

**With Open Arms?
Temporary Protection and Exclusionary and Differentiated Solidarity in the European Union**

Emek M. Uçarer
Department of International Relations
Bucknell University
Lewisburg, PA 17837

Phone: 570-577-1498
ucarer@bucknell.edu

Paper prepared for Biennial Conference of the European Union Studies Association,
Pittsburgh, May 4-6, 2023

First Draft: please do not cite without the permission of the author.
Comments and suggestions welcome.

Introduction

Ukraine has become the centre of our continent. The place where our values are upheld, where our freedom is defended, where the future of Europe is written.

Ursula von der Leyen, President of the European Commission (European Commission 2023b)

On 27 February 2022, three days after Ukraine was invaded, European Commission President Ursula von der Leyen declared on behalf of the European Union (EU) that they “welcome with open arms those Ukrainians who have to flee from Putin’s bombs and I am proud of the warm welcome that Europeans have given them... We will do this in full solidarity” (European Commission 2022a). The numbers were significant and displacement swift. By 25 April 2023, the United Nations High Commissioner for Refugees (UNHCR) recorded 8,174,779 Ukrainian refugees across Europe, 5,047,700 of whom were registered for Temporary Protection (TP) or similar national schemes (See Appendix I for a complete breakdown). In response to this mass influx, nine days after the invasion on 4 March 2022, the Council unanimously adopted an implementing decision to activate the Temporary Protection Directive (TPD) for the first time since its adoption in 2001 (Council of the European Union 2022). This remarkably speedy decision to extend TP to the displacement caused by war in Ukraine stands in sharp contrast to the absence of activation during the 2015/16 influx of asylum seekers, primarily from Syria and Afghanistan. Adding to this contrast is the position of Hungary, Poland, and Slovakia, all neighbors of Ukraine who, during the 2015 episode, were staunchly opposed to implementing solidarity measures.

Drawing on the literature on the governance of the Area of Freedom, Security, and Justice in the European Union (EU), the paper begins by situating the protection of asylum seekers within the EU’s stated solidarity goals and locating the solidarity provisions of the TPD. It then traces the displacement of individuals seeking protection into the EU in 2015/16 and 2022 to demonstrate the divergence between solidarity rhetoric and practice by documenting and comparing the EU’s responses during the same years. While TP was envisioned in 2001 to provide solidarity to fleeing individuals as well as member states who

were faced with a mass influx, its non-use in 2015/16 was a result of opposition in the Council, primarily but not exclusively by Central and Eastern European (CEE) countries to extend blanket protection to those arriving at the Union's eastern maritime borders. When the Commission argued TP to be the most appropriate approach in 2022, it was counting on a different constellation of interests in the Council wherein CEE countries, among others, were supportive. The politics of exclusionary populism that resisted inclusive solidarity in 2015/16 were not on display towards fleeing Ukrainians seen in neighboring CEE countries as ethnic kin. The activation of the TP Directive is certainly an appropriate response to the Ukraine war. EU's policy responses, however, demonstrate tendencies towards differentiated, if not exclusionary, solidarity beyond the Ukraine war.

Common European Asylum System (CEAS) as Defensive Integration

The birth and governance difficulties in EU's CEAS is well-documented in the European integration literature. CEAS was established in 1999 to formulate common standards between member states in receiving and processing asylum seekers and their claims (Comte 2020; Uçarer 2022a). While TPD was the first piece of adopted legislation under CEAS, it later crystallized around legislation on determining the procedural rules governing asylum applications (Asylum Procedures Directive), setting standards on the living conditions of asylum seekers upon arrival (the Reception Conditions Directive), defining who can lay claim to refugee status (Qualification Directive), allocating member state responsibility for processing an asylum claim (the Dublin Regulation), and the EURODAC Regulation assisting the Dublin Regulation by setting up a fingerprinting system, also resulting in the launching of the European Asylum Support Office (EASO) to support the implementation of CEAS in member states. The first wave of CEAS instruments was adopted between 2003–2005, and the second wave, in 2010–2013, delivered revisions to existing documents. CEAS currently finds itself in its (stalled) third phase (Guild 2021).

The CEAS portfolio has typically yielded lowest common denominator instruments because decisions initially needed unanimity. Unanimity afforded a veto for each member state, and the decision-making environment constrained the European Commission and the European Parliament. Even after the

EU moved towards the Ordinary Legislative Procedure and normalized the role of the Commission and the Parliament after the Amsterdam Treaty, policy output maintained the defensive and restrictive tenor of earlier days. As the EU expanded to Central and Eastern Europe, these new members also started playing a role in buttressing restrictive trends. Consequently, whereas the EU's rhetoric proclaimed its commitment to the protection of human rights, the right to seek asylum included, its institutional setup favored restrictionist policy outcomes (Lavenex 2018). Furthermore, while the EU legislation was calibrated to limit access to EU territory, the protection of the asylum seekers' human rights was largely delegated to member states whose implementation policies, despite minimum thresholds imagined by the EU, remained disparate.

The second phase of the CEAS reflects the continuation of this defensive core rather than rethinking exclusionary measures through the lens of human rights (Trauner and Lavenex 2016). The events of 2015 were not a significant catalyst for change for the CEAS, instead underscoring fragmentation between member states, reintroducing border controls, and aiming to pass the buck. The crisis did not end EU cooperation in the CEAS, but brought on an episode of "defensive integration," especially during 2015/2016 when member states engaged simultaneously in internal re-bordering (through temporarily suspending Schengen) and external re-bordering by attempting to shore up external borders (Schimmelfennig 2021, 316; Kriesi et al. 2021, 331), for example through a robust European Border and Coast Guard. Unable to come up with a joint solution and unwilling to trigger TPD, member states undertook a number of national, ad hoc, and frequently divergent measures to contend with the influx of displaced persons. The CEAS thus has a policy heritage that has produced minimum protection standards for the EU and its inability to adequately address the 2015 fallout points to ongoing tendencies hardened by newer challenges, dissonant with EU's stated commitment to solidarity. That said, TPD had the most potential as an instrument of solidarity in the EU. We now turn to a review of the genesis of TPD before setting it in the context of two instances of mass influx into the European Union in 2015/16 and 2022.

Temporary Protection, Burden-sharing, and Solidarity in the European Union

The European Union has a rhetorical and treaty commitment to solidarity which can be traced back to its inception (Stjernø 2005). Most recently, Article 80 of the 2007 Treaty on the Functioning of the European Union (TFEU) envisions “solidarity and fair sharing of responsibility including its financial implications, between the member states” (European Union 2012, 78). The term is introduced in Art 2 TEU which lays out the foundational principles of the EU, among them “pluralism, non-discrimination, tolerance, justice, *solidarity* and equality between men and women.” Solidarity towards fellow member states (internal solidarity) is further affirmed by the Court of Justice of the European Union (CJEU) and oftentimes exists alongside solidarity to third parties that arise out of the EU’s obligations under regional or international law (external solidarity). Internal solidarity frequently presents as financial burden-sharing and informs the EU’s redistributive efforts in social and regional policy, guided by the principle of fairness and a desire to assist the underresourced or overburdened (Goldner Lang 2013). In the field of displaced persons, these redistributive policies often need to be augmented by relocation of people from highly impacted areas elsewhere.

