BAŞKENT UNIVERSITY
INSTITUTE OF EUROPEAN UNION AND
INTERNATIONAL RELATIONS
DEPARTMENT OF POLITICAL SCIENCE AND
INTERNATIONAL RELATIONS
MASTER'S OF EUROPEAN UNION WITH THESIS

THE EUROPEAN UNION'S TEMPORARY PROTECTION DIRECTIVE: LESSONS FROM SYRIA AND UKRAINE

PREPARED BY
GÖKÇEN SERT ÖNDER

MASTER'S THESIS

ANKARA - 2025

BAŞKENT UNIVERSITY
INSTITUTE OF EUROPEAN UNION AND INTERNATIONAL RELATIONS
DEPARTMENT OF POLITICAL SCIENCE AND INTERNATIONAL RELATIONS
MASTER'S OF EUROPEAN UNION WITH THESIS

THE EUROPEAN UNION'S TEMPORARY PROTECTION DIRECTIVE: LESSONS FROM SYRIA AND UKRAINE

GÖKÇEN SERT ÖNDER
MASTER'S THESIS

SUPERVISOR
ASSOC. PROF. CİHAN DİZDAROĞLU

ANKARA
2025

BAŞKENT ÜNİVERSİTESİ
AVRUPA BİRLİĞİ VE ULUSLARARASI İLİŞKİLER ENSTİTÜSÜ

Siyaset Bilimi ve Uluslararası İlişkiler Anabilim Dalı, Avrupa Birliği Tezli Yüksek Lisans Programı çerçevesinde Gökçen SERT ÖNDER tarafından hazırlanan bu çalışma, aşağıdaki jüri tarafından Yüksek Lisans Tezi olarak kabul edilmiştir.

Tez Savunma Tarihi: 06.05.2025

Tez Adı: Avrupa Birliği Geçici Koruma Yönergesi: Suriye ve Ukrayna'dan alınan dersler

Tez Jüri Üyeleri (Unvanı, Adı - Soyadı, Kurumu)	İmza
Doç. Dr. Cihan DİZDAROĞLU, Başkent Üniversitesi	………...
Doç. Dr. Nazlı ŞENSES ÖZCAN, Başkent Üniversitesi	…………
Dr. Öğr. Üyesi Burak Toygar HALİSTOPRAK, Antalya Bilim Üniversitesi	…………

ONAY

Prof. Dr. Banu ELİGÜR

Avrupa Birliği ve Uluslararası İlişkiler Enstitü Müdürü

Tarih: … / … / ……...

BAŞKENT ÜNİVERSİTESİ
AVRUPA BİRLİĞİ VE ULUSLARARASI İLİŞKİLER ENSTİTÜSÜ
YÜKSEK LİSANS TEZ ÇALIŞMASI ORİJİNALLİK RAPORU

Tarih: 29/05/2025

Öğrencinin Adı, Soyadı	: Gökçen SERT ÖNDER
Öğrencinin Numarası	: 22120261
Anabilim Dalı	: Siyaset Bilimi ve Uluslararası İlişkiler
Programı	: Avrupa Birliği Tezli Yüksek Lisans Programı
Danışmanın Adı, Soyadı	: Doç. Dr. Cihan DİZDAROĞLU
Tez Başlığı	: Avrupa Birliği Geçici Koruma Yönergesi: Suriye ve Ukrayna'dan Alınan Dersler

Yukarıda başlığı belirtilen Yüksek Lisans tez çalışmamın; Giriş, Ana Bölümler ve Sonuç Bölümünden oluşan, toplam 140 sayfalık kısmına ilişkin, 23/05/2025 tarihinde tez danışmanım tarafından Turnitin adlı intihal tespit programından aşağıda belirtilen filtrelemeler uygulanarak alınmış olan orijinallik raporuna göre, tezimin benzerlik oranı %19'dur.

Uygulanan filtrelemeler:
1. Kaynakça hariç
2. Alıntılar hariç
3. Beş (5) kelimeden daha az örtüşme içeren metin kısımları hariç

"Başkent Üniversitesi Enstitüleri Tez Çalışması Orijinallik Raporu Alınması ve Kullanılması Usul ve Esasları"nı inceledim ve bu uygulama esaslarında belirtilen azami benzerlik oranlarına tez çalışmamın herhangi bir intihal içermediğini; aksinin tespit edileceği muhtemel durumda doğabilecek her türlü hukuki sorumluluğu kabul ettiğimi ve yukarıda vermiş olduğum bilgilerin doğru olduğunu beyan ederim.

Onay

… / … / 20…

Öğrenci Danışmanı
Doç. Dr. Cihan DİZDAROĞLU

ACKNOWLEDGEMENTS

First and foremost, I would like to express my deepest gratitude to my thesis supervisor, Assoc. Prof. Dr. Cihan Dizdaroğlu, for his invaluable guidance, encouragement, and support throughout every stage of this research. His expertise, insightful feedback, and unwavering patience have greatly enriched this work and contributed immensely to my academic development.

I would also like to extend my sincere thanks to the members of my thesis defense committee, Assoc. Prof. Dr. Nazlı Şenses Özcan and Asst. Prof. Dr. Halis Burak Toygaroğlu, for their thoughtful comments, critical insights, and constructive suggestions, which have been instrumental in refining the final version of this thesis.

I am profoundly grateful to my family and friends for their endless patience, encouragement, and belief in me. Their presence and support have been a source of strength and motivation throughout this process.

This thesis would not have been possible without the contributions and encouragement of all these remarkable individuals. I am truly thankful.

ÖZET

Gökçen SERT ÖNDER
Avrupa Birliği Geçici Koruma Yönergesi: Suriye ve Ukrayna'dan Alınan Dersler
Başkent Üniversitesi
Avrupa Birliği ve Uluslararası İlişkiler Enstitüsü
Avrupa Birliği Tezli Yüksek Lisans Programı
2025

Bu tezin temel amacı, geçici koruma çerçevesinin uluslararası koruma rejimi içerisindeki ortaya çıkışını incelemek ve büyük ölçekli yerinden edilmeler karşısında acil bir müdahale mekanizması olarak etkinliğini değerlendirmektir. Özellikle, geçici korumanın, insani krizler sırasında yerinden edilen bireylere doğrudan koruma sağlamak açısından değerli ve uygulanabilir bir çözüm sunup sunmadığı araştırılmaktadır. Bu doğrultuda, uluslararası koruma sisteminin evrimi ile Avrupa Birliği'nin göç ve iltica politikaları ele alınarak, geçici koruma direktifinin benimsenmesine neden olan temel dinamikler ortaya konulmaya çalışılmıştır. Tez ayrıca, bu çerçeveleri şekillendiren hukuki, siyasi ve kurumsal süreçleri incelemekte ve bu süreçlerde karşılaşılan zorlukları değerlendirmektedir. Geçici Koruma Direktifi (GKD), bireysel iltica başvurularının sayıca fazla olduğu ve üye devletlerin bu süreçleri yönetmekte zorlandığı kriz anlarında hızlı ve ortak bir yanıt geliştirmek amacıyla AB düzeyinde kabul edilmiş olsa da, 2015 yılındaki Suriye mülteci krizi sırasında yürürlüğe konulmamıştır. Buna karşılık, 2022 yılında Ukrayna mülteci kriziyle birlikte GKD ilk kez hayata geçirilmiştir. Bu çalışma, direktifin 2015 yılında neden uygulanmadığını ve 2022'de hangi siyasi ve kurumsal nedenlerle yürürlüğe konulduğunu Avrupa bütünleşme kuramlarından da yararlanarak ortaya koymaya çalışmıştır.

Anahtar Kelimeler: Geçici Koruma, Uluslararası Koruma, Mülteci, Göç, Mülteci Sözleşmesi

ABSTRACT

Gökçen SERT ÖNDER
The European Union's Temporary Protection Directive:
Lessons from Syria and Ukraine
Başkent University
Institute of European Union and International Relations
Department of Political Science and International Relations
Master's of European Union with Thesis

The primary objective of this thesis is to examine the emergence of the temporary protection framework within the broader international protection regime and to assess its effectiveness as an emergency mechanism in responding to large-scale displacement. Specifically, the thesis explores whether temporary protection offers a valuable and practical solution for providing immediate protection to displaced individuals during humanitarian crises. To this end, the study critically analyzes the evolution of the international protection system and the development of the European Union's migration and asylum policies, with the aim of identifying the underlying factors that necessitated the adoption of temporary protection directive. The thesis also seeks to highlight the legal, political, and institutional dynamics that have shaped these frameworks and to evaluate the operational challenges faced during this phase. Although the Temporary Protection Directive was introduced in the EU to provide swift and collective responses during mass influx situations—where national asylum systems are overwhelmed by the volume of individual applications—it remained inactive during the 2015 Syrian refugee crisis. By contrast, the TPD was activated in response to the Ukrainian refugee crisis in 2022. This study investigates the reasons for the non-implementation of the directive in 2015 and the motivations behind its activation in 2022, employing European integration theories to analyze the political and institutional factors influencing these divergent responses.

Keywords: Temporary Protection, International Protection, Refugee, Refugee Convention

Table of Contents

ABBREVIATIONS

AU	African Union
AFSJ	Area of Freedom, Security and Justice
AIEA	Association of Internaitonal Education Administrators
CEAS	Common Euroepan Asylum System
CESCR	Covenant on Economic, Social and Cultural Rights
CFR	Charter of Fundamental Rights of the European Union
CJEU	Court of Justice of the European Union
DGMM	Directorate General for Migration Management
DP	Displaced Person
EAM	European Union Agenda on Migration
EBCG	European Border and Coast Guard Agency
EC	European Commission
EC	European Community
ECHR	European Convention on Human Rights
ECRE	European Council on Refugees and Exiles
ECSC	European Coal and Steel Community
ECJ	European Court of Justice
EEA	European Economic Area
ECHR	European Convention on Human Rights
EDF	European Development Fund
ENAR	European Network Against Racism
ENP	European Neighbourhood Policy
EPF	European Peace Facility
ERF	European Refugee Fund
ESTIA	Emergency Support to Integration and Accomodation
EU	European Union
EUAA	European Union Agency for Asylum
EUI	European University Institute
EUTF	EU Trust Fund for Africa
FRONTEX	European Agency fort he Management of Operational Cooperation at the External Borders
GAM	Global Approach to Migration
GAMM	Global Approach to Migration and Mobility
GDP	Gross Domestic Product
HEP	Humanitarian Evacuation Programme
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICR	International Court of Justice
IDP	Internationally Displaced Person

IOM	International Organization for Migration
IRO	International Refugee Organization
JHA	Justice and Home Affairs
JO	Joint Operation
LFIP	Law on Foreigners and International Protection
NATO	North Atlantic Treaty Organization
NGO	Non-governmental Organization
OAU	Organization of African Unity
OPAM	Observatory for Public Attitudes to Migration (OPAM)
RABIT	Rapid Border Intervention Teams
RRP	Regional Response Plan
RSD	Refugee Status Determination
SEA	Single European Act
SIS	Schengen Information System
TERS	Temporary EU Relocation System
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TPD	Temporary Protection Directive
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNCAT	UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
UNRRA	United Nations Relief and Rehabilitation Administration
USA	United States of America

1. INTRODUCTION

Temporary protection has been essential in responding to mass influx situations and remains vital amid increasing forced displacement caused by armed conflicts, poverty, inequality, human rights violations, environmental degradation, and climate change. Designed as an urgent, exceptional, and pragmatic tool, temporary protection offers a flexible mechanism to provide immediate humanitarian relief when conventional asylum systems become overwhelmed. It has been defined as both an "exceptional measure" and a "pragmatic tool" to manage large-scale arrivals of displaced persons in emergency situations. However, it has faced persistent criticism for offering a lower standard of treatment compared to the rights guaranteed under the 1951 Refugee Convention and for circumventing the obligation of individualized refugee status determination. The main challenge facing temporary protection mechanisms is to ensure that states do not use them as a way to avoid their international obligations towards refugees.

Despite its importance, there is no universally agreed definition or a binding international agreement regulating temporary protection. Efforts to establish clear standards within the international refugee protection regime have remained slow and limited, largely due to states' reluctance to commit to binding obligations in this sensitive area. As such, temporary protection remains a pragmatic, ad hoc solution rather than a consolidated international norm. Its emergence was initially driven by the urgent need to respond to mass influxes without placing disproportionate strain on the asylum systems of host states, offering basic humanitarian protection while saving time for the development of more durable solutions.

The international emergence of temporary protection can be traced back to the response to the displacement crises following the Vietnam War in the 1980s. The large-scale displacement of Vietnamese refugees, known as the "boat people," prompted the United Nations High Commissioner for Regufess (UNHCR) Executive Committee to mention temporary protection in its conclusions for the first time. Subsequently, a doctrine of temporary protection began to take shape through successive Executive Committee conclusions, with the UNHCR-being the only international organization responsible for refugee protection-playing a central role in its gradual development. These early experiences demonstrated the practical necessity of temporary protection but also revealed its vulnerabilities, particularly in terms of inconsistent application and lack of enforceable rights for the displaced.

Within the European context, temporary protection gained further significance during the disintegration of the former Socialist Federal Republic of Yugoslavia in the 1990s. Following the UNHCR's 1992 "Comprehensive Response to the Humanitarian Crisis in Former Yugoslavia," many European states introduced temporary protection schemes to assist people fleeing from conflict, ethnic cleansing, and widespread human rights violations in Bosnia and Kosovo. The displacement of nearly two million people in Bosnia alone underscored the magnitude of the humanitarian crisis. Germany, Norway, Denmark, and Austria were among the countries that offered temporary or humanitarian protection. However, the lack of common standards led to significant variations in the responses of European Union (EU) member states. The ad hoc nature of these measures, and the disparities among the protection provided, highlighted the urgent need for collective action and standardized procedures within the EU.

This recognition led to the adoption of the Temporary Protection Directive (TPD) in 2001, a landmark in the EU's efforts to harmonize asylum policies. The TPD aimed to promote solidarity and burden-sharing among member states, providing a legal framework for coordinated action during future mass influx situations. It also represented a significant development in the EU's broader migration and asylum policy, being the first piece of legislation adopted specifically to regulate temporary protection at both regional and international levels. The directive sought to strike a balance between humanitarian obligations and the challenges faced by host states during large-scale displacement, and it reflected the EU's broader ambition to build a Common European Asylum System (CEAS). Despite its adoption, however, the TPD remained unused for more than two decades, raising important questions about its operational feasibility and political acceptability.

This thesis employs a comparative case study approach to explore the implementation and impact of temporary protection in the EU by analyzing two key cases: the 2015 Syrian refugee crisis and the 2022 Ukrainian mass displacement. These cases provide valuable insights into the factors shaping EU responses to mass influx situations and offer a lens through which to assess the role of temporary protection in promoting deeper European integration. Although the Syrian civil war began in 2011, the EU was primarily affected by mass arrivals in 2015. Despite the scale of the crisis and widespread calls for solidarity, the EU chose not to activate the TPD, opting instead for externalization strategies such as the EU-Turkey statement of March 18, 2016, aimed at curbing irregular migration flows. This approach emphasized the prevention of arrivals over the provision of protection within EU borders and reflected the strategic use of external partners to manage migration challenges.

In contrast, the Russian invasion of Ukraine in February 2022 prompted the EU to activate the TPD for the first time in its history. The decision, taken swiftly and unanimously, reflected a striking degree of political solidarity among member states, despite their traditionally divergent interests in the field of migration. The activation of the TPD provided immediate protection to millions fleeing the war in Ukraine, ensuring access to residency, education, healthcare, and employment rights. Nonetheless, even this implementation was accompanied by serious concerns. The exclusion of third-country nationals from the scope of the TPD and the differential treatment they faced at EU borders raised significant questions regarding the EU's commitment to the principles of equality, non-discrimination, and human dignity. Furthermore, the temporary nature of the protection provided-and the absence of comprehensive long-term solutions-highlighted the structural limitations of the TPD as an emergency mechanism.

By examining these two contrasting cases, this thesis seeks to answer the question of why did the EU activate the Temporary Protection Directive for Ukrainians in 2022 but not for Syrians in 2015? By analyzing this divergence, the thesis explores whether the TPD can be considered an effective and inclusive instrument for responding to displacement crises and whether it contributes to a more integrated European asylum policy.

To answer this question, the thesis applies three major European integration theories: neo-functionalism, post-functionalism, and intergovernmentalism. Neo-functionalism explains how integration in one policy area (such as border controls) may lead to spillover effects in others (like asylum policy). This theory helps contextualize the development of instruments like the TPD but falls short in explaining their uneven implementation. Post-functionalism draws attention to identity politics, politicization, and public opinion, offering insights into Member States' varied responses based on cultural proximity or public sentiment. However, it is intergovernmentalism that provides the most compelling explanation for the actual policy outcomes.

This thesis argues that the non-activation of the TPD in 2015 cannot be attributed to legal constraints, but to the political preferences of member states**.** Intergovernmentalism, with its emphasis on national sovereignty and interstate bargaining, best explains the fragmented EU response during the Syrian crisis and the coordinated activation of the TPD in the Ukrainian case. National governments retained control over key migration decisions and only acted collectively when their interests converged.

This thesis draws on qualitative data sources including legal and policy documents, EU directives, national legislation, reports from international organizations (such as the

UNHCR), academic literature, and media analysis. A qualitative content analysis approach, complemented by a legal comparative method, underpins the examination of differences in policy implementation, legal frameworks, and public discourse surrounding the two crises. This methodological approach ensures a comprehensive and balanced assessment of the EU's evolving approach to temporary protection and its broader implications for European integration.

Through a comparative analysis of the Syrian and Ukrainian displacement crises, this thesis aims to contribute to ongoing debates about the role of temporary protection in international refugee law, the future of EU asylum governance, and the prospects for deeper European integration. By evaluating the implementation of the TPD in two different geopolitical contexts, it assesses not only the operational challenges and political dynamics involved but also the normative questions surrounding the EU's commitment to protection, solidarity, and human rights.

This thesis is structured into four main sections, beginning with the introduction. The following section develops the conceptual framework on temporary protection, tracing its emergence within international and EU legal frameworks. It also examines state practices, implementation patterns, and the principal critiques and challenges associated with the temporary protection regime. The third section focuses on the evolution of the EU's migration and asylum policies, identifying the systemic challenges that have shaped the development of the CEAS. Within this context, it situates the emergence of the TPD, detailing its legal scope, key provisions, and the political and institutional barriers to its activation and implementation. This section employs neo-functionalism to analyze the role of spillover effects in driving policy harmonization and institutional adaptation in the field of asylum and migration, particularly in shaping the TPD. It also applies intergovernmentalism to highlight the influence of member state preferences and bargaining dynamics in shaping EU-level responses and the limits of supranational authority in implementing the TPD.

The final section offers a comparative analysis of the EU's responses to the 2015 Syrian refugee crisis and the 2022 Ukrainian displacement. It aims to demonstrate how diverging practices and responses influenced the trajectory of EU integration. Intergovernmentalism is employed to explain the uneven political commitment and resistance to activating the TPD during the Syrian crisis. In contrast, post-functionalism is used to explore how public opinion, national identity, and politicization contributed to the selective activation of the TPD in the Ukrainian context. These theoretical perspectives provide a framework for understanding the tensions between national and supranational interests in EU asylum governance and the broader implications for European integration.

2. INTERNATIONAL REFUGEE PROTECTION AND TEMPORARY PROTECTION

The origin of migration movements dated back to historical events like the expulsion of the Jews by Isabella of Spain[1] and the Huguenots after the Edict of Nantes.[2] While migration has always existed, the two World Wars made it a major issue for European nation-states, as the 1940s, especially after the World War II, marked a peak in mass displacement caused by war and political upheaval. Between 1919 and 1959, the absence of a universally accepted legal definition of "refugee" complicated protection efforts in Europe. Refugee policy was shaped by states' interpretations of citizenship, economic, and political agendas, making the issue more political rather than humanitarian. The 1930s, particularly after the Anschluss (1938),[3] saw restrictive asylum practices, while the post-World War II prompted greater international cooperation and the development of legal frameworks for regugee protection.[4] This era reflected the growing tension between national sovereignty and emerging international humanitarian norms.[5]

---

[1] "Spain Announces It Will Expel All Jews," History, 31 March 2021; "The expulsion of the Jews from Spain was the practice of King Ferdinand II of Aragon and Queen Isabella I of Castile, who issued the Alhambra Decree in 1492. This decree mandated the expulsion of all Jews from the country. It is challenging to estimate exact numbers, but contemporary historians suggest that approximately 40,000 Jews emigrated, as opposed to earlier estimates of several hundred thousand. Many perished during their escape; some accounts claim that, after being paid, Spanish captains threw refugees overboard. Although the Ottoman Empire received these Jews relatively openly, much of Europe responded similarly to Spain. Initially seen as a refuge, Portugal followed suit with its own expulsion decree just five years later," accessed on 26.11.2024, https://www.history.com /this-day-in-history/march-31/spain-announces-it-will-expel-all-jews.

[2] "Edict of Nantes," Study.com, 21 November 2023; "The Edict of Nantes (1598) was a landmark decree by King Henry IV of France that temporarily ended the Wars of Religion (1562–1598) between Catholics and Huguenots. It granted limited religious freedom to Protestants. Backed by the politiques, Henry prioritized national unity over sectarian conflict. This allowed Huguenots to worship in certain areas and access public roles. These changes helped restore peace and strengthen royal authority. However, the protections granted by the Edict were gradually rolled back. Under Louis XIII and Cardinal Richelieu, the Peace of Alès (1629) stripped Huguenots of their political and military rights, thereby weakening their autonomy. Eventually, Louis XIV revoked the Edict in 1685 with the Edict of Fontainebleau, which led to renewed persecution and the mass emigration of Huguenots," accessed on 26.11.2024,
https://study.com /learn/lesson/edict-of-nantes.html

[3] "Nazi Territorial Aggression: The Anschluss," Holocaust Encyclopedia; "Throughout the 1930s, Nazi Germany pursued an aggressive foreign policy. This culminated in World War II, which began in Europe in September 1939. Prewar and wartime territorial expansion eventually brought millions of Jewish people under German control. On March 11–13, 1938, Nazi Germany annexed the neighboring country of Austria. This event is known as the *Anschluss"*, accessed on 24.11.2024,
https://encyclopedia.ushmm.org /content/en/article/nazi-territorial-aggression-the-anschluss.

[4] Matthew Frank and Jessica Reinisch, "Refugees and the Nation-State in Europe 1919-59", *Journal of Contemporary History, Vol. 49(3)*, (2014): 480-481.

[5] *Ibid,* pg. 480-483.

Forced migration is a key concept in understanding the refugee protection systems. It refers to the involuntary or coerced movement of individuals or groups away from their homes or home regions, often in response to oppression, violence, or life-threatening conditions. Such movements include both refugees and internally displaced persons (IDPs), and result from natural or man-made causes such as threats to life and livelihood or environmental disasters, chemical or nuclear disasters, famine or development projects.[6] The UNHCR defines "forced displacement" as the situation of people displaced "as a result of persecution, conflict, generalized violence or human rights violations." Individuals affected by forced migration may be referred to as "forced migrant", "displaced person" (DP), or, if they remain within their country, "internally displaced person" (IDP). Refugees are the displaced persons who are receiving legally defined protection and are recognized as such by their country of residence and/or international organizations. Throughout history, people have sought refuge from injustice and oppression. The need for adressing forced migration brought in attention the need for fair, effective refugee protection systems.[7]

Refugee law evolved in response to the displacement crises of the early 20th century, particularly after World War II, which marked a turning point in shaping international refugee protection. This culminated in the adoption of the 1951 Refuge Convention relating to the Status of Refugees and its 1967 Protocol, alonside the establishment of the UNHCR. These instruments aimed to replace state protection for refugees with international protection until durable solutions could be found. The principle of "non-refoulement", which prohibits returning refugees to places, where their lives or freedoms are at risk, was the cornerstone of refugee law.[8]

The 1951 Convention defined a refugee as someone fleeing persecution across borders. However, this definition did not encompass all forms of forced migration. Over time, regional adaptations, particularly in Africa and Central America, broadened the definition to include individuals fleeing generalized violence and human rights violations. In recent times, the concept of "refugee" has expanded to include "refugee-like" groups, such as IDPs or

[6]European Commission, Migration and Home Affairs, Glossary, Forced migration; accessed on 24.11.2024 https://home-affairs.ec.europa.eu /networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/forced-migration_en

[7] C.J.Harvey, "Strangers at the Gate: Human Rights and Refugee Protection", *Irish Studies in International Affairs, Vol.10, Royal Irish Academy*, 1999: 7.

[8] *Ibid,* pg. 7.

other forced migrants, including those displaced by climate change, natural disasters, and development projects, challenging the narrow legal definition.[9]

As Loescher noted, there were 25 million IDPs worldwide in 2009. According to the latest UNHCR figures,[10] an estimated 117.3 million people were forcibly displaced at the end of 2023 due to persecution, conflict, violence, human rights violations and events seriously disturbing the public order. Based on the available data, UNHCR further estimated that forced displacement would likely to exceed 120 million by the end of 2024.

Following the brief back-ground outlined above, this section aims to highlight the emergence of temporary protection and its place in international refugee protection framework. It will first examine how temporary protection developed in response to the limitations of the 1951 Refugee Convention and its 1967 Protocol, particularly in situations of mass influx. The section will also present key elemens of temporary protection practices imlemented during crises in Europe and Middle East, and address some of the main criticisms related to this status.

2.1.Historical Context of International Refugee Protection

The foundations of modern international refugee protection were laid in the aftermath of World War I, as the League of Nations began addressing forced displacement through ad hoc mechanisms. Under the leadership of Fridtjof Nansen, first High Commissioner for Refugees, early efforts focused on providing legal identity and limited diplomatic protection to stateless populations, especially Russian and Armenian refugees. These initiatives-though pioneering-were shaped more by political concerns than by humanitarian principles and did not offer durable solutions such as asylum or long-term protection. The 1933 League of Nations Convention relating to the International Status of Refugees[11] and the 1938 Evian Conference attempted to respond to the growing forced displacement caused by the rise of totalitarian regimes but remained constrained by national interests and weak international coordination.[12]

---

[9] Gil Loescher, «A Universal Mandate to Protect: The Challenges of Refugee Protection.» *Harvard International Review, Vol.31, No.3, Harvard International Review*, 2009: 44.
[10] “Global Trends,” UNHCR, accessed on 24.11.2024, https://www.unhcr.org /global-trends.
[11] “Convention relating to the International Status of Refugees,” UNHCR, accessed on 24.11.2024, https://www.refworld.org/ legal/agreements/lon/1933/en/17584.
[12] Ruud Lubbers, “Asylum for All: Refugee Protection in the 21st Century”, *Harvard International Review, Vol.24, No.1,* , 2002: 60; Dilek Türközü, “Two Sides of the Same Coin”, *Die Friedens-Warte, Vol.92, No.3/4, Berliner Wissenschafts-Verlag Stable*, 2017-2019: 217.

The displacement of millions during and after World War II made the inadequacy of existing structures undeniable, prompting greated urgency of a formalized legal framework. However, Cold War divisions between the United States- led (US) Western powers and the Soviet Union deeply affected how refugee protection was conceived and delivered.[13] The West emphasized individual rights and the voluntary nature of resettlement, while the Soviet Union prioritized state sovereignty and repatriation,[14] often viewing displaced persons as political threats. These ideological conflicts played out within institutions like the United Nations Relief and Rehabilitation Administration (UNRRA) and the International Refugee Organization (IRO),[15] both of which struggled with political tensions and funding challenges.[16] These tensions ultimately paved the way for the establishment of the United Nations High Commissioner for Refugees (UNHCR) in 1950 and the drafting of the 1951 Refugee Convention, which aimed to provide a more consistent legal and institutional basis for refugee protection.[17]

The establishment of UNHCR in 1950 marked a major step in the development of international refugee law.[18] Created under the UN Charter (art.13, para.1.), UNHCR was mandated to "promote international cooperation in the political field" and "assisting in the realization of human rights and fundamental freedoms for all with no distinction as to race, sex, language or religion." Initially established with a three-year mandate, UNHCR has became a key international actor, adressing protection needs of stateless and displaced individuals especially in the post-war Europe. Its responsibilities included monitoring key principles such as non-discrimination, non-penalization for illegal entry, and non-refoulement.

UNHCR's early years were marked by Cold War tensions and the challenge of balancing humanitarian objectives with state interests.[19] Despite political obstacles, it

[13] Guy S Goodwin-Gill, "The Politics of Refugee Protection," *Refugee Survey Quarterly, Vol.27, No.1, UNHCR and the Global Cold War, Oxford University Press*, 2008: 13-14.
[14] "Repatriation," European Commission, Migration and Home Affairs, "The personal right of a refugee or a prisoner of war to return to their country of nationality under specific conditions laid down in various international instruments and human rights instruments as well as in customary international law", accessed on September 2023, https://home-affairs.ec.europa.eu /networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/repatriation_en
[15] For a detailed information on IRO and the way lead to the formation of UNHCR, please refer to Corinne Lewis, *UNHCR and International Refugee Law, From Treaties to Innovation.* Routledge, (2012): 44-50.
[16] *Ibid,* pg. 15-16.
[17] Türközü, "Two Sides of the Same Coin," 217
[18] Lewis, "UNHCR and International Refugee Law," 23; Mehmet Güçer, Sema Karaca, and Bahadır Dinçer, *International Law on Refugees and the Turkish Legislation, The Struggle for Life Between Borders, Syrian Refugees,* International Strategic Research Organization (USAK), 2013:25.
[19] Goodwin-Gill, "The Politics of Refugee Protection," 9-10.

expanded its reach beyond European borders by the mid-1950s, adopting to new forms of displacement patterns linked to decolonization. The adoption of the 1951 Refugee Convention, rooted in efforts dating back to the League of Nations, was another significant progress. While 146 countries are party to the Convention and 147 to the 1967 Protocol, some states, including Türkiye, maintain geographic reservations. The Convention defined who qualifies as a refugee and established state obligations, though with temporal and geographical limitations—only applying to events before January 1, 1951 and primarily in Europe.[20] These geographical and temporal limitations were later addressed by the 1967 Protocol.[21] Recognizing the need for broader applicability, the 1967 Protocol Relating to the Status of Refugees removed these limitations. It also eliminated the temporal restriction and it allowed states to apply the Convention globally. However some geographical reservations persisted. The Covention's core principle of non-refoulement (Article 33.1) and alignment with universal human rights standards solidified its role as the foundation of the modern refugee regime.

