, <https://doi.org/10.1525/cpcs.2024.2046013>.

KUZMENKO, O. RYNDIUK, V. KOZHURA, L. CHORNA, V. TYTYKALO, R. Legal aspects of temporary protection for ukrainians in the member states of the European Union, **Juridical Tribune**, v. 13, n. 2, p. 224-240, 2023. <https://doi.org/10.24818/TBJ/2023/13/2.04>.

LEHEZA, Yevhen. YUROVSKA, Viktoriia. ZAMRYHA, Artur. ULOZHENKO, Vadym, BOHDAN. Bohdana Administrative and legal regulation of the status of internally displaced persons in ukraine during the war. **University of western Australia law review**, v. 51, n. 2, p. 297-313, 2024. <https://www.uwa.edu.au/schools/-/media/documents/uwa-law-review/volume-51-issue-2/leheza-et-al-formatted.pdf>

LEHEZA, Yevhen, YANKOVYI, Mykola. MEDVEDENKO, Nadiia. VAIDA, Taras. KOVAL, Marat. Application of Artificial Intelligence in Motivating Court Decisions: Legal Basis and Foreign Experience. **Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan**, v. 24, n. 1, p. 58–69, 2024. <https://doi.org/10.30631/alrisalah.v24i1.1531>

LEHEZA, Yevhen Oleksandrovych. FILATOV, Viktor. VARAVA, Volodymyr, HALUNKO, Vira. KARTSYHIN Dmytro. 'Scientific and Practical Analysis of Administrative Jurisdiction in the Light of Adoption of the New Code of Administrative Procedure of Ukraine'. **Journal of Legal, Ethical and Regulatory**, v. 22, n. 5, p. 1–8, 2019. <https://dspace.oduvs.edu.ua/items/8756f8b6-59a2-4d6b-920c-b68d55efae0e>.

LEHEZA, Yevhen, SHCHERBYNA, Bogdan. LEHEZA, Yulia. PUSHKINA, Olena. MARCHENKO. Olesia. 'Features of Applying the Right to Suspension or Complete/ Partial Refusal to Fulfill a Duty in Case of Non-Fulfilment of the Counter Duty by the Other Party According to the Civil Legislation of Ukraine'. **Revista Jurídica Portucalense**, n. Sp. P. 340–58, 2023. [https://doi.org/10.34625/issn.2183-2705\(ne\)2023.ic-17](https://doi.org/10.34625/issn.2183-2705(ne)2023.ic-17).

LEHEZA, Yevhen. PISOTSKA, Karina. DUBENKO, Oleksandr. DAKHNO, Oleksandr. SOTSKYI, Artur. The Essence of the Principles of Ukrainian Law in Modern Jurisprudence. **Revista Jurídica Portucalense**, n. 32, p. 342-363, 2022. DOI: [https://doi.org/10.34625/issn.2183-2705\(32\)2022.ic-15](https://doi.org/10.34625/issn.2183-2705(32)2022.ic-15)

LEHEZA, Yevhen. SHCHERBYNA, Bogdan. LEHEZA, Yulia. PUSHKINA, Olena. MARCHENKO, Olesia.. Características de la suspensión o denegación total/parcial del cumplimiento de una obligación en caso de incumplimiento de la contraparte según la legislación civil de Ucrania. **Novum Jus**, v. 18, n. 2, p. 131–150, 2024 <https://doi.org/10.14718/NovumJus.2024.18.2.5>

LEHEZA, Yevhen. YEROFIEIENKO, Larysa. KOMASHKO, Volodymyr. 'Peculiarities of Legal Regulation of Intellectual Property Protection in Ukraine under Martial Law: Administrative and Civil Aspects'. **Revista Justiça Do Direito**, v. 37, n. 3, p. 157–72, 2023. <https://doi.org/10.5335/rjd.v37i3.15233>.

LONG-TERM RESIDENTS, **An official website of the European Union**, accessed August 21, 2024, https://home-affairs.ec.europa.eu/policias/migration-and-asylum/legal-migration-and-integration/long-term-residents_en.