The global refugee protection regime, built on cosmopolitan notions of assistance to strangers (Benhabib 2006), is deeply reliant on solidarity. Such solidarity is expected to be demonstrated towards third parties such as nonmember neighboring states or displaced persons themselves flows from the EU’s international obligations. In the case of displacement, these duties flow from the 1951 Geneva Convention on the Status of Refugees which imposes obligations on states parties to process asylum claims and refrain from returning individuals to places where their lives and well-being might be in danger (*nonrefoulement*). Recipient states are thus expected to review claims, extend human rights protections to those seeking asylum regardless of origin, and provide assistance through burden-sharing to countries experiencing large influxes. As such, both persons in flight and countries struggling with providing for displaced persons in their territories are beneficiaries of external solidarity, “others” from a national or EU standpoint.

Importantly, this kind of solidarity is expected to be *inclusive* in that factors such as age, gender, country of origin, religion, etc. ought not to play a role in whether displaced persons are rendered assistance.

The Temporary Protection Directive of the EU is an instrument that encompasses elements of both internal and external solidarity. TP is devised as a group-based solution for exceptional circumstances involving mass influx. Unlike the 1951 Geneva Convention which foresees individual status determination for each asylum seeker, TP identifies displaced groups that are in danger and extends blanket protection, if only temporarily. Oftentimes, TP processes suspend asylum applications, providing quick protected status to large numbers of people from a particular group. In some ways, TP is a “magic gift, assuming the desired form of its enthusiasts' policy objectives” (Fitzpatrick 2000, 280). It delivers promise for multiple, yet not always convergent audiences. For recipient states, it displays willingness to assist but also signals temporariness of that assistance. For intergovernmental and nongovernmental organizations, it is a mechanism for providing much needed quick assistance in volatile circumstances when lengthy status determination procedures might not be available or feasible. For the displaced themselves, it promises access and protection. (states, NGOs, IGOs, people in need). In all of these circumstances, TP is thus a temporary fix to an exceptional problem.

This temporary fix, however, is not without its critics. TP has been criticized for creating an injustice because it produces extended periods of uncertainty and precarity for its recipients (Buxton 2020), for potentially de-legalizing refugee protection by placing it in the ad hoc policy realm of humanitarianism (Fitzpatrick 2000, 281), for not being a durable status (Kjaerum 1994; Barutciski and Suhrke 2001; Frelick 2020; Rygiel, Baban, and Ilcan 2016), for being complicated to commence and lacking incentives for triggering the mechanism given the high costs for its implementation (Gluns and Wessels 2017), and for not meaningfully enhancing (financial) solidarity given sparse resources.

In Europe, TP was by and large a response to the fallout of the war in Yugoslavia in the early 1990s to balance the desire to restrict asylum applications on the one hand and to render assistance to the displaced on the other (Koser and Black 1999, 521). In response, European countries started implementing what

essentially amounted to TP under different names such as *Duldung* in Germany, Exceptional Leave to Remain in the United Kingdom, or Provisional Permission to Remain in the Netherlands (van Selm-Thorburn 1998). This range of policies in different countries also had adverse consequences such as wide variance between member states in terms of people benefitting from such protection and the types of protections and benefits associated with such status. These developments also coincided with the acquisition of a mandate for immigration and asylum matters for the European Union with the Maastricht Treaty. As is frequently the case in Europe, adverse consequences of variance between member states prompted arguments in favor of harmonizing in this area. On September 25, 1995, the Council Resolution on burden-sharing with regard to the admission and residence of displaced persons on a temporary basis and on March 4, 1996, it adopted Decision 96/198/JHA on an alert and emergency procedure for burden-sharing with regard to the admission and residence of displaced persons on a temporary basis. In December 1998, the Council and the Commission adopted an Action Plan on minimum standards for giving temporary protection to displaced persons from third countries who cannot return to their country of origin which also included burden-sharing measures between Member States.

In June 1998, after the entry into force of the Amsterdam Treaty and partial “normalization” of the Justice and Home Affairs portfolio, the Commission finally submitted a draft policy proposal on temporary protection (Fitzpatrick 2000, 282), but the proposal got tied up in the Council because of divergence between member states precisely on the issue of burden-sharing (Kerber 2002). The urgent need to develop common policies in the event of a mass influx soon came into sharper focus with the 1999 Kosovo refugee crisis which displaced roughly 750000 Kosovars into neighboring Albania, FYROM, and Montenegro (Suhrke et al. 2000). While Kosovars were readily admitted into Albania, they were blocked by Former Yugoslav Republic of Macedonia, raising issues of access and burden-sharing (Barutciski and Suhrke 2001). European Union members, by contrast, contributed funding and supported the NATO intervention in Serbia. It was under these internal and regional circumstances that the TPD was adopted on 20 July 2001, making it the first adopted instrument in the EU’s newly minted Common European Asylum System (CEAS).

The Temporary Protection Directive as a Solidarity Instrument

TPD has potential as an instrument of internal and external solidarity. Its main objectives are spelled out in Art 1: “to establish minimum standards for giving temporary protection in the event of a mass influx of displaced persons from third countries who are unable to return to their country of origin and to promote a balance of effort between Member States in receiving and bearing the consequences of receiving such persons” (Council of the European Union 2001, 14). The first half of this article paves the way for external solidarity with displaced persons (barring those excluded by Art 28) and possibly third countries in the event of evacuations by providing a mechanism through which they can be received in the EU. The effort to establish minimum standards works both to even out variance between member states by establishing an acceptable threshold and to make it possible for member states to work with higher standards if they are able. The second part hints at internal solidarity through burden-sharing within the Union.

TPD defines “mass influx” in Art 2(d) as arrival in the Community of “a large number of displaced persons, who come from a specific country or geographical area, whether their arrival in the Community was spontaneous or aided, for example through an evacuation programme.” Article 5 allows the Council to determine what circumstances qualify as a mass and sudden influx (Council of the European Union 2001, 14). TP is granted for an initial period of one year, renewable up to three years. Solidarity and burden-sharing is specifically covered in Art 24-Art 26 of TPD including financial solidarity through the European Refugee Fund (Art 24), solidarity through reception (Art 25), and solidarity through relocation to another member state (Art 26). Collectively, they display elements of internal and external solidarity.

Art 24 is about internal financial solidarity with affected member states out of community coffers. Prior to the adoption of TPD, the EU adopted Council Decision 2000/596/EC establishing a European Refugee Fund with an initial allocation of €216m for the first five years (Council of the European Union 2000). This fund could be used to facilitate assistance to member states (for reception and relocation, for example), but also to evacuate individuals from a third country especially in response to an appeal by

international organization. Art 25 is focused on external solidarity with displaced persons as they are allowed into EU territory, but also about internal solidarity as it considers the reception capacity of the receiving state and provides for additional support from the EU and its member states to a state whose reception capacity is exceeded. Art 26 returns to internal solidarity, especially in situations in which the reception capacity referenced in Art 25 is exceeded, by providing a mechanism of transfers of displaced persons from the territory of one member state to that of another (redistribution) (Council of the European Union 2001). This relocation/redistribution is subject to “double voluntariness” in which both the country receiving the relocated person and the displaced person themselves need to agree to the relocation.