While UNHCR focused largely on European refugees in its initial years, new displacement crises, such as the Algerian War of Independence (1954-1962), revealed the gaps in the Convention such as the narrow definition of refugee with temporal and geopraphical limitations.[22] In light of these events, the UN General Assembly extended UNHCR's mandate beyond the Convention's initial scope. The 1967 Protocol adressed the Convention's temporal and geographical restrictions, but retained its narrow definition of refugee.[23] Meanwhile, regional instruments like the 1969 Organization of African Unity (OAU) Convention responded to broader definition of refugees caused by generalized violence and unrest such as external agression, occupation, foreign domination or events seriously disturbing public order.[24] Despite these developments, international refugee law remained focused on political persecution, leaving many forms of forced displacement outside its scope.[25]

While the 1951 Refugee Convention and its 1967 Protocol laid the foundational framework for international refugee protection-particularly through the establishment of

---

[20] Lewis, "UNHCR and International Refugee Law," 23.
[21] Lubbers, "Asylum for All", 60.
[22] Goodwin-Gill, "The Politics of Refugee Protection," 17-18.
[23] Lubbers, "Asylum for All," 61.
[24] Helene Lambert, "International Refugee Law," *The Library of Essays in International Law.* New York, USA: Routledge, (2016):18.
[25] Linn Biorklund Belliveau and Rhonda Ferguson, "Normalising the Exceptional: The Use of Temporary Protection in Transit Countries to Externalise Borders and Responsibilities," *Geopolitics, 28:1*, 2023: 336.

refugee status, the principle of non-refoulement, and the rights of recognized refugees-they were not designed to address all forms of displacement. The Convention's original temporal and geographic limitations, later removed by the 1967 Protocol, remained accompanied by a narrow definition of a refugee, focused on individual persecution for specific grounds (race, religion, nationality, political opinion, or membership in a social group). Crucially, the Convention did not specify procedures for determining refugee status or for handling large-scale movements, leaving implementation largely to the discretion of individual states.[26] As new crises emerged—especially involving civil wars, decolonization, and generalized violence—it became evident that the existing system lacked the flexibility and speed required to respond to mass influx situations effectively.

These structural and operational gaps were further exacerbated by political challenges faced by UNHCR and the states themselves. Refugee protection often had to be negotiated between humanitarian principles and national interests, particularly in the context of growing securitization and domestic political concerns.[27] States were frequently reluctant to fully delegate decision-making to UNHCR, and restrictive asylum policies, coupled with inadequate funding, undermined the effective application of international obligations.[28] The individualized nature of asylum determination proved unworkable during sudden, large-scale arrivals, and non-refoulement protections—though binding—lacked operational clarity in emergency contexts.[29] In this context, temporary protection emerged as a pragmatic and flexible mechanism, designed to fill the legal and institutional gaps of the traditional regime. It offered states a collective, time-bound response to mass displacement, while ensuring basic standards of protection for those who could not yet access refugee status through formal channels.

2.2. Emergence of Temporary Protection

One of the major challenges faced by UNHCR in its protection mandate has been responding to situation of mass influx, where large numbers of persons cross international borders in a short period. As previously mentioned, the 1951 Refugee Convention remains the cornerstone of international refugee law. However, it was designed for the post-World

---

[26] Lambert, "International Refugee Law," 16; Goodwin-Gill, "The Politics of Refugee Protection," 21.
[27] Goodwin-Gill, "The Politics of Refugee Protection," 9-10.
[28] Loescher, "A Universal Mandate to Protect," 45.
[29] Lambert, "International Refugee Law," 16; Guy S Goodwin-Gill, "Challenges to Protection," *The International Migration Review, Vol.35, No.1, Special Issue:UNHCR at 50: Past, Present and Future of Refugee Assistance*, 2001: 140-142.

War II era and does not adress modern refugee crises, particularly those involving mass influx situations. As such, key protection gaps have included the absence of procedues for handling large-scale refugee arrivals, protracted displacement, maritime protection, and secondary movements.[30]

To address these limitations, states and UNHCR have developed temporary protection measures as practical tools for managing sudden and large-scale movements. These mechanisms were often applied in emergency contexts and offered group-based protection at lower standards than those under the 1951 Convention. UNHCR tried to handle this situation through finding different methods to overcome the challenges faced in refugee protection. In this way, refugee law has gradually evolved through several instruments, judicial interpretations, and policy responses to incorporate concepts not foreseen in the original Convention, such as the rights of refugee children, temporary protection, and persecution by non-state agents.[31]

For the purpose of this thesis, this section will focus specifically on the development and role of temporary protection regime within the broader international refugee framework under three headings: First, it examines the evolution of temporary protection in international documents, particularly through UNHCR's initiative and Executive Committee (ExCom) conclusions. Second, it briefly reviews state practices of temporary protection during mass influx situations. Third, it addresses the challenges and critiques associated with this framework, including its legal ambiguity, the risk of undermining asylum standards, and the absence of binding international recognition.

Central to understanding temporary protection is the concept of "mass influx", which refers to the rapid arrival of large numbers of individuals seeking protection, often overwhelming the host state's asylum system and administrative capacity. Mass influxes were seen as threats to political, economic, and social stability, creating challenges for states and individuals seeking protection. Although no universal threshold exists for determining a mass influx, it is generally assessed based on the receiving state's capacity, geographical context, and the impact of arrivals. The increase of mixed migration flows, involving both refugees and other migrants, further complicates the application of protection measures.

Temporary protection had long served as a practical emergency response used by states to manage the large-scale arrival of displaced persons, protect them from *refoulement,* and provide them with basic treatment. These measures were often adopted on an ad-hoc basis,

[30] Türközü, "Two Sides of the Same Coin," 220-221.
[31] Lewis, *UNHCR and International Refugee Law,* 23.

lacking legal uniformity or common standards. The need for a coordinated international response to overcome challenges such as financial problems, security concerns, and border management issues caused by complex, mixed cross-border population movements, prompted the UNHCR and the EU to define minimum standards and clarify state responsibilities in situations involving a mass influx of people. Accordingly, the international documents such as ExCom Conclusions, the "Guidelines on International Protection", and the "EU Directive on Temporary Protection" will be examined to see how these developments paved the way for the adoption of the Temporary Protection Directive.

UNHCR contributed to this process through the development of "soft law" instruments, particularly ExCom conclusions and doctirinal handbook.[32] The 1979 "Handbook on Procedures and Criteria for Determining Refugee Status"[33] and ExCom Conclusion No.15 on "Refugees Without an Asylum Country"[34] introduced the idea of "temporary refugee" as a minimal standard in mass influx contexts. This was further advanced in the second Ex-Com Conclusion No. 22[35] in 1981 on "Protection of Asylum Seekers in Situatons of Large-Scale Influx", which laid out minimum protections such as admission to safety, protection against refoulement, and access to basic human rights, alonside the principle of burden sharing.[36] Until 2000s, there were no significant development in temporary protection framework. The "Agenda for Protection" was adopted later in 2002 as a result of the Global Consultation process. The agenda emphasized the need for more effective and organized responses to situations of mass influx of people as well as enhanced responsibility sharing between the states.[37]

Building on these efforts, the UNHCR released its "Guidelines on Temporary Protection or Stay Arrangements" in 2014. This "guidelines" was based on the existing

---

[32] Lewis, *UNHCR and International Refugee Law,* 117-118.
[33] "Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees," UNHCR, accessed on October 2023, https://www.unhcr.org /media/handbook-procedures-and-criteria-determining-refugee-status-under-1951-convention-and-1967.
[34] "ExCom Members and Parties to Conventions," UNHCR; "UNHCR is governed by the United Nations General Assembly and the Economic and Social Council (ECOSOC). In 1958, ECOSOC established the Executive Committee of the High Commissioner's Programme (ExCom), pursuant to a resolution of the General Assembly. Its main tasks are to approve the High Commissioner's programmes, advise the High Commissioner in the exercise of his functions (mainly on protection issues), and oversee the Office's finances and administration, accessed on 26.11.2024, https://reporting.unhcr.org /excom-members-and-parties-conventions.
[35] "Protection of Asylum-Seekers in Situations of Large-Scale Influx No. 22 (XXXII)-21 October 1981," UNHCR, Executive Committee Meetings, Executive Committee 32nd session, accessed on 26.11.2024, https://www.unhcr.org /publications/protection-asylum-seekers-situations-large-scale-influx.
[36] Alice Edwards, "Temporary Protection, Derogation and the 1951 Refugee Convention," *Melbourne Journal of Internaitonal Law 13, No.2*, November 2012: 624.
[37] *Ibid*, pg. 623.

regional protection instruments and arrangements.[38] It establihed a non-binding but comprehensive framework for temporary protection, especially for states not party to the 1951 Convention. Moreover, it emphasized that temporary protection must remain complementary to, rather than substitute for, the obligation under the Regugee Convention and should not be used to prevent access to asylum procedues or encourage premature return.[39] Importantly, the guidelines emphasized that temporary protection is only suitable for short-term humanitarian crises and should not replace long-term solutions.

The EU's engagement with temporary protection evolved in the 1990s, primarily due to displacement crises in the Balkans, which exposed the different practices of member states in their responses. The need to establish standards in the EU led to the adoption of EU Council Directive 2001/55 on temporary protection.[40] The Directive establishes clear right and certain obligations for those receiving temporary protection. Although the Directive is framed as complementary to the 1951 Convention, it has been criticized for enabling states to limit Convention obligations in mass influx situations.[41] Furthermore, ambiguities in the criteria for activating the Directive and opt-out provisions have raised concerns about its practical effectiveness and the risk of undermining international refugee standards.

Despite these efforts by UNHCR and EU, temporary protection remains governed by a fragmented legal framework. There is still no internationally binding standard for defining the scope, duration, or conditions of temporary protection, resulting in a regionalized and state-centric approach. While UNHCR initially welcomed EU harmonization efforts, concerns were later raised about the EU's tendency to define "least common standards" that allowed member states to "opt out provisions".[42] As a result, temporary protection remains a critical but legally ambiguous instrument, intended as a bridge to durable solutions, but often constrained by political and legal inconsistencies.

---

[38] See, in particular, OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, 10 September 1969, available at: http://www.unhcr.org /refworld/docid/3ae6b36018.html and the 1984 Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 22 November 1984, available at: http://www.unhcr.org /refworld/docid/3ae6b36ec.html; Asian-African Legal Consultative Organization (AALCO), Bangkok Principles on the Status and Treatment of Refugees ("Bangkok Principles"), 31 December 1966, as adopted on 24 June 2001 at the AALCO's 40th Session, New Delhi, available at: http://www.unhcr.org /refworld/docid/3de5f2d52.html.

[39] "Guidelines on Temporary Protection or Stay Arrangements, 2013," UNHCR, accessed on 26.11.2024, https://www.unhcr.org /media/guidelines-temporary-protection-or-stay-arrangements

[40] "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," Eur-Lex, accessed on September 2023, https://eur-lex.europa.eu /legal-content/EN/TXT/PDF/?uri=CELEX:32001L0055.

[41] Edwards, "Temporary Protection," 627.

[42] Lewis, *UNHCR and International Refugee Law,* 156-157.

The 1990s marked a critical period in the evolution of international refugee protection, during which states increasingly turned to temporary protection as a pragmatic and flexible response to mass influx situations.[43] In contrast to the individualized procedures required under the 1951 Refugee Convention, temporary protection offered group-based, time-limited relief to displaced persons, prioritizing immediate access to safety and basic rights over formal status determination.[44] Major displacement crises, including the exodus of Iraqi Kurds from Northern Iraq in 1991 and the wars in Bosnia-Herzegovina and Kosovo in 1991 and 1999, respectively, demonstrated the importance of temporary protection measures for addressing large-scale displacements. These crises paved the way for the development of international standards on temporary protection. These events also highlighted both the utility and limitations of temporary protection: while it reduced pressure on national asylum systems, it often lacked legal clarity and offered only minimal rights.

A decade later, the Syrian civil war presented a new and unprecedented test for temporary protection frameworks. Unlike the 1990s examples, which unfolded prior to the development of binding EU asylum instruments, the Syrian crisis occurred within a legal environment where both national and supranational protection regimes co-existed. While the EU Temporary Protection Directive (2001/55/EC) was not activated for Syrians, Türkiye implemented its own temporary protection regime, ultimately becoming the largest refugee-hosting country in the world. Given this thesis's focus on the EU's legal framework, Türkiye's response is briefly examined as a single case study to offer insights into the practical challenges, legal structures, and political dynamics associated with temporary protection beyond the EU context. This case provides a valuable point of comparison for assessing the adaptability and limitations of temporary protection mechanisms in managing contemporary mass displacement.

The outbreak of the Syrian civil war in 2011 triggered one of the most severe displacement crises of the 21st century, with more than 14 million Syrians have been forced to flee their homes and over 5.5 million seeking refuge in neighboring countries, including Türkiye, Lebanon, Jordan, Iraq and Egypt. Furthermore, 7.2 million Syrians are displaced within their own country, where seventy percent of the population needs humanitarian assistance, and 90 percent live below the poverty line. The Syrian refugee crisis highlights

[43] Türközü, "Two Sides of the Same Coin," 223-225.
[44] Linn Biorklund Belliveau and Rhonda Ferguson, "Normalising the Exceptional: The Use of Temporary Protection in Transit Countries to Externalise Borders and Responsibilities," *Geopolitics, 28:1*, 2023: 333-336.

the devastating impact of prolonged conflict on civilians and underscores the importance of international solidarity in addressing humanitarian crises.[45] In response, Türkiye adopted an open-door policy, allowing Syrians fleeing violence to enter the country without visas. According to the latest data from the Presidency of Migration Management,[46] Türkiye is still hosting the largest share of over 5.6 million Syrians, at 2.938.261. Türkiye also offered these individuals protection under the newly established Temporary Protection Regulation of 2014, which is based on Article 91 of the Law on Foreigners and International Protection (LFIP, Law No. 6458). This legal framework granted Syrians access to healthcare, education, and limited labor rights while upholding Türkiye's geographical limitation to the 1951 Refugee Convention.[47] Although Türkiye does not offer full refugee status to non-Europeans, the implementation of temporary protection has ensured compliance with the principle of non-refoulement, regulated under Article 4 of Law No. 6458[48] and Article 6 of the Temporary Protection Regulation**.**

Despite the positive aspects of Türkiye's response—such as the breadth of services provided and its commitment to humanitarian access—various challenges and criticisms have emerged. Key concerns include the lack of access to individual refugee status determination (RSD), the absence of a time limit for temporary protection, and ambiguous pathways to work authorization, which often leave Syrians vulnerable to exploitation in informal labor markets.[49] Critiques have also focused on the regulation's failure to explicitly guarantee key rights such as work, education, and social assistance, despite later amendments in 2016 introducing limited work permit mechanisms.[50] While Türkiye's temporary protection regime has been praised for its scale and operational effectiveness, the

[45] "Syria Refugee Crisis Explained," UNHCR, 13 March 2024, accessed on 26.11.2024, https://www.unrefugees.org /news/syria-refugee-crisis-explained/#WhendidtheSyrianrefugeecrisisbegin?.
[46] "Statistics, Temporary Protection," Presidency of Migration Management, accessed on 3.12.2024 https://www.goc.gov.tr /gecici-koruma5638
[47] Türközü, "Two Sides of the Same Coin," 227.
[48] "Law No. 6458 on Foreigners and International Protection (LFIP)," Presidency of Migration Management; Law No. 6458 on Foreigners and International Protection (LFIP) was approved by the President on 10.04.2013 and published in the Official Gazette No. 28615 dated 11.04.2013. Law on Foreigners and International Protection includes three main parts: foreigners, international protection and Presidency of Migration Management, accessed on November 2023, https://en.goc.gov.tr /temporary-protection-in-law-on-foreigners-and-international-protection.
[49] Meltem İneli Ciğer, "Implications of the new Turkish Law on foreigners and international protection and Regulation No. 29153 on temporary protection for Syrians seeking protection in Türkiye," *Oxford Monitor of Forced Migration 4, No.2*, 2015: 28-29.
[50] Jinan Bastaki, "Temporary Protection Regimes and Refugees: What Works? Comparing the Kuwaiti, Bosnian, and Syrian Refugee Protection Regimes", *Refuge: Canada's Journal on Refugees 34, No.2*, 2018: 78; Belliveau and Ferguson, "Normalising the Exceptional," 344.

long-term sustainability of services and integration remains a pressing issue as the situation persists and millions continue to live under a status initially intended as temporary.[51]

Temporary protection has become an increasingly relevant tool in the international refugee protection regime, particularly in response to large-scale displacements where conventional asylum systems may be overwhelmed. While it offers immediate relief and safeguards against refoulement, it also raises significant legal and normative concerns about the adequacy and sustainability of such protection mechanisms.

2.3. Challenges and Critiques

It is widely accepted that temporary protection remains highly relevant given the increasing mass displacement driven by armed conflicts, poverty, inequality, environmental degradation, and climate change. As forced migration is projected to rise, temporary protection offers a critical and flexible tool for ensuring the safety and dignity of displaced populations, while accomodating the capacity limitations of host states.[52]

Temporary protection is characterized by its time-limited nature and reduced set of rights compared to the 1951 Refugee Convention. It is designed as an emergency response for situations involving a mass influx of people, when determining refugee status on an individual basis is no feasible. While it gurantees protection from refoulement (return to a country where individuals face persecution), it typically offers only basic humanitarian assistance and limited rights. UNHCR has acknowledged that lower standards of treatment often accompany temporary protection due to the emergency context. Fundamental rights enshired in the 1951 Convention, such as access to education, employment, and legal documentation, are frequently suspended or restricted under these frameworks. The ExCom Conclusion No. 22 (1981) emphasizs minimum standards such as non-refoulement, non-penalization, restricted limitations on freedom of movement only when necessary for public order or health.[53]

Temporary protection schemes also often lack integration components, reflecting their inherently provisional design and repatriation-focused intent. Critics such as Hathaway and Neve have argued that these schemes fail to address refugees' long-term needs, leaving them in legal and social limbo, which can lead to marginalization and dependency.[54] Additionaly,

---

[51] Güçer, Karaca and Dinçer, *International Law on Refugees and the Turkish Legislation,* 29.
[52] Türközü, "Two Sides of the Same Coin," 227-228.
[53] *Ibid*, pg.229.
[54] James C. Hathaway and Alexander Neve, "Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection", *Harvard Human Rights Journal* 10, 2017: 115-211.

ambiguities in UNHCR's guidance have led to divergent state interpretations, which risk undermining consistent access to protection and rights. The unpredictabile nature of displacement makes it challenging for host states to uphold both humanitarian obligations and national stability. Temporary protection regimes often lack a clear legal foundation, relying on non-binding "soft low" instruments like ExCom conclusions. As a result, they exist in a legal grey area with no concensus on their relationship to 1951 Convention. Some scholars argue that temporary protection dilutes regugee standards by offering a weaker form of protection and delaying individual status determination. States prefer to maintain flexibility and therefore resist codifying temporary protection into binding legal instruments—fearing expanded obligations and political backlash.

While temporary protection serves immediate humanitarian needs, it can leave beneficiaries without enforceable rights. This reliance on soft law may erode the perception of refugee protection as a binding human rights obligation. The absence of long-term integration strategies means individuals may remain in prolonged uncertainty, vulnerable to exclusion or social hostility in host societies.[55]

In short, temporary protection is a valuable emergency mechanism but remains conceptually and legally fragile. Codification efforts have been slow, revealing states' reluctance to commit to more robust legal obligations. Its use underscores the tension between practical short-term solutions and the long-term need for a durable international framework that ensures comprehensive protection for displaced persons. Temporary protection is valuable as an emergency mechanism, yet it remains conceptually and legally fragile. Efforts to clarify and codify its role within the international refugee framework have been slow, revealing states' reluctance to commit to stronger legal obligations. Its use highlights the tension between finding practical, short-term solutions and establishing a long-term, comprehensive international framework to protect displaced persons.[56]

2.4. Conclusion

This section explored the emergence and evolution of temporary protection as a response mechanism within the international refugee protection framework. It focused on the application of temporary protection during major displacement crises in Europe and the Middle East. The section demonstrated that temporary protection emerged as a pragmatic, group-based solution when conventional asylum systems could not cope with sudden, large-

[55] Türközü, "Two Sides of the Same Coin," 229-230.
[56] *Ibid*, pg.230-232.

scale influxes of people. Through an analysis of the contributions of the UNHCR, including its role in developing soft law instruments such as ExCom Conclusions and Guidelines, the section has highlighted institutional efforts to address the gaps in protection left by the 1951 Refugee Convention.

Although temporary protection provides immediate relief, especially by upholding the principle of non-refoulement, it has also been criticized for offering lower standards of rights, lacking legal clarity, and creating long-term uncertainty for displaced populations. The ad hoc and discretionary nature of temporary protection schemes reflects states' reluctance to commit to binding obligations in contexts of mass influx. Nevertheless, despite these shortcomings, temporary protection remains one of the few viable mechanisms for addressing the humanitarian needs of large displaced populations in emergency situations.

Importantly, this section has demonstrated that temporary protection exists at the intersection of humanitarian urgency and state sovereignty. It often involves balancing international norms with domestic political and legal constraints. Although its legal basis is weak, the practical importance of temporary protection has increased, particularly given protracted conflicts and global displacement trends.

Building on these findings, the next section examines the European Union's Temporary Protection Directive (2001/55/EC) and its recent activation in response to the Ukrainian refugee crisis as opposed to the Syrian civil war. As this thesis focuses on the EU's legal and policy approach, comparative cases are used to illustrate how temporary protection functions both within and beyond the EU framework. Such comparisons provide a valuable basis for assessing the adaptability and limitations of temporary protection as a contemporary tool of international refugee governance.

3. EU's MIGRATION AND ASYLUM FRAMEWORK AND TEMPORARY PROTECTION DIRECTIVE

This section examines the development, organization, and difficulties of the European Union's migration and asylum policy, focusing on the Temporary Protection Directive (TPD) as a legal and political instrument for addressing significant population displacement. Based on historical and conceptual discussions of refugee and temporary protection regimes from previous sections, this chapter situates the TPD within the broader EU asylum governance framework and evaluates its role in responding to contemporary mass influx situations.

Over the past four decades, the EU's approach to migration and asylum has undergone a significant transformation, shifting from informal, intergovernmental cooperation to a more supranational and legally codified policy framework. This evolution has been shaped by several factors, including the removal of internal borders, the securitization of migration, repeated humanitarian crises, and the deepening of European integration. Nevertheless, tensions between member states' sovereignty claims and the EU's collective responsibility have complicated efforts to establish a unified and effective asylum regime.

To contextualize the discussion, the chapter begins with an overview of the history of the EU's migration and asylum policy. This section traces key institutional and legal developments, such as the Schengen Agreement, the Dublin system, and successive treaty reforms. Later, the section 3.2. focuses specifically on the Temporary Protection Directive, outlining its legal basis, operational procedures, and implementation challenges. Section 3.3 introduces relevant theoretical frameworks—neo-functionalism, intergovernmentalism, and post-functionalism—to analyze the political dynamics that have shaped the development and application of EU asylum instruments. Together, these analyses assess whether the TPD is an effective, inclusive, and sustainable mechanism for managing large-scale displacement within the EU's evolving asylum regime.

3.1. Evolution of EU Migration and Asylum Policy

This section examines the evolution of EU migration and asylum policy, tracing its historical foundations, legal milestones, and current governance challenges. First, it explores the post-World War II humanitarian legacy and the geopolitical context of the Cold War, which initially led to a more welcoming approach to refugees in Europe. Then, it considers the shift toward restrictive and securitized migration policies from the 1970s through the 1990s. Next, it discusses key institutional and legal developments, such as the Schengen and Dublin Conventions, the Maastricht and Amsterdam Treaties, and the establishment of the Common European Asylum Syste (CEAS) through the Tampere, Hague, and Stockholm Programs. Finally, the section turns to the EU's increasing reliance on outsourcing migration control to third countries, the consequences of securitization, and the persistent challenges of burden-sharing among member states. These factors continue to undermine the coherence and fairness of the EU's asylum framework.

3.1.1. Historical developments (Schengen, Dublin, Maastricht, Amsterdam, Tampere)

The evolution of EU migration and asylum policy is one of the most complex and contested areas of European integration, shaped by the persistent tension between the supranational and intergovernmental dimensions. The EU, as the most institutionalized regional organization in the world, has developed a multi-level governance system in which authority is distributed across EU institutions, member states, and regional and local actors.[57] This institutional complexity has impacted the trajectory of migration and asylum governance. It has contributed to uneven legal harmonization, politicization, and fragmented implementation across member states.

Initially, migration policy was driven by national concerns and coordinated through informal intergovernmental mechanisms. The post-World War II era was marked by a humanitarian imperative to address displacement, culminating in the adoption of the 1951 Refugee Convention and, later, its 1967 Protocol. However, political and economic considerations—particularly during the Cold War—played a decisive role. Refugees from the Eastern Bloc were often welcomed not only for humanitarian reasons, but also as symbols of Western superiority. In the 1980s and 1990s, a growing number of asylum applications and economic crises casued member states' to shift their approach from protection to control. This shift was driven by security concerns and right-wing political pressures.[58] These developments laid the groundwork for restrictive, deterrence-based strategies that still continue to influence the EU's approach.

---

[57] Andrew Geddes, *Introduction to Migration Studies, An Interactive Guide to the Literatures on Migration and Diversity,* IMISCOE Research Series, 2022.

[58] Elspeth Guild and Violeta Moreno-Lax, "*Current Challenges for International Refugee Law, With a Focus on EU Policies and EU Co-operation with the UNHCR,"* Briefing Paper, European Parliament, Directorate-General For External Policies of the Union, Directorate B, Policy Department, (2013):4-5; Aydan Bahadır,

The formal evolution of EU asylum policy began with early intergovernmental cooperation under instruments like the Schengen Agreement (1985), the Dublin Convention (1990), and the Maastricht Treaty (1992).[59] The Schengen Agreement marked a pivotal step in European integration by initiating the gradual removal of internal border controls among participating states to enable free movement. On June 14, 1985, Belgium, Germany, France, Luxembourg, and the Netherlands signed the Schengen Agreement, agreeing to gradually remove border controls and introduce freedom of movement for nationals of the signatory countries, other EU member states, and some non-EU countries. The 1990 Schengen Implementation Convention operationalized this vision, introducing shared external border policies, common visa rules, and the Schengen Information System (SIS), which facilitated real-time security and immigration data exchange.[60] While the Schengen system advanced the goal of a borderless Europe, it also exposed vulnerabilities in asylum governance by increasing concerns over secondary movements and creating the need for common asylum procedures.

The Dublin Convention was introduced to address these emerging challenges and establish which member state would be responsible for processing an asylum claim. Typically, this is the state of first entry. The intent was to prevent “asylum shopping” and multiple applications in different states.[61] However, this system placed a disproportionate burden on southern border countries such as Italy and Greece, raising long-standing concerns about unequal responsibility-sharing and solidarity. Critics noted that the Dublin system institutionalized geographic asymmetries without providing sufficient compensation mechanisms, further entrenching divisions within the EU. Despite these shortcomings, the Dublin Convention established the institutional foundation for subsequent developments under CEAS, including the Dublin II and III Regulations.

"Development of the EU Asylum Policy: Preventing The Access to Protection," *A Thesis Submitted to the Graduate School of Social Sciences of Middle East Technical University,* Middle East Technical University, July 2004:13.

[59] Kay Hailbronner and Daniel Thym, "Evolution of Asylum Policy," In *EU Immigration and Asylum Law*, Beck/Hart; 2nd edition, 2016:1023; Anna Wiesbrock, "Sources of Law, Regulatory Processes and Enforcement Mechanisms in EU Migration Policy: The Slow Decline of National Sovereignty," *Maastricht Journal of European and Comparative Law, 20 (3)*, (2013): 423-441.

[60] “Schengen Agreement and Convention,” Eur-Lex, accessed on November 2023, https://eur-lex.europa.eu /EN/legal-content/glossary/schengen-agreement-and-convention.html.

[61] Bahadır, "Development of the EU Asylum Policy,” 27; Evangelia (Lilian) Tsourdi, "The Emerging Architecture of EU Asylum Policy, Insights into the Administrative Governance of the Common European Asylum System," In *EU Law in Populist Times, Crises and Prospects*, Cambrige University Press, (2020):191-226.

These efforts prioritized internal security, external border management, and the principle of determining a single member state responsible for asylum claims—often placing disproportionate pressure on border states. While Maastricht institutionalized Justice and Home Affairs cooperation, decisions remained non-binding and heavily state-driven.[62] The turning point came with the Amsterdam Treaty (1999), which transferred asylum and migration matters to the Community pillar, allowing for the gradual communitarization of asylum policies and stronger legislative roles for EU institutions.[63]

Building on the Amsterdam Treaty, the Tampere European Council (1999)[64] called for the establishment of a Common European Asylum System, based on full implementation of the Geneva Convention and the principle of non-refoulement.[65] Key legal instruments-including the Qualification Directive, the Reception of Asylum Seekes Directive, and the Asylum Procedures Directive-[66] were introduced to harmonize national systems. However, implementation was inconsistent due to member states' broad discretionary powers and divergent interests, particularly in interpreting asylum standards and sharing responsibility. Efforts to further integrate asylum law were repeatedly hampered by sovereignty concerns and the politicization of migration.[67]

Simultaneously, the EU developed external dimensions of migration control, reflecting a securitized and deterrence-oriented approach. Instruments such as visa restrictions, safe third-country agreements, and carrier sanctions have been used to reduce access to EU territory, often shifting protection responsibilities to neighboring states. Agreements with Türkiye and Libya illustrate how the EU has increasingly externalized migration management, raising concerns about compliance with international obligations, including the principle of non-refoulement. These policies have also undermined the EU's credibility as a normative actor promoting human rights.

---

[62] Evangelia (Lilian) Tsourdi and Philippe De Bruycker, "The Evolving EU asylum and migration law," In *Research Handbook on EU Migration and Asylum Law*, Edward Elgar Publishing, 2022: 1-55.
[63] James Hampshire, "European migration governance since the Lisbon treaty: introduction to the special issue," *Journal of Ethnic and Migration Studies, 42:4*, (2016): 537-553; Wiesbrock, "Sources of Law," 423-441; Tsourdi, "The Emerging Architecture of EU Asylum Policy," 191-226; Tsourdi and De Bruycker, "The Evolving EU asylum and migration law," 1-55.
[64] "Tampere European Council, 15 and 16 October 1999, Presidency Conclusions," European Parliament, accessed on 29.02.2024, https://www.europarl.europa.eu /summits/tam_en.htm.
[65] Hampshire, "European migration governance," 537-553.
[66] "Common European Asylum System," European Commission, Migration and Home Affairs, accessed on 29.02.2024, https://home-affairs.ec.europa. eu/policies/migration-and-asylum/common-european-asylum-system_en.
[67] Bahadır, "Development of the EU Asylum Policy," 41-42.

In sum, the development of EU migration and asylum policy reflects a gradual yet fragmented shift from intergovernmental coordination to more supranational governance, shaped as much by legal innovation as by recurring political crises. The enduring tension between national sovereignty, European integration, and international legal obligations has produced a policy landscape that is often reactive and unevenly implemented. Instruments like the TPD highlight both the potential and the limitations of supranational mechanisms in addressing large-scale displacement. As the next section will show, institutional efforts such as the Hague and Stockholm Programmes, the Lisbon Treaty, and the recent New Pact on Migration and Asylum represent attempts to consolidate and recalibrate this evolving framework, often in tandem with strategies to externalize border control and asylum processing to third countries.