MICKELSSON, T. B., Safety, Shame, and Ambiguity — the Case of Ukrainian Male Refugees. **International Migration Review**, 2023. <https://doi.org/10.1177/01979183231216075>.

NÄRE, L., ABDELHADY, D. IRASTORZA, N., What Can We Learn from the Reception of Ukrainian Refugees?. *Nordic Journal of Migration Research*, 12(3) (2022): 255–258, <https://doi.org/10.33134/njmr.620>.

NAUMENKO, Nataliya. **Why Ukrainians who fled the war abroad are not refugees** - the Migration Service explains Ukrinform, September 29, 2023, <https://www.ukrinform.ua/rubric-society/3767744-comu-ukrainci-aki-vtekli-vid-vijni-za-kordon-ne-e-bizencami-rozasnenna-migracijnoi-sluzbi.html>.

NON-EU NATIONALS — RULES FOR LONG-TERM RESIDENCE. **An official website of the European Union**, accessed August 21, 2024, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legissum%3A123034>.

PEERS, Steve. An EU Immigration Code: Towards a Common Immigration Policy. *European Journal of Migration and Law*, 14, 1 (2012): 33-61, <https://doi.org/10.1163/157181612X627661>.

PEPINSKY, Thomas B., ÁDÁM Reiff, KRISZTINA Szabó, The Ukrainian Refugee Crisis and the Politics of Public Opinion: **Evidence from Hungary, Perspectives on Politics**, 2024. <https://doi.org/10.1017/S1537592724000410>.

PERSPECTIVES OF THE LEGAL STATUS OF UKRAINIAN REFUGEES IN EUROPE AFTER THE EXPIRATION OF TEMPORARY PROTECTION. **The National Institute for Strategic Studies**, October 20, 2023, <https://niss.gov.ua/news/komentari-ekspertiv/perspektyvy-pravovoho-statusu-ukrayinskykh-bizhentsiv-u-yevropi-pislya>.

PERSPECTIVES OF THE LEGAL STATUS OF UKRAINIAN REFUGEES IN EUROPE AFTER THE EXPIRATION OF TEMPORARY PROTECTION. **The National Institute for Strategic Studies**, October 20, 2023, <https://niss.gov.ua/news/komentari-ekspertiv/perspektyvy-pravovoho-statusu-ukrayinskykh-bizhentsiv-u-yevropi-pislya>.

PRIME MINISTER: OUR GOAL IS TO COMPLETE THE NEGOTIATION PROCESS AND BECOME AN EU MEMBER AS SOON AS POSSIBLE. **Government portal**, June 28, 2024, <https://www.kmu.gov.ua/en/news/premier-ministr-nasha-meta-iaiknaishvydshe-proity-perehovorni-protses-ta-staty-chlenom-ies>.

TEMPORARY PROTECTION OF UKRAINIANS IS NOT ETERNAL - WHAT YOU NEED TO KNOW ABOUT ASYLUM IN EUROPE: CONDITIONS, TERMS AND ALTERNATIVES. **We are Ukraine**, August 22, 2023, <https://weukraine.tv/top/tymchasovyj-zahyst-ukrayintsiv-ne-vichnyj-shho-treba-znaty-pro-ptyulok-v-yevropi-umovy-stroky-ta-alternatyva/>.

THE EUROPEAN UNION: WHAT IT IS AND WHAT IT DOES”, **European Commission, Directorate-General**

for Communication, Publications Office of the European Union, 2022, <https://data.europa.eu/doi/10.2775/17968>.

THE LEADERS OF THE EU SUPPORTED THE OPENING OF NEGOTIATIONS WITH UKRAINE AND MOLDOVA”, **European truth**, December 14, 2023, <https://www.euointegration.com.ua/news/2023/12/14/7175588/>.