It is important to note that while TPD can be said to be an instrument of both internal and external solidarity, it is also by definition an instrument of *selective* external solidarity as it is triggered only for certain groups or regions that are the origin of the mass influx. The fact that TP is not automatically triggered but is rather the result of a collective political decision adds a second layer to this selectiveness. Even before the 2015/2016 episode, there were instances in which a mass influx could have been declared by the EU to trigger TPD. In the mid-2000s, there was influx from Iraq and Afghanistan. Later, Arab Spring (2010-2011) displaced many from Tunisia and Libya (Ineli-Ciger 2015). In the first instance, multiple member states were loath to trigger TPD for fear that the obligations towards TP beneficiaries would constitute a pull factor, this despite the fact that research generally shows that such fears are overrated (Notarbartolo di Sciara 2015; Thielemann 2012). There were some efforts to trigger TPD in the aftermath of the Arab Spring. Notably, Italy, with the support of Malta, officially formalized a request to start off the TP system in 2011. Both countries had been experiencing considerable arrivals and were interested in securing assistance from the European Union. Despite their request, the Justice and Home Affairs Council and later Commissioner Malmström opined that the situation was not dire enough to warrant a triggering of TPD, noting “[W]e are still monitoring the situation very closely and it is possible – not today, not tomorrow but if the situation worsens – that we will trigger the temporary protection directive” (European Commission 2011). That day never came, not even after more than a million people arrived in 2015.

TPD in Practice: From No (2015/16) to Yes (2022)

2015/2016: Evasive Maneuvers

The 2015/2016 “refugee crisis”¹ brought 2.5 million asylum seekers to Europe. Earlier waves linked to the Arab Spring also brought arrivals, but not in numbers that could perhaps be deemed a mass influx. At the time of the 2015/2016 influx, the situation was described by many as the worst refugee crisis in Europe since the end of World War II, making the “mass influx” designation plausible. Greece was the country most significantly affected initially, bearing the brunt of the sea arrivals along its maritime borders with Turkey. As asylum seekers started to make their way westwards from Greece, EU and non-EU countries along the route started implementing restrictions during summer/fall of 2015, reintroducing border controls and building fences to thwart entry.

The events of the summer/fall of 2015 laid bare the weaknesses of the EU’s capacity and willingness to manage such a crisis as well as the limits of the promise of internal and external solidarity. This period was marked by a sharp increase in arrivals, and their markedly uneven distribution. While the percentage of asylum seekers was very small compared to the EU population (0.22%), it masked the variance between member states: while Slovakia and Poland had 0% asylum seekers by percentage of population, Germany had 0.69% (more than three times the EU average), Austria had 0.97%, and Sweden 1.33% (roughly six times the EU average) (data compiled from UNHCR <http://popstats.unhcr.org/en/overview>). Meanwhile, the numbers of UNHCR’s populations of concern relative to population were dramatically higher in other places closer to the Syrian conflict: 3.77% for Turkey, 9.31% in Jordan, 12.61% for Iraq, and 17.6% in Lebanon. In January 2023, there were 3.6m Syrians under TP in Turkey, more than double the number of people who arrived in all of the EU in 2015-2016 (UNHCR 2023). The arrivals in the EU reflected sizeable numbers nonetheless: by the end of December 2015, more than a million people arrived in EU territory. The number of arrivals, coupled with variance

¹ The term refugee crisis masks relevant nuance. First, the bulk of the crisis was in countries neighboring Syria. Second, in the EU, this was an “uneven crisis” at best where its impact was felt differently across the EU.

between member states should have been grounds to consider both internal and external solidarity mechanisms to share risk and responsibility. Instead, what happened was ad hoc restrictive responses by many EU members, and policies intended to pass on, rather than share, responsibility to other states within and outside the EU.

Frontline countries such as Greece and Italy, unsuccessfully requested assistance from the EU, but substantial solidarity was not on offer. External solidarity with asylum seekers and non-EU states struggling with the developments was also in short supply, leaving thousands of people highly exposed and vulnerable. Unlawful push-backs, and collective expulsions, especially in Central and Eastern Europe, were coupled with detention of arrivals. These policy moves were highly problematic from an international law perspective, including raising questions under European Convention on Human Rights (ECHR) (Amnesty International 2015: 11). The internal mechanisms of assigning responsibility for asylum seekers based mainly on point of arrival was already dysfunctional from a solidarity standpoint as it placed undue burden on member states, like Greece, on the outer perimeter of the Union and especially those in the geographic vicinity of the flows. It had been the target of various legal challenges at the European Court of Human Rights (ECtHR) and the CJEU even before 2015. The system of assigning responsibility would thus have additional deleterious consequences for both the receiving country and the asylum seeker, a double failure of both internal and external solidarity. The EU and its member states would thus need to find other alternatives to deal with the crisis.

TPD had potential as an instrument of both internal and external solidarity. It needed to be activated by a qualified majority decision at the suggestion of the European Commission and the request of a member state. Given the disproportionate impact of this mass influx in Germany, it was the most likely country to seek to activate this instrument in 2015. But it didn't. The unwillingness to trigger TPD can be attributed to various factors. First, TPD leaves it to the discretion of member states to determine whether a mass influx is underway. What constitutes a mass influx is vague and it is unclear whether the mass influx should be generally experienced in Europe or in a particular country. The variance between member states' exposure

to arrivals undermines a collective sense of urgency which, combined with the need for a qualified majority in the Council, provided a barrier to action (Beirens et al. 2016). Second, the TPD does not have a system for compulsory redistributing the arrivals (Genç and Sirin Oner 2019, 14) and hinges on the willingness of both the receiving country and the fleeing individual for relocation to occur (double voluntariness), making redistributive solidarity through relocation complicated. Third, the deep divisions between member states on how to respond, the relatively small perceived benefits and relatively high transaction and administrative costs would have prevented the necessary qualified majority threshold, especially when only a handful of member states, mainly those with geographic proximity to main arrival sites, were highly impacted (Ciger 2022). Glund and Wessels compellingly argue that there was no particular incentive in Germany to press for the activation of TPD given the modest benefits but high costs (Gluns and Wessels 2017, 70–76).

Furthermore, while Germany could initially count on the support of its coalition of the willing (Austria, Belgium, Luxembourg, Sweden, Finland, Slovenia, Portugal, France, and Greece), this coalition became increasingly tenuous. Chancellor Merkel eventually even lost the firm support of Austria and France. The coalition of the unwilling, on the other hand, included Hungary, Poland, Czechia, Slovakia, and the UK (von Schmikler and Börnsen 2016), making German efforts risky in political terms. Given concerns about the durability of TP as a strategy, NGOs and IGOs such as UNHCR were also skeptical of the benefits of TPD and did not appear to be lobbying for its activation. The Commission, which had an exclusive right to propose triggering TPD had not done so in previous instances such as the Arab Spring and did not seem inclined to do so in this instance either. Only the European Parliament appeared to be pushing for activation in earlier times, calling on the Commission in 2013 to “make it possible for this Directive to be activated even in cases where the relevant influx constitutes a mass influx for at least one Member State and not only when it constitutes such an influx for the EU as a whole” (European Parliament 2013, Para. 52).

The demographics of the arrivals would also play a role in the disinterest in activating TPD. Arrivals in 2015/2016 were mostly young, male, and Muslim. The V4 countries in particular, Czechia,

Hungary, Poland and Slovakia, were not shy in arguing that these were the “wrong” kind of arrivals. Islamophobia, which by this point was a pan-European phenomenon particularly prevalent in Eastern Europe, stoked perceptions of threat and exhibited ethnocentrism (Pickel and Öztürk 2019). Leaders of V4 were very vocal in their opposition: Prime Minister Fico of Slovakia said: “I’m sorry, Islam has no place in Slovakia. It is the duty of politicians to talk about these things very clearly and openly. I do not wish there were tens of thousands of Muslims” shortly before becoming Slovakia’s PM for the 3rd time in March 2016 by advancing hard-line views about migration and said he would not accept “one single Muslim” migrant into the country. Slovak Interior Ministry spokesman Ivan Netik insisted in August 2015 that Slovakia will only take in Christians as Slovakia doesn’t have mosques and Muslims would therefore not feel upon arrival (O’Grady 2015). Czech President Miloš Zeman called Islam “a religion of death” and argued that to speak of “moderate Muslims” is as contradictory as referring to “moderate Nazis.” For Jaroslaw Kaczyński of the Polish Law and Justice Party, the influx of migrants posed a threat to Europe’s “Christian identity” as the ultimate goal of Muslims is the “establishment of Sharia law.” Last but not least, Victor Orbán portrayed Hungary as the last “bastion against the Islamicization of Europe” (Pickel and Öztürk 2019). Guaranteed V4 opposition, a lukewarm Commission, and a disinterested Germany was enough to provide a chilling effect for the activation of the TPD.