3.1.2. Externalization and institutional evolution

Following the initial efforts to establish a harmonized asylum system within the EU through the Amsterdam Treaty, the subsequent developments including the Tampere Programme (1999–2004), The Hague Programme (2004–2009), and the Policy Plan of 2005, provided general guidelines for creating an area of freedom, security, and justice. These efforts reflected the ambition of strengthen its role in shaping cohesive policies to address migration and asylum challenges.[68] The increasing politicization of migration, coupled with the growing pressures of irregular arrivals and asylum applications, compelled EU institutions and member states to prioritize control, deterrence, and cooperation with third countries. As a result, the 2000s witnessed both the refinement of internal legislative tools and the emergence of a comprehensive external dimension to migration governance.

The Hague Programme (2004–2009), adopted under the Dutch Presidency, represented a significant turning point by explicitly integrating external migration management into the broader areas of Freedom, Security and Justice. Building on the foundations laid by the the Amsterdam Treaty and Tampere Programme, the Hague Programme extended the EU's migration agenda beyond its borders, articulating a "global approach" that emphasized partnerships with countries of origin and transit, the development of Regional Protection Programmes, and the promotion of return and readmission agreements. The Programme and its complementary Policy Plan emphasized shared

[68] Bruno Nascimbene, "The Global Approach to Migration: European Union Policy in the Light of the Implementation of the Hague Programme," *ERA (Academy of European Law) Forum*, 2008: 292.

competence between member states and EU institutions, ensuring that migration management incorporated both internal and external dimensions.[69] It also acknowledged migration as a long-term structural phenomenon requiring a comprehensive strategy, encompassing not only border management but also development cooperation, integration measures, and humanitarian commitments. However, despite the rhetoric of balance, implementation remained skewed toward securitization and deterrence.

A cornerstone of this externalization process was the Global Approach to Migration and Mobility (GAMM),[70] launched in 2005 and further developed in subsequent years. GAMM aimed to foster cooperation with third countries through Mobility Partnerships, providing financial and diplomatic incentives in exchange for commitments to control irregular migration and accept returnees. These partnerships, while framed as mutually beneficial, often prioritized EU interests—such as external border enforcement—over sustainable development or refugee protection in partner countries. Critics noted that GAMM institutionalized conditionality, tying aid and visa facilitation to the willingness of third states to act as buffer zones for European migration control. As argued by Strik, with these policies, EU tried to persuade third countries to strengthen their border controls, restrict their visa policy and readmit irregular migrants with incentives such as trade benefits, visa facilitation or financial support.[71] This brought forward the focus of the cooperation with third countries on border controls and readmission agreements. The partnership and readmission agreements made within the framework of GAMM were crucial elements of the European Neighbourhood Policy (ENP)[72] and extended the responsibility for border control and human rights beyond EU borders. The delegation of migration management to third countries was achieved through these agreements, often linking cooperation on irregular

[69] *Ibid*, pg.293.
[70] European Commission, Press Corner, "European Council, Brussels, 15 & 16 december 2005, Presidency Conclusions," European Commission, accessed on 29.02.2024, https://ec.europa.eu /commission/presscorner/detail/en/DOC_05_4
[71] Tineke Strik, "The Global Approach to Migration and Mobility," *Groningen Journal of International Law, Vol. 5, No.2*, 2017.
[72] "European Neighbourhood Policy," European Union External Action; "The ENP was launched in 2004 to foster stability, security and prosperity in the EU's neighbouring regions, both in the South and in the East. In 2015, the High Representative and the European Commission adopted the ENP Review, which brought a change to the cooperation framework and proposed ways to build more effective partnerships in the neighbourhood. The ENP builds on the commitment of the EU and its neighbours to work together on key priority areas. This partnership is based on shared values, the promotion of democracy, rule of law, respect for human rights and social cohesion. The reviewed ENP also adds 3 joint priorities for cooperation: Economic development for stabilisation; Security; Migration and mobility," accessed on 29.02.2024, https://www.eeas.europa.eu /eeas/european-neighbourhood-policy_en#:~:text=The%20European%20Neighbourhood%20Policy%20(ENP,their%20mutual%20benefit%20and%20interest.

migration management with development aid, trade relations, and visa schemes. Readmission agreements as being a tool of externalisation, are important aspects of EU policy on the management of irregular migration. They allow the EU member states with external borders to return illegally entering/staying third country nationals to their countries of origin or transit.[73] The securitized logic underpinning these partnerships revealed the EU's growing reliance on migration diplomacy and external outsourcing, sometimes at the expense of human rights standards and international obligations.[74]

Simultaneously, institutional and technological tools supporting the external border regime were expanded. The establishment of Frontex in 2004 marked the operationalization of joint surveillance and border interventions, allowing the EU to project its control apparatus beyond its territory. Over time, Frontex, which was mentioned in the Hague Programme,[75] acquired significant competences, including coordinating rapid response teams, conducting joint operations with non-EU states, and deploying liaison officers in third countries.[76] These developments were further supported by technologies such as the Schengen Information System (SIS) and the European Border Surveillance System (EUROSUR),[77] which collectively contributed to the construction of an integrated, data-driven external border regime. Despite concerns raised by civil society and human rights organizations—particularly regarding pushbacks, lack of accountability, and violations of the non-refoulement principle—Frontex's role has continued to grow, reflecting the EU's preference for prevention over protection.

The Lisbon Treaty (Treaty on the Functioning of the European Union-TFEU), which entered into force in 2009, codified many of the policy directions established in the Hague and Stockholm Programmes. It further supranationalized migration and asylum governance by integrating the area of freedom, security and justic (AFSJ) into the EU legal framework, granting the European Parliament co-decision powers, and reaffirming the principle of

---

[73] Anna Triandafyllidou and Angeliki Dimitriadi, "Deterrence and Protection in the EU's Migration Policy," *The International Spectator, 49:4*, (2014): 146-162.
[74] Andrew Geddes and Leila Hadj-Abdou, "Changing the path? EU migration governance after the 'Arab spring'," *Mediterranean Politics, 23:1*, 2018: 142-160; Hampshire, "European migration governance," 537-553; Nuno Ferreira, Pamela Kea, Albert Kraler, and Martin Wagner, "The EU and protracted displacement: providing solutions or creating obstacles?" , *Journal of Ethnic and Migration Studies, 48:18*, (2022): 4436-4455.
[75] Susie Alegre, Monica den Boer, Giuseppe Callovi, Steve Peers, and Cristina Pineda Polo, *The Hague Programme, Strengthening Freedom, Security and Justice in the EU.* Working Paper No.15, EPC (European Policy Centre), (2005):22.
[76] Triandafyllidou and Dimitriadi, "Deterrence and Protection in the EU's Migration Policy," 146-162.
[77] *Ibid*, pg. 146-162.

solidarity among member states. Articles 67–80 of the Treaty on the TFEU[78] laid the legal foundation for CEAS,[79] formalizing the EU's responsibilities to provide subsidiary and temporary protection in line with international refugee law.[80] At the same time, the Treaty reaffirmed the EU's commitment to external cooperation on migration, emphasizing readmission agreements, border controls, and security measures as key components of its global strategy.

Yet, despite these institutional advances, implementation remained fragmented. The Dublin III Regulation, which assign responsibility to prevent "forum shopping," where individuals file multiple asylum claims in different member states, and the situation of "refugees in orbit," where responsibility is abdicated, leaving asylum seekers in limbo. The basic premise of the Dublin III Regulation was that a single Member State is responsible for each asylum application, usually the State of first irregular entry into the EU. The Dublin III Regulation continued to disproportionately assign responsibility to border states, while burden-sharing mechanisms. National resistance to refugee quotas, particularly from Central and Eastern European member states, exposed deep fault lines within the Union. The EU's

[78] "Treaty on the Functioning of the European Union," Eur-lex; "Article 67– Part Three: Union Policies and Internal Actions – Title V: Area of Freedom, Security and Justice (ex Article 61 TEC and ex Article 29 TEU); 1)The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member states, 2) It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member states, which is fair towards third-country nationals. For the purpose of this Title, stateless persons shall be treated as third-country nationals, 3) The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws, 4) The Union shall facilitate access to justice, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters," accessed on March 2024, https://eur-lex.europa.eu /legal-content/EN/TXT/?uri=legissum:4301854.

[79] *Ibid*, Article 78 (ex Articles 63, points 1 and 2, and 64(2) TEC); 1)The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties,
2) For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures for a common European asylum system comprising:
(a) a uniform status of asylum for nationals of third countries, valid throughout the Union;
(b) a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection;
(c) a common system of temporary protection for displaced persons in the event of a massive inflow;
(d) common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;
(e) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;
(f) standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;
(g) partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.

[80] Tsourdi, "The Emerging Architecture of EU Asylum Policy,"191-226; Hailbronner and Thym, "Evolution of Asylum Policy," 1035-1036.

capacity to respond collectively to mass displacement was further challenged by the Syrian refugee crisis,[81] during which the TPD was notably not activated, underscoring both the political sensitivity of solidarity mechanisms and the preference for external containment strategies, such as the EU-Türkiye Statement of 2016.

Overall, the period from the mid-2000s to the early 2020s saw the EU's migration and asylum policy evolve through a complex interplay of institutional consolidation and externalization. The Hague and Stockholm Programmes, the Lisbon Treaty, and the New Pact collectively shaped a governance model that is increasingly technocratic, security-oriented, and reliant on cooperation with third countries. While these frameworks have enhanced the EU's capacity for coordinated action, they have also reinforced asymmetries between member states and raised serious concerns about the erosion of refugee protection standards. As subsequent chapters will show, the Temporary Protection Directive's delayed activation and mixed implementation further reflect the EU's ongoing struggle to reconcile its legal commitments with the political realities of migration governance.

In this context, the European Commission introduced the New Pact on Migration and Asylum in 2020, aiming to overcome the deadlock in reforming the CEAS. The Pact proposed a flexible system of solidarity, faster border procedures, and stronger cooperation with third countries. While it retained commitments to international protection and legal pathways, the emphasis remained on returns, screening, and external control.[82] Human rights advocates have criticized the Pact for failing to dismantle the core deficiencies of the existing system—particularly the overreliance on the first-country-of-entry principle and the marginalization of asylum seekers in decision-making processes. Moreover, by continuing to prioritize agreements with transit states such as Libya, the Pact risked legitimizing practices that contravene EU values and international law.[83]

3.1.3. Key challenges in the EU migration and asylum policy: structural limits, political tensions, and externalization pressures

The EU's migration and asylum policy has evolved within a highly contested and politically sensitive space where supranational commitments often clash with national

[81] "Global Report 2015," UNHCR; "The year 2015 was also the year that the global refugee crisis reached Europe. More than 1 million refugees and migrants arrived on the southern European shores. Tragically, nearly 4,000 died in the attempt. More than 84 per cent came from the world's top ten refugee-producing countries, chief among them Syria, Afghanistan and Iraq, but also Eritrea and Somalia," accessed on 12.12.2024, https://reporting.unhcr.org /sites/default/files/GR_2015_Eng.pdf
[82] Ferreira, Kea, Kraler, and Wagner, "The EU and protracted displacement," 4436-4455.
[83] *Ibid,* pg.4436-4455.

interests. While legal frameworks like the CEAS were established to promote harmonization and ensure protection for asylum seekers, they have struggled to overcome the structural disparities and political divisions among member states. This section examines the persistent challenges faced by the EU, focusing on both internal weaknesses-such as uneven implementation and the limits of the Dublin system-and external pressures tied to deterrence, securitization, and shifting responsibilities to third countries.

Internally, the CEAS has failed to achieve the intended harmonization of asylum standards and practices. Despite binding directives on procedures, qualification criteria, and reception conditions, national variations remain stark.[84] Approval rates for asylum claims differ dramatically across member states, and access to integration services and social rights is similarly inconsistent. Much of this dysfunction stems from the Dublin Regulation, which places the burden of responsibility for processing asylum claims on the first country of irregular entry, typically the southern border states. This has created disproportionate strain on countries like Italy, Greece, and Spain, leading to deep regional inequalities and political rifts that the EU has struggled to address through financial or operational solidarity mechanisms.

At the same time, the EU's approach to migration and asylum has increasingly emphasized externalization-outsourcing migration control to countries of origin and transit. Instruments such as visa restrictions, readmission agreements, safe third-country designations, and partnerships with non-EU states like Türkiye and Libya have effectively limited access to EU territory. These strategies have been justified in the name of "managing migration," but they often run counter to international legal standards, particularly the principle of non-refoulement. Humanitarian organizations and legal scholars have raised alarm over pushbacks at sea, restricted access to asylum procedures, and the use of third countries with poor human rights records as buffer zones to prevent arrivals.[85]

The tension between national sovereignty and collective responsibility - sometimes called the "solidarity-sovereignty paradox" - is a persistent theme in EU migration

[84] N. Ela Gökalp Aras, Evangelia Papatzani, Zeynep Şahin Mencütek, Nadina Leivaditi, and Electra Petracou, "Refugee Protection in and Beyond Europe Comparative Report," *Horizon 2020 RESPOND Project, Global Migration: Consequences and Responses Working Paper Series, European Commission*, (2020):19-21.
[85] Triandafyllidou and Dimitriadi, "Deterrence and Protection in the EU's Migration Policy," 146-162; Geddes and Hadj-Abdou, "Changing the path?," 142-160; Bahadır, "Development of the EU Asylum Policy," 1-3; Guild and Moreno-Lax, *Current Challenges for International Refugee Law,*10-12; Eiko Thielemann and Nadine El-Enany, "Common Laws, Diverse Outcomes: Can EU Asylum Initiatives lead to More Effective Refugee Protection?", *European Union Studies Association's 12th Biennial International Conference,* Boston, (2011):1-3.

governance.[86] Member states continue to resist binding mechanisms of responsibility-sharing, as demonstrated by the polarizing debates around the Temporary Protection Directive (TPD). While the TPD was adopted in 2001 to offer a coordinated EU-level response to mass influxes, its non-activation during the Syrian refugee crisis revealed the political fragmentation within the Union. It was only in response to the Ukrainian crisis in 2022, under unique geopolitical and demographic circumstances, that the TPD was finally activated—raising further questions about selective solidarity and the political conditions under which EU instruments are operationalized.

Ultimately, the challenges facing EU migration and asylum policy are both institutional and political. They reflect a deeper tension between the vision of a unified, rights-based approach and the reality of a fragmented, security-oriented policy landscape. The EU's current frameworks remain vulnerable to crisis, ad hoc decision-making, and national vetoes. As the next section will show, recent efforts such as the New Pact on Migration and Asylum aim to reform the system, but whether these efforts can resolve the underlying structural tensions and deliver a sustainable model of solidarity and protection remains uncertain.

3.2. EU Temporary Protection Directive

This section aims to analyze the reasons behind the adoption of the Temporary Protection Directive (TPD) in the EU and to examine its objectives and overall impact. It will outline the scope and key elements of the TPD, including the activation procedure and the mechanisms for burden-sharing and solidarity among member states. Particular attention will be given to understanding why the TPD was not activated during earlier refugee crises prior to 2022, despite its existence. Additionally, the role of the TPD in the broader EU integration process will be assessed by focusing on its application in the context of the Syrian and Ukrainian refugee crises.

Temporary protection emerged as a critical component of the EU's response to refugee crises in the aftermath of the conflicts in the former Yugoslavia. The mass influx of displaced persons due to armed conflict and the strain placed on national asylum systems prompted the EU to adopt a directive aimed at managing such large-scale movements. A key motivation for the TPD was the uneven reception capacities and the lack of solidarity among

[86] Marta Pachocka, "Looking Beyond the Current Migration And Refugee Crises In Europe: A Common Policy of the EU and the Outlook for the Future, In Search of Solutions," *Jean Monnet Seminar "Migrations",*Tunis: European Commission, 2016:3-5.

member states, which led to a collective effort to establish a coordinated mechanism for temporary protection. The directive sought to set minimum standards for granting protection and to ensure a fair distribution of responsibilities across the Union.

Despite these intentions, the TPD remained unused for over two decades. As various scholars have noted, its non-activation during multiple refugee crises -including the Syrian civil war- raises critical questions about its political viability and operational relevance. [87] Understanding the reasons behind this prolonged inactivation is essential to grasp the EU's practical and political response to large-scale displacement.

It is widely acknowledged that the main concern of EU member states has been the equitable sharing of responsibility in providing protection. In practice, concerns over disproportionate burden-sharing significantly hindered the implementation of the TPD. This thesis will therefore also explore how these longstanding obstacles were addressed -or overcome- during the EU's response to the Ukrainian refugee crisis in 2022, marking the first activation of the TPD.

3.2.1. Origins and back-ground of the temporary protection directive

Temporary protection emerged as a practical response to mass displacement when traditional asylum systems became overwhelmed, particularly during crises such as wars and political upheaval. While not codified in international law as a formal protection category, temporary protection evolved in the 1990s to address large-scale refugee movements by offering group-based, short-term protection without individual status determination.[88] This approach aimed to uphold the principle of non-refoulement, which prohibits returning individuals to countries where they face serious risks, while providing immediate shelter during humanitarian emergencies.

In the European context, temporary protection gained significance during the conflicts in the former Yugoslavia in the 1990s. The wars in Bosnia and later Kosovo triggered mass movements of people seeking refuge, challenging the capacity of individual asylum systems

---

[87] H. Deniz Genç and N. Aslı Şirin Öner, "Why not Activated? The Temporary Protection Directive and the Mystery of Temporary Protection in the European Union", *International Journal of Political Science & Urban Studies*, (2019): 1-18; Meltem İneli Ciğer, "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 the Mediterranean,", *International Refugee Law Series, Volume 4 (Seeking Asylum in the European Union, Selected Protection Issues Raised by the Second Phase of the Common European Asylum System)*, (2015): 223-246; Meltem İneli Ciğer, "Time to Activate the Temporary Protection Directive, Why the Directive can Play a Key Role in Solving the Migration Crisis in Europe," *European Journal of Migration and Law, 18*, (2016): 1-33.

[88] Morten Kjaerum, "Temporary Protection in Europe in the 1990s," *International Journal of Refugee Law, 6(3)*, 1994: 444.

across Europe. In response, many EU member states introduced national schemes to grant temporary protection to displaced populations. These measures were intended to provide rapid, collective protection and to alleviate the pressure on asylum infrastructures, particularly in countries receiving the highest number of arrivals.[89] However, the absence of a harmonized EU-level approach led to disparities in how displaced persons were treated, including inconsistencies in rights granted, length of stay, and distribution across member states. This lack of coordination highlighted the need for a common European response to mass influx situations. The temporary protection measures used during the Yugoslav crises set the stage for the EU to formalize a collective mechanism.

During the Yugoslavian conflict in the 1990s, temporary protection was described by UNHCR as a pragmatic means of providing necessary protection to large numbers of people fleeing human rights abuses and armed conflicts. Many EU member states made widespread use of national temporary protection schemes during this period. For instance, countries such as Austria, Belgium, Denmark, France, Ireland, Germany, Poland, and Spain granted temporary protection to persons fleeing the war in Bosnia. Similarly, during the Kosovo crisis, Austria, Belgium, France, Germany, Ireland, Poland, Spain, and Sweden provided such protection to displaced persons. Beyond the Balkans, several member states continued to implement temporary protection frameworks for other displacement contexts; Finland, Romania, and Sweden extended this protection to Iraqis, while Germany adopted similar measures for Syrians.[90] These varied national responses illustrate the importance and versatility of temporary protection in addressing sudden humanitarian crises, even before the adoption of a unified EU framework.

The development of the TPD within the European Union can be traced through three distinct phases, as outlined in the Commission's proposals:[91] early initiatives between 1992 and 1997, formal Commission proposals in 1997–1998, and renewed discussions following the deadlock after 1999. The EU's first collective attempts to respond to mass displacement began with the 1992 London guidelines, followed by a 1993 resolution addressing vulnerable

---

[89] Nuria Arenas, "The Concept of 'Mass Influx of Displaced Persons' in the European Directive Establishing the Temporary Protection System", *European Journal of Migration and Law, 7*, (2005): 435-450.

[90] Hanne Beirens, Sheila Maas, Salvatore Petronella, and Maurice van der Velden, *Study on the Temporary Protection Directive,* Final Report, ICF Consulting Services Limited ("ICF"), on behalf of DG Migration and Home Affairs ("the Commission"), (2016): 4.

[91] "Proposal for a Council Directive on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member states in receiving such persons and bearing the consequences thereof /* COM/2000/0303 final - CNS 2000/0127," Eur-Lex, *Official Journal C 311 E , 31/10/2000 P. 0251 – 0258,* accessed on 26.02.2024, https://eur-lex.europa.eu/legal-content /EN/TXT/HTML/?uri=CELEX:52000PC0303&from=EN.

persons from former Yugoslavia. However, the reluctance of member states to share responsibility hindered progress. In 1994, the Commission issued a communication[92] expressing concern over the divergence in temporary protection provisions and called for a harmonized European approach. [93] A 1995 EU resolution attempted to develop a common framework for mass influx situations, [94] with a focus on burden-sharing, but it was not implemented—even during the Kosovo crisis of 1999.[95]

In response to the Kosovo conflict, member states once again adopted ad hoc national measures, exposing the lack of coordination and solidarity. The Commission had already proposed joint action on temporary protection in 1997, refined in 1998 after consultations with the Council and European Parliament. These proposals sought to establish clear definitions, operational procedures, and time limits for temporary protection schemes. Despite improvements, discussions stalled due to disagreements over solidarity and burden-sharing. The German Presidency later introduced the concept of "double voluntarism" (both from host states and displaced persons), which was welcomed but insufficient to break the deadlock. The legal expiration of the Commission's proposal in 1999, due to the entry into force of the Amsterdam Treaty, paused progress once again.

The Treaty of Amsterdam, which came into effect in 1999, proved pivotal.[96] It transferred asylum and immigration matters to the Community pillar and provided the legal basis for developing a harmonized approach to temporary protection.[97] Article 73k[98] of the Treaty required the Council to adopt measures within five years to ensure minimum standards for granting temporary protection to displaced persons unable to return to their countries. The Kosovo crisis had demonstrated the urgency of such a framework, as national

[92] "Communication from the Commission to the Council and the European Parliament on Immigration and Asylum Policies, COM(94) 23 final Brussels," Commission of the European Communities, 23.02.1994, accessed on 26.02.2024, https://eur-lex.europa.eu /legal-content/EN/TXT/PDF/?uri=CELEX:51994DC0023&rid=1.
[93] Genç and Öner, "Why not Activated?," 2-4.
[94] "Council Resolution of 25 September 1995 on burden-sharing with regard to the admission and residence of displaced persons on a temporary basis (95 /C 262/01)," Eur-Lex, accessed on 26.02.2024, https://eur-lex.europa.eu /legal-content/EN/TXT/PDF/?uri=CELEX:31995Y1007(01)&from=EN.
[95] Walter Kalin, "Temporary Protection in the EC: Refugee Law, Human Rights and the Temptations of Pragmatism," *German Yearbook of International Law 44*, (2001): 202-203.
[96] Arenas, "The Concept of 'Mass Influx of Displaced Persons'," 435.
[97] Genç and Öner, "Why not Activated?," 4.
[98] "Treaty of Amsterdam", Eur-Lex, Article 73k states that "The Council, acting in accordance with the procedure referred to in Article 73o, shall, within a period of five years after the entry into force of the Treaty of Amsterdam, adopt: "measures on refugees and displaced persons within the following areas: (a) minimum standards for giving temporary protection to displaced persons from third countries who cannot return to their country of origin and for persons who otherwise need international protection," accessed on 26.02.2024, https://eur-lex.europa.eu /legal-content/EN/TXT/?uri=CELEX:11997D/TXT

responses varied significantly, leading to unequal distribution and fragmented protection.[99] In 2000, the Commission submitted a revised proposal for a directive that emphasized solidarity among member states, streamlined protection procedures, and reinforced obligations under the Geneva Convention.[100]

These efforts culminated in the adoption of the Temporary Protection Directive (2001/55/EC). The directive established minimum standards for offering protection in cases of mass influx, defined key concepts such as "temporary protection" and "displaced persons," and set out the rights of beneficiaries—including residence, access to housing, education, and healthcare.[101] The TPD was envisioned not as a third form of international protection, but as a temporary, group-based mechanism to prevent the collapse of asylum systems during emergencies. It also aimed to ensure a fair distribution of responsibilities among EU member states, promoting solidarity and cooperation during crises.

Later institutional developments, particularly under the Lisbon Treaty, further clarified and reinforced the EU's competences in asylum policy. Article 78 of the TFEU enabled the EU to move beyond minimum standards toward a common system with uniform procedures. The Lisbon Treaty affirmed the role of temporary protection within the broader CEAS and expanded the EU's legal authority to adopt binding measures in this field.

While international efforts—such as UNHCR guidelines and Council of Europe recommendations—provided a supportive framework,[102] the TPD faced skepticism. Some feared that it could be misused to bypass Geneva Convention obligations. Nevertheless, the Directive sought to provide a more predictable and equitable approach to temporary protection, ensuring compliance with non-refoulement and reducing ad hoc national responses. By limiting its application to mass influx situations and ensuring that it complemented, rather than replaced, refugee status determination, the TPD became a vital instrument of EU asylum governance. Its dual goals—to safeguard individuals in need and

---

[99] Kalin, "Temporary Protection in the EC," 203.

[100] "Proposal for a Council Directive on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member states in receiving such persons and bearing the consequences thereof," Eur-Lex, accessed on 26.02.2024, https://eur-lex.europa.eu /legal-content/EN/TXT/HTML/?uri=CELEX:52000PC0303&from=EN.

[101] Genç and Öner, "Why not Activated?," 4-6.

[102] "Proposal for a Council Directive on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member states in receiving such persons and bearing the consequences thereof," Eur-Lex, accessed on 26.02.2024, https://eur-lex.europa.eu /legal-content/EN/TXT/HTML/?uri=CELEX:52000PC0303&from=EN.

to promote balanced burden-sharing among member states—remain central to the EU's migration and asylum agenda.[103]

3.2.2. The scope and main elements of the TPD

The standards of treatment and rights provided to temporary protection beneficiaries, the burden-sharing and solidarity mechanism as being the most contentioues issues of EU migration and asylum policy, the criteria to activate TPD and the activation procedure of TPD will be outlined in this part. It is important to touch upon these issues to understand the scope and implementation of the TPD in a better way.

TPD established minimal standards and set out a comprehensive framework for providing temporary protection in the EU during mass influx situations, balancing practical considerations with human rights safeguards including non-refoulement obligations. TPD outlined the activation mechanism and regulated the admission of designated groups to EU territories. Protection was granted to displaced persons unable to return to their country of origin due to armed conflict, endemic violence, or human rights violations. Temporary protection can last up to a maximum of three years. The aim of the directive was to protect individuals fleeing armed conflict or systematic human rights violations.[104] As per the evaluations made by Kalin,[105] temporary protection bridged the gap between a narrow refugee definition and the broader category of individuals in need of international protection. In other words, temporary protection aimed to address the protection gap by extending international protection to a broader category of individuals fleeing armed conflict and generalized violence. It was considered as an interim response, unburdening asylum procedures and emphasizing return as the preferred solution and a mechanism contributing to effective burden-sharing among states.

3.2.2.1. Standards and rights granted by temporary protection directive

This part focuses on the standards of treatment and rights provided under Temporary Protection Directive and their alignment with international refugee law, particularly the 1951 Refugee Convention. The most important human rights safeguard in relation to TPD is the

---

[103] Arenas, "The Concept of 'Mass Influx of Displaced Persons'," 437-438; Hanne Beirens, Sheila Maas, Salvatore Petronella, and Maurice van der Velden, *Study on the Temporary Protection Directive,* Final Report, ICF Consulting Services Limited ("ICF"), on behalf of DG Migration and Home Affairs ("the Commission"), (2016):4-5.

[104] Kalin, "Temporary Protection in the EC," 212; Ciğer, "Has the Temporary Protection Directive Become Obsolete?," 227.

[105] Kalin, "Temporary Protection in the EC," 207-209.

principle of non-refoulementwhich prohibits the forcible return of refugees to countries where they face danger, as outlined in the 1951 Refugee Convention. It is argued that temporary protection is grounded in the principle of non-refoulement.[106] The other key aspects of temporary protection such as labor market access, family reunification, access to asylum procedures, treatment standards, human rights, and the concept of return in safety and dignity will be outlined briefly in this part to have a better understanding in relation to the rights provided under TPD. It should be noted that there are critical gaps and considerations regarding the standards of treatment provided under TPD particularly on labor market access, family reunification and balancing state interests with refugee rights. Rights such as family reunification and access to work are fundamental human rights, but temporary protection does not always guarantee them.

First, the fundamental principle of non-refoulement should be adhered by temporary protection. The scope of non-refoulement extends to all persons seeking refuge until their claim has been refuted in a formal procedure. There are arguments on the principle of non-refoulement applying only to Convention refugees, defined nuder Article 1A (2) of the 1951 Refugee Conveniton. According to this view, individuals fleeing armed conflict or generalized violence, not falling under the definition of persecution, are not Convention refugees and, therefore, not covered by non-refoulement. However, it is argued that this is a restrictive interpretation and the common principles of interpretation do not necessitate limiting non-refoulement to Convention refugees. The 1994 Note on International Protection supports the idea that persecution can emanate from de facto authorities or other groups when the national government is unable to provide protection. Flight from civil wars does not automatically exclude the existence of a well-founded fear of persecution. Victims of genocide or ethnic cleansing in civil war situations may be persecuted based on factors such as ethnic origin, necessitating international protection. Temporary protection often involves a diverse group, including both Convention refugees and individuals fleeing the indiscriminate effects of armed conflict. The principle of non-refoulement is essential for all beneficiaries of temporary protection, ensuring protection against forcible return.[107]

With regard to the labor market policies and right to work, there are restrictions on employment. Labor market policies in many EU countries prioritize EU citizens, European Economic Area (EEA) citizens, and documented migrants. Countries like Denmark and

[106] Helene Lambert, "Temporary Refuge From War: Customary International Law and the Syrian Conflict," *International and Comparative Law Quarterly*, July (2017): 727.
[107] Kalin, “Temporary Protection in the EC,” 209-211.