THIRD-COUNTRY NATIONALS: EU UPDATES RULES FOR LONG-TERM RESIDENT STATUS. **Council of the European Union**, Press release 23 November 2023, <https://www.consilium.europa.eu/en/press/press-releases/2023/11/23/third-country-nationals-eu-updates-rules-for-long-term-resident-status/>.

UKRAINE RECEIVED THE STATUS OF A CANDIDATE FOR EU MEMBERSHIP. **Government portal**, June 23, 2022, <https://www.kmu.gov.ua/news/ukrayina-otrimala-status-kandidata-na-chlenstvo-v-yes>.

UKRAINE REFUGEE SITUATION, THE OPERATIONAL DATA PORTAL, UNHCR (THE UN REFUGEE AGENCY), accessed August 21, 2024. <https://data.unhcr.org/en/situations/ukraine>.

UKRAINIAN REFUGEES: COUNCIL EXTENDS TEMPORARY PROTECTION until March 2026, **Council of the European Union**, accessed July 24, 2024. <https://www.consilium.europa.eu/en/press/press-releases/2024/06/25/ukrainian-refugees-council-extends-temporary-protection-until-march-2026/>.

UN CONVENTION RELATING TO THE STATUS OF REFUGEES of 28 July 1951 (Geneva Convention), United Nations, <https://www.unhcr.org/media/convention-and-protocol-relating-status-refugees>.

VALENTA, Marko. STRABAC, Zan. The dynamics of Bosnian refugee migrations in the 1990s, current migration trends and future prospects. **Refugee Survey Quarterly**, v. 32, n. 3, p. 1–22, 2013. <http://www.jstor.org/stable/45054962>.

VOLOBUIEVA, Olena, LEHEZA, Yevhen. PERVII, Vita. PLOKHUTA, Yevhenii. PICHKO, Roman. Criminal and Administrative Legal Characteristics of Offenses in the Field of Countering Drug Trafficking: Insights from Ukraine. **Yustisia Jurnal Hukum**, v. 12, n. 3, p. 262–77, 2023. <https://doi.org/10.20961/yustisia.v12i3.79443>.

VOLOSHANIVSKA, Tetiana. POZIHUN, Inna. LOSYCH, Serhii. MERDOVA, Olha. LEHEZA, Yevhen. Administrative and Criminal Law Aspects of Preventing Offenses Committed by Minors in the Sphere of Illegal Circulation of Narcotic Drugs, Psychotropic Substances and Precursors. **Journal of Drug and Alcohol Research**, v. 12, n. 10, 2023. <https://doi.org/10.4303/JDAR/236269>

WEINGERL, Petra. TRATNIK, Matjaž Climbing the Wall around EU Citizenship: Has the Time Come to Align Third-Country Nationals with Intra-EU Migrants? **European Journal of International Law**, v. 33, n. 1, p. 15–38, 2023. <https://doi.org/10.1093/ejil/chac008>.

XHARDEZ, Catherine. SOENNECKEN, Dagmar. Temporary Protection in Times of Crisis: The European Union, Canada, and the Invasion of Ukraine, **Politics and Governance**, v. 11.3, p. 264-275, 2023. <https://doi.org/10.17645/pag.v11i3.6817>.

YAROSHENKO Oleg M., PROKOPIEV Roman Ye., INSHYN Mykola I., MALIUHA Lesya Ju. and HNIDENKO Viktoriia I., Combating the illegal employment of third-country nationals in the member states of the European Union. *Krytyka Prawa*. **Niezależne Studia Nad Prawem**, v. 14, n. 2, p. 202-218, 2022. <https://doi.org/10.7206/kp.2080-1084.531>.

ZENGINKUZUCU. Dikran M. A Comparative Analysis on International Refugee Law and Temporary Protection in the Context of Turkey. **The Age of Human Rights Journal**, n. 17, p. 385-410, 2021. <https://doi.org/10.17561/tahrj.v17.6297>.

ZERNOVA, Anastasiia. What should Ukrainians living in Europe do? **Liga.net**, February 8, 2023, <https://blog.liga.net/user/azernova/article/49282>.