There was also a country that could act as a gatekeeper for the EU. Turkey, a transit country with roughly 4 million Syrians under temporary protection, was geographically poised to be a natural buffer zone on the eastern border of the European Union. Because it was interested in revitalizing accession talks with the EU, it was therefore not only interested in negotiating with the EU but also in an unusually good position to leverage the EU. As the Commission struggled to execute a temporary reallocation scheme for 160,000 of the individuals who arrived in 2015, with the V4 vehemently opposing such a move, an agreement with a third state to stem arrivals became attractive as the EU needed Turkey to act as a gatekeeper. The EU-Turkey deal, brokered over 2015 and 2016 by Germany, would ensure the return to Turkey of individuals arriving in the EU without documentation while the EU promised Turkey financial

assistance and a revitalization of accession talks (Uçarer 2022b). These efforts to externalize responsibility for displacement and contain displaced persons elsewhere is emblematic of long-standing EU practice, evident in migration partnerships with third countries, readmission agreements, and the use of funds from the EU while prioritizing expulsions and returns. The EU-Turkey deal also inspired similar efforts between Italy and Libya, and Spain and Morocco.

In short, there were a number of reasons why TPD was not activated: not all EU member states were affected, TP benefits would have been costly while delivering relatively few benefits from the EU coffers to affected countries, the decision-making environment and the dispositions of member states were not conducive to succeed in a qualified majority vote, some member states were resistant to accepting displaced persons given their demographics and given the prevalence of populism and resistance to Muslim arrivals, and there was a buffer zone that could be utilized, making alternative, ad hoc, and responsibility shirking responses more attractive. With this solidarity instrument untapped, the EU sought other solutions and concluded an agreement with Turkey to limit influx into its territory. This was an instance of externalizing burdens and responsibility, in other words the very opposite of solidarity. It also stood in sharp contrast to what transpired in 2022.

2022: TPD and the Ukraine War

On 24 February 2022, Russia attacked Ukraine, precipitating the largest influx of refugees in Europe since World War II, surpassing a similar designation in 2015. On 3 March 2022, less than ten days after Ukraine was invaded by Russian forces, the Commission proposed the activation of the TPD. The following day, the Council unanimously activated TPD and the EU shifted into high gear to address and accommodate displaced people fleeing an unprovoked and illegal war being perpetrated upon them. If one of the critiques of TPD was that its activation was complicated and would take a long time, none of that was on display in this instance. There was simply no way to argue that this was not an instance of mass influx: hundreds of thousands of Ukrainians, 90% of them women and children given that men aged 18-60 were not allowed to

leave Ukraine, arrived in EU neighboring countries in a matter of a few weeks. The 2014 annexation of Crimea had already produced 1.5m internally displaced persons in Ukraine. In fact, between 2007-2021, roughly 26% of Ukrainians polled expressed a desire to move to another country (Elinder, Erixson, and Hammar 2022, 6). Now, facing a war of aggression, thousands were on the move again towards neighboring countries to the west Poland, Slovakia, Hungary, Romania, and Moldova, four of them EU member states.

Country	Refugees from Ukraine Recorded in the Country	% of EU total	Refugees from Ukraine Registered for Temporary Protection	% of EU total
Albania	28	N/A	N/A	N/A
Austria	95,993	2.04	95,993	2.05
Belarus	22,411	N/A	N/A	N/A
Belgium	70,613	1.5	69,863	1.49
Bulgaria	47,131	1.00	156,208	3.33
Croatia	21,640	0.46	21,640	0.46
Cyprus	16,281	0.35	21,842	0.47
Czech Republic	504,352	10.73	504,107	10.76
Denmark	41,560	0.88	39,479	0.84
Estonia	69,616	1.48	44,739	0.96
Finland	47,067	1.00	43,318	0.92
France	118,994	2.53	118,994	2.54
Germany	1,056,628	22.49	922,657	19.70
Greece	22,704	0.48	22,704	0.48
Hungary	35,030	0.75	35,030	0.75
Ireland	80,540	1.71	80,085	1.71
Italy	173,213	3.69	173,213	3.70
Latvia	32,380	0.69	47,080	1.01
Lithuania	76,540	1.63	76,540	1.63
Luxembourg	6,756	0.14	6,756	0.14
Malta	1,744	0.04	1,744	0.04
Moldova	107,480	N/A	N/A	N/A
Netherlands	89,730	1.91	89,730	1.92
Poland	1,583,563	33.70	1,583,563	33.80
Portugal	58,242	1.24	58,242	1.24
Romania	104,823	2.23	126,711	2.70
Russian Federation	2,852,395	N/A	N/A	N/A
Slovakia	113,509	2.42	114,192	2.44
Slovenia	9,461	0.20	9,038	0.19
Spain	173,829	3.70	173,829	3.71
Sweden	53,957	1.15	53,957	1.15
Turkey	95,874	N/A	N/A	N/A
European Union	4,699,140	100	4,684,498	100

Table 1: Ukrainian Refugees and temporary Protection Beneficiaries in Europe
Source: compiled from Ukraine Refugee Situation, UNHCR: <https://data.unhcr.org/en/situations/ukraine>. Last accessed 25 April, 2023.

At the time of the activation of TPD, member states waived the application of Art 11 of TPD, making it possible for beneficiaries to move from one member state to another without being returned to their initial point of entry. This enabled onward/secondary movement and eased pressure on frontline states bordering Ukraine. Ukraine also benefits from visa free travel into Schengen territory pursuant to an agreement reached with the EU in June 2017. As a result, Ukrainians could freely enter EU territory and there would be no plausible reason to deny them entry. Most of them also were in possession of biometric passports which greatly accelerated their registration process. Visa free travel also meant that Ukrainians were not required to stay in their country of first arrival (typically a country with geographic proximity on the periphery of the EU) but could instead move on to different destinations. This stands in sharp contrast to the situation of those who arrived in 2015 who, based on the Dublin Regulation, were required to seek asylum in the first EU country they reached. Those who arrived in 2015 would more likely have travelled through one or more other countries, would be less likely to be in possession of visas or documents, and could therefore be denied entry or returned with greater ease.

TP status for Ukrainians also meant that they did not need to lodge individual asylum claims. Furthermore, they also came from a country with direct land borders to four EU member states so, unlike in the 2015 episode, there was no buffer zone in the form of a third country such as Turkey. And, finally, multiple EU members were directly affected by the influx starting with the neighboring countries (3/4 of the V4 which previously opposed community action) but also reaching further inward given visa free travel. The mass influx which would have made quick individual asylum determination impossible, combined with visa free travel, multiple EU member states and notably the V4 being impacted, and the backdrop of an illegal war all pointed towards TPD. In its implementing decision of 4 March, the Council observed that “[T]emporary protection is the most appropriate instrument in the current situation. Given the extraordinary and exceptional situation, including the military invasion of Ukraine by the Russian Federation and the scale of the mass influx of displaced persons, temporary protection should allow them to enjoy harmonized

rights across the Union that should offer an adequate level of protection” (Council of the European Union 2022 Para. 16, 3).