France impose severe restrictions or deny the right to work for individuals under temporary protection. Similarly, the Netherlands and Germany often treat temporarily protected individuals like asylum seekers, limiting labor market access. In terms of legal framework, the Universal Declaration of Human Rights (UDHR) and the Covenant on Economic, Social and Cultural Rights (CESCR) recognize the right to work as a fundamental human right. The 1951 Refugee Convention requires states to provide the most favorable treatment possible for refugees' wage-earning employment. Restrictions on labor market policies may be justified by concerns about local labor market stability, particularly in regions with high unemployment. However, these must align with the CESCR's principle that limitations must serve the general welfare in a democratic society and remain temporary. There are concerns that long-term restrictions can lead to marginalization and hinder integration. If repatriation is delayed or unlikely, host countries should normalize the situation of refugees by granting the right to work and promote self-sufficiency.[108]

In relation to family reunification, there are lack of guarantees in the TPD and some Member states impose restrictions or long waiting periods, citing exceptional circumstances. International instruments like the UDHR, the ICCPR, and the ECHR recognize family as the fundamental unit of society and protect the right to family life. The absence of family reunification rights for refugees who cannot return within a limited period violates these principles. Family reunification should be granted immediately, especially when repatriation within a reasonable period is uncertain and host countries must align their policies with international human rights obligations, ensuring that temporary protection does not undermine family unity. A balance must be struck between the fundamental rights of refugees and the legitimate interests of host states. Policies should include provisions for normalization, such as access to work, education, and family reunification, when temporary protection exceeds a reasonable duration. The TPD reflects the EU's attempt to manage mass influx situations, but gaps in labor market access, family reunification, and alignment with international legal standards remain.[109]

Access to Asylum Procedures is a foundational principle and central to refugee law. Temporary protection, granted during mass influx situations, should be exceptional and limited and should not prevent individuals from applying for refugee status. While such applications might be suspended during temporary protection, outright exclusion from asylum determination is incompatible with the 1951 Convention. According to the

[108] Kjaerum, "Temporary Protection in Europe in the 1990s," 453-455.
[109] *Ibid*, pg.450-452.

provisions of TPD, individuals under temporary protection can apply for asylum at any time, without prejudice to their status under the Convention (Article 17),[110] and pending claims must be processed after the end of temporary protection. However, there are concerns about the quality of asylum procedures during post-temporary protection.[111] The granting of access to the asylum procedure at any time and the importance of not prejudging the recognition of refugee status under the Geneva Convention was emphasized as an exceptional character of the procedure. In this way, TPD reaffirmed that temporary protection was not undermining the obligations of member states under international law but rather served as a tool to ensure the smooth operation of the asylum system, particularly in response to situations of mass displacement.[112]

In relation to standards of treatment, the 1951 Refugee Convention ensures non-discrimination (Article 3), non-refoulement (Article 33), freedom of religion (Article 4), access to education (Article 22), and identity papers (Article 27) for refugees within a host country, regardless of lawful presence. While TPD respects these principles, certain rights are tied to lawful residence—such as freedom of movement and access to self-employment—are only partially addressed. Articles 12 and 3(2) of the Directive cover these rights but with limitations. Rights such as association, employment, housing, and public relief are tied to lawful residence. These may become relevant for temporarily protected individuals if return becomes unlikely, making the host country a temporary home. While addressing some guarantees, the Directive does not fully replicate certain rights, such as travel documents or equal public assistance as nationals, creating gaps in protection.[113]

Temporarily protected persons enjoy civil, political, economic, social, and cultural rights under frameworks like the ECHR. The key rights provided under these frameworks include freedom of movement, adequate living standards, access to work and education and family unity and protection of minors. Article 12 and 13 of TPD ensures access to employment and provides suitable accomodation however, there are limitations in these rights for temporarily protected persons. Employment priorities for EU citizens may limit these rights.[114] The issue of return is also an important feature in temporary protection framework and the core principle within this regard is that refugees must return voluntarily,

---

110 "Article 17 of the Council Directive 2001/55/EC of 20 July 2001," Eur-Lex, accessed on March 2024, https://eur-lex.europa. eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001L0055.
111 Kalin, "Temporary Protection in the EC," 217-218.
112 Arenas, "The Concept of 'Mass Influx of Displaced Persons'," 440.
113 Kalin, "Temporary Protection in the EC," 218-222.
114 *Ibid*, pg.225-229.

safely, and with dignity. Safety includes legal and physical security, protection from harassment, torture, or persecution. Dignity means respect for individual rights, prevention of arbitrary family separations, and freedom to return at their own pace. TPD regulates the return issues under the Articles 20-30. These articles mandate states to ensure physical and legal safety during return. These align with international standards, emphasizing stable conditions and freedom from harm upon return.[115]

In summary, the Temporary Protection Directive reflects EU's attempts to manage mass inlux situations and to balance immediate humanitarian needs with international legal obligations. However, significant gaps exists in labor market ***a***ccess, family reunification and in access to asylum procedures. It was recommended that these shortcomings should be adressed by strengthening guarantees for family unity and ensuring labor market restrictions are proportional and temporary.

3.2.2.2. Burden sharing and solidarity mechanism of TPD

Burden-sharing mechanism is an important feature of TPD allowing for a more equitable distribution of responsibilities in responding to mass influx situations. Burden-sharing is a much debated issue in EU's migration and asylum policies since the lack of the mechanism leads to fragmented policies of Member states. Dublin Regulation has been criticized widely for not providing an equitable burden-sharing mechanism and consequently preventing solidarity among the Member states. The Temporary Protection Directive included provisions for burden-sharing among EU Member states, aiming to alleviate the strain on frontline states and ensure a fair distribution of responsibilities in response to mass influx situations. Article 25 of the Temporary Protection Directive allowed for the voluntary transfer of protection beneficiaries between member states. This transfer occured when one member state offered to receive beneficiaries from another member state, and the transferees provided their consent to the transfer. If the number of individuals eligible for temporary protection exceeds the reception capacity of a particular member state due to a sudden and massive influx, Article 25 empowers the Council to examine the situation urgently and take appropriate action. This action may include measures to redistribute beneficiaries among member states to balance the burden. The Directive did not specify detailed criteria for redistribution among member states. However, potential criteria could include factors such as GDP, population size, unemployment rate, and experience with asylum seekers and

[115] *Ibid*, pg.229-233.

resettled refugees. These criteria aim to ensure a fair and proportionate distribution of temporary protection beneficiaries.

The burden-sharing mechanism was significant in offering an alternative to the Dublin System, which has been criticized for its shortcomings and unfair distribution of responsibilities. By allowing for voluntary offers and Council intervention in case of capacity exceedance, the Directive aimed to create a more equitable and efficient system for managing mass influx situations. This mechanism contributed to the broader goal of ensuring that asylum seekers and migrants arriving in Europe receive the protection and support they need, while also sharing responsibilities fairly among EU member states.[116] However, it was also discussed by Ciğer[117] that the voluntary nature of the burden-sharing could lead to inequitable burden sharing. In cases of capacity overload, the Council had the authority to provide additional support to affected member states. Ciğer[118] also discussed that the the measures adopted by the Council and their execution by member states were considered as important factors in the effectiveness of the burden-sharing mechanism.

The solidarity mechanism was regulated under Article 24-26 of the Directive. In general, the TPD incorporated a principle of solidarity aimed at achieving a balance of effort among EU member states in responding to mass influxes of displaced persons. However, its effectiveness was constrained by various factors including the voluntary nature of the mechanism and challenges with double voluntarism. Another contentious issue in relation to the solidarity mechanism was the funding issue regulated under Article 24 of the Directive. As mentioned in the article of Genç and Şirin Öner,[119] Article 24 of the TPD emphasizes the importance of solidarity, indicating that measures provided for in the directive shall benefit from the European Refugee Fund. Emergency funds are available to assist member states in the event of a sudden mass influx of refugees or displaced persons. The ERF is described as an expression of solidarity within the asylum context and has helped lay the foundations for collective action by the EU.[120] In the other documents of the

[116] Ciğer, “Time to Activate the Temporary Protection Directive,” 29-32.
[117] Ciğer, "Has the Temporary Protection Directive Become Obsolete?,” 231.
[118] *Ibid*, p.231.
[119] Genç, and Öner, "Why not Activated?,” 12.
[120] “Communication on Establishing a Framework Programme on Solidarity and the Management of Migration Flows for 2007-2013,” Eur-lex, “In its Communication, the Commission explained that the European Refugee Fund (ERF) was “the expression of solidarity” within the context of asylum, also noting its importance for the TPD,” accessed on March 2024,
https://eur-lex.europa. eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005DC0123

Commission, concerns about burden sharing was mentioned by referring to the need for fair burden sharing and enhanced solidarity addressing ERF as a mechanism to this end. Through these mechanisms, confidence among member states tried to be assuredThe voluntary nature of solidarity mechanism limited the effectiveness of burden-sharing during crises due to not obligating the member states to participate in the mechanism. The TPD operated on the principle of "double voluntarism," where both the receiving and sending member states must agree to the relocation of displaced persons. However, this issue was problematic particularly regarding the capacity of member states to receive beneficiaries. As will be touched upon in this section and in detail in the next section, in response to the refugee crisis faced in 2015, the European Commission proposed temporary and permanent relocation mechanisms to address the disproportionate burden on frontline member states. These proposals aimed to foster greater solidarity and burden sharing among member states. However, as will be discussed in the next section, these measures were not successful in achieving greater solidarity and burden sharing among member states. The logic of Dublin Regulation was also another obstacle in the allocation of asylum seekers among EU member states due to not being designed as a burden-sharing mechanism. Since it was the de facto system for allocating applicants without considering each member state's capacity to receive applicants, there was a need to clarify and improve the organizational principles of the solidarity mechanism within the TPD. This included defining common criteria for calculating reception capacity and addressing the challenges associated with double voluntarism.[121]

Despite these efforts to promote solidarity, documents highlighted challenges in burden sharing among member states. Concerns were raised about the adequacy of instruments to cope with pressures on asylum services and reception capacities. Calls for fair burden sharing and enhanced solidarity persisted, but achieving effective burden sharing remained politically sensitive and technically difficult. Documents indicated that the directive aimed to promote a balance of efforts between member states in receiving a mass influx, but achieving this balance had proven challenging due to the absence of a mechanism ensuring fair burden sharing. This also was an indicator showing deeper issues of confidence and solidarity among member states.[122]

[121] Beirens, Maas, et al., *Study on the Temporary Protection Directive (Final Report),* 22-25.
[122] Genç, and Öner, "Why not Activated?," 11-12.

3.2.2.3. Criteria to activate the TPD and activation procedure

Given the ambiguous definitions and the complex activation process, it is essential to clarify the criteria that trigger the implementation of the TPD. One of the major challenges to the Directive's application during the 2015 Syrian refugee crisis was the lack of precision in defining "mass influx" and the procedural complexity of activation.

To begin, attention must be paid to the central concepts of "temporary protection" and "mass influx," which form the legal and operational basis for the Directive. According to Article 2 of the Directive, "temporary protection" refers to:

> "a procedure of exceptional character to provide, in the event of a mass influx 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, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection."

This definition underscores the exceptional, urgent, and short-term nature of temporary protection in situations where national asylum systems are under pressure. The concept of "mass influx," also defined in Article 2(d), refers to:

> "the 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."[123]

Importantly, the Directive avoids providing precise numerical benchmarks, which was intended to allow flexibility but in practice has led to ambiguity and inconsistent interpretation among member states.[124] Scholars such as Arenas have identified three core components to determine whether an influx qualifies as "mass": (1) the scale of movement, (2) its connection to a crisis, and (3) the selective nature of the group affected. These criteria, while helpful, still leave considerable room for interpretation, allowing the Council wide discretion in deciding whether a given influx meets the threshold.[125] Although this flexibility was meant to allow the TPD to adapt to diverse situations—including sudden arrivals,

---

[123] "Council Directive 2001/55/EC of 20 July 2001," Eur-Lex, accessed on March 2024, https://eur-lex.europa.eu /legal-content/EN/TXT/PDF/?uri=CELEX:11997D/TXT.
[124] Ciğer, "Has the Temporary Protection Directive Become Obsolete?," 231.
[125] Arenas, "The Concept of 'Mass Influx of Displaced Persons'," 438-439.

gradual increases, or organized evacuations—it also contributed to political contention. The lack of clarity led to disagreements among Member States and hindered the achievement of the qualified majority required for activation.[126]

Moreover, the geographical scope of "mass influx" remains undefined in the Directive, raising questions about whether the influx must affect the entire EU or a single Member State. This has led to practical complications. For instance, a crisis disproportionately affecting one state (such as Italy or Greece) may still not be deemed a "mass influx" under the Directive if other states are unaffected.[127] Additionally, the vague phrasing of "adverse effects" on national asylum systems has complicated the application of the Directive. The disparity in asylum system capacities across EU member states further exacerbates this issue, as the threshold for what constitutes an "overwhelmed" system varies widely.[128]

The European Commission and supporting reports have acknowledged these shortcomings and suggested several reforms. These include clarifying the geographical scope of the Directive, providing concrete definitions for "adverse effects," and establishing objective thresholds (e.g., minimum number of arrivals) to determine when a "mass influx" exists.[129] The goal is to reduce the discretionary and political nature of the activation process and replace it with more predictable, criteria-based triggers.

In summary, while the broad definition of "mass influx" provides flexibility, its lack of precision has limited the Directive's effectiveness. Without agreed-upon criteria, the TPD remains vulnerable to politicization and underutilization—precisely the issues that rendered it inactive during past crises, despite its potential as a useful legal instrument for collective protection responses in the EU.[130]

As outlined earlier, the activation procedure of the TPD has been subject to criticism due to its procedural complexity and institutional limitations. The process requires coordination between the European Commission and the Council, with member states playing only an indirect role. While member states can provide input, they do not have the authority to formally initiate activation. Instead, the Commission holds the exclusive right to propose activation to the Council, either on its own initiative or in response to a request from an member state.[131] This proposal must include details such as the identity of the

[126] Ciğer, "Has the Temporary Protection Directive Become Obsolete?," 235.
[127] Genç and Öner, "Why not Activated?," 11.
[128] Ciğer, "Has the Temporary Protection Directive Become Obsolete?," 236.
[129] Genç and Öner, "Why not Activated?," 12-13.
[130] Ciğer, "Has the Temporary Protection Directive Become Obsolete?," 244.
[131] Arenas, "The Concept of 'Mass Influx of Displaced Persons'," 447-448.

displaced group, the estimated scale of the influx, and the suggested date for protection to commence.

Although the Council ultimately decides on activation by qualified majority vote, it must consider information provided by member states, the Commission, the UNHCR, and other relevant actors. The European Parliament does not play a decision-making role in this phase but is merely informed of the outcome, as per Article 5(5) of the Directive. Notably, once adopted, the decision is binding for all member states, including those that voted against it, since the process excludes a veto option and operates under qualified majority voting.[132]

Legal safeguards, including the possibility of judicial review, are in place to ensure that the Council's decision is reasoned and based on reliable information. Should inconsistencies or inadequate reasoning be found, legal action may be pursued through the Court of Justice.[133] While Member states maintain discretion in asylum matters, they are still required to act in accordance with EU law and the principle of good faith.

The definition of "mass influx" remains pivotal to triggering the TPD, yet it lacks precise quantitative thresholds. Instead, the Directive allows the institutions considerable interpretative flexibility, entrusting the Council and Commission to assess each situation on its own merits. Arenas[134] emphasizes that this discretion is legitimate, provided decisions align with legal standards and procedural guarantees. The legal framework reflects a careful balance among EU institutions, Member states, and international organizations, ensuring that any activation of temporary protection is informed by diverse expert perspectives.

Nevertheless, the procedural framework presents certain structural weaknesses. The activation process follows a multi-step sequence that is politically sensitive and institutionally fragmented. One major concern is the limited role granted to Member states. Although they can submit requests to the Commission, they lack the authority to propose activation directly to the Council. This constraint, coupled with ambiguity over what constitutes a formal request, contributed to delays—as observed in 2011, when Italy and Malta's appeals for activation went unanswered. The Directive also fails to define the Commission's obligations upon receiving such requests, leaving the decision-making process opaque and inconsistent. Another weakness lies in the political nature of interpreting core concepts like "mass influx" and "adverse effects," which opens the process to subjective judgment and political bargaining. These ambiguities, alongside the absence of clear

[132] Ciğer, "Implications of the new Turkish Law," 22-27.
[133] Arenas, "The Concept of 'Mass Influx of Displaced Persons'," 449.
[134] *Ibid*, pg. 442.

procedural obligations, have led to hesitation and paralysis in responding to humanitarian emergencies.

In conclusion, reforming the activation procedure of the TPD is vital to enhance its ability to respond swiftly to mass displacement. Clearer procedural guidelines, a more meaningful role for Member states, and objective criteria for assessing mass influx situations could improve the efficiency and consistency of the Directive. Addressing these shortcomings would strengthen the EU's capacity to offer timely and coordinated protection in future crises.[135]

3.2.3. Challenges in the implementation of the directive

As outlined in previous sections, the Temporary Protection Directive was introduced in the late 1990s as a key component of the EU's common asylum policy, intended to manage mass influx situations efficiently. Despite its comprehensive framework, the Directive remained inactive until the Ukrainian refugee crisis in 2022. During earlier humanitarian emergencies—including those in Libya, Tunisia, Syria, and Ukraine—neither the European Commission nor the Council moved to trigger its activation.[136] Instead, the EU relied on deterrence measures and externalized protection obligations, raising questions about its commitment to international legal standards and foundational principles such as solidarity and human dignity.[137]

The persistent failure to activate the TPD has been widely attributed to a lack of solidarity and fair burden-sharing among member states, as well as procedural and legal ambiguities. Nevertheless, the 2022 response to Ukrainian displacement demonstrated that these technical barriers could be overcome when sufficient political will and consensus exist.

3.2.3.1. Refugee crises and TPD's non-activation

Despite multiple displacement events over the past decade—including the Arab Spring, the Syrian conflict, and early phases of the Ukraine crisis—the TPD was never invoked. In 2011, Italy and Malta requested activation during the North African uprisings, but their appeals were rejected based on the claim that the threshold of a "mass influx" had not been met. Similarly, although millions were displaced from Ukraine between 2014 and

[135] Beirens, Maas, et al., *Study on the Temporary Protection Directive (Final Report),* 19-22.
[136] Genç and Öner, "Why not Activated?," 7-8; Ciğer, "Implications of the new Turkish Law," 22.
[137] Genç and Öner, "Why not Activated?," 2.

2016, no formal activation was pursued by member states such as Poland, despite managing large numbers of arrivals.

The Syrian refugee crisis marked a significant failure to implement the TPD. With over 1.8 million arrivals reported by Frontex in 2015 alone, civil society and academic actors strongly advocated for the use of the Directive. However, a lack of consensus in the Council, especially from states not directly affected, blocked any activation. This reluctance revealed the deeper political divide between national sovereignty and collective European action.[138]

The 2011 Mediterranean crisis further exposed these weaknesses. Italy, overwhelmed by arrivals on the island of Lampedusa, issued temporary residence permits for humanitarian reasons. These permits allowed onward travel in the Schengen Area, prompting backlash from France and Belgium, both of which reinstated border controls. The EU did not intervene with coordinated support; instead, it increased surveillance via Frontex and offered limited funding. Italy's unilateral measures highlighted three key issues: the absence of meaningful burden-sharing, persistent tensions between national and EU-level responses, and the lack of tools to manage displacement at the source.[139]

3.2.3.2. Structural and legal obstacles to implementation

The TPD's procedural design has been a critical barrier to activation. It requires a Commission proposal and a qualified majority in the Council, a politically sensitive and technically demanding process. Member states remain divided over the definition of "mass influx," as the Directive provides no concrete threshold, leading to inconsistent interpretations.[140]

Another key issue is the fear that activation could serve as a "pull factor." Some governments argue that offering temporary protection might attract additional asylum seekers, even though research suggests displaced people primarily seek safety rather than policy incentives.[141] The Council also has discretion to define eligibility under the Directive, further complicating its application.

The TPD has also suffered from poor transposition into national law. By the 2002 deadline, several countries—including Belgium, France, Greece, and the UK—had failed to

[138] *Ibid*, pg. 8; Ciğer, "Has the Temporary Protection Directive Become Obsolete?," 231-236.
[139] *Ibid*, pg. 236-240.
[140] Genç and Öner, "Why not Activated?," 8-11.
[141] Ciğer, "Has the Temporary Protection Directive Become Obsolote," 234.

fully incorporate the Directive.[142] This lack of legal harmonization diminished the TPD's effectiveness and signaled weak political commitment.[143] Moreover, Article 25 of the TPD only encourages—not requires—solidarity. This voluntary language significantly limits the Directive's capacity to ensure fair distribution of displaced persons. The absence of binding obligations became especially evident during the 2015 crisis, when some states flatly rejected relocation efforts.

In 2016, the European Commission even proposed repealing the Directive, citing its lack of enforceable burden-sharing mechanisms. Meanwhile, alternative measures like the early warning system under Dublin III and the establishment of the EASO were introduced, but they offered limited capacity to address large-scale arrivals.[144]

As discussed in detailed, the TPD embodies both significant strengths and enduring weaknesses within the EU's asylum framework. One of its key advantages lies in its broader scope of protection, extending coverage to individuals fleeing armed conflict, generalized violence, or systematic human rights violations—groups not always protected under the 1951 Refugee Convention or the Qualification Directive. This inclusive, group-based approach allows for a more efficient response in times of crisis by alleviating pressure on national asylum systems and avoiding the delays inherent in individual status determination.[145]

Another strength of the TPD is its capacity to deliver swift and temporary protection. By guaranteeing access to shelter, healthcare, education, and limited labor market participation, it ensures that displaced persons can secure essential services immediately upon arrival. In doing so, the TPD offers a harmonized minimum standard of rights across the EU,[146] improving upon the inconsistencies of national-level temporary protection regimes. Although concerns remain regarding the procedural safeguards for excluded individuals and the temporary nature of the status granted, the Directive represents a meaningful step toward coordinated humanitarian protection at the EU level.

The TPD also attempts to operationalize the EU's foundational principle of solidarity through financial support and voluntary redistribution mechanisms. However, its reliance on

---

[142] "Commission of the European Communities Brussels, 18.11.2008 SEC(2008) 2854 Commission Staff Working Document accompanying the 25th Annual Report on Monitoring the Application of Community Law (2007) Situation in the Different Sectors," European Council: 226, accessed on March 2024, https://data.consilium.europa. eu/doc/document/ST-16311-2008-ADD-1/en/pdf.
[143] Genç and Öner, "Why not Activated?," 8-11.
[144] *Ibid*, p.13-14.
[145] Ciğer, "Implications of the new Turkish Law," 24.
[146] Beirens, Maas, et al., *Study on the Temporary Protection Directive (Final Report),* 14-22; Ciğer, "Implications of the new Turkish Law," 24-25.

non-binding commitments has proven inadequate in practice. The absence of enforceable burden-sharing criteria has resulted in an uneven distribution of displaced persons and limited inter-state cooperation. This structural weakness—combined with a prolonged period of non-implementation prior to 2022—allowed divergent national approaches to persist,[147] undermining the very harmonization the Directive sought to achieve.

Moreover, the TPD's vague legal definitions—particularly regarding what qualifies as a "mass influx"—and its burdensome activation procedure have hindered its usability. The requirement of a European Commission proposal followed by a qualified majority vote in the Council has allowed political discretion to outweigh humanitarian imperatives. Past crises in 2011 and 2015 exemplified how fears of pull factors, the high standard of rights guaranteed, and the desire to avoid precedent prevented member states from invoking the Directive.

The failure to activate the TPD in response to earlier mass displacement events revealed critical shortcomings in both procedural design and political will. Rather than triggering a harmonized response, the EU often resorted to ad hoc measures and externalized solutions, failing to provide consistent protection or burden-sharing. As Ciğer argues, future revisions of the Directive should consider introducing objective activation criteria or lowering the voting threshold to ensure a more predictable and effective mechanism.[148]

Ultimately, the TPD's dormant status until 2022 reflected deeper issues within the European integration project—namely, the erosion of trust and solidarity among member states. Its eventual activation during the Ukraine crisis demonstrated that when political interests align, rapid and coordinated implementation is possible. This contrast raises fundamental questions about the selectivity and consistency of EU responses to refugee crises.

As Genç and Şirin Öner note, the EU's recurring failure to enact collective solutions highlights the fragility of its asylum governance and the broader challenges of European unity.[149] Addressing these issues will require a renewed commitment to shared legal standards, reinforced solidarity mechanisms, and institutional reforms capable of translating humanitarian obligations into concrete, coordinated action.

---

[147] Beirens, Maas, et al., *Study on the Temporary Protection Directive (Final Report),* 14-22.
[148] Ciğer, "Has the Temporary Protection Directive Become Obsolote," 244-246.
[149] Genç and Öner, "Why not Activated?," 14-15.

3.3. Theoretical Discussions

This section explores how three major theories of European integration—neo-functionalism, intergovernmentalism, and post-functionalism—help interpret the EU's evolving responses to migration, with particular attention to the TPD. Understanding the explanatory value of these theories is central to this thesis's core research question: why did the EU choose to activate the TPD in response to the 2022 Ukrainian refugee crisis, but not during the 2015 Syrian refugee crisis? These theoretical lenses are used to evaluate how EU institutions, member state interests, and domestic political pressures shaped these divergent outcomes.

Each theory contributes to our understanding of how and why the EU acts—or fails to act—in moments of crisis. Neo-functionalism emphasizes the role of supranational institutions and spillover effects, suggesting that integration in one area (e.g., border control) drives cooperation in others (e.g., asylum policy). Post-functionalism adds a societal dimension, focusing on identity politics and the role of politicization in limiting supranational cooperation. However, as this thesis argues, it is intergovernmentalism that offers the most convincing explanation for the EU's selective application of the TPD.

In the context of the 2015 migration crisis, intergovernmentalism helps explain the dominance of national interests over collective solutions. According to this theory, key decisions in highly politicized areas such as asylum remain firmly in the hands of national governments. The Temporary EU Relocation Scheme proposed by the Commission during the 2015 crisis faced significant resistance, revealing the limits of supranational influence when member states' preferences diverge. The non-activation of the TPD in 2015—despite a mass influx of refugees and substantial institutional pressure—illustrates the intergovernmentalist argument that European integration is constrained when national interests are not aligned.

In contrast, the 2022 activation of the TPD in response to the Ukrainian crisis can also be understood through an intergovernmentalist lens. The geopolitical nature of the conflict, cultural proximity, and the strategic interest in showing EU unity in the face of Russian aggression created a convergence of member state preferences. It was this alignment—not merely legal or institutional preparedness—that enabled swift and unanimous activation of the Directive.

This section provides a brief explanation of three key European integration theories—neo-functionalism, intergovernmentalism, and post-functionalism—before applying them to the contrasting cases of the 2015 Syrian refugee crisis and the 2022 Ukrainian mass displacement. By applying these theoretical frameworks to these divergent outcomes, this section aims to demonstrate that integration theory is not merely an academic exercise but a critical analytical tool for understanding real-world policy decisions. These theories help frame the behavior of EU institutions and member states, the arenas in which they interact, and the mechanisms by which their preferences translate into collective—or fragmented—responses.

3.3.1. Evolution of European integration theories

The evolution of the European Union has been a central focus of International Relations and Comparative Politics, generating extensive theoretical debates over who drives integration and how it unfolds. The earliest and most influential framework emerged from Ernst Haas in his seminal work "The Uniting of Europe" where he introduced neo-functionalism.[150] Haas argued that integration is primarily advanced by supranational actors and driven forward through spillover effects—processes in which integration in one policy area creates pressures for further cooperation in adjacent areas. He also incorporated constructivist ideas, emphasizing the role of institutions beyond the nation-state. In contrast, Stanley Hoffmann[151] challenged this view by developing the theory of intergovernmentalism, which emphasized that national governments—particularly those represented in the European Council—remain the primary gatekeepers of integration. According to Hoffmann, while integration may proceed in areas of "low politics" like trade or technical cooperation, it is likely to stall or even reverse in areas of "high politics" such as migration and asylum, where national sovereignty is closely guarded. This enduring theoretical divide between supranational and intergovernmental explanations has become a defining feature of European integration scholarship.[152] It also holds direct relevance for this thesis, which investigates why a key supranational instrument—the Temporary Protection Directive—was activated in the case of Ukraine but not during the Syrian refugee crisis.

The creation of the European Community (EC) with the 1951 Treaty of Paris, and the subsequent evolution of the EU's legal and institutional framework, prompted the refinement

---

[150] Ernst B. Haas, *The Uniting of Europe: Political, Social, and Economic Forces, 1950–1957*, new ed. (Notre Dame, IN: University of Notre Dame Press, 2004), 283-313.

[151] Stanley Hoffmann, "Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe," Daedalus *Vol. 95, No. 3* (Summer 1966): 904-915.

[152] Siem Pelgrom, "Scrutinizing European Decision-Making Regarding the Temporary EU Relocation System: Testing Neo-Functionalism, Liberal Intergovernmentalism and Post-Functionalism," (Master's thesis, Erasmus University, Rotterdam, 2017), 11.

of integration theories to explain these unique patterns of cooperation.[153] While neo-functionalism initially offered compelling insights during the formation of the European Economic Community and the early stages of integration, later challenges—particularly related to migration, border management, and asylum—exposed its limitations. These pressures gave rise to alternative theories, including intergovernmentalism and, more recently, post-functionalism, which focuses on identity politics and public opinion as key constraints on integration.

By tracing the development of these three theoretical perspectives, this section lays the foundation for their application in later chapters. Understanding the theoretical assumptions behind supranational dynamics, national interest-driven policymaking, and the role of politicization is essential for analyzing the divergent outcomes in the EU's response to the Syrian and Ukrainian refugee crises.

3.3.1.1. Neo-functionalism

Neo-functionalism, developed in the 1950s and 1960s by Ernst Haas, particularly in his seminal work The Uniting of Europe (1958), was the first major theory to explain the dynamics of European integration. It built upon the earlier theory of functionalism, developed by thinkers such as David Mitrany and John Maynard Keynes, and further advanced by Jean Monnet. Functionalism argued that international cooperation is most effectively achieved through the creation of supranational institutions tasked with addressing technical or economic problems that exceed the capacity of individual nation-states—such as civil aviation, trade regulation, or monetary coordination.

A central tenet of functionalism is the spillover effect: cooperation in one technical area is expected to generate pressures for integration in related areas. For example, establishing a coal and steel community would naturally lead to the need for coordination in transportation, labor policy, or energy infrastructure. This step-by-step logic underpins the idea that states, in recognizing mutual benefit, would incrementally cede sovereignty to supranational bodies.[154]

Neo-functionalism expands this logic by asserting that integration becomes politically self-reinforcing over time. It identifies several types of spillover—functional, political, and

---

[153] *Ibid.*
[154] Paul C. Saunders, "Theories of European Integration," *Global Affairs Review*, 13 February 2020, https://wp.nyu.edu /schoolofprofessionalstudies-gareview/theories-of-european-integration/, accessed: April 2024.

cultivated—through which integration in one sector (e.g., the economy) stimulates pressures for further integration in others (e.g., migration, justice, or security). Crucially, neo-functionalists argue that supranational actors, particularly the European Commission, interest groups, and transnational coalitions, play a proactive role in deepening integration by pushing member states toward common solutions.[155]

When applied to the EU's migration and asylum policy, neo-functionalism helps explain early integration efforts. The Schengen Agreement (1985), which eliminated internal border controls, required the development of shared external border and asylum rules, prompting the creation of the CEAS and eventually the TPD in 2001. These initiatives represent attempts to manage transnational challenges through coordinated EU-level responses.