In April 2023, %64 of the beneficiaries were hosted by just three countries (Poland, Germany, Czechia) followed by Italy and Spain (Table 1 below). Arrivals were followed by secondary movements from frontline countries. Estonia, Poland, and Czechia had the highest number of TP beneficiaries by capita (European Commission 2023a, 2). Ukrainian beneficiaries of TP given immediate access to the labor market, education and vocational training, healthcare, and accommodation in the EU. Many third country nationals other than Ukrainians were also covered under TPD, although under the discretion of individual member states. As of November 2022, 70k such individuals received TP in the EU alongside 300 stateless persons.(European Commission 2023a, 5). A “whole-of-society approach” incorporating private citizens, social partners, NGOS, public authorities, and IGOs (European Commission 2023a, 6). TPD provides for obligations for states. Persons under 18 need be granted access to the education system under the same conditions as nationals. Member States are to provide necessary assistance in terms of social welfare and means of subsistence and medical care. The type and duration of these benefits vary across MS but Commission says that majority of MS have provided “inclusive access to national health care systems” (European Commission 2023a, 14). TP beneficiaries are to be incorporated into the labor market. According to the European Commission, TP beneficiaries achieve faster incorporation into EU labor force than people with refugee status, possibly because EU is actively working on getting them employed. As a result, at least 614,933 TP beneficiaries were employed in in 2022 in 18 member states, Norway and Liechtenstein with another 413,365 seeking jobs. The EU pays special attention to market inclusion programs for women given they represent 47% of TP beneficiaries and most of them are single heads of households (European Commission 2023a, 16–17). Temporary and permanent housing accommodations provided by national and municipal authorities as well as private sponsors. The EU has set up a Safe Homes initiative to assist government and private actors to find and match adequate housing, with a budget of €15m administered by the International Federation of Red Cross (European Commission 2023a, 20). Community sponsorship pilot

programs match beneficiaries with potential hosts. All of these efforts, under different circumstances, would be considered policies creating “pull factors,” and resisted, especially by opponents of immigration.

The EU also set up a variety of platforms and mechanisms to assist Ukrainian TP beneficiaries. Many of these mechanisms bear the imprint and frequently the title of solidarity. The European Commission set up a “Solidarity Platform” immediately after TPD activated. This Platform included representatives from the Commission, the Council Secretariat, the European External Action Service, EU Member States and Schengen Associated Countries, UNHCR, IOM, as well as Ukrainian and Moldovan authorities. This Solidarity Platform also coordinated with US, Canada, and the UK (European Commission 2023a, 2, 22). The Temporary Protection Registration Platform was created to exchange information on TP beneficiaries, allowing 25 member states (excluding Denmark and Ireland) to exchange information. For labor market integration, the EU created the Talent Pool Pilot program, which matches employee profiles with jobs. The EU web page [EU Solidarity with Ukraine](#) includes a wealth of information about rights of TP beneficiaries and support resources, presented in both Ukrainian and Russian. The [EU helpline](#), also in Ukrainian and Russian, provides a portal for contacting the EU. The EU’s solidarity efforts also extend to Moldova, a neighboring non-EU country that not only needs assistance, but is also concerned with Russian interference. As the only non-EU member southern neighbor of Ukraine, Moldova is being assisted with relocation of TP beneficiaries from Moldova. The EU also provides financial support of the International Organization for Migration’s activities there. So far, there have been 17,870 pledges for TP transfers into the EU from Moldova and 2,377 actual transfers (European Commission 2023a, 22).

EU also aims for financial solidarity. In addition to the €4.6 billion the EU has already committed to support the Ukrainian Armed Forces, the EU has also gotten creative in its financial support for TP beneficiaries. It has deallocated unused Cohesion Funds from the 2014-2020 budget cycle and created the CARE (Cohesion’s Action for Refugees in Europe) Package and FAST-CARE (Flexible Assistance for Territories CARE) with a combined financial commitment of €13.6b (European Commission 2022b). The fundraising event “Stand up for Ukraine” in April 2022 raised €400m in emergency assistance funding,

€385m of which is earmarked for member states needing assistance as a measure of internal solidarity. Czechia (€54.4m), Poland (€200.1m), Estonia (€10.1m), Lithuania (€10.1m), Bulgaria (€10.9m), Latvia (€7.8m), Romania (€39.1m), Hungary (€21.1m), Slovakia (€24.7m), and Cyprus (€6.7m) are to receive financial support through these funds (European Commission 2023a, 20).

Public Opinion in the 2015 and 2022 Episodes. While opinion polls that directly compare attitudes towards the 2015 and 2022 episodes are sparse, existing polls suggest that there is a significant difference in attitudes towards the arrivals in 2015/15 and 2022. If we take attitudes towards Syrians as a proxy for attitudes towards the 2015 arrivals, polls conducted by Dražanová and Geddes (2022) point to significant differences between perceptions about Syrian and Ukrainian refugees in eight EU member states, including all V4. The data show that there is much higher willingness to allow Ukrainians to live and work in the polled country than is the case for Syrians.

Allow Ukrainian refugees to live in and working in your country vs. Allow Syrian refugees to live in and work in your country

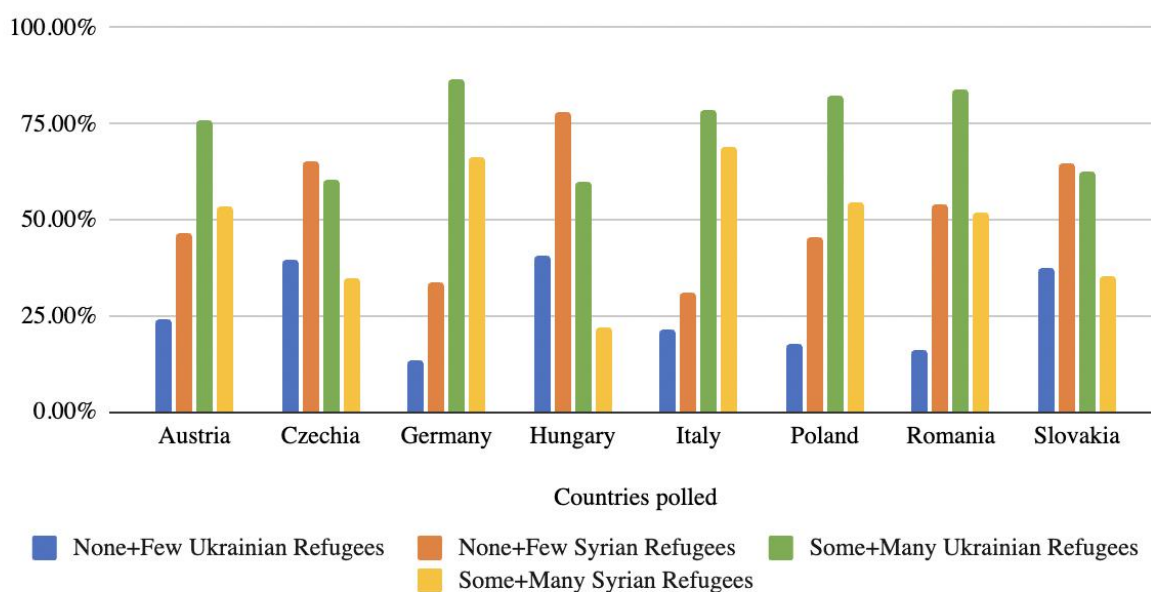


Table 2: Attitudes towards Syrian and Ukrainian refugees
Source: Adapted from (Dražanová and Geddes 2022)

Perceived social distance, measured on the Bogardus scale to determine the varying degrees of closeness to other social, ethnic, and racial groups, also varies between the two groups. Social distance is the result of an unwillingness in a group to “accept or approve a given degree of intimacy in interaction with a member of an outgroup” (Williams cited in Koc and Anderson 2018, 791). The higher the social distance, the less the openness (Mishnuk and Vlasenko 2023, 16). Social distance is generally low in the case of Ukrainians, especially for the V4. This distance is shortest for Poland (41%) and longest in Slovakia (57%), with Hungary and Czechia close behind Poland. Overall, Slovakia (which does not border Ukraine) is more skeptical towards Ukrainians, but on the whole Ukrainians are still seen as close.