However, the neo-functionalist assumption that integration would continue progressively and automatically has faced serious challenges. The 2015 Syrian refugee crisis exposed the limitations of spillover dynamics in politically sensitive areas. Despite the existence of the TPD, the EU failed to activate it, revealing significant divergences in national responses and a lack of collective will. Instead of further integration, the crisis generated unilateral measures, border reinstatements, and politicized resistance from several member states. These outcomes underscored the boundaries of supranational influence and the enduring relevance of national interests—leading to a renewed focus on intergovernmentalism.

In the context of this thesis, while neo-functionalism is useful in tracing the institutional development of the EU's asylum framework, it cannot fully explain the EU's selective application of the TPD. The non-activation of the Directive during the Syrian crisis, despite apparent need, suggests that political discretion and domestic constraints, rather than functional necessity, determine collective EU action in migration policy. As such, neo-functionalism provides a partial but incomplete framework for understanding the dynamics of EU asylum governance.

3.3.1.2. Intergovernmentalism

Intergovernmentalism emerged as a direct critique of neo-functionalism, challenging the assumption that supranational institutions are the main drivers of integration. Stanley

---

[155] Pelgrom, "Scrutinizing European Decision-Making Regarding the Temporary EU Relocation System," 14-16.

Hoffmann (1966)[156] famously argued that while integration may proceed smoothly in areas of low politics—such as trade or technical cooperation—it becomes far more difficult in high politics, including foreign policy, defense, and migration. In these domains, national sovereignty remains paramount, and member states are unwilling to transfer authority to supranational institutions. If such institutions are perceived to encroach upon national interests, states will actively push back to protect their autonomy.

At its core, intergovernmentalism posits that European integration advances only when it serves the interests of all member states. When integration efforts align with the lowest common denominator of national preferences, such as the formation of the Common Market, progress is likely. However, when state interests diverge, as seen during the Empty Chair Crisis[157] or the French veto of United Kingdom accession, integration stalls. This approach emphasizes the dominant role of national governments in controlling the pace and scope of integration, particularly through the European Council.

In response to developments that appeared to contradict classical intergovernmentalist predictions—such as the Single European Act (1986) and the Maastricht Treaty (1991)—Andrew Moravcsik developed Liberal Intergovernmentalism (LI). This updated variant introduced a three-step model: (1) preference formation at the domestic level, (2) inter-state bargaining based on those preferences, and (3) institutional choice, where supranational institutions are created or used instrumentally to implement agreements reached by states. According to Moravcsik, these institutions are not autonomous actors, but tools deployed by states to achieve their negotiated objectives.[158]

Intergovernmentalism is particularly useful in explaining EU policymaking in sensitive areas such as asylum and migration. The theory highlights why collective EU-level action often breaks down in the face of large-scale displacement: when state preferences do not align, cooperation falters. The 2015 Syrian refugee crisis provides a clear example. Despite significant humanitarian need and the existence of the TPD—a legal mechanism specifically designed for such crises—the EU failed to activate the directive. Member states prioritized domestic political concerns, including electoral pressures, resource capacities, and national identity narratives, over collective responsibility.

[156] Hoffmann, "Obstinate or Obsolete?," 904-915.
[157] "The Empty Chair Crisis," European NAvigator (ENA), European University Institute, accessed: April 2024, https://www.cvce.eu /en/education/unit-content/-/unit/02bb76df-d066-4c08-a58a-d4686a3e68ff/62cd6534-f1a9-442a-b6fb-0bab7c842180.
[158] Pelgrom, "Scrutinizing European Decision-Making Regarding the Temporary EU Relocation System," 16-18.

The TPD, although developed as part of the broader Common European Asylum System, was not implemented because it required a qualified majority vote in the Council, where divergent interests and political resistance blocked consensus. While the European Commission proposed relocation schemes and financial support measures, these were non-binding and met with limited enthusiasm. Member states that were less directly affected by the influx—particularly in Central and Eastern Europe—resisted binding burden-sharing arrangements, preferring unilateral solutions.[159]

Thus, intergovernmentalism offers the most compelling theoretical lens to explain the selective activation of the TPD. It captures the institutional stagnation during the 2015 Syrian crisis and contrasts sharply with the unanimous and rapid activation of the TPD in 2022 for the Ukrainian displacement—an outcome made possible only when member state interests aligned, both politically and geopolitically. As such, intergovernmentalism not only explains why the TPD was created, but also why it was not activated when needed, and why it was finally used in 2022.

3.3.1.3. Post-functionalism

Post-functionalism is a more recent theoretical framework developed to address the limitations of both neo-functionalism and liberal intergovernmentalism, particularly in explaining the increasingly contentious nature of European integration. Introduced by Liesbet Hooghe and Gary Marks[160], the theory underscores the significance of identity politics, public opinion, and politicization in shaping the trajectory of EU policymaking. Unlike earlier theories that focused primarily on state interests or institutional dynamics, post-functionalism brings societal and cultural factors to the forefront.

At the heart of post-functionalism lies the claim that integration is no longer a technocratic or elite-driven process. Instead, it has become deeply politicized, with national identity and public sentiment playing pivotal roles in determining the pace and direction of integration. Citizens' attachment to national sovereignty can generate resistance to policies perceived as infringing upon national values or interests, particularly in highly symbolic and politically sensitive areas such as migration and asylum. In such cases, governments—

[159] Liesbet Hooghe and Gary Marks, "Grand Theories of European Integration in the twentyfirst century," *Journal of European Public Policy, Vol.26, No.8*, 2019: 1121; Sandrino Smeets and Natascha Zaun, "What is intergovernmental about the EU's '(new) intergovernmentalist' turn? Evidence from the Eurozone and asylum crises," *West European Politics, Vol.44, No.4*, 2021: 862-863; Federico Maria Ferrara and Hanspeter Kriesi, "Crisis pressures and European Integration," *Journal of European Public Policy, Vol. 29, No.9*, 2022: 1356-1357.

[160] Hooghe and Marks, "Grand Theories of European Integration," 1122.

motivated by electoral pressures and media narratives—may avoid collective action at the EU level in favor of policies that cater to domestic preferences.[161]

This theory is especially relevant for understanding the divergent national responses during the 2015 Syrian refugee crisis and the 2022 Ukrainian mass displacement. In 2015, the arrival of predominantly Muslim refugees from the Middle East triggered intense public and political debate across the EU. Issues of cultural difference, religious identity, and security concerns were politicized by nationalist and populist parties, leading to widespread Euroscepticism and reluctance to embrace collective solutions. Even in countries like Germany and Sweden, which initially adopted open-door policies, governments later introduced restrictive measures in response to shifting public opinion and electoral backlash. In this context, post-functionalism explains how politicization constrained governments' willingness to activate the TPD, despite the legal and humanitarian rationale for doing so.[162]

By contrast, the 2022 activation of the TPD for Ukrainian refugees occurred in a vastly different political climate. The displaced population—predominantly white, Christian, and geographically closer—was framed in political discourse and media narratives as more "culturally similar" to EU populations. This framing generated more favorable public opinion, reducing politicization and facilitating collective action. National governments, facing less societal resistance, were able to align more easily around a common EU policy, resulting in the first-ever activation of the TPD.

In sum, post-functionalism offers critical insights into why similar displacement crises yielded radically different EU policy responses. By emphasizing the role of identity, public sentiment, and politicization, it highlights how domestic political landscapes shape the capacity and willingness of Member States to support supranational solutions. While intergovernmentalism explains the strategic calculus of state actors, post-functionalism reveals why and when political will becomes constrained by the deeper currents of identity and public opinion. Together, these perspectives help clarify the complex political environment in which the TPD operates.

As Hooghe and Marks[163] suggest, no single theory can fully explain the complexity of European integration, especially during times of crisis. Neo-functionalism,

---

[161] Pelgrom, "Scrutinizing European Decision-Making Regarding the Temporary EU Relocation System," 17-20.
[162] Hooghe and Marks, "Grand Theories of European Integration," 1122; Frank Schimmelfennig, "European Integration (Theory) in Times of Crisis (Why the euro crisis led to more integration but the migrant crisis did not)," *Journal of European Public Policy*, 2018: 1-17.
[163] Hooghe and Marks, "Grand Theories of European Integration,"1128.

intergovernmentalism, and post-functionalism each offer distinct insights into the EU's evolving asylum and migration policy. Neo-functionalism emphasizes the role of supranational institutions in advancing incremental integration, particularly through spillovers from Schengen to asylum cooperation. Post-functionalism sheds light on the cultural and identity-based cleavages that have constrained collective action, particularly as nationalist movements gained traction across Member States. Yet, in the context of the 2015 migration crisis and the non-activation of the TPD, it is intergovernmentalism that most effectively explains the EU's response.

Intergovernmentalism highlights the primacy of national preferences in shaping EU decisions. The failure to activate the TPD in 2015 illustrates how Member States, particularly those less directly affected, resisted binding commitments in a highly politicized policy area. Despite proposals from the European Commission—such as the temporary relocation scheme—Member States blocked collective solutions, demonstrating the limits of supranational authority when national sovereignty is at stake.

By contrast, the rapid and unanimous activation of the TPD in response to the 2022 Ukrainian crisis reflected a convergence of national and EU-wide strategic interests. While the European Council played a central role in both cases, its decisions were driven by different configurations of domestic and geopolitical motivations. The contrasting outcomes reveal how intergovernmentalism, more than the other theories, captures the selective nature of EU crisis response—especially in relation to temporary protection.

Thus, this theoretical framework is not only relevant to understanding general patterns of EU integration but also central to this thesis's research question: Why was the TPD implemented in the case of Ukraine but not in the case of Syria? Intergovernmentalism provides the clearest lens to interpret this variation, by linking Member States' sovereignty concerns and strategic calculations to the political viability of EU-level action.

4. TEMPORARY PROTECTION IN PRACTICE: EU RESPONSES TO THE SYRIAN AND UNKRAINIAN CRISES

This chapter compares two major displacement crises-the 2015 Syrian refugee crisis and the 2022 Ukrainian mass displacement-to examine how the EU has applied (or failed to apply) the TPD in practice. Both crises involved large-scale arrivals of displaced persons at the EU's borders, yet they prompted strikingly different policy responses. While the TPD was not activated during the Syrian crisis despite calls for its use, it was swiftly and unanimously applied in response to the Ukrainian crisis. This contrast raises critical questions about the legal, political, and institutional factors that shape EU crisis response mechanisms.

The chapter aims to (1) analyze the EU's varying responses in terms of policy instruments, legal frameworks, and political dynamics; and (2) assess the effectiveness of the TPD as a tool for managing displacement in a way that encourages collective action and supports deeper European integration. The two cases were selected not only because of their scale and urgency but also because they reveal how geopolitical context, member state preferences, and public sentiment influence the EU's willingness to act.

To better understand these dynamics, this chapter applies European integration theories particularly intergovernmentalism and post-functionalism. Intergovernmentalism helps explain the central role of national interests and Council level decision-making in the (non) activation of the TPD. Post-functionalism, meanwhile, sheds light on how public opinion, identity politics, and the politicization of migration shaped national-level responses and broader EU solidarity. Together, these theories provide a framework for interpreting why temporary protection inconsistently applied and what this means for the future of EU asylum policy.

4.1. Syrian Refugee Crisis in 2015

The 2015 Syrian refugee crisis marked a pivotal moment for the EU, testing the coherence, solidarity, and responsiveness of its migration and asylum governance framework. Faced with a mass influx of displaced persons, the EU adopted a series of internal and external measures aimed at managing migratory pressures. While internal initiatives, such as the "relocation scheme" and the "hotspot approach", sought to alleviate pressure on frontline member states, external measures—including agreements with third countries and the invocation of the “safe third country” concept—reflected a broader strategy of externalizing migration control**.** These fragmented responses, however, exposed systemic weaknesses in the EU’s Common European Asylum System, including the limitations of the Dublin Regulation, the securitization of migration, and the absence of binding mechanisms for responsibility-sharing.

Notably absent from the EU’s policy measures during the crisis was the Temporary Protection Directive, a legal instrument specifically designed to address situations of mass influx. Although the TPD could have provided immediate protection and fostered equitable burden-sharing among Member States, its non-activation highlighted the tension between legal potential and political will. This section critically examines the EU’s response to the 2015 crisis, focusing on the role that the TPD could have played in addressing displacement more effectively. It further explores how the use of externalization strategies and the application of the “safe third country” concept undermined collective protection obligations and contributed to the EU’s fragmented and securitized approach.

With over one million refugees and migrants arriving on Europe’s southern shores, the crisis overwhelmed existing structures, particularly the Dublin Regulation, which requires asylum claims to be processed in the first country of entry. Under the strain of mass arrivals, this system effectively collapsed, as frontline states such as Italy and Greece allowed migrants to move onward to preferred destinations like Germany and Sweden, resulting in significant secondary movements within the EU.[164] This situation laid bare the disparities among Member States in handling asylum claims. For instance, in 2015, Germany received 441,800 first-time asylum applications—approximately 35% of the EU’s total—while Hungary, Sweden, Austria, Italy, and France received significantly fewer applications. These imbalances underscored the absence of an effective burden-sharing mechanism, as southern states called for solidarity while northern states, led by Germany, resisted binding commitments.[165]

Although the EU responded swiftly to the crisis, its actions were often fragmented and ultimately inadequate. The European Commission’s “European Agenda on Migration”

[164] Florian Trauner, “Asylum Policy: the EU's crises and the looming policy regime failure.” *Journal of European Integration, 38:3*, (2016): 311-325; Evangelia (Lilian) Tsourdi, "The Emerging Architecture of EU Asylum Policy, Insights into the Administrative Governance of the Common European Asylum System." In *EU Law in Populist Times, Crises and Prospects*, Cambrige University Press, (2020): 191-226.
[165] “Eurostat News Release”, European Commission, 7 September 2016, accessed on October 2024, https://ec.europa.eu /eurostat/documents/2995521/7602753/1-07092016-AP-EN.pdf/ba7aedba-bec3-4ae4-a3c0-8207726ad141

introduced measures such as the hotspot approach, relocation schemes, and resettlement programs. A key component of this agenda was the strengthening of the external dimension of migration and asylum policies through partnerships with third countries aimed at preventing irregular migration. This external migration strategy—combining soft tools (such as political dialogue) and hard tools (such as binding agreements on readmission and visa facilitation)—became central to the EU's broader migration management framework, particularly after 2015, when migration and asylum issues increasingly influenced EU foreign relations.[166]

While these initiatives aimed to relieve pressure on frontline states, they failed to address the underlying systemic flaws of the EU asylum framework. The relocation mechanism, intended to redistribute asylum seekers from overburdened Member States, faced significant resistance; many Member States either refused to participate or accepted far fewer asylum seekers than initially pledged. Similarly, the resettlement program, though innovative, struggled to meet its goals due to political opposition and logistical obstacles.[167] More broadly, the EU's policy focus shifted from protection to containment. Security-oriented measures, including the declaration of a "war on smugglers" and externalization agreements such as the EU–Türkiye deal, prioritized reducing migration flows over ensuring compliance with international refugee protection standards, thus undermining the EU's human rights commitments.[168]

Despite the dramatic influx of refugees in 2015, some scholars[169] argue that the numbers did not, in fact, justify the alarmist narratives prevalent in political discourse and media coverage. Although the EU received around one-third of the world's asylum applications, its asylum seeker-to-population ratio remained significantly lower than that of countries like Türkiye and South Africa. Türkiye, for example, hosts a refugee population that far exceeds the EU's total, both in absolute terms and proportionally. This discrepancy highlights a deeper structural issue: the absence of an effective and cohesive European refugee management system. The so-called "European refugee crisis" was less a crisis of numbers and more a crisis of the EU's inability to harmonize asylum processes and equitably

---

[166] Stefania Panebianco, "The EU and migration in the Mediterranean: EU borders' control by proxy." *Journal of Ethnic and Migration Studies, 48:6*, (2022): 1409.
[167] Trauner, "Asylum Policy," 311-325.
[168] Dallal Stevens and Angeliki Dimitriadi, "Crossing the Eastern Mediterranean Sea in Search of Protection." *Journal of Immigrant & Refugee Studies, Vol.17, No.3*, (2019): 261.
[169] Daniele Archibugi, Marco Cellini, and Mattia Vitiello. "Refugees in the European Union: from emergency alarmism to common management," *Journal of Contemporary European Studies, Vol.30, No.3*, (2022): 487-505.

distribute reception responsibilities. The authors[170] argue that the prevailing crisis narrative deflected attention from these structural deficiencies, encouraging short-term emergency responses at the expense of sustainable policy reform.

Overall, the 2015 refugee crisis exposed critical deficiencies in the EU’s asylum system, including the challenges in the Dublin Regulation, the lack of genuine solidarity among Member States, and an overemphasis on security-driven measures rather than collective action mechanisms such as the TPD. Rather than activating the TPD, the EU pursued a range of internal and external measures. A central feature of its migration strategy during the crisis was the externalization of asylum responsibilities. However, this approach often failed to address the root causes of displacement and undermined the principle of equitable responsibility-sharing, placing a disproportionate burden on neighboring countries.

In this context, it is important to examine the specifics of the Syrian refugee crisis to better understand the factors behind the dramatic increase in sea arrivals in 2015—and why, despite these numbers, the EU ultimately chose not to activate the TPD.

4.1.1. Background of Syrian refugee crisis

Europe faced a dramatic increase in migrants and refugees arriving by sea in 2015, with over one million individuals crossing the Mediterranean. That same year, nearly 4,000 people went missing during the journey, many presumed to have drowned.[171] Half of the arrivals were from Syria, followed by individuals from Afghanistan and Iraq. This surge reflected the intensifying global displacement crisis, with millions fleeing poverty, persecution, and armed conflicts—resulting in the highest number of displaced persons since the end of World War II.

The civil war in Syria played a significant role, with over 250,000 people killed and more than 4.8 million displaced. The Mediterranean route, historically a major migration corridor, had become the deadliest passage, particularly in 2016, which saw the highest number of fatalities.[172] Italy and Greece were the primary entry points; however, most migrants and refugees aimed for northern and western European countries, especially Germany and Sweden, where they perceived reception conditions to be more favorable.[173]

---

[170] *Ibid*. p. 487-505

[171] "The 2015 European Refugee Crisis," Open Case Studies, The University of British Columbia, accessed on March 2025, https://cases.open. ubc.ca/the-2015-european-refugee-crisis/.

[172] Stefania Panebianco and Iole Fontana, "When responsibility to protect 'hits home': the refugee crisis and the EU response." *Third World Quarterly, 39:1*, (2018): 1.

[173] "The 2015 European Refugee Crisis," Open Case Studies, The University of British Columbia, accessed on March 2025, https://cases.open. ubc.ca/the-2015-european-refugee-crisis/.

In 2015, a record 1.3 million migrants applied for asylum in the 28 EU Member States, Norway, and Switzerland—nearly double the previous peak following the Soviet Union's collapse in 1992. Many asylum seekers initially sought refuge in neighboring countries before embarking on perilous journeys to Europe. Germany emerged as the primary destination, receiving 442,000 asylum applications, followed by Hungary (174,000), Sweden (156,000), France (71,000), and the United Kingdom (39,000). Notably, France and the UK experienced relatively stable numbers compared to previous years, while Germany, Hungary, and Sweden faced dramatic increases.

Syrians represented the largest group of asylum seekers (50%), followed by Afghans (20%) and Iraqis (7%). The vast majority arrived via the Aegean Sea from Türkiye to Greece, accounting for 80% of sea crossings in 2015. In addition to maritime routes, approximately 34,000 individuals crossed by land into Bulgaria and Greece.[174] The number of Syrian asylum seekers increased exponentially, from 49,000 in 2013 to 378,000 in 2015. Migration patterns were shaped by both geographic proximity and historical trends, creating distinct "bilateral migration corridors".[175]

In early 2016, the European Union and Türkiye signed a deal aimed at curbing irregular migration from Türkiye to Greece. Türkiye served both as a destination and a transit country, hosting 2.2 million Syrian refugees by 2015, most of whom resided in urban areas outside of camps. The EU–Türkiye Statement sought to strengthen external border controls in exchange for technical and financial assistance to Türkiye and a readmission agreement requiring Türkiye to accept the return of irregular migrants. Although the agreement significantly reduced arrivals in Greece—only 8,000 between April and July 2016—critics argued that it effectively outsourced the EU's refugee responsibilities and allowed Türkiye to leverage the deal in accession negotiations[176]. Following the EU–Türkiye Statement, migration flows shifted towards Italy, with an increase in arrivals from sub-Saharan Africa. By mid-2016, approximately 90,000 migrants had reached Italy, similar to the previous year, although this route remained highly dangerous, with over 2,500 deaths recorded between January and May 2016.

---

[174] Jonathan Clayton, Hereward Holland, and ed. Tim, "*Over one million sea arrivals reach Europe in 2015,*" UNHCR, December 2015, https://www.unhcr.org /news/stories/over-one-million-sea-arrivals-reach-europe-2015, accessed: March 2025.
[175] "Immigration & Migration, Immigration Issues, Refugees & Asylum Seekers," PEW Research Center, accessed on March 2025, https://www.pewresearch.org /global/2016/08/02/3-europes-asylum-seeker-flows-uneven-dispersion-across-europe/.
[176] Sona Kalantaryan, "Turkey and the EU: consensus or contention?," EUI, Migration Policy Centre, 2015, https://migrationpolicycentre. eu/turkey-and-the-eu-consensus-or-contention/, accessed: March 2025.

Why was there a surge in arrivals in 2015 despite the protests starting in 2011? And why did most refugees arrive via the Aegean Sea from Türkiye into Greece? Several factors explain these developments, broadly categorized into two headings:

The escalation of violence between government forces and rebel militias, compounded by the rise of Islamist groups such as ISIS and Jabhat al-Nusra, deteriorated living conditions dramatically. The Syrian uprising transitioned into an armed conflict by September 2011. Diplomatic initiatives, including the Arab League plan (November 2011), Kofi Annan's UN-Arab League plan (April 2012), and the Geneva Communiqué (2012), failed to end the violence. Between 2012 and 2014, government forces used cluster munitions and chemical weapons, while both government and non-state armed groups engaged in widespread human rights violations[177].

By 2014, over 191,000 people had been killed, and millions displaced. Humanitarian access was severely restricted. During 2013–2014, Islamist groups gained dominance among rebel factions, with ISIS seizing large territories. Subsequent interventions by the United States and Russia targeted ISIS, although Russia primarily focused on anti-Assad rebels. After 2018, the Assad regime gradually regained control, aided by Russian support, though geopolitical shifts such as the Ukraine war weakened Assad's external backing.[178]

The increase in sea crossings had already begun in 2014, but in 2015, the Eastern Mediterranean Route (EMR) from Türkiye to Greece became dominant. While 60,000 migrants arrived in 2013, the number surged to 219,000 in 2014 and over 800,000 in 2015 via the EMR.

Research by Peters, Engelen, and Cassimon[179] highlights that Syrian refugees chose routes based on cost, risk, and the probability of successful arrival. Initially, the Central Mediterranean Route (CMR) was preferred; however, the CMR's high fatality rate and greater costs discouraged its use by 2015. In contrast, the EMR by sea offered lower costs, shorter distances, and higher survival rates. Türkiye's open-door policy and Germany's welcoming stance further encouraged this shift. Land routes, particularly through Bulgaria, were less attractive due to strict border enforcement and lower success rates. As a result,

---

177 "World Report 2015, Syria," Human Rights Watch, accessed on March 2025, https://www.hrw.org /world-report/2015/country-chapters/syria.
178 *Ibid.*
179 Linda Peters, Peter-Jan Engelen, and Danny Cassimon, "Explaining refugee flows, Understanding the 2015 European refugee crisis through a real options lens." *Plos One 18 (4).* (2023):1-7.

82% of Syrian refugees used the EMR by sea in 2015, contributing to the unprecedented influx into Europe.[180]

That year, the number of asylum applications in EU Member States reached 1.3 million, with Syrians constituting the largest group. Among the 338,000 refugees granted protection, over 171,000 were Syrian, with Germany accounting for 104,000 approvals.[181] Despite this, the EU response remained highly fragmented. Frontline states like Greece and Italy were overwhelmed, and the Dublin Regulation collapsed under pressure. Burden-sharing mechanisms failed, with many asylum seekers facing lengthy processing delays, poor reception conditions, or unsafe transit routes. The Temporary Protection Directive, designed for precisely such mass influx situations, was not activated. EU officials assessed early asylum numbers—such as 100,000 Syrian applications in 2014—as insufficient to trigger the mechanism.[182] Consequently, a collective protection approach was deemed unnecessary at the time. Nevertheless, scholars such as Clara Burbano-Herrera[183] have argued that activating the TPD could have allowed quicker protection, fairer burden-sharing, and potentially reduced deaths during perilous crossings.

In addition to practical concerns, political resistance and legal uncertainty also hindered activation of the TPD. Instead, the European Union prioritized externalization strategies, exemplified by the EU–Türkiye Statement. Central to this strategy was the designation of "safe third countries," based on the assumption that arrivals from Türkiye, Lebanon, or Jordan were no longer in need of international protection. This "first safe country" concept remains highly controversial. Scholars such as Scordas argue that it served as a justification for the non-activation of the TPD during the Syrian refugee crisis. Furthermore, authors like Yeo[184] and Naomi Bartram[185] have shown that this narrative, while dominant in countries like the United Kingdom, lacks any basis in international law.

---

[180] *Ibid*, pg.15-16

[181] “Asylum decisions in the EU”, Eurostat, Pressrelease, 20 April 2016, https://ec.europa.eu /eurostat/documents/2995521/7233417/3-20042016-AP-EN.pdf/34c4f5af-eb93-4ecd-984c-577a5271c8c5, accessed on: March 2025.

[182] Clara Burbano-Herrera, “Why Has the EU’s Temporary Protection Directive Not Been Applied during the Migration Crisis in Order to Receive Syrians and Other Asylum Seekers?,” AfricLaw, 10 June, 2016, https://africlaw.com /2016/06/10/why-has-the-eus-temporary-protection-directive-not-been-applied-during-the-migration-crisis-in-order-to-receive-syrians-and-other-asylum-seekers/, accessed on: March 2025.

[183] *Ibid.*

[184] Colin Yeo, “Updates, commentary, training and advice on immigration and asylum law,” Free Movement, 2024, https://freemovement.org. uk/are-refugees-obliged-to-claim-asylum-in-the-first-safe-country-they-reach/, accessed on: March 2025.

[185] Naomi Bartram, “Why don't Refugees Stay in the First Country They Reach?,” International Rescue Committee, 21 August 2024, https://www.rescue.org /uk/article/why-dont-refugees-stay-first-country-they-reach, accessed on: March 2025.

The 1951 Refugee Convention does not obligate refugees to seek asylum in the first country they reach.

The persistence of the "first safe country" myth obscures the disproportionate burden placed on countries neighboring conflict zones and justifies deterrence and externalization policies, such as the EU's agreements with Türkiye and Libya.[186] Moreover, the Dublin Regulation institutionalizes this principle, placing undue pressure on frontline Member States and undermining the principles of solidarity and equitable responsibility-sharing.

In the next part, the systemic deficiencies of the Dublin Regulation and the broader structural challenges within the EU asylum system will be analyzed to deepen understanding of why the TPD was not activated and what alternative measures were pursued during the 2015 Syrian refugee crisis.

4.1.2. Impact of the Syrian refugee crisis on EU asylum policy

The 2015 migration crisis represented a critical turning point for the European Union's migration and asylum policy, exposing deep-rooted structural weaknesses and governance failures. With over 1.2 million asylum applications and thousands of deaths in the Mediterranean, the crisis underscored the persistent tension between national sovereignty and collective solidarity within the EU framework. This part analyzes the systemic deficiencies of the CEAS, the fragmented implementation of the Dublin Regulation, and the disparities among Member States in managing migration pressures. It also examines the growing securitization and externalization of EU migration policy, particularly through agreements with third countries, and highlights the humanitarian consequences of restrictive border control measures. Finally, it discusses the challenges in operationalizing solidarity and the limitations of existing institutional mechanisms in ensuring a coherent, rights-based response.

The 2015 migration crisis was not an isolated phenomenon but the culmination of persistent structural and policy failures in the EU's migration governance framework. The CEAS, intended to harmonize asylum policies across member states, was critically undermined by weak enforcement mechanisms and inconsistent application. Scholars such as Jones et al. (2016) argue that these systemic failures are inherent to the EU's integration process, driven by "incomplete agreements" that inadequately address foundational challenges. As a result, migration governance within the EU remains fragmented, reactive,

[186] Yeo, "Updates, commentary, training and advice on immigration and asylum law,"

and prone to recurrent crises. A core manifestation of the EU's structural deficiencies lies in the Dublin Regulation, which allocates responsibility for asylum claims to the first country of entry. This system disproportionately burdened frontline states such as Greece and Italy, which, despite facing high volumes of arrivals, lacked the resources necessary to process asylum claims effectively.[187] The resulting imbalance fueled demands for a more equitable distribution of responsibilities among Member states, yet efforts to reform the system met with limited success.

The 2015 crisis revealed profound disparities in how Member States experienced and responded to migration pressures. Germany and Sweden bore the brunt of asylum applications, facing intense political and social pressures. In contrast, geographically insulated and more restrictive states like France and the United Kingdom remained relatively unaffected due to stringent border controls. Although frontline states like Greece and Italy managed large numbers of irregular arrivals, onward movement meant that formal asylum applications remained relatively low. This divergence highlighted the failure of collective solutions, as national interests frequently overshadowed EU-wide approaches.[188]

The migration crisis also accelerated the securitization of migration discourse across the EU. Migrants were increasingly portrayed as threats to national identity and sovereignty, prompting a shift toward policies prioritizing deterrence over protection. Restrictive national measures—such as Italy's hardline approach under Matteo Salvini and Hungary's policies under Viktor Orbán—epitomized this trend. At the EU level, externalization strategies became prominent, with partnerships forged with countries such as Libya to contain migratory flows. While these approaches reduced arrivals, they generated serious ethical and legal concerns regarding human rights compliance.[189]

The EU's institutional framework further exacerbated migration governance challenges. Although the Maastricht and Amsterdam Treaties laid the groundwork for migration cooperation, they failed to establish binding and enforceable solidarity mechanisms. Instruments such as TPD and CEAS sought to harmonize asylum practices but suffered from uneven application and insufficient monitoring.[190] Agencies like Frontex and

[187] Marco Scipioni, "Failing forward in EU migration policy? EU integration after the 2015 asylum and migration crisis," *Journal of European Public Policy, 25:9*, (2018): 1357.
[188] Hanspeter Kriesi, Argyrios Altiparmakis, Abel Bojar Oana, and Ioana-Elena, "Debordering and rebordering in the refugee crisis: a case of 'defensive integration'," *Journal of European Public Policy, 28:3*, (2021): 335-338.
[189] Panebianco, "The EU and migration in the Mediterranean," 1398-1400.
[190] Scipioni, "Failing forward in EU migration policy?," 1363-1368.

the EUAA, while providing operational support, remain heavily dependent on member state contributions, limiting their effectiveness in enforcing compliance.

The Syrian refugee crisis, one of the most severe humanitarian emergencies of recent times, intensified the strains on the EU's migration framework. Refugees fleeing Syria predominantly fell into three categories: those hosted in neighboring countries, those arriving at EU borders, and those resettled or reaching northern Europe independently. Türkiye, Lebanon, and Jordan bore the primary burden, hosting millions of refugees often with limited international assistance. The closure of embassies, restrictive visa policies, and the paucity of legal migration pathways within the EU exacerbated refugee vulnerabilities. [191]Consequently, many resorted to perilous Mediterranean crossings, resulting in high-profile tragedies such as the 2013 Lampedusa disaster and the 2015 shipwreck, which highlighted the fatal consequences of prioritizing border control over safe access to asylum.

Solidarity—conceptualized as both interstate cooperation and state obligations toward refugees—has remained a cornerstone principle of the EU's asylum policy. However, its practical implementation has proven problematic. The disproportionate burden placed on frontline states, coupled with the lack of safe and legal entry routes, hindered effective responsibility-sharing. Many asylum seekers attempted to bypass overwhelmed frontline states in pursuit of better protection conditions in northern Europe, revealing deep-seated structural imbalances within the CEAS.[192]

Externalization emerged as a central pillar of EU migration strategy following the crisis. The 2016 EU-Türkiye Statement exemplified this approach, offering Türkiye €6 billion in financial support to strengthen refugee management and curb irregular crossings into Greece. Under the agreement, irregular migrants returned to Türkiye would be counterbalanced by resettling Syrian refugees in Europe. Although the deal significantly reduced arrivals, it faced criticism for operational shortcomings and for emphasizing containment over refugee protection. Similarly, initiatives such as the EU Emergency Trust Fund for Africa (EUTF), aimed at addressing the "root causes" of migration, have suffered from incomplete data collection, limited oversight, and questionable long-term efficacy.[193]

Despite relatively high asylum recognition rates for Syrian refugees in Europe, protection gaps persisted. Pushbacks, arbitrary detention in substandard facilities, and

---

[191] Eleni Karageorgiou, "Solidarity and sharing in the Common European Asylum System: the case of Syrian refugees."*European Politics and Society, 17:2*, (2016): 197-200.
[192] *Ibid*, pg.199
[193] Leila Simona Talani, "The 2014/2015 Refugee Crisis in the EU and the Mediterranean Route," *Journal of Balkan and Near Eastern Studies, 22:3*, (2020): 451-454.

instances of refoulement—particularly in Bulgaria, Greece, and Cyprus—violated international protection obligations. Furthermore, the lack of harmonized asylum procedures across the EU undermined effective responsibility-sharing. The Mediterranean routes, especially the Central and Eastern corridors, remained perilous, forcing asylum seekers into reliance on smugglers and hazardous journeys. The EU's overarching focus on border security continues to overshadow its commitments to human rights and the principle of non-refoulement.[194]

4.1.3. EU response to the 2015 Syrian refugee crisis

EU's internal response was focused on financial and operational support to Member states. To alleviate pressure on frontline states such as Greece and Italy, the EU introduced reforms between 2005 and 2013 that focused primarily on supporting the countries facing migratory and financial stress. According to Trauner[195], these reforms primarily involved adjustments to the existing asylum system rather than transformative change. The EU provided financial support through funds like the European Refugee Fund, the External Borders Fund, and the Return Fund. These funds, part of the EU's broader "Solidarity and management of migratory flows" program, aimed to assist member states in managing increased migration and the economic fallout from the financial crisis. While these funds were used for improving reception conditions and facilitating voluntary returns, the allocation criteria and effectiveness of these funds in ensuring fair burden-sharing have been criticized. The transparency of the funding distribution has been questioned, and some argued that the funds have not always met the needs of the most burdened states.

In addition, the EASO played a crucial role in enhancing member states' asylum systems by offering support in areas such as registration, decision-making, and training. However, despite its potential, EASO's funding has been reduced, limiting its ability to address ongoing challenges effectively. Similarly, Frontex, tasked with coordinating external border operations, has seen its budget increase, reflecting the EU's prioritization of border security over asylum expertise sharing. While Frontex has been instrumental in assisting member states with external border management, its role in ensuring access to protection and compliance with human rights standards remained contentious.[196] Operationally, EU agencies such as Frontex and the EASO played a significant role. Frontex

[194] Karageorgiou, "Solidarity and sharing in the Common European Asylum System," 202-203.
[195] Trauner, "Asylum Policy," 311-325.
[196] Karageorgiou, "Solidarity and sharing in the Common European Asylum System," 203-205.

deployed Rapid Border Intervention Teams to assist Greece in controlling its border with Türkiye, while EASO offered operational support to Member states with strained asylum systems. Frontex's budget was substantially increased, and the agency launched the "Triton" operation to replace Italy's "Mare Nostrum" operation, focusing on border control rather than search and rescue.[197] Despite these operational and financial measures, the EU's responses failed to address the underlying structural deficiencies in the asylum system, such as the Dublin Regulation's "first-country-of-entry" principle, and the lack of a fair and equitable responsibility-sharing framework. Scipioni,[198] has also adressed these challenges and added that the responses were not effective in adressing the root causes of crisis. The EU needs to move beyond piecemeal agreements and take a more comprehensive and cohesive approach to migration governance. This would involve not only improving internal solidarity and responsibility sharing but also addressing the underlying drivers of migration, such as the structural problems in the Middle East and Africa, which remain largely unaddressed.

The EU's response to the migration crisis has been further complicated by deep divisions among member states. While some, like Italy and Greece, bore the brunt of migration flows, others, especially from Central and Eastern Europe (such as the Visegrad group), resisted any form of solidarity or burden-sharing. Countries like Hungary and Poland emphasized national sovereignty and border security over EU-level cooperation, refusing to comply with proposed relocation quotas. This resistance highlighted the ideological divide within the EU and exposed the difficulty in implementing a unified asylum policy. Italy's stance on migration evolved over time, from a humanitarian approach exemplified by the 2013 Mare Nostrum operation to a more security-focused policy. The 2017 Memorandum of Understanding with Libya and the 2018 decision to close ports to NGO vessels marked Italy's shift toward a deterrence-based approach.[199]

The EU's attempts at burden-sharing have been inadequate, as evidenced by the limited scope of intra-EU relocation efforts. The voluntary relocation initiatives, such as the 2011 relocation of asylum seekers from Malta, have been small-scale and insufficient to address the broader challenges of redistributing migrants across the EU. The funding model, based on absolute numbers rather than relative burdens, failed to reflect the varying pressures faced by different Member states. This led to tensions, with some states claiming to be

---

[197] Trauner, "Asylum Policy," 311-325
[198] Scipioni, "Failing forward in EU migration policy?," 1359.
[199] Panebianco, "The EU and migration in the Mediterranean," 1403-1405.

"overburdened" without clear metrics for substantiating those claims. The lack of a comprehensive and objective system for determining fair responsibility sharing further undermines solidarity among Member states.[200]

The EU's response to the 2015 refugee crisis, although ambitious, was marked by fragmented implementation and inconsistent national measures. As noted by Kriesi et al.[201], the diverse national policy legacies, exposure to the crisis, and political pressures across EU Member states led to inconsistent responses. While some countries, like Germany, advocated for more solidarity, others, particularly in Central and Eastern Europe, resisted relocation schemes and favored stricter border controls. This division further highlighted the EU's inability to coordinate a unified and effective solution.

4.1.3.1. National-level responses

By late summer 2015, intensified debates emerged across the EU regarding refugee reception and intra-European distribution mechanisms, revealing a pronounced East-West divide. In response to mounting pressures, five national borders—both within and outside the Schengen area—were fortified with physical barriers, and several member states reintroduced border controls, signaling a shift away from free movement principles. At the national level, numerous EU member states undertook legislative reforms beginning in autumn 2015, predominantly aimed at restricting access to asylum. These amendments frequently entailed more stringent legal provisions and a reduction in the rights and entitlements afforded to asylum seekers.[202]

Frontline states, due to their geographical proximity to entry points and limited infrastructural capacities, inherited a disproportionate share of the burden. Historical attitudes toward migration also influenced whether states leaned toward openness or restriction. The pressures differed among frontline, transit, and destination states: while frontline countries like Greece and Italy were overwhelmed by the scale of arrivals, transit states faced the challenge of managing onward movements, and destination states grappled with the political and social consequences of large-scale refugee admissions. Domestic political climates further shaped national responses, as states sought to balance humanitarian

[200] Evangelia (Lilian) Tsourdi, and Philippe De Bruycker, "*EU Asylum Policy: In Search of Solidarity and Access to Protection,"* European University Institute, Robert Schuman Centre for Advanced Studies, Migration Policy Centre, (2015): 5-6.
[201] Kriesi, et al., "Debordering and rebordering in the refugee crisis," 331.
[202] Martin Wagner, "2015 in review, how Europe reacted to the refugee crisis," ICMPD (Internaitonal Centre for Migration Policy Development), 21 December, 2015, https://www.icmpd.org/ blog/2015/2015-in-review-how-europe-reacted-to-the-refugee-crisis?utm_source=chatgpt.com, accessed: March 2025.

obligations with rising public resistance to migration. The growing influence of populism and anti-immigrant sentiment across Europe contributed to increasingly restrictive policy shifts, particularly in states already experiencing political volatility [203].

Frontline states such as Greece and Italy faced overwhelming pressures as primary entry points. Their responses were shaped by necessity rather than strategy. Greece implemented "wave-through" policies, registering only a fraction of asylum seekers and allowing onward movement toward Northern and Western Europe. Italy initially prioritized maritime rescue efforts, launching the *Mare Nostrum* operation, later replaced by the EU-led *Operation Triton*. Over time, particularly under Interior Minister Matteo Salvini, Italy shifted toward more restrictive policies, closing ports to NGO rescue vessels and signing agreements with Libya to curb migration flows. Hungary, another crucial frontline state, adopted an explicitly restrictive stance. The government constructed fences along its borders with Serbia, Croatia, and Slovenia, enacted harsh asylum restrictions, and transformed Budapest into a major transit hub for onward refugee movement. Hungary thus became emblematic of Europe's emerging re-bordering trend.[204]

Transit states faced the challenge of managing large flows of migrants moving toward Northern Europe. Measures included increased policing, temporary border controls, and cooperation with neighboring countries to regulate flows. Transit states served as critical chokepoints but lacked a unified strategy, contributing to the broader fragmentation of the EU response. Initially, destination states like Germany and Sweden pursued relatively open policies. In September 2015, Germany and Austria suspended the Dublin Regulation for Syrian nationals, allowing them to apply for asylum regardless of their country of first entry. Germany accepted hundreds of thousands of refugees under its *Willkommenskultur* (welcoming culture) policy. Sweden also maintained an open-door policy in the early stages. However, political and logistical pressures quickly mounted. By late 2015, Germany and Austria reintroduced internal border controls and began tightening asylum policies, including expedited asylum procedures and restrictions on family reunifications. Sweden imposed temporary residence permits, introduced border checks, and implemented asylum caps to limit new arrivals. France and the United Kingdom maintained stricter immigration controls throughout the crisis, reinforcing internal border enforcement and resisting large-scale refugee admissions.[205]

[203] Kriesi, et al., "Debordering and rebordering in the refugee crisis," 333.
[204] *Ibid*, pg. 333.
[205] *Ibid,* pg. 340-341

A key turning point was Germany's decision to reintroduce border controls in September 2015, which signaled a broader shift away from open-door policies. Germany's move prompted other states, including Denmark, Austria, and Slovenia, to reinstate border checks, undermining the Schengen Agreement's principles of free movement. Sequential border closures created bottlenecks in the Balkans, compounding pressures on frontline states and exacerbating humanitarian challenges. In response to the deteriorating situation, Germany revised asylum laws in 2015–2016 to accelerate procedures and restrict family reunification rights. Sweden and Austria adopted similar restrictive measures, including asylum caps and temporary protection statuses. France and the United Kingdom reinforced immigration laws and tightened internal controls.[206]

Post-functionalism and intergovernmentalism offers explanations in understanding the the national responses to the 2015 migration crisis. Post-functionalism highlights how migration crisis intersected with identity politics and cultural divisions and triggered political conflict around integration. As immigration became the primary concern in most EU member states by the fall of 2015, rising support for nationalist parties made it increasingly challenging for national governments to reach compromise deals at the European level. The crisis exacerbated identity divisions and contributed to societal polarization, influencing the structure of political conflict within and among member states. As per this approach, the migration crisis limited the policies of mainstream parties and governments were pressured to introduce restrictions, even in countries initially supportive of refugees like Germany, Austria, and Sweden. The approach explains the adoption of more restrictive measures, such as imposing annual caps, constructing border fences, reintroducing border controls and reducing welfare support for refugees by the electoral dynamics of early 2016.[207]

4.1.3.2 EU level responses

The 2015 migration crisis posed one of the most significant challenges to the European Union's migration and asylum framework, revealing deep structural deficiencies and political tensions within the Union. In response, the EU adopted a combination of internal and external measures designed to manage immediate pressures and propose longer-term reforms. These initiatives included the Ten-Point Action Plan, the European Agenda on Migration, emergency relocation schemes, the hotspot approach, and the externalization of

[206] *Ibid,* pg. 343.
[207] Liesbet Hooghe and Gary Marks, "Grand Theories of European Integration in the twentyfirst century." *Journal of European Public Policy, Vol.26, No.8*, (2019): 1122.

migration management through agreements with Türkiye and Libya. Despite the apparent comprehensiveness of these measures, the crisis exposed profound limitations in the EU's ability to act collectively and coherently, as national interests frequently took precedence over supranational solidarity.

The nature of the EU's response reflected the dynamics theorized by intergovernmentalism and post-functionalism. From an intergovernmentalist perspective, migration governance during the crisis was dominated by the preferences and bargaining power of member states, with decisions often emerging from interstate negotiations rather than supranational leadership. Solidarity mechanisms, such as the relocation schemes, faltered due to political resistance from individual states, particularly from the Visegrád group, underscoring the primacy of national sovereignty over collective solutions.[208] Meanwhile, post-functionalism helps explain how politicization and the rise of populist, anti-immigrant sentiments across Europe constrained EU-level action. As migration became increasingly salient in national political debates, public pressure forced governments to prioritize domestic interests and security concerns over European integration ideals. This environment of heightened politicization and national contestation limited the scope for ambitious, binding EU-wide reforms, reinforcing fragmented and reactive policy responses.[209]

This section examines the EU's internal and external responses to the crisis, critically analyzing the effectiveness and limitations of the measures adopted. It highlights how intergovernmental bargaining and post-functionalist dynamics shaped both the design and implementation of migration policies, resulting in a fragmented governance landscape that struggled to uphold the Union's humanitarian commitments and legal obligations. By unpacking these dynamics, the analysis aims to provide a deeper understanding of the EU's complex and often contradictory approach to migration management during the 2015 crisis.

In April 2015, the European Commission introduced the "Ten-Point Action Plan" in response to the mounting migration pressures. The plan primarily emphasized enhancing border control by increasing resources for maritime operations such as *Triton* and *Poseidon* to improve border surveillance and search-and-rescue capabilities. However, it largely failed to address the complexity of migration flows, focusing predominantly on border

[208] *Ibid*, pg. 1121.
[209] Frank Schimmelfennig, "European Integration (Theory) in Times of Crisis (Why the euro crisis led to more integration but the migrant crisis did not)." *Journal of European Public Policy*, (2018):5-6.

management rather than establishing safe and legal pathways for asylum seekers and refugees.[210]

The shipwreck off Lampedusa on 3 October 2013, in which 366 migrants, primarily from Eritrea, lost their lives, marked a tragic turning point in the European Union's approach to Mediterranean migration. In response to this catastrophe, Italy launched the *Mare Nostrum* operation, a large-scale search and rescue initiative aimed at saving lives at sea. While the operation succeeded in rescuing thousands of migrants, it faced significant criticism, particularly from populist parties and certain international stakeholders, who contended that it incentivized irregular migration and facilitated the activities of smuggling networks. Despite its operational effectiveness, *Mare Nostrum* was discontinued in October 2014, largely due to political opposition and concerns over costs. It was subsequently replaced by *Operation Triton* in November 2014, coordinated by Frontex. However, Triton's narrower mandate and limited resources proved inadequate in the face of escalating migration pressures, culminating in the April 2015 Mediterranean shipwreck, which claimed the lives of more than 750 migrants—one of the deadliest maritime disasters since the Second World War. This event prompted the European Commission to introduce the "*European Agenda on Migration"* in May 2015, which sought to address both the immediate humanitarian crisis and the broader need for reform in EU migration management.[211]

The "European Agenda on Migration" (EAM) was introduced as a more comprehensive framework. The Agenda sought both immediate and long-term solutions, structured around four pillars: 1) Reducing incentives for irregular migration, 2) Strengthening border management, 3) Establishing a strong common asylum policy, 4) Developing legal migration pathways[212]. Short-term measures included increased funding for maritime operations and the introduction of emergency relocation schemes to alleviate pressures on frontline states. Medium-term efforts focused on strengthening partnerships with third countries and enhancing border management capacities. Long-term objectives emphasized reforming the CEAS, creating legal migration routes, and promoting integration.[213]

---

[210] Ciğer, "Has the Temporary Protection Directive Become Obsolote?," 5-6.
[211] Genç and Öner, "Why not Activated?," 11; Ferruccio Pastore and Giulia Henry, "Explaining the Crisis of the European Migration and Asylum Regime", *The International Spectator*, Vol.51,No.1, (2016): 52-53.
[212] Stevens and Dimitriadi, "Crossing the Eastern Mediterranean Sea in Search of Protection," 261.
[213] "European Agenda on Migration," Eur-Lex, accessed on October 2024, https://eur-lex.europa. eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015AE4319

Despite its comprehensive scope, the implementation of the EAM faced significant challenges. The EU's shared governance structure, where both the Union and individual Member states hold competencies over migration policy, often resulted in fragmented efforts and conflicting priorities. Political resistance from certain Member states, particularly those in the Visegrád group[214]—Hungary, Poland, the Czech Republic, and Slovakia—further undermined the agenda. These countries opposed EU-led relocation schemes, citing concerns over sovereignty and national security, and prioritized national strategies over collective action. Additionally, overlapping and unclear funding mechanisms hindered the effective allocation of resources, delaying the execution of key initiatives.[215]

The EAM introduced a temporary compulsory relocation mechanism aimed at redistributing 160,000 asylum seekers from Greece and Italy across the EU. However, strong opposition from Central and Eastern European countries, particularly Hungary, significantly undermined this initiative. Ultimately, the scheme was reduced to voluntary relocation, relocating fewer than 35,000 individuals over two years. Although it symbolized a move toward binding solidarity; political resistance, administrative delays, and lack of coordination between Member states plagued the scheme's implementation.

The "hotspot approach" was designed to assist frontline states by streamlining the identification, registration, and processing of migrants. While Frontex, Europol, and EASO played key roles, the approach struggled with inadequate resources, particularly in overwhelmed areas like Greece. Over time, EU officials became more directly involved in national asylum procedures, reflecting a gradual shift toward deeper EU intervention in migration management.[216]

The 2015 migration crisis exposed systemic challenges in EU's migration and policy framework such as the solidarity principle and governance limitations. Member state resistance to burden-sharing mechanisms undermined collective EU efforts and resulted in fragmented measures. Structural constraints and fragmented responsibilities among the EU institutions also prevented effective decision-making and implementation. While the crisis

---

214 "About The Visegrad Group", Visegrad Group; "(also known as the "Visegrad Four" or simply "V4") reflects the efforts of the countries of the Central European region to work together in a number of fields of common interest within the all-European integration. Czechia, Hungary, Poland and Slovakia have always been part of a single civilization sharing cultural and intellectual values and common roots in diverse religious traditions, which they wish to preserve and further strengthen, accessed on October 2024, https://www.visegradgroup. eu/about.

215 Genç and Öner, "Why not Activated?," 11; Pastore and Henry, "Explaining the Crisis of the European Migration and Asylum Regime," 52-53.

216 Evangelia (Lilian) Tsourdi, "The Emerging Architecture of EU Asylum Policy, Insights into the Administrative Governance of the Common European Asylum System.", *In EU Law in Populist Times, Crises and Prospects*, Cambrige University Press, (2020): 216.

prompted some steps toward deeper integration, such as enhancing the roles of EU agencies like EASO and the Frontex, these efforts fell short of addressing systemic challenges comprehensively. The experience highlighted the urgent need for a long-term debate on the EU's capacity to manage shared challenges effectively.[217]

4.1.3.3 External measures

Externalization refers to the EU's strategy of managing migration and asylum by cooperating with third countries to prevent migrants and asylum seekers from reaching EU territory. Early efforts toward externalization began with initiatives such as the Euro-Mediterranean Partnership in 1995 and the European Neighbourhood Policy in 2004. However, this approach expanded significantly following the 2015 migration crisis, as migration and asylum governance became central to the EU's foreign policy agenda.[218]

Increasingly, migration control was linked with other EU external policies, including development cooperation, counter-terrorism, and security operations under the Common Security and Defence Policy (CSDP), exemplified by missions such as EUCAP Sahel Niger.[219] In addition to its internal emergency responses, the EU pursued a broader strategy of externalizing migration management, extending its influence beyond its borders through readmission agreements and conditional development aid. A key instrument in this strategy was the GAMM,[220] which promoted regional dialogues and external migration management partnerships. Although these measures succeeded in reducing irregular migration flows, they attracted substantial criticism for prioritizing border control objectives over the protection of human rights. Moreover, externalization efforts contributed to the shifting of migratory routes toward Italy, exacerbating the risks faced by asylum seekers on extremely dangerous Mediterranean crossings.[221]

Within this broader framework, the EU established agreements with Türkiye and Libya. While the EU-Türkiye Statement significantly reduced arrivals via Greece, by mid-2016 over 90,000 migrants had reached Italy -similar to the previous year's figures- with

[217] Scipioni, "Failing forward in EU migration policy?," 1368-1370.
[218] Panebianco, "The EU and migration in the Mediterranean," 1409.
[219] Bruno Oliveira Martins and Michael Strange, "Rethinking EU external migration policy: contestion and critique", Global Affairs, Vol.5, No.3, (2019): 195.
[220] For more information on GAMM, please refer to the Third Section of this study on "Evolution of European Union Migration and Asylum Policy".
[221] "Immigration & Migration, Immigration Issues, Refugees & Asylum Seekers," PEW Research Center, accessed on March 2025, https://www.pewresearch. org/global/2016/08/02/3-europes-asylum-seeker-flows-uneven-dispersion-across-europe/.

more than 2,500 migrants drowned in the Mediterranean between January and May 2016.[222] Thus, although externalization through the Türkiye agreement alleviated some pressures, it simultaneously displaced migratory routes and sustained humanitarian crises elsewhere.

A crucial element of the EU's externalization strategy has been the increasing use of "safe country" designations. In EU asylum law, four "safe country" concepts are recognized under the recast Asylum Procedures Directive (APD): safe country of origin, safe third country, first country of asylum, and European safe third country. The EUAA monitors how EU+ countries (EU Member States plus Iceland, Norway, and Switzerland) apply these concepts[223]. The "safe country of origin" concept allows states to accelerate or reject asylum claims from nationals of countries deemed generally free from persecution, torture, or indiscriminate violence. However, despite the existence of EU-level guidelines, Member States maintain their own national lists, resulting in significant variation. While most EU+ countries recognize states in the Western Balkans as safe, few include Moldova or Türkiye despite their candidate status—Moldova being listed by only seven countries and Türkiye by just three (Croatia, Hungary, and Slovenia).[224]

The "safe third country" (STC) concept has become increasingly central to EU asylum architecture, yet it remains highly contested. According to the EUAA,[225] the STC mechanism is a legitimate and flexible tool grounded in EU law (Article 38 of the recast APD). However, the European Council on Refugees and Exiles (ECRE) disputes its compatibility with international law, arguing that neither the 1951 Refugee Convention nor customary international law obliges asylum seekers to apply for protection in the first safe country they reach.[226] While the EUAA observes that the STC concept remains underutilized, particularly beyond Türkiye, ECRE emphasizes that systematic reliance on STC practices, as seen notably in Greece and Hungary, leads to procedural uncertainty, barriers to access, risks of refoulement, and increased litigation. ECRE warns that the growing use of STC practices contributes to a shrinking global protection space, weakens

---

[222] Meltem Müftüler-Bac, "Externalization of migration governance, Türkiye's migration regime, and the protection of the European Union's external borders," *Turkish Studies, 23:2*, (2022): 290-293.
[223] "Applying the Concept of Safe Countries in the Asylum Procedure," European Union Agency for Asylum (EUAA), *Publications Office of the European Union*, *Luxembourg*, December, 2022: 4-6.
[224] *Ibid,* pg.12.
[225] *Ibid,* pg. 9-11.
[226] "Debunking the "Safe Third Country" Myth: ECRE's concerns about EU proposals for Expanded Use of the Safe Third Country Concept," European Council on Refugees and Exiles (ECRE), *Policy Note No. 08/2017,* Brussels, 2017: 1-2

EU credibility in promoting human rights abroad, and undermines global refugee responsibility-sharing.[227]

Ovacık further highlights that the STC concept did not originate from the 1951 Refugee Convention but rather developed unilaterally during the 1980s by Western states seeking to prevent "secondary movements" and address the "refugees in orbit" dilemma.[228] Under this model, bordering countries often bear the disproportionate burden of refugee hosting, while responsibility-sharing and international cooperation are weakened. Returns under STC arrangements typically rely on readmission agreements, often incentivized by financial aid or visa facilitation. However, these agreements frequently lack enforceable human rights safeguards, monitoring mechanisms, or effective remedies, resulting in a system that prioritizes deterrence and externalization over refugee protection.

Externalization is primarily accomplished through cooperation with transit or migration-sending countries, where the European Union (EU) employs both political instruments, such as bilateral agreements, and legal mechanisms, including readmission agreements, to manage migration flows. In some cases, the EU provides financial incentives to third countries to stem migration or designates them as "safe third countries" for the return of asylum seekers. These mechanisms effectively extend EU jurisdiction beyond its external borders, allowing the Union to manage migration outside its direct territorial control.

Türkiye, as a longstanding candidate country for EU accession, has played a pivotal role in this externalization strategy. Since 1963, Türkiye's association with the EU has required the gradual alignment of its migration and asylum policies with EU standards. Due to its geographic position as a major transit country for migrants heading toward Europe, Türkiye has been central to the EU's external migration management tools, encompassing readmission agreements, development assistance, and border control measures[229]. The primary instruments shaping this partnership include the 2013 Readmission Agreement, the 2015 Joint Action Plan, and the 2016 EU-Türkiye Statement (often referred to as the "EU-Türkiye Refugee Deal"). These agreements established frameworks for the swift readmission of irregular migrants crossing Turkish territory toward the EU. In return, the EU committed to offering visa liberalization for Turkish citizens, contingent on Türkiye fulfilling 72 criteria under the visa roadmap. [230]

---

[227] *Ibid,* pg. 3-4.
[228] Gamze Ovacık, "Compatibility of the Safe Third Country Concept with International Refugee Law and Its Application to Turkey." *Perceptions 25, No.1*, Spring-Summer 2020: 67-70.
[229] Müftüler-Bac, "Externalization of migration governance," 293-294.
[230] *Ibid,* pg.301.

The EU-Türkiye Refugee Deal marked a significant development in the EU's externalization of migration management. Designed to respond to the surge in irregular migration during the 2015–2016 refugee crisis, the agreement introduced a "one-for-one" mechanism: for every Syrian refugee returned to Türkiye from Greece, another Syrian would be resettled directly from Türkiye into the EU. Additional provisions included €6 billion in financial assistance to improve refugee conditions in Türkiye, commitments to enhance the Customs Union, and the revival of accession negotiations[231]. While the deal produced tangible outcomes—most notably a sharp reduction in irregular arrivals on Greek islands and a significant decline in Aegean Sea fatalities—it also provoked ethical and legal criticisms. A core element of the arrangement was the designation of Türkiye as a “safe third country,” reflecting the broader trend of using international refugee law primarily as an instrument of migration control. [232]

As Müftüler-Bac[233] notes, the "safe country" designation enabled the EU to outsource key border management and migration enforcement tasks to Türkiye, marking a pivotal shift in EU migration governance. However, Türkiye’s partial implementation of the 1951 Refugee Convention, reliance on temporary protection without individualized refugee status, and concerns regarding the adequacy of rights and protections raised serious questions about the legality of this designation. [234] The EU-Türkiye partnership thus exemplifies the challenges associated with the contemporary application of the safe third country concept, where containment priorities increasingly override international protection standards. Ovacık argues that Türkiye’s early interventions at the UNHCR Executive Committee highlighted critical concerns about the misuse of the STC concept, particularly its tendency to shift protection responsibilities onto transit states without ensuring effective procedural safeguards. [235]

These concerns intensified following the Joint Ministerial Decision (JMD) 42799/2021 by Greece, which formally designated Türkiye as a "safe third country" for various nationalities. NGOs and the Greek Council of State raised serious objections, particularly in relation to Türkiye’s refusal to accept readmissions since 2020. The EUAA, similarly noted that significant number of potential beneficiaries of international protection

---

[231] Kriesi, et al., "Debordering and rebordering in the refugee crisis,” 344.
[232] Ovacık, "Compatibility of the Safe Third Country Concept with International Refugee Law,” 75-76.
[233] Müftüler-Bac, “Externalization of migration governance,” 302-303.
[234] Ovacık, "Compatibility of the Safe Third Country Concept with International Refugee Law,” 75-76; Kim Rygiel, Feyzi Baban, and Suzan Ilcan, "The Syrian Refugee Crisis: The EU-Türkiye 'deal' and temporary prtection.", *Global Social Policy, Vol. 16(3)*, (2016): 315.
[235] Ovacık, "Compatibility of the Safe Third Country Concept with International Refugee Law,” 71-72.

were left in prolonged detention and legal limbo on the Aegean islands, as the EU-Türkiye Statement was no longer effectively enforced. [236] Legally, if a third country refuses to readmit asylum seekers, it can no longer be considered "safe" under EU law. The Greek Council of State criticized Greek authorities for failing to investigate whether Türkiye's refusal was temporary or permanent, thus violating procedural guarantees under Directive 2013/32/EU, particularly Article 38, which requires a meaningful connection between the applicant and the third country, and assurances of effective protection. The persistence of these practices reflects the continued reliance on externalization strategies initiated with the EU-Türkiye Deal. Thousands of asylum seekers remain trapped in Greece in legal uncertainty, unable to be returned to Türkiye yet denied access to proper asylum procedures, leading to prolonged social exclusion, destitution, and potential detention. Human rights observers, including UNHCR, have warned that these policies shift responsibility away from the EU and undermine the right to seek asylum and the principle of non-refoulement. [237]

Parallel to the EU-Türkiye deal, the EU pursued similar externalization strategies in the Central Mediterranean, focusing particularly on cooperation with Libya. These efforts culminated in the Malta Declaration of 3 February 2017, which aimed to strengthen Libya's capacity to manage migration flows. The key components of the agreement included combating smuggling networks, supporting the Libyan coast guard, and enhancing Libya's border control capabilities. [238]

However, human rights organizations and international observers have heavily criticized the EU's cooperation with Libya. Migrants and asylum seekers intercepted by the Libyan coast guard were frequently detained in dire conditions, facing widespread abuses including torture, exploitation, and the denial of basic rights. Numerous reports have documented the appalling humanitarian situation in Libyan detention centers, leading to allegations of EU complicity in violations of international human rights and refugee protection norms.