% of respondents who	Czech Republic	Hungary	Poland	Slovakia
Consider Ukrainian refugees as positive	73.1	82.1	85	41.5
Would be willing to consider Ukrainians as neighbors	82.5	79	88.9	61.2
Support continued support	81.4	87	88	46
Believe their economy benefits from Ukrainian refugees	62.9	31.7	52.4	44.9

Table 3: Perceived social distance from Ukrainians in V4 countries

Source: Adapted from (Mishnuk and Vlasenko 2023)

The reverse is true for Syrians. In a study on social distance toward Syrian refugees, Koc and Anderson found that social distance as a proxy for prejudice is a salient predictor of negative attitudes toward Syrian refugees. In turn, gender (male), age (older), right wing authoritarianism, intergroup anxiety, and religiosity are significant predictors of larger social distance, the latter three accounting for 57% of statistical variance. Negative attitudes towards stem from the perception that they are dangerous (Koc and Anderson 2018, 795–97), a feeling not associated by the women and children displaced by an illegal interstate war. Social distance could therefore also be an indicator of feelings of solidarity in the populace, which are likely to filter up to regional governance in case of mass influx.

The Future of Temporary Protection and Solidarity

In September 2020, the Commission presented a New Pact on Migration and Asylum (the Pact) with the goal of developing a comprehensive approach to external borders. The Pact was accompanied by a number of legislative proposals, including a proposal for a Regulation (a regulatory instrument more prescriptive than a directive) addressing crisis and force majeure in the area of asylum and migration (Crisis and Force Majeure Regulation) (European Commission 2020). This instrument is aimed at establishing a mechanism for dealing with mass influxes and irregular arrivals of third-country nationals in a Member State and, when adopted, would replace the Temporary Protection Directive, an instrument that sets guidelines but leaves implementation methods to member states. A second instrument, the Regulation on Asylum and Migration Management (RAMM) aims at replacing the problematic Dublin Regulation. In June 2022, with Ukrainian displacement in the background, 18 member states,² along with Norway, Switzerland, and Lichtenstein, issued a solidarity declaration to establish a “*voluntary* and simple temporary solidarity mechanism” to provide support for member states most affected in the Mediterranean. This plan would allow for 10,000 asylum seekers rescued at sea to be relocated to the territories of participating countries within the next year. Hungary, Poland, Slovakia, Austria, Latvia, and Denmark rejected this declaration. This is a non-binding instrument that privileges an intergovernmental and asymmetric approach to solidarity in which states may decide whether, when, and how to participate and may decide to participate in ways other than through relocation, for example by financing projects in third countries intended to contain arrivals (Carrera and Cortinovis 2022).

Both the Crisis and Force Majeure Regulation and RAMM were proposed after the 2015 influx but before the start of the Ukraine war and, importantly, before the triggering of the very TPD that is to be replaced. These two instruments were meant to revitalize the reform of the Common European Asylum System which continues to be stalled. The proposals are subject to criticism on various grounds, but RAMM

² Belgium, Bulgaria, Cyprus, Czechia, Germany, Greece, Spain, Finland, France, Croatia, Ireland, Italy, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, and Romania.

in particular with respect to the vague ways in which they envision solidarity. The concept of return sponsorship, offered as a tool of responsibility-sharing in the New Pact of Migration and Asylum and RAMM, draws sharp criticism. This controversial concept was introduced to implement mandatory but flexible solidarity among member states, retaining most of the rules pertaining to determining responsibility for asylum applications spelled out in the Dublin III regulation. Accordingly, a member state that faces high migratory pressure would be assisted by other member states depending on their GDP and population size. This assistance could be through relocating asylum applicants (redistribute solidarity), operational support (possible financial and logistical solidarity), or through sponsoring the return of migrants, applying also to those who arrive through search and rescue operations at sea. These returns are to be conducted within eight months (four during a crisis) with the proviso that the sponsoring state will be responsible for transferring the individuals to their own territory in the event of an unsuccessful return. The idea behind the return sponsorship notion was to entice those countries, such as the V4, that firmly oppose mandatory physical transfers of asylum seekers to nonetheless pitch in with managing asylum through other means. It is also a relatively transparent incentive to achieve higher rates of return out of the EU territory. Despite this effort to break the solidarity logjam, significant differences remain between member states that are likely to stall or delay the adoption of RAMM. The divisions are between the V4 and V4-adjacent countries (Austria, Denmark, Slovenia, and Estonia) for which the proposed solidarity might go too far and southern European countries for which it does not go far enough as mandatory relocation can be watered down by return sponsorship (Diez and Trauner 2021).

The Crisis and Force Majeure Regulation, by comparison is similar to the TPD with some important differences. First, it replaces temporary protection terminology with that of immediate protection. Importantly, and unlike TPD, the Commission has the authority to decide when immediate protection should apply, as opposed to the Council which could decide not to trigger protection. The issue would then become whether the Commission would be hesitant to trigger immediate protection in an actual situation. This Directive is designed to relieve burdens of the member state experiencing large numbers of arrivals burdening their asylum and reception systems (Ineli-Ciger 2020). As such it is an instrument of internal

solidarity. One could argue, however, that this shift to assisting member states could come at the expense of showing solidarity with the displaced themselves. The international refugee regime is at least partially premised on limiting the discretion of states when faced with asylum claims, for example, by binding them not to engage in *refoulement*. The type of solidarity being proposed in RAMM and Force Majeure Regulation, on the other hand, expands state discretion in the service of flexibility, entrenching intergovernmental and exclusion in the process (Karageorgiou 2023, 171–72), which Karageorgiou aptly identifies as “a device for bureaucratic administration” (2023, 174). And finally, there is the issue of if and when it will be adopted. If the story of the TPD and current disagreements between member states alluded to above are any indication, one should not expect a quick process.

Conclusion

When the EU triggered the TPD shortly after the onset of the Russian invasion, it breathed life into an instrument that had been collecting dust for 21 years. EU’s solidarity efforts with Ukraine since the onset of the war have both been extensive and entirely justified. Beginning with the granting and later extension of temporary protected status until March 2024 and continuing with providing information and assistance to both those displaced from Ukraine and towards countries handling the mass influx, EU’s response to the Ukraine displacement displays elements of internal solidarity with member and third states (such as Moldova) and external (but selective) solidarity with the displaced themselves. This paper reviewed EU’s commendable efforts and resources allocated in the ongoing Ukraine displacement. These efforts, however, stand in rather sharp contrast with how it handled the 2015/16 episode of mass influx. The TPD, tailor made for situations of mass influx was not triggered (a lapse of external solidarity). Instead, some EU member states, in particular the V4, undertook a number of ad hoc and evasive maneuvers to pass risk and responsibility to others. The EU itself, unable to trigger TPD for want of a qualified majority in support of such a move (a lapse of internal and external solidarity), instead employed an externalization strategy by recruiting Turkey to become its gatekeeper.