The European Union's (EU) response to the 2015 refugee crisis was widely criticized, exposing longstanding systemic challenges within its migration and asylum governance framework. Among the most significant issues were the inadequacies of the Dublin

[236] "Applying the Concept of Safe Countries in the Asylum Procedure," EUAA, 25.
[237] "Press release on the hearing before the CJEU regarding the designation of Turkey as a safe third country," Greek Council for Refugees & Refugee Support Aegean, 13 March 2024, https://gcr.gr /en/news/item/2256-akroasi-sto-dikastirio-tis-evropaikis-enosis-tin-pempti-14-martiou-sxetika-me-ta-prodikastika-erotimata-tou-ste-gia-tin-tourkia-os-asfali-triti-xora/, accessed: March 2025.
[238] Kriesi, et al., "Debordering and rebordering in the refugee crisis," 345.

Regulation, particularly its failure to ensure solidarity and equitable responsibility sharing, and the increasing politicization and securitization of migration. These deficiencies fundamentally shaped the responses adopted by both the member states and the EU as a whole, resulting in profound consequences for migrants and asylum seekers in need of protection.

The measures implemented during the crisis were primarily emergency-driven**,** designed to provide short-term solutions focused on containment rather than addressing the core structural weaknesses of the EU's migration and asylum policies. Mechanisms such as the TPD, which could have facilitated a collective EU-wide response, were inadequately utilized. As a result, the EU missed a critical opportunity to act cohesively, further complicating the crisis management. Rather than replacing the Dublin system, the measures adopted merely supplemented it. While initiatives like the relocation scheme and the hotspot approach offered temporary relief, they failed to resolve the underlying issues of unequal responsibility-sharing. The relocation scheme provided limited redistribution of asylum seekers, while the hotspot approach, aimed at streamlining asylum procedures, ultimately increased the burden on frontline states such as Greece and Italy. [239]

The EU's strategy, heavily reliant on legislative harmonization without robust enforcement mechanisms, revealed critical gaps in coordination among Member States. This fragmented response led to unilateral national actions, such as border closures, undermining the core principles of the Schengen Area[240]. Solidarity, enshrined in Article 80 of the TFEU**,** remained largely rhetorical. Countries like Germany and Sweden bore a disproportionate burden, while others, such as Hungary and Poland, resisted collective measures. [241]

The crisis also accelerated the securitization of migration, driven by the rise of populist, right-wing movements across Europe. Parties such as Germany's AfD and Hungary's Fidesz fueled anti-immigrant rhetoric, shifting the EU's focus from humanitarian concerns toward border defense and externalization strategies, often at the expense of migrants' rights. [242]

One of the most heavily criticized aspects of the EU's crisis response was the strategy of externalization**,** particularly the reliance on "safe third country" practices. As a key component of broader migration control policies, externalization involved outsourcing

[239] Trauner, "Asylum Policy," 311-325.
[240] Tsourdi, "The Emerging Architecture of EU Asylum Policy," 191-226.
[241] Karageorgiou, "Solidarity and sharing in the Common European Asylum System," 208-210.
[242] Panebianco, "The EU and migration in the Mediterranean," 1408.

border management responsibilities to third countries such as Libya and Türkiye. While intended to reduce irregular migration and human trafficking, this approach prioritized containment over protection. Militarized operations like Triton and Sophia emphasized border control, yet failed to address the root causes of displacement. [243]

Two principal concerns arise from this approach: 1) Human Rights Concerns and Legal Obligations; Externalization often transferred responsibility to third countries where compliance with international protection standards could not be guaranteed. Although this strategy contributed to reducing arrivals, it simultaneously increased migrants' exposure to harm, diminished their access to protection, and heightened vulnerabilities[244]. International law, notably the principle of non-refoulement, requires that asylum seekers must not be returned to places where they risk persecution. For third-country transfers to be lawful, receiving countries must not only ensure physical safety but also guarantee access to fair asylum procedures and fundamental rights**.** Given the varying interpretations of refugee status across countries, relying on "safe third country" designations poses significant risks. The UNHCR emphasizes that states must provide temporary entry and access to fair asylum procedures at their borders[245].

A second major concern relates to the disproportionate burden placed on neighbouring countries**.** Despite widespread international recognition of refugee protection norms, the 1951 Refugee Convention does not establish a formal mechanism for allocating responsibility among states beyond its enshrinement of the principle of non-refoulement and the rights granted to refugees once they are within a state's jurisdiction. The only indirect reference to burden-sharing appears in the Convention's preamble, which acknowledges that the act of granting asylum may impose a disproportionate burden on certain countries and underscores the need for international cooperation. However, the absence of binding obligations has resulted in significant gaps in coordination, equity, and effectiveness. Responsibility-sharing today typically occurs through ad hoc mechanisms, such as the Dublin Regulation within the EU, which allocates responsibility primarily based on geographic proximity. Historically, countries of first asylum—often situated near conflict zones—have been expected to assume the primary responsibility for receiving refugees. Yet,

[243] Talani, "The 2014/2015 Refugee Crisis in the EU and the Mediterranean Route," 458-461.
[244] Martins and Strange, "Rethinking EU external migration policy," 199; Panebianco, "The EU and migration in the Mediterranean," 1410-1411; Stevens and Dimitriadi, "Crossing the Eastern Mediterranean Sea in Search of Protection," 263.
[245] Catherine Phuong, "Identifying States' Responsibilities towards Refugees and Asylum Seekers", n.d: 1-4.

as Phuong[246] emphasizes, this expectation is deeply problematic, as many of these states lack the resources and institutional capacity necessary to offer durable solutions.

Yeo[247] similarly critiques this framework, noting that refugees may deliberately avoid seeking asylum in initial transit countries due to poor reception conditions, limited integration opportunities, or because such countries are already overburdened, as evidenced during the Ukrainian displacement in Poland and Moldova. Meanwhile, countries like Pakistan, Iran, South Sudan, and Ethiopia continue to host large refugee populations despite having limited resources, while wealthier states increasingly seek to externalize their protection responsibilities. Importantly, Yeo underscores that moving beyond the first safe country does not invalidate an individual's claim to refugee status; such movement does not alter the core requirement under international law—namely, that an individual has a well-founded fear of persecution in their country of origin. Any suggestion to the contrary is both legally unfounded and inconsistent with international refugee law.

Thus, the "first safe country" and "safe third country" practices exacerbate pressures on frontline states without ensuring adequate protection standards for asylum seekers. Addressing the shortcomings exposed during the 2015 crisis requires moving toward genuine international cooperation and fair responsibility-sharing. This includes **r**esettlement programs, expansion of legal pathways, greater intra-EU and international solidarity beyond financial aid. Phuong[248] advocates the development of a universal responsibility-sharing model focused on resettlement and development assistance. Such a model could alleviate the burden on neighboring countries and foster collective responses during emergencies. The UNHCR ExCom Conclusion No. 100[249] similarly emphasizes that refugee protection must be strengthened by committed international solidarity and burden-sharing among all states**.** In mass influx situations, the absence of clear protection responsibilities leads to chaotic and inequitable responses.

Temporary protection frameworks—such as the EU's TPD illustrate how regional mechanisms can partly compensate for global governance gaps. Despite the challenges in activating and implementing the TPD during the 2015 Syrian crisis, the instrument reflects an important step toward collective protection and solidarity mechanisms**.** Ultimately,

---

[246] *Ibid*, pg. 7-11.
[247] Yeo, "Updates, commentary, training and advice on immigration and asylum law,"
[248] Phuong, "Identifying States' responsibilities," 11-12.
[249] "Conclusion No. 100 (LV): International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations," UNHCR, Refworld, Global Law & Policy Database, accessed on October 2024, https://www.refworld.org /policy/exconc/excom/2004/en/42049

responsibility for refugee protection should not be confined to the first country of arrival**.** The TPD's design intentionally broadens responsibility across EU Member States, promoting intra-EU cooperation and solidarity.

4.1.4. Temporary protection directive and its role in addressing the 2015 refugee crisis

The Temporary Protection Directive, adopted in 2001, was specifically designed to provide an EU-wide framework for responding to mass influx situations by offering immediate protection and enabling equitable burden-sharing among Member States. It defines mass influx based on indicators such as large-scale arrivals, high rates of entry, overwhelmed national reception systems, and the inability of asylum mechanisms to cope. In 2015, over 844,000 arrivals in Greece and 152,000 in Italy, with daily rates exceeding 3,000 in December, clearly met these criteria, placing considerable strain on frontline states like Greece, Italy, and Germany [250].

Despite these conditions, the TPD remained unused, and the EU opted instead for a patchwork of ad hoc emergency measures and externalization strategies. The non-activation of the TPD represented a significant missed opportunity, as the Directive provides not only protection from refoulement and access to essential services, but also limited rights to work, family reunification, and the possibility of protection for up to three years (Ciğer, 2016, pp. 8–9). Its burden-sharing provisions, such as the voluntary relocation of beneficiaries and the possibility of Council intervention under Article 25—based on fair criteria like GDP, population, and unemployment rates—offered a more balanced alternative to the criticized Dublin Regulation[251].

Scholars have argued that activating the TPD could have significantly improved the EU's response to the Syrian refugee crisis by promoting solidarity, reducing pressure on individual Member States, and ensuring immediate protection for displaced persons[252]. However, this legal tool was sidelined due to political resistance, which can be best understood through the lens of intergovernmentalism. In this framework, decision-making in sensitive policy areas like asylum remains dominated by Member States prioritizing national sovereignty and domestic political interests. Concerns that activating the Directive

---

[250] Ciğer, "Time to Activate the Temporary Protection Directive," 12-16.
[251] *Ibid*, pg.29-32.
[252] *Ibid*, pg.24; Karageorgiou, "Solidarity and sharing in the Common European Asylum System," 206-207; Lambert, "Temporary Refuge From War," 729.

might generate a "pull factor" and encourage further migration discouraged Member States from endorsing a collective EU-level response. Instead, they opted to retain national control, reflecting the logic of intergovernmental bargaining, wherein cooperation is contingent upon the strategic preferences of individual governments.

The EU's reliance on traditional asylum procedures and fragmented national responses stood in contrast to more collective regional practices. For instance, neighboring countries such as Türkiye, Lebanon, and Jordan, despite limited legal frameworks and resources, adopted temporary protection schemes in response to the same crisis. Türkiye, while applying a geographical limitation under the 1951 Refugee Convention, hosted over 2.5 million Syrian refugees[253], offering access to basic rights such as healthcare and education under its Temporary Protection Regulation. Lebanon and Jordan, neither of which are parties to the Refugee Convention, allowed entry on humanitarian grounds and collaborated with the UNHCR to establish basic protection frameworks through memoranda of understanding [254]. In contrast, the EU—despite its stronger legal and institutional capacities—failed to activate the TPD. Although some Member States, such as Germany and Ireland, introduced humanitarian admission programs, these remained voluntary and limited in scope, falling short of a unified and systemic approach[255]. This underscores a key critique: the EU's failure to institutionalize temporary protection during a mass influx exposed the limitations of its solidarity mechanisms and its inability to operationalize collective responsibility when confronted with political divergence among Member States.

Among the arguments raised to justify the non-activation of the TPD was the invocation of the "safe third country" or "first safe country" concepts. Scholars such as Skordas[256] argued that many of the individuals arriving in the EU—particularly from Syria, Afghanistan, and other conflict-affected regions—had already accessed safety in countries like Türkiye before moving onward to Europe. From this perspective, their movement was interpreted not as forced displacement, but as irregular migration, and thus outside the scope of the TPD. Scordas further contends that if there was no genuine mass influx of displaced persons, then the TPD's non-activation could be justified as both legally sound and non-

---

[253] For the recent figures of temporary protection beneficiaries, "Statistics, Temporary Protection, Distribution of Syrians under Temporary Protection by Year," Presidency of Migration Management, https://en.goc.gov.tr/temporary-protection27.
[254] Lambert, "Temporary Refuge From War," 735-738.
[255] *Ibid,* pg.745
[256] Achilles Skordas, "Temporary Protection and European Racism", *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, ed. Sergio Carrera ve Meltem İneli-Ciğer. Florence, Italy: European University Institute, Migration Policy Centre, (2023): 426

discriminatory. However, both Yeo[257] and Bartram[258] argue that the 1951 Refugee Convention does not require asylum seekers to claim protection in the first safe country they reach. The notion that those who move onward automatically become irregular migrants is unsupported by international law. Even when asylum seekers transit through other countries, they retain their legal right to seek protection elsewhere, provided they meet the core criteria of a well-founded fear of persecution in their country of origin. This was the case in 2015, when many Syrians used the Eastern Mediterranean route to move from Türkiye to Greece. Despite transiting through a country that had offered temporary refuge, they were still asylum seekers under international law—not irregular migrants who had forfeited their protection claims.

Despite its clear benefits, the activation of the TPD has always depended on politically sensitive and complex mechanisms. Member States feared that triggering the Directive might encourage further arrivals and undermine their sovereignty over asylum policy**.** Moreover, the TPD lacks binding legal obligations for refugee redistribution, instead relying on voluntary cooperation. [259] Although it offered an essential emergency response tool, the TPD has also faced criticism for not addressing long-term protection needs and for potentially undermining the non-refoulement principle if used to delay permanent asylum procedures.

The 2015 migration crisis exposed significant gaps in the EU's collective response to forced displacement. The Temporary Protection Directive offered a viable, humane, and effective framework for addressing mass influxes, alleviating pressure on frontline states, and promoting equitable burden-sharing. Although it is not without limitations, the Directive remains a critical instrument within the EU's asylum toolkit, emphasizing the values of solidarity, cooperation, and collective responsibility. Its non-activation during the Syrian refugee crisis not only reflected a crisis of political will but also underscored the broader need for institutional reform and a more unified approach to refugee protection. To prepare for future displacement crises, the EU must address the political barriers to TPD activation, reinforce mechanisms for fair burden-sharing, and integrate temporary protection into the broader migration governance framework**.** Doing so would affirm the EU's commitments to

[257] Yeo, "Updates, commentary, training and advice on immigration and asylum law,"
[258] Naomi Bartram, "Why don't Refugees Stay in the First Country They Reach?,"
[259] Karageorgiou, "Solidarity and sharing in the Common European Asylum System," 206-207.

refugee rights and ensure a more coherent, humane, and legally sound response to future humanitarian emergencies. [260]

4.1.5. Conclusion

This section has examined the European Union's response to the 2015 Syrian refugee crisis, highlighting the structural contradictions and operational challenges within its migration and asylum framework. While the crisis triggered a significant influx of displaced persons into the EU, the measures adopted by member states reflected a fragmented and inconsistent approach, driven primarily by diverging national interests and domestic political pressures. Rather than activating coordinated protection mechanisms such as the Temporary Protection Directive —a legal instrument specifically designed for mass influx situations— member states pursued unilateral actions, with a predominant emphasis on border control and externalization.

Despite the availability of the TPD, which could have facilitated immediate protection and equitable burden-sharing, it was not activated. This reluctance underscores a deeper institutional tension between EU supranational mechanisms and member state sovereignty, particularly in sensitive areas like asylum and migration policy. As discussed earlier through the lens of intergovernmentalism, national governments retained decision-making authority and prioritized domestic political considerations over collective EU action. Intergovernmentalism thus helps explain why national preferences prevailed and why solidarity-based instruments like the TPD remained unused—even in a context of humanitarian emergency.

Moreover, the EU's failure to implement the TPD during the 2015 crisis reveals a critical gap in the broader framework of international responsibility-sharing**.** The 1951 Refugee Convention, while establishing core principles such as non-refoulement, does not provide a binding mechanism for allocating responsibilities among states in mass influx scenarios. This gap has long been recognized by the UNHCR and other international actors, who emphasize that in large-scale displacement crises, international cooperation and burden-sharing are essential to uphold protection standards and avoid overwhelming certain host countries. The TPD, while not a perfect solution, reflects an attempt to operationalize

[260] Ciğer, "Time to Activate the Temporary Protection Directive," 24-28.

responsibility-sharing, especially in mass displacement scenarios**,** by offering collective, immediate, and minimally burdensome protection.

In contrast, as will be explored in the following section, the 2022 Ukrainian refugee crisis revealed that when a perceived threat is shared across the EU—particularly one with geopolitical dimensions—political will for collective action increases. The activation of the TPD in 2022 marked a turning point, showing that temporary protection can function as a viable, rights-based response to mass influx situations when strategic interests align. Yet, the differential treatment of Ukrainian and Syrian refugees also underscores the politicized nature of protection, whereby responses are shaped not only by legal norms, but by perceptions of geopolitical proximity, and institutional readiness.

To prepare for future displacement crises, the EU must undertake a comprehensive reform of its migration and asylum governance, with particular attention to clarifying the distribution of responsibilities in mass influx contexts. Instruments like the TPD, if embedded within a broader, binding framework, could bridge the gap between humanitarian obligations and operational capacity. Despite its limitations, temporary protection frameworks offer a practical and principled solution to address the absence of binding international burden-sharing mechanisms, providing a model for collective action at the regional level for mass-influx situations. The EU's experience in 2015 and 2022 demonstrates that solidarity, political will, and legal preparedness must align if the Union is to fulfill its commitments to refugee protection and uphold the values on which it is founded.

4.2. The Ukrainian Refugee Crisis and the Activation of the TPD

The Russian invasion of Ukraine in February 2022 triggered one of the fastest and largest displacement crises in Europe since World War II, prompting an unprecedented response from the European Union. For the first time since its adoption in 2001, the EU activated the Temporary Protection Directive (TPD) to offer immediate protection to millions fleeing the conflict. This section examines the background and causes of the Ukrainian displacement, outlines the EU's legal and political response, and analyzes the implementation and limitations of the TPD. It also contrasts the EU's approach to the Ukrainian crisis with its handling of previous refugee situations, exploring the underlying geopolitical, legal, and institutional dynamics that shaped policy decisions.

4.2.1. Background: Russian invasion and mass displacement

The full-scale Russian invasion of Ukraine on 24 February 2022 marked a dramatic escalation of the conflict that began with the annexation of Crimea in 2014. As of early 2024, Ukraine has regained control of approximately 54% of the territories initially occupied by Russia, while 18% remains under Russian control. Despite military gains, the humanitarian situation remains dire. Over 14.6 million people require assistance, and civilian casualties have exceeded 30,000 since the outbreak of the conflict. [261]

The war has caused significant displacement, with more than 6.5 million Ukrainians fleeing the country and an additional 3.7 million internally displaced. By early March 2022, over 2.3 million people had crossed into neighboring countries, including Poland, Hungary, Slovakia, Moldova, and Romania. Poland, in particular, became a primary destination—due in part to its pre-existing Ukrainian diaspora and history of issuing the highest number of residence permits to Ukrainian nationals among EU countries. [262]

Although Ukrainian citizens encountered minimal obstacles entering the EU, non-European third-country nationals fleeing the same conflict often experienced discrimination, racial profiling, and differential treatment at border crossings. These practices raised serious concerns regarding the EU's adherence to fundamental values of equality, non-discrimination, and human dignity, as enshrined in Article 2 of the TEU and the Charter of Fundamental Rights. According to Kostakopoulou[263], such cases reveal systemic racism and xenophobia embedded in border practices, despite the Union's legal obligations.

The Council triggered the TPD, established in 2001 in response to the conflicts in the former Yugoslavia, for the first time on 4 March 2022.[264] Following the European Commission's proposal on 2 March -prompted by the anticipated strain on Member States' asylum systems- the Council unanimously adopted Implementing Decision (EU) 2022/382, granting immediate and harmonized protection to those fleeing the war in Ukraine. The

---

[261] "War in Ukraine", Global Conflict Tracker, Center for Preventive Action, updated October 16, 2024, https://www.cfr.org /global-conflict-tracker/conflict/conflict-ukraine, accessed on: 15.11.2024.

[262] Sergio Carrera, Meltem İneli-Ciğer, Lina Vosyliute, and Leiza Brumat, "The EU Grants Temporary Protection for People Fleeing War in Ukraine: Time to Rethink Unequal Solidarity in EU Asylum Policy." *In EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, by Sergio Carrera and Meltem İneli-Ciğer. Florence: European University Institute, Migration Policy Centre, (2023): 9-10.

[263] Dora Kostakopoulou, "Temporary Protection and EU Solidarity: Reflecting on European Racism", *In EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, by Sergio Carrera and Meltem İneli-Ciğer. Florence: European University Institute, Migration Policy Centre, (2023): 436-437.

[264] "Temporary protection", European Commission, Migration and Home Affairs, accessed on 15.11.2024, https://home-affairs.ec.europa.eu /policies/migration-and-asylum/common-european-asylum-system/temporary-protection_en.

directive provided beneficiaries of temporary protection (BTPs) with residence rights, access to the labor market, education, housing, and healthcare, alongside the freedom to move within the EU. The TPD initially applied for one year but was extended twice. On 25 June 2024, the Council agreed to prolong the measure until 4 March 2026 [265] , without altering the categories of individuals eligible for protection.

While the activation of the TPD was widely praised for its timeliness and scope, it also exposed underlying deficiencies in the EU's preparedness for protracted displacement scenarios. Although advocacy organizations such as the ECRE [266] welcomed the extension, they emphasized that the decision reflected the EU's continued reliance on temporary, minimal-response mechanisms. The extension was seen as buying time rather than establishing durable solutions. Many BTPs now face growing uncertainty regarding their legal status, employment, and integration prospects. [267]

The EU's reaction to the Ukrainian crisis -particularly the swift activation of the TPD- marked a significant departure from its response to previous mass displacement events, such as the 2015 Syrian refugee crisis. Despite clear evidence of a mass influx in 2015, the TPD was not activated. This discrepancy has been the subject of extensive critique and debate. One key factor in the 2022 activation was the political consensus among Member States, driven by a shared perception of geopolitical threat, cultural affinity, and the temporary character attributed to Ukrainian displacement. In contrast, the 2015 crisis was marked by deep divisions, a securitized narrative of asylum seekers, and fears of long-term settlement. These contrasting responses highlight the politicized nature of protection and the selectivity in applying legal mechanisms like the TPD.

This divergence aligns with the logic of intergovernmentalism, which emphasizes the primacy of national preferences and political bargaining in EU policy-making. In the Ukrainian case, Member States' strategic interests converged, facilitating collective action not only in migration but also in foreign policy, as evidenced by the swift adoption of sanctions against Russia. As a result, the EU's unified response -both in activating the TPD

[265] "Ukrainian refugees: Council extends temporary protection until March 2026," Council of the EU, Press release, 25 June 2024, , https://www.consilium.europa. eu/en/press/press-releases/2024/06/25/ukrainian-refugees-council-extends-temporary-protection-until-march-2026/, accessed on 15.11.2024

[266] Viktoryia Vaitovich, "The EU is stretching the limits of the Temporary Protection Directive beyond 2025, but is it enough?," ECRE (European Council on Refugees and Exiles), Op-ed: 14th June 2024, https://ecre. org/op-ed-the-eu-is-stretching-the-limits-of-the-temporary-protection-directive-beyond-2025-but-is-it-enough/, accessed on: 15.11.2024.

[267] Carrera et al., "The EU Grants Temporary Protection for People Fleeing War in Ukraine," 3.

and in sanctioning Russia- can be interpreted as a rare but revealing moment of solidarity and political alignment in high-politics domains.

Yet, as Carrera et al. [268] note, this moment also exposed persistent inequalities and divisions within EU asylum policy. Discriminatory treatment of third-country nationals, implementation gaps among Member States, and the absence of a long-term strategy for integration continue to challenge the EU's commitment to equal solidarity and refugee protection.

4.2.2. EU response to the Ukraine crisis

The EU's response to the 2022 Russian invasion of Ukraine was striking for both its speed and cohesion, marking a significant shift in the EU's geopolitical posture and collective identity[269]. The invasion directly affected European security and territorial stability, prompting an unprecedented display of solidarity with Ukraine, which had long expressed aspirations for closer integration with both the EU and NATO [270]. According to Bosse, two key dimensions defined this response: the imposition of sweeping sanctions against Russia and the activation of the TPD, both of which reflected a shared normative commitment to international law, state sovereignty, and the rules-based order [271].

In the days following the invasion, the EU swiftly agreed on multiple sanctions packages targeting the Russian economy. These included severe restrictions on finance, trade, and technology transfers, designed to undermine Russia's ability to sustain its military aggression. This coordinated action stood in sharp contrast to the EU's more restrained and fragmented approach following Russia's 2014 annexation of Crimea, which had elicited only limited and targeted sanctions. The 2022 response thus marked a new threshold in the EU's willingness to incur political and economic costs in defense of international norms.

Notably, for the first time in its history, the EU also provided military support to a third country under attack through the European Peace Facility (EPF) [272]. Between 2022 and

---

[268] *Ibid*, pg.3.
[269] Giselle Bosse, "Values, rights, and changing interests: The EU's response to the war against Ukraine and the responsibility to protect Europeans", *Contemporary Security Policy, 43:3*, (2022): 531.
[270] Meltem İneli-Ciğer, "Reasons for the Activation of the Temporary Protection Directive in 2022: A Tale of Double Standards", *In EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, by Sergio Carrera and Meltem İneli-Ciğer. Florence, Italy: European University Institute, Migration Policy Centre, (2023): 71.
[271] Bosse, "Values, rights, and changing interests," 531.
[272] "The European Peace Facility (EPF)", European Council; "EPF is an instrument aimed at enhancing the EU's ability to prevent conflicts, build and preserve peace and strengthen international security and stability. On 22 March 2021, the Council adopted a decision establishing the European Peace Facility. The European Peace Facility operates through missions and operations, as well as through assistance measures benefiting

2024, the EU mobilized €6.1 billion under the EPF to support Ukraine's defense needs, including both lethal and non-lethal assistance—such as personal protective equipment, ammunition, fuel, and medical supplies. In March 2024, the EU further increased the EPF's financial ceiling by €5 billion, establishing a dedicated Ukraine Assistance Fund and raising the total EU military support through this mechanism to €11.1 billion. When combined with bilateral military aid from Member States, the total EU military support to Ukraine was estimated at €43.5 billion. [273] This military assistance sought not only to enhance Ukraine's defense capabilities but also to protect civilians against Russia's aggression and uphold European security more broadly.

The second pillar of the EU's response was the activation of the TPD. This instrument allowed for a swift and coordinated response to the mass displacement crisis triggered by the invasion, enabling Ukrainian nationals to access protection, services, and legal status without navigating standard asylum procedures. The unanimous support for this measure was significant, particularly given the historical reluctance of Member States to reach agreement on common migration policies. The political momentum behind the TPD's activation reflected the perceived alignment of Ukrainian refugees with European norms and values, as well as a broader sense of moral obligation. This moment of solidarity was reinforced by European Commission President Ursula von der Leyen's remark that "Ukraine is one of us and we want them in the European Union". [274] This symbolic alignment translated into concrete policy steps: on 25 June 2024, accession negotiations with both Ukraine and Moldova were formally opened[275], following their earlier designation as candidate countries. [276]

Bosse attributes the EU's capacity to act collectively on such sensitive issues—ranging from sanctions to refugee protection—to the growing role of shared norms. The EU's

---

partner countries and regional and international organisations. These measures may include the supply of military and defence-related equipment, infrastructure and technical support. The EPF operates in compliance with international human rights law and international humanitarian law", accessed on 26.10.20024, https://www.consilium. europa.eu/en/policies/european-peace-facility/.

[273] "EU military support for Ukraine"; European Council, Policies, accessed on 26.10.2024, https://www.consilium.europa. eu/en/policies/military-support-ukraine/.

[274] "Ukraine is one of us and we want them in EU, Ursula von der Leyen tells Euronews", Euronews, 27.02.2022, https://www.euronews. com/2022/02/27/ukraine-is-one-of-us-and-we-want-them-in-eu-ursula-von-der-leyen-tells-euronews, as cited in Bosse, "Values, rights, and changing interests," 532.

[275] "European Neighbourhood Policy and Enlargement Negotiations (DG NEAR)", European Commission, accessed on 26.10.2024; https://neighbourhood-enlargement.ec. europa.eu/news/statement-president-von-der-leyen-opening-accession-negotiations-ukraine-and-moldova-video-message-2024-06-25_en

[276] "European Commission recommends to grant Ukraine and Moldova EU candidate status, Georgia receives perspective to become EU member," EU Neighbourseast, accessed on 26.10.2024, https://euneighbourseast. eu/news/latest-news/european-commission-recommends-to-grant-ukraine-and-moldova-eu-candidate-status-georgia-receives-perspective-to-become-eu-member/.

response was shaped not only by immediate security concerns but also by a deeper reevaluation of its collective identity. The war prompted a normative awakening, wherein the defense of sovereignty, territorial integrity, and human rights became rallying points for unity. Past experiences—particularly the limited response to the 2014 Crimea annexation—served as a catalyst for learning and recalibration. In contrast to earlier divisions, the post-2022 context witnessed a higher willingness among Member States to accept political and economic sacrifices in defense of shared values. This convergence reflected a broader transformation in member states' security preferences and their recognition of Russia as a common threat. [277]

Prior to the invasion, member states had pursued divergent policies towards Russia, shaped by historical ties, trade dependencies, and varying threat perceptions. The invasion, however, acted as a unifying shock, aligning national interests and reinforcing a European-wide commitment to collective action. This shift not only strengthened the EU's external cohesion but also revealed its growing ability to act strategically and normatively in high-policy domains such as foreign affairs, defense, and migration.

Prior to 2022, deep divisions existed among EU Member States regarding their approach to Russia. Eastern European countries such as Poland and the Baltic States consistently advocated for tougher stances and stronger deterrence measures, while Western states—particularly Germany and France—favored diplomatic engagement and economic interdependence. These divergences were particularly evident during the 2014 annexation of Crimea, when proposals for stricter sanctions encountered resistance from Member States with long-standing economic ties to Russia, especially in the energy sector. While a unified sanctions regime was eventually adopted, many Member States continued bilateral engagements with Moscow, revealing a fragmented consensus on security priorities. [278]

The full-scale invasion of Ukraine in February 2022 marked a watershed moment, prompting a reevaluation of collective security and foreign policy preferences across the EU. This strategic recalibration was formally articulated in the Strategic Compass for Security and Defence[279], published in March 2022. The document explicitly identified Russia as a direct and enduring threat to European peace and stability. In the foreword, High Representative Josep Borrell described the war as a geopolitical "awakening" and

[277] Bosse, "Values, rights, and changing interests," 533.
[278] *Ibid,* pg.534
[279] "A Strategic Compass for Security and Defence," European Union External Action, accessed on 26.10.2024, https://www.eeas.europa. eu/sites/default/files/documents/strategic_compass_en3_web.pdf

emphasized the urgent need to consolidate EU instruments of power, enhance strategic autonomy, and demonstrate readiness to bear costs in defense of Europe and its partners.

Despite this rhetorical unity, initial divergences remained. Countries like Germany and France struggled to fully internalize the strategic implications of the new security landscape, reflecting longstanding hesitations and differing interpretations of national interest. [280] In this context, the role of value-based and rights-based norms emerged as a critical driver of EU consensus. The invasion served as a normative shock, reinforcing core principles such as sovereignty, territorial integrity, and collective responsibility.

As Bosse [281] argues, the EU's identity as a political union grounded in the rule of law and democratic values compelled Member States to align their policies in support of Ukraine, even at significant economic and political cost. This shared normative framework became the foundation upon which sanctions, military support, and refugee protection were justified. The principles of self-determination and the rules-based international order were prominently invoked in official communications and policy decisions, signaling that solidarity was not merely instrumental but also ideational. In this sense, the EU's cohesive stance can be seen as an act of normative reaffirmation in the face of a flagrant violation of international law.

In the months following the invasion, the EU adopted six successive rounds of sanctions targeting Russia's political and economic infrastructure. These included restrictions on finance, technology, and trade, as well as individual sanctions against oligarchs and pro-Kremlin elites. Later rounds expanded to energy imports, culminating in bans on Russian coal and oil. These measures marked a considerable escalation, particularly given the EU's heavy dependence on Russian energy. Prior to the invasion, countries like Germany, Hungary, and Italy had expressed strong reservations about energy sanctions, citing economic vulnerabilities and interdependencies. Nevertheless, the atrocities committed in places like Bucha catalyzed a moral and political turning point. Graphic evidence of war crimes shocked public opinion and political elites alike, weakening domestic resistance to tougher sanctions and creating momentum for a united response.

As Bosse[282] notes, this case exemplifies how norms can function as catalysts, shaping political behavior and enabling action in times of crisis. In this instance, moral outrage over

[280] Bosse, "Values, rights, and changing interests," 534.
[281] *Ibid,* pg.535
[282] *Ibid,* pg.536-538.

human rights violations helped overcome entrenched national interests, facilitating a rare alignment of strategic priorities and normative commitments across Member States.

Public attitudes toward Ukrainian refugees across EU Member States have played a significant role in shaping national and EU-level responses to the 2022 displacement crisis. Drawing on survey data from the Observatory for Public Attitudes to Migration (OPAM) [283] Public attitudes toward Ukrainian refugees across EU Member States have played a significant role in shaping national and EU-level responses to the 2022 displacement crisis. Drawing on survey data from the OPAM at the European University Institute (EUI), Dražanová and Geddes[284] provide a comparative analysis of public sentiment toward Ukrainian and Syrian refugees. Their findings reveal notable differences in both public opinion and governmental approaches, particularly in terms of perceived legitimacy, cultural affinity, and political responsiveness.

Whereas public attitudes toward migration are often described as stable over time and heavily influenced by early-life experiences, the Ukrainian refugee crisis generated an unusual and widespread wave of public support across much of Europe. This contrasted starkly with the more skeptical or outright negative responses observed during the 2015 Syrian refugee crisis. The study suggests that this divergence was shaped in part by media narratives, which portrayed Ukrainian refugees in more sympathetic and humanizing terms—often framing them as "fellow Europeans"—as opposed to the chaotic and threatening imagery associated with Syrian arrivals in 2015.[285]

The OPAM survey data demonstrated that even in countries traditionally less supportive of immigration, such as Slovakia and Hungary, public opposition to admitting Ukrainian refugees was remarkably low—only around 10% of respondents opposed their admission altogether. In Germany and Romania, over 50% of respondents expressed support for welcoming large numbers of Ukrainian refugees. However, this support was tempered by a prevailing view that refugee numbers should be regulated. This nuanced perspective

---

[283] "Observatory of Public Attitudes to Migration (OPAM)", Migration Policy Centre, "The survey data collected by OPAM at the European University Institute (EUI) provided insights into how citizens in eight EU Member states view Ukrainian displacement. Conducted between May 25th and June 6th, 2022, the survey included 8,525 respondents from Austria, Czechia, Germany, Hungary, Italy, Poland, Romania, and Slovakia, with each country represented by a sample of approximately 1,000 people," accessed on 26.10.2024, https://migrationpolicycentre. eu/observatory-of-public-attitudes-to-migration/state-of-the-research/.

[284] Lenka Dražanová and Andrew Geddes. "Attitudes towards Ukrainian Refugees and Governmental Responses in 8 European Countries," In *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, by Sergio Carrera and Meltem İneli-Ciğer. Florence, Italy: European University Institute, Migration Policy Centre, (2023).

[285] *Ibid,* pg.135-137.

suggests that although there was a strong humanitarian impulse, it was accompanied by concerns about state capacity and control.[286]

A key factor influencing public sentiment was the perceived ethnic and cultural proximity of Ukrainians to host societies. The data revealed more favorable attitudes toward Ukrainian refugees, who were seen as ethnically and culturally closer to the European "in-group," compared to Syrian refugees, who were perceived as culturally more distant. This in-group favoritism significantly shaped support levels, underscoring that attitudes toward refugees are not driven solely by humanitarian considerations but are also deeply affected by perceptions of identity, familiarity, and social cohesion.

Despite the surge of initial solidarity—evidenced by widespread volunteerism and offers of private accommodation—the survey also revealed limits to public engagement. While many citizens expressed moral support, only a small proportion actually hosted or were willing to host refugees in their homes. In countries such as Hungary, Czechia, and Slovakia, majorities stated that they were unwilling to provide private accommodation for Ukrainian refugees[287]. These findings suggest that expressions of solidarity may be largely symbolic and conditional, reflecting a broader preference for state-managed solutions rather than direct personal involvement.

Overall, the survey data highlight the central role of public attitudes in shaping migration governance. Governments are more likely to adopt generous refugee policies when they perceive broad-based public approval—particularly when such approval is grounded in narratives of shared cultural identity. This dynamic underscores the political importance of how refugee groups are framed in public discourse and demonstrates that humanitarian protection in the EU context is not only a legal or institutional matter, but also a deeply sociopolitical process shaped by public perception and cultural affinity.

4.2.3. Activation and Scope of the TPD in Ukraine

The second cornerstone of the EU's response to the Ukraine crisis was the activation of the TPD. Widely acknowledged by scholars as an unprecedented and highly coordinated action, the swift implementation of the TPD marked a major departure from the EU's historically fragmented and restrictive approach to asylum policy. [288] The Council's decision

[286] *Ibid,* pg.138-140.
[287] *Ibid,* pg.143-144.
[288] Bosse, "Values, rights, and changing interests," 534; Julian Lehman and Angeliki Dimitriadi, "Temporary Protection: The Ukrainian Field Trial,"; Florian Trauner and Gabriele Valodskaite, "The EU's Temporary Protection Regime for Ukrainians: Understanding the Legal and Political Background and Its Implications,"

to implement the directive—dormant since its adoption in 2001—reflected a rare political consensus and a decisive shift toward a more unified, generous refugee policy framework.

The TPD was originally established in response to the mass displacement triggered by the Yugoslav wars. Designed to provide immediate, group-based protection in the event of a mass influx, the directive allowed eligible persons to reside, work, and access healthcare, education, and social welfare within the EU for at least one year, renewable up to three years. On 4 March 2022, just one week after Russia's invasion, the Council unanimously activated the TPD for Ukrainian nationals and certain third-country residents of Ukraine.[289] This rapid activation demonstrated a high degree of unity among member states in the face of a humanitarian emergency—an outcome notably absent in prior crises such as the 2015 Syrian refugee influx.

Scholars have examined the drivers behind this unexpected consensus. Bosse[290] emphasizes the interplay between divergent national preferences and a shared normative framework grounded in European identity, solidarity, and collective action. The political and public response was immediate and remarkably cohesive: EU leaders, including Ursula von der Leyen and Roberta Metsola, publicly affirmed support for Ukrainian refugees, while citizens across Europe mobilized to offer humanitarian aid and shelter.[291] This broad solidarity was reinforced by geopolitical considerations, as neighboring Member states feared the conflict's spillover effects and framed the crisis as a threat to European security.

The TPD's activation was also widely compared to prior episodes of temporary protection. Scholars noted that, unlike the restrictive and reactive temporary measures adopted during the 1990s Balkan conflicts—where the primary aim was return rather than integration—the 2022 response proactively granted displaced Ukrainians access to protection, stability, and essential rights[292]. Trauner and Valodskaite [293] argued that this represented a potential inflection point in EU asylum policy, introducing the possibility of a more flexible, future-oriented approach to managing displacement.

CEsifo Forum, Volume 23, July 4, (2022); Joanne van Selm, "Temporary Protection for Ukrainians: Learning the Lessons of the 1990s?," *In EU Responses to the Large-Scale Refugee Displacement,"*; Carrera et al., "The EU Grants Temporary Protection for People Fleeing War in Ukraine," 3.

289 Trauner and Valodskaite, "The EU's Temporary Protection Regime for Ukrainians," 17.

290 Bosse, "Values, rights, and changing interests,"538.

291 Carrera et al., "The EU Grants Temporary Protection for People Fleeing War in Ukraine," 7-8.

292 Joanne van Selm, "Temporary Protection for Ukrainians: Learning the Lessons of the 1990s?," 366-369; Eleni Karageorgiou and Gregor Noll, "Receiving Ukrainian Refugees in the EU: A Case of Solidarity?", *In EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, ed. Sergio Carrera ve Meltem İneli-Ciğer. Florence, Italy: European University Institute, Migration Policy Centre, 2023.

293 Trauner and Valodskaite, "The EU's Temporary Protection Regime," 17.

Despite these advances, significant challenges and criticisms have emerged. One of the most contentious issues was the differential treatment of Ukrainian refugees compared to asylum seekers from other regions. The EU's inaction during earlier crises—particularly in 2011 and 2015—underscored a double standard in refugee protection. Ineli-Ciğer [294], notes that despite urgent appeals during the 2015 Syrian crisis, particularly from frontline states such as Italy and Malta, the Justice and Home Affairs Council refused to activate the TPD. Even as nearly one million refugees arrived by sea and thousands perished, EU leaders cited concerns about pull factors, burden distribution, and political sensitivities.

The EU's rapid agreement on TPD activation in 2022 has prompted scholars to ask: why now? Bosse [295], attributes this to the influence of values-based norms—not just rights-based obligations. While bordering states like Poland and Slovakia had historical and political reasons to support open-border policies, even traditionally restrictive Member states aligned in support of the directive. Bosse argues that solidarity with Ukrainians reflected a deeply politicized—and arguably discriminatory—logic of protection, shaped by identity, moral obligation, and cultural affinity. Von der Leyen's declaration that "Ukraine belongs to the European family" reinforced the narrative of a shared European identity and moral duty. [296]

Ineli-Ciğer[297] (2023, 59–63) also reevaluates the barriers that had previously obstructed TPD activation. She identifies the vague definition of "mass influx," the procedural complexity of the activation mechanism, and the difficulty of achieving qualified majority voting (QMV) in the Council. Yet in the Ukrainian case, none of these proved prohibitive. The scale of displacement was immediately evident, and the Council adopted the directive unanimously within two days of the Commission's proposal[298] and issued

[294] Meltem İneli-Ciğer, "Reasons for the Activation of the Temporary Protection Directive in 2022," 67.
[295] Bosse, "Values, rights, and changing interests," 539.
[296] "Statement by President von der Leyen on further measures to respond to the Russian invasion of Ukraine", European Commission, Feb 27, 2022 Brussels, https://ec.europa. eu/commission/presscorner/detail/en/statement_22_1441, accessed on: October 2024
[297] İneli-Ciğer, "Reasons for the Activation of the Temporary Protection Directive in 2022," 59-63.
[298] "Proposal for a Council Implementing Decision establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Council Directive 2001/55/EC of 20 July 2001, and having the effect of introducing temporary protection, Brussels, 2.3.2022 COM(2022) 91 final 2022/0069 (NLE)" Eur-Lex, accessed on October 2024, https://eur-lex.europa. eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022PC0091.

guidelines[299] for Member states regarding external border controls.[300] Although the initial burden fell heavily on four Member states (Poland, Hungary, Slovakia, and Romania), the freedom of movement granted under the TPD facilitated a more balanced distribution of displaced persons across the Union. The procedural breakthrough, however, came with trade-offs. As Carrera et al.[301] observe, the political consensus included flexibility for member states to exclude certain categories of third-country nationals, including permanent residents, from temporary protection. While this discretion helped secure unanimity - including from countries like Poland and Hungary, often skeptical of asylum cooperation- it also underscored the unevenness of protection standards.

One of the most significant aspects of the TPD was its provision for secondary movements. Under the directive, displaced Ukrainians—due to their visa-free status—were allowed to travel freely within the EU. This contrasted sharply with the Dublin Regulation, which typically confines asylum seekers to the first country of entry. By waiving enforcement of Article 11 of the TPD, member states effectively supported a more equitable sharing of responsibilities, enabling displaced persons to choose destinations based on familial or social ties. This was described by Kienast, Tan, and Vedsted-Hansen[302], as a form of "dual solidarity", respecting refugee agency while facilitating burden distribution.

Moreover, the EU coordinated voluntary transfers through a flexible "Solidarity Platform," led by DG HOME and supported by UNHCR and IOM. Operational tools such as Frontex deployments, matched with reception capacity data, allowed the EU to allocate resources to pressure points.[303] The handling of secondary movements under the TPD thus marked a pragmatic departure from immobilization-based approaches and could serve as a blueprint for future reforms of the CEAS.

In comparison to other global responses, particularly South America's management of Venezuelan displacement, the EU's treatment of Ukrainians showed notable progress in legal

---

[299] "Ukraine: Commission Proposes Temporary Protection for People Fleeing War in Ukraine and Guidelines for Border Checks," European Commission, News Article, 2022, https://neighbourhood-enlargement.ec.europa. eu/news/ukraine-commission-proposes-temporary-protection-people-fleeing-war-ukraine-and-guidelines-border-2022-03-02_en, accessed on: October 2024.

[300] "Information from European Union Institutions, Bodies, Offices and Agencies, European Commission Communication Providing operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders (2022/C 104 I/01), Official Journal of the European Union, C 104 I/1," Eur-lex, 4.3.2022, https://eur-lex.europa. eu/legal-content/EN/TXT/?uri=oj:JOC_2022_104_I_0001, accessed on: October 2024.

[301] Carrera et al., "The EU Grants Temporary Protection for People Fleeing War in Ukraine," 15-18.

[302] Julia Kienast, Nikolas Feith Tan, and Jens Vedsted-Hansen. "Preferential, Differential or Discriminatory? EU Protection Arrangements for Persons Displaced from Ukraine.", "*In EU Responses to the Large-Scale Refugee Displacement,*": 388.

[303] Karageorgiou and Noll, "Receiving Ukrainian Refugees in the EU: A Case of Solidarity?," 408.

flexibility and coordination. However, the EU continues to apply its solidarity principle unevenly, privileging refugees who are geographically proximate, culturally similar, or politically aligned. The failure to apply such mechanisms consistently—particularly to refugees from the Middle East, Africa, or South Asia—has fueled critiques of systemic bias in EU asylum governance.[304]

Finally, comparative lessons from Türkiye's extensive experience with Syrian refugees were also relevant. As discussed in the conceptual framework, Türkiye’s temporary protection system highlighted the need for early labor market access, equitable responsibility-sharing, and long-term integration planning[305]. These insights point to the need for EU policies that move beyond containment toward inclusive, sustainable, and rights-based frameworks for protection.

While the activation of the TPD was widely applauded for its speed and coordination, the scope of its application raised significant concerns about unequal protection and discriminatory practices, particularly regarding third-country nationals and asylum seekers. The discretion granted to member states by both the Council Decision[306] and the accompanying Commission guidelines led to inconsistencies in implementation across the EU and contributed to the marginalization of non-European individuals fleeing the same conflict.

The categories of individuals eligible for temporary protection were a focal point of legal and political debate. Although the European Commission had initially proposed a relatively inclusive interpretation of the TPD’s scope, the final Council Decision diverged in key ways, granting Member states broad latitude in determining which groups would be included or excluded from the protective regime.[307] Specifically, Article 2(3) of the Council Decision[308] permitted Member states to apply the TPD to stateless persons and third-country

[304] Carrera et al., “The EU Grants Temporary Protection for People Fleeing War in Ukraine,” 6.
[305] *Ibid,* pg. 36-39.
[306] “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 Union L 71/1,” Eur-Lex, accessed on October 2024, https://eur-lex.europa .eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.071.01.0001.01.ENG&toc=OJ%3AL%3A2022%3A071%3ATOC
[307] Carrera et al., “The EU Grants Temporary Protection for People Fleeing War in Ukraine,” 20-22.
[308] Article 2(3) of the Council Implementing Decision (EU) 2022/383 of 4 March 2022; “In accordance with Article 7 of Directive 2001/55/EC, Member states may also apply this Decision to other persons, including to stateless persons and to nationals of third countries other than Ukraine, who were residing legally in Ukraine and who are unable to return in safe and durable conditions to their country or region of origin,” accessed on October 2024, https://eur-lex.europa. eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.071.01.0001.01.ENG&toc=OJ%3AL%3A2022%3A071%3ATOC

nationals with temporary or long-term residence in Ukraine who could not return safely to their countries of origin. However, this clause was framed as optional rather than mandatory, resulting in substantial variation in national practices.

The implementation of these provisions led to widespread concerns over discriminatory treatment, especially for stateless persons, third-country nationals, and individuals of Roma back-ground. These populations frequently encountered additional barriers to accessing EU territory and protection, including pushbacks at borders, delayed processing, and uncertainty about their legal status.[309] Despite European Commission recommendations to uphold non-discriminatory treatment, several Member states exercised their discretion to exclude third-country nationals, particularly those without strong legal ties to Ukraine.

Further discretion was provided under Article 7 of the TPD[310], which allowed member states to extend temporary protection to any displaced person from Ukraine but did not obligate them to do so. In practice, this meant that Member states retained the authority to exclude categories of individuals who were equally affected by the conflict but not of Ukrainian nationality or descent. While some countries opted for a more expansive interpretation of the directive, others adopted narrow definitions, reinforcing a two-tiered system of protection based on nationality and perceived European identity.[311]

Importantly, even where the TPD was not applied to third-country nationals, these individuals were still entitled to subsidiary protection under the EU's Qualification Directive, provided they could be exposed to serious harm due to generalized violence or conflict in Ukraine. However, this form of protection often entailed more burdensome procedural requirements, slower access to rights, and reduced legal stability compared to the TPD. As a result, many individuals fleeing the same war received differentiated treatment, undermining the principle of equal protection under EU and international refugee law.

Moreover, the Commission's guidelines on border management and protection lacked enforceability, leaving key decisions to national authorities. This created space for discriminatory practices and further exacerbated inconsistencies across the Union. Reports of unequal treatment at EU borders—particularly concerning individuals of African, Asian,

309 Kienast, Tan, and Vedsted-Hansen. "Preferential, Differential or Discriminatory?," 390-391.
310 Article 7 of the Council Directive 2001/55/EC of 20 July 2001; "Member states may extend temporary protection as provided for in this Directive to additional categories of displaced persons over and above those to whom the Council Decision provided for in Article 5 applies, where they are displaced for the same reasons and from the same country or region of origin. They shall notify the Council and the Commission immediately," accessed on October 2024, https://eur-lex.europa. eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001L0055.
311 Carrera et al., "The EU Grants Temporary Protection for People Fleeing War in Ukraine," 23-27.

or Roma origin—highlighted how discretion in the application of the TPD could replicate and reinforce broader structural inequalities in EU migration governance.

In conclusion, while the TPD offered an essential legal framework for managing the Ukrainian displacement crisis, its design and implementation revealed critical weaknesses. The broad discretion granted to member states undermined the consistency of protection and introduced significant variations in how displaced persons were treated across the EU. This not only complicated access to rights and protection for third-country nationals but also exposed normative contradictions in the EU's commitment to solidarity and non-discrimination. As such, the Ukrainian case underscores the urgent need to review the legal architecture of the TPD to ensure equal and effective protection for all displaced individuals, regardless of nationality or legal status.

4.2.4 Implementation challenges and discriminatory dimensions of the TPD

While the activation of the TPD in response to the Ukrainian displacement crisis has been widely praised for its flexibility, speed, and legal clarity, its implementation has also revealed a number of structural and normative challenges. However, the success of this coordinated EU response was not necessarily indicative of a functional and consistent CEAS, but rather a product of political alignment, geographical proximity, and shared identity among EU member states and displaced Ukrainians. The successful handling of the Ukrainian refugee crisis was possible largely because of the political consensus among Member states, driven by strategic interests.[312]

From the perspective of intergovernmentalism, the EU's coordinated response did not reflect a deep-seated solidarity, but rather a convergence of national preferences—raising questions about the sustainability of such unity in response to future crises involving non-European or less geopolitically significant populations. This reality underscores the EU's continued failure to reform contentious elements of the CEAS, such as the Dublin III Regulation, which remained a key source of tension during the 2015/2016 refugee crisis.

A major innovation of the TPD was the freedom of movement granted to displaced Ukrainians within the Schengen Area, enabling beneficiaries to choose their host country—unlike traditional asylum seekers bound by the "first country of arrival" rule under the Dublin Regulation. However, this flexibility introduced uneven pressures across EU states. The lack of harmonization in reception standards, access to healthcare, education, and social services

[312] Karageorgiou and Noll, "Receiving Ukrainian Refugees in the EU: A Case of Solidarity?," 409-410.

exacerbated these movements.[313] Disparities in national support structures created inequalities that not only strained reception capacities in wealthier member states, but also led to a displacement of other asylum seekers and restrictive asylum access for non-Ukrainians. Lehman and Dimitriadi[314] further note that the absence of a mandatory relocation mechanism under the TPD raised the risk of resource misallocation, politicization of refugee assistance, and exploitation of EU funding opportunities for domestic political gain. They advocate for strengthening local-level integration efforts, drawing attention to the "ESTIA program" in Greece as a successful model. ESTIA, implemented in collaboration with UNHCR and NGOs, demonstrated the importance of long-term housing options, municipal partnerships, and sustainable rent subsidies in providing dignified accommodation and integration pathways for displaced persons.

The TPD's implementation was widely viewed as a litmus test for the CEAS. While the policy enabled a less bureaucratic and more humane system for those fleeing Ukraine, its long-term effectiveness remains contingent on the EU's capacity to maintain solidarity, expand reception infrastructure, and adopt adaptable labor market integration models. If the challenges of unequal burden-sharing and policy backlash are not addressed, the current model may give way to more restrictive frameworks, especially for non-European or racially marginalized populations.[315] While the TPD demonstrated the EU's capacity for rapid legal and logistical mobilization, it also revealed entrenched discriminatory dimensions across three key axes; first, third-country nationals attempting to flee Ukraine faced systemic obstacles at EU borders. Despite Commission guidelines promoting inclusive access, border guards in Poland and elsewhere reportedly treated non-European nationals with greater suspicion and delays, denying equal application of open-border principles.[316]

Second, the exclusion of certain non-Ukrainian residents of Ukraine—particularly stateless persons and those without permanent residency or refugee status—highlighted the limitations of the Council Decision. While Article 2(3) of the Decision permitted Member states to extend protection to these groups, it did not mandate inclusion. As a result, significant protection gaps emerged across Member states, reflecting an uneven and often discriminatory application of protection measures.[317]

[313] Lehman and Dimitriadi, "Temporary Protection: The Ukrainian Field Trial," 271-272.
[314] *Ibid,* pg.272-275.
[315] *Ibid,* pg. 277-278.
[316] İneli-Ciğer, "Reasons for the Activation of the Temporary Protection Directive in 2022," 71-72.
[317] Kienast, Tan, and Vedsted-Hansen, "Preferential, Differential or Discriminatory?," 383-386.

Third, the EU's past reluctance to activate the TPD during displacement crises in Syria, Libya, and Afghanistan has been widely criticized as evidence of a racial and geopolitical double standard. Scholars and civil society actors have argued that the TPD was only triggered for Ukraine because its displaced population largely comprised White, Christian Europeans—whereas refugees from other regions were not perceived as culturally proximate or politically strategic.[318]

These practices have prompted renewed scrutiny under international anti-discrimination standards. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) prohibits differential treatment based on race, ethnicity, or national origin. The EU and its Member states, as parties to ICERD, are obliged to ensure that asylum and migration policies do not result in disproportionate impacts on racial or ethnic minorities[319]. The UN Special Rapporteur on contemporary forms of racism has warned that ethno-nationalism is increasingly embedded in migration law, reinforcing exclusionary practices. While international law does not guarantee a right to enter a state to claim asylum, the right to seek asylum is recognized under numerous human rights instruments and in Article 18 of the EU Charter of Fundamental Rights.[320] Accordingly, distinctions in treatment must be justified by objective and legitimate grounds; otherwise, they risk constituting arbitrary or systemic discrimination.[321]

The implementation of TPD raised fundamental concerns about discriminatory practices—particularly at EU borders and in the admission of third-country nationals. The three key dimensions of discrimination, as outlined by scholars, included: (1) unequal treatment at EU borders based on nationality or race, (2) exclusionary scope of the TPD itself, and (3) differential application of EU asylum mechanisms across refugee groups from different regions.

A core criticism of the EU's response to the Ukrainian crisis relates to the pre-existing visa liberalization regime for Ukrainian nationals[322]. Since 2017, Ukrainians enjoyed visa-

---

[318] İneli-Ciğer, "Reasons for the Activation of the Temporary Protection Directive in 2022," 70; Kienast, Tan, and Vedsted-Hansen, "Preferential, Differential or Discriminatory?," 385.
[319] Carrera et al., "The EU Grants Temporary Protection for People Fleeing War in Ukraine," 42.
[320] "Charter of Fundamental Rights of the European Union (2012/C 326/02) Article 18"; Right to asylum, "The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union (hereinafter referred to as 'the Treaties'), Eur-Lex, accessed on October 2024, https://eur-lex.europa. eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT
[321] Carrera et al., "The EU Grants Temporary Protection for People Fleeing War in Ukraine," 43.
[322] "Visa free travel for Ukrainians comes into force", European Union External Action; "Ukrainian nationals holding biometric passports have been exempt from visa requirements for entering the EU, allowing them to

free travel to the Schengen Area, granting them relatively unhindered access to the EU even before the activation of the TPD. Scholars such as Kienast, Tan, and Vedsted-Hansen[323] argue that this structural advantage exacerbated disparities between Ukrainian and non-European refugees, such as Syrians or Afghans, who remained subject to stringent visa requirements. While visa policy is a legitimate tool of immigration control, applying it selectively in contexts of imminent humanitarian danger raises normative and legal concerns—particularly under Article 14 of the ECHR, which prohibits discrimination in the enjoyment of Convention rights.

Discriminatory practices at EU external borders—such as denying entry based on lack of a Schengen visa—were increasingly viewed as violations of both the Refugee Convention's non-discrimination clause and broader international human rights law. Critics contended that visa regimes based on nationality may amount to indirect racial discrimination when they disproportionately impact non-European refugees[324].

Numerous reports documented discriminatory practices at the borders of Poland, Slovakia, and Hungary during the early stages of the Ukrainian displacement crisis. Non-Ukrainian TCNs, including students and labor migrants from Africa, South Asia, and the Middle East, were subjected to delays, denial of entry, racial profiling, and, in some cases, violence**.** These actions drew condemnation from the African Union, UNHCR, Human Rights Watch, and other international bodies.[325] Journalist Lorenzo Tondo's observations at the Polish border[326] illustrated this disparity vividly. Despite not qualifying for temporary protection under the TPD, these individuals were still entitled to seek asylum and benefit from non-refoulement obligations under EU law, the ECHR, and the Refugee Convention.

---

stay and travel in the Schengen area for up to 90 days within any 180-day period. The visa-free regime resulted from a visa liberalization dialogue between the EU and the Eastern Partnership countries, including Moldova, Georgia, and Ukraine, under the framework of the European Neighbourhood Policy. Based on compliance with certain benchmarks-such as document security, border management, migration and asylum policies, and public order-Ukraine and these other countries achieved visa exemptions as part of broader international relations," accessed on October 2024, https://www.eeas.europa. eu/node/27990_en

[323] Kienast, Tan, and Vedsted-Hansen, "Preferential, Differential or Discriminatory?," 386.

[324] Mariana Gkliati, "Frontex Assisting in the Ukrainian Displacement - A Welcoming Committee at Racialised Passage?", *In EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Aslum Policy*, ed. Sergio Carrera ve Meltem İneli-Ciğer. Florence, Italy: European University Institute, Migration Policy Centre, 2023: 293.

[325] *Ibid*, pg. 291-292.

[326] Hannah Moore with Annie Kelly and Lorenzo Tondo; produced by Rose de Larrabeiti and Axel Kacoutié; executive producers Mythili Rao and Phil Maynard, "The Ukrainian refugees pouring into Europe," *The Guardian* 8 Mar 2022, https://blindly-liberal-gobbler. edgecompute.app/news/audio/2022/mar/08/the-ukrainian-refugees-pouring-into-europe, accessed: November 2024.

İneli-Ciğer[327] emphasizes that the TPD's swift activation for Ukrainians—framed by policymakers and the media as "White Christian Europeans"—stood in stark contrast to the EU's treatment of refugees from Syria, Afghanistan, and Libya. She highlights cases where African and Middle Eastern nationals were denied entry, subjected to pushbacks, or left in limbo, while Ukrainians were met with humanitarian assistance and open borders. This disparity in treatment reflects deeply embedded racial and cultural biases, reinforcing the notion that European identity became a de facto criterion for receiving protection. Esposito[328], who attributes the preferential treatment to selective humanitarianism, echoes such claims. While Ukrainian refugees received immediate access to rights, employment, and integration services, non-Ukrainian refugees faced securitization, Islamophobia, and containment policies. Bueno Lacy and Houtum[329] argue that this discrepancy is part of a broader EU border regime that dehumanizes non-European refugees through pushbacks, externalization agreements, and media narratives that construct them as threats rather than victims. They highlight the differential reactions to the Syrian crisis in 2015 versus Ukraine in 2022: the former marked by camps and deterrence, the latter by protection and sympathy. For example, while Syrians were momentarily received with sympathy in 2015, especially after the tragic image of Alan Kurdi in the media,[330] the EU failed to invoke the TPD for them, leaving many trapped in camps and subjected to inhumane conditions.

The discriminatory treatment was further amplified by the political rhetoric[331] and media framing of refugee groups.[332] Statements by EU leaders—such as Bulgarian Prime Minister Kiril Petkov,[333] who described Ukrainian refugees as "educated" and "not the

---

[327] İneli-Ciğer, "Reasons for the Activation of the Temporary Protection Directive in 2022," 67-69.

[328] Addie Esposito, "The Limitations of Humanity: Differential Refugee Treatment in the EU", *Harvard International Review,* 14 September 2022, https://hir.harvard. edu/the-limitations-of-humanity-differential-refugee-treatment-in-the-eu/, accessed: October 2024.

[329] Lacy Bueno, Rodrigo, and Henk van Houtum, "Europe's Selective