While the notion of solidarity is woven into the rhetoric of European integration, its actual practice continues to fall short of its promise. Asylum governance has long been an example of this expectations-capabilities-willingness gap. The EU has long engaged in defensive integration in this field, eager to deflect arrivals while also maintaining the appearance of conforming to the cosmopolitan underpinnings of global refugee protection. In essence, CEAS continues to be driven by restrictive governance priorities. In this context, the response to Ukrainian displacement does not quite fit the mold. The EU has, at least for the moment, in fact received people displaced from the war in Ukraine “with open arms” and by and large embraced the spirit and practice of solidarity rather than the rhetorical tool to which it has mostly been reduced. Should we regard this as a sea change in EU asylum and protection governance?

Is the Ukrainian episode an example of what Benhabib elsewhere characterizes as “an eventual transition from a model of international law based on treaties among states to cosmopolitan law” wherein cosmopolitan norms of justice “accrue to individuals as moral and legal persons in a worldwide civil society” qua external solidarity (Benhabib 2006, 16)? Or, rather, is it an exception to the otherwise well-entrenched preference for exclusion and differentiation? The particularities of the 2022 episode combined with continuing difficulties in defining the meaning and instruments of solidarity after the launch of the European Agenda on Migration and the New Pact on Migration and Asylum should give us some pause. There were a number of factors distinguishing the 2015/16 episode from that of 2022. Ukrainians were fleeing an acute and illegal war as opposed to the brutal but still not illegal civil/proxy war that has plagued Syria since 2011. Ukrainians had visa free access into EU territory and could enter legally and without bureaucratic holdups as opposed to Syrians. The EU had a direct border with Ukraine and did not have the “benefit” of a buffer zone nor a gatekeeper such as Turkey in 2015/16. The Ukraine war displaced persons with a different demographic profile (women/children, Christian) than in 2015/16 (young, male, Muslim). While the latter was generally seen as threats in a continent that had significant prevalence of right-wing populism and Islamophobia, the former could be seen as a preferred demographic that could integrate easier and perhaps even acceptably address some gaps in the labor market. The V4 were no longer transit countries

but rather neighbors in 2022 and were neither in opposition to the triggering of the TPD nor obstructing subsequent measures that would assist Ukrainians that they generally perceived as close and kin.

This seems like an unusually fortuitous alignment of stars for those displaced from Ukraine. At the moment, the solidarity consensus still holds with respect to protecting Ukrainians and the member states hosting and serving them. Nonetheless, it is important to underscore that the solidarity on display for Ukrainians in the EU is still differentiated and selective, evidenced most vividly by the contrast to the situation in 2015/16. In both TPD and in the Crisis and Force Majeure Directive that is meant to replace it, the EU gets to decide (with QMV in the Council in the case of TPD and with Commission initiation in the Crisis and Force Majeure Regulation) for which grounds and people and under which circumstances measures analogous to temporary protection will be implemented. The Commission's new Pact, while attempting to strike the difficult balance between internal and external solidarity in a political context characterized by lack of convergent preferences, seeks flexible solutions on solidarity which indicates a continuing nod to intergovernmental politics. Whether the solidarity consensus forged around the Ukraine war will hold into the future, extend to other groups or result in inclusive, internal, and external solidarity remains to be seen.

Bibliography

Barutciski, Michael, and Astri Suhrke. 2001. "Lessons from the Kosovo Refugee Crisis: Innovations in Protection and Burden-Sharing." *Journal of Refugee Studies* 14 (2): 95–134.

Beirens, Hanne, Sheila Maas, Salvatore Petronella, and Maurice van der Welden. 2016. "Study on the Temporary Protection Directive." Brussels: European Commission.

Benhabib, Seyla. 2006. In *Another Cosmopolitanism*, 13–44. Oxford: Oxford University Press.

Buxton, Rebecca. 2020. "Justice in Waiting: The Harms and Wrongs of Temporary Refugee Protection." *European Journal of Political Theory* Vol. 22(1) (November): 51–72. <https://doi.org/10.1177/1474885120973578>.

Carrera, Sergio, and Roberto Cortinovis. 2022. "The Declaration on a Voluntary Solidarity Mechanism and EU Asylum Policy: One Step Forward, Three Steps Back on Equal Solidarity." chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.ceps.eu/wp-content/uploads/2022/10/CEPS-In-depth-analysis-2022-04_Voluntary-Solidarity.pdf.

Ciger, Meltem Ineli. 2022. "Reasons for the Activation of the Temporary Protection Directive in 2022: A Tale of Double Standards." *Forum on the EU Temporary Protection Responses to the Ukraine War*.

https://www.asileproject.eu/reasons-for-the-activation-of-the-temporary-protection-directive-in-2022-a-tale-of-double-standards/?utm_source=rss&utm_medium=rss&utm_campaign=reasons-for-the-activation-of-the-temporary-protection-directive-in-2022-a-tale-of-double-standards.

Comte, Emmanuel. 2020. "The European Asylum System: A Necessary Case of Differentiation. EUIDEA." Policy Paper 3. EUIDEA.

Council of the European Union. 2000. "Council Decision of 28 September 2000 Establishing a European Refugee Fund." *Official Journal of the European Communities* L252: 12–18.

———. 2001. "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." *Official Journal of the European Communities* L212: 12–23.

———. 2022. "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." *Official Journal of the European Communities* L71 (March): 1–6.

Diez, Olivia, and Florian Trauner. 2021. "EU Return Sponsorships: High Stakes, Low Gains?" European Policy Centre. https://www.epc.eu/content/PDF/2021/EU_Return_Sponsorships_v3.pdf.

Dražanová, Lenka, and Andrew Geddes. 2022. "Attitudes towards Ukrainian Refugees and Governmental Responses in 8 European Countries." September 6, 2022. <https://www.asileproject.eu/attitudes-towards-ukrainian-refugees-and-governmental-responses-in-8-european-countries/>.

Elinder, Mikael, Oscar Erixson, and Olle Hammar. 2022. "How Large Will the Ukrainian Refugee Flow Be, and Which EU Countries Will They Seek Refuge In?" Policy Brief 2022:3. Stockholm: Delmi.

European Commission. 2011. "Cecilia Malmström Commissioner Responsible for Home Affairs A Better Management of Migration to the EU Press Conference on Communication on Migration Brussels, 4 May 2011." https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_11_310.

———. 2020. "Regulation of the European Parliament and of the Council Addressing Situations of Crisis and Force Majeure in the Field of Migration and Asylum." COM(2020) 613 final. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2020%3A613%3AFIN>.

———. 2022a. "Statement by President von Der Leyen on Further Measures to Respond to the Russian Invasion of Ukraine." 2022. https://ec.europa.eu/commission/presscorner/detail/en/statement_22_1441.

———. 2022b. "Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL Amending Regulation (EU) No 1303/2013 and Regulation (EU) 2021/1060 as Regards Additional Flexibility to Address the Consequences of the Military Aggression of the Russian Federation FAST (Flexible Assistance for Territories) CARE." COM(2022) 325 final. Brussels: European Commission.

———. 2023a. "Temporary Protection for Those Fleeing Russia's War of Aggression against Ukraine: One Year On." COM(2023) 140 final. Brussels: European Commission.

———. 2023b. "Opening Remarks by President von Der Leyen on the Occasion of the Meeting between the College and the Government of Ukraine." February 2, 2023. https://neighbourhood-enlargement.ec.europa.eu/news/opening-remarks-president-von-der-leyen-occasion-meeting-between-college-and-government-ukraine-2023-02-02_en.

European Parliament. 2013. "European Parliament Resolution of 11 September 2012 on Enhanced Intra-EU Solidarity in the Field of Asylum (2012/2032(INI))." *Official Journal of the European Communities* C 353 E: 16–25.

- European Union. 2012. "Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union." *Official Journal of the European Communities*, no. C 326: 47–390.
- Fitzpatrick, Joan. 2000. "Temporary Protection of Refugees: Elements of a Formalized Regime." *The American Journal of International Law* 94 (2): 279–306.
- Frelick, Bill. 2020. "What's Wrong with Temporary Protected Status and How to Fix It: Exploring a Complementary Protection Regime." *Journal on Migration and Human Security* 8 (1): 42–53. <https://doi.org/10.1177/2331502419901266>.
- Genç, H Deniz, and Asli Sirin Oner. 2019. "Why Not Activated? The Temporary Protection Directive and the Mystery of Temporary Protection in the European Union." *International Journal of Political Science & Urban Studies* 7 (1).
- Gluns, Danielle, and Janna Wessels. 2017. "Waste of Paper or Useful Tool? The Potential of the Temporary Protection Directive in the Current 'Refugee Crisis.'" *Refugee Survey Quarterly* 36 (2): 57–83.
- Goldner Lang, Iris. 2013. "Is There Solidarity on Asylum and Migration in the EU?" *Croatian Yearbook of European Law & Policy* 9 (1): 1–14.
- Guild, Elspeth. 2021. "Promoting the European Way of Life: Migration and Asylum in the EU." *European Law Journal* 26: 355–70.
- Ineli-Ciger, Meltem. 2015. "Has the Temporary Protection Directive Become Obsolete? An Examination of the Directive and Its Lack of Implementation in View of the Recent Asylum Crisis in Mediterranean(Brill." In *Seeking Asylum in the European Union: Selected Protection Issues Raised by the Second Phase of the Common European Asylum System*, 225–47.
- . 2020. "What a Difference Two Decades Make? The Shift from Temporary to Immediate Protection in the New European Pact on Asylum and Migration." *EU Migration Law Blog* (blog). 2020. <https://eumigrationlawblog.eu/what-a-difference-two-decades-make-the-shift-from-temporary-to-immediate-protection-in-the-new-european-pact-on-asylum-and-migration/?print=print>.
- Karageorgiou, Eleni. 2023. "Why the European Commission's Pragmatic Approach to Asylum Is Not Enough: Re-Imagining Solidarity as a New Form of Conducting Regional Politics." In *The Principle of Solidarity: International and EU Law Perspectives*, 163–79. The Hague: Springer.
- Kerber. 2002. "The Temporary Protection Directive." *European Journal of Migration and Law* 4 (2): 193–214. <https://doi.org/10.1163/157181602400287350>.
- Kjaerum, Morten. 1994. "Temporary Protection in the 1990s." *International Journal of Refugee Law* 6 (3).
- Koc, Yasin, and Joel R. Anderson. 2018. "Social Distance toward Syrian Refugees: The Role Of Intergroup Anxiety in Facilitating Positive Relations." *Journal of Social Issues* 74 (4): 790–811.
- Koser, Khalid, and Richard Black. 1999. "Limits to Harmonization: The 'Temporary Protection' of Refugees in the European Union." *International Migration* 37 (3): 521–43. <https://doi.org/10.1111/1468-2435.00082>.
- Kriesi, Hanspeter, Argyrios Altiparmakis, Abel Bojar, and Ioana-Elena Oana. 2021. "Debordering and Re-Bordering in the Refugee Crisis: A Case of 'Defensive Integration.'" *Journal of European Public Policy* 28 (3): 331–49. <https://doi.org/10.1080/13501763.2021.1882540>.
- Lavenex, Sandra. 2018. "'Failing Forward' Towards Which Europe? Organized Hypocrisy in the Common European Asylum System*." *Journal of Common Market Studies* 56 (5): 1195–1212.
- Mishnuk, Zorlana, and Roman Vlasenko. 2023. "Ukrainian Refugees in Visegrad Countries: Societal Attitudes and Challenges of Accommodating People Fleeing the War." Bratislava: GLOBSEC.

- Notarbartolo di Sciara, Marco. 2015. “Temporary Protection Directive, Dead Letter or Still Option for the Future? An Overview on the Reasons behind Its Lack of Implementation.” *Eurojus.It*. <https://rivista.eurojus.it/temporary-protection-directive-dead-letter-or-still-option-for-the-future-an-overview-on-the-reasons-behind-its-lack-of-implementation/>.
- O’Grady, Siobhán. 2015. “Slovakia to EU: We’ll Take Migrants — If They’re Christians.” *Foreign Policy*, 2015. <https://foreignpolicy.com/2015/08/19/slovakia-to-eu-well-take-migrants-if-theyre-christians/>.
- Pickel, Gert, and Cemal Öztürk. 2019. “Nationalism and Perceptions of Threat – Ethnocentrism or Just a Lack of Contact? Islamophobia in Eastern Europe from a Comparative Perspective.” *Connections*. <https://www.connections.clio-online.net/article/id/fda-133250>.
- Rygiel, Kim, Feyzi Baban, and Suzan Ilcan. 2016. “The Syrian Refugee Crisis: The EU-Turkey ‘deal’ and Temporary Protection.” Research Article. *Global Social Policy*. <https://journals.sagepub.com/doi/10.1177/1468018116666153>.
- Schimmelfennig, Frank. 2021. “Rebordering Europe: External Boundaries and Integration in the European Union.” *Journal of European Public Policy* 28 (3): 311–30. <https://doi.org/10.1080/13501763.2021.1881589>.
- Schmikler, B von, and W Börnsen. 2016. “Die Willigen Und Die Unwilligen.” February 18, 2016. <https://www.tagesschau.de/ausland/fluechtlinge-eu-faq-101.html>.
- Selm-Thorburn, Joanne van. 1998. *Refugee Protection in Europe: Lessons from the Yugoslav Crisis*. Leiden: Brill Nijhoff.
- Stjernø, Steinar. 2005. *Solidarity in Europe: The History of an Idea*. Cambridge: Cambridge University Press.
- Suhrke, Astri, Michael Barutciski, Peta Sandison, and Rick Garlock. 2000. “The Kosovo Refugee Crisis: An Independent Evaluation of UNHCR’s Emergency Preparedness and Response.” EPAU/2000/001. UNHCR.
- Thielemann, Eiko R. 2012. “How Effective Are National and EU Policies in the Area of Forced Migration?” *Refugee Survey Quarterly* 31 (4): 21–37.
- Trauner, Florian, and Sandra Lavenex. 2016. “A Comparative View: Understanding and Explaining Policy Change in the Area of Freedom, Security and Justice.” In *Policy Change in the Area of Freedom, Security, and Justice: How EU Institutions Matter*, edited by Ariadna Rippoll-Servent and Florian Trauner, 219–40. New York: Routledge.
- Uçarer, Emek M. 2022a. “Area of Freedom Security and Justice.” In *European Union Politics*, edited by Michelle Cini and Nieves Perez Solorzano-Borragan, 7th ed., 308–23. Oxford University Press.
- . 2022b. “EU Asylum Governance and E(Xc)Lusive Solidarity: Insights From Germany.” *Social Inclusion* 10 (3): 36–47.
- UNHCR. 2023. “Europe Situations: Data and Trends.” <https://data.unhcr.org/en/documents/details/99565>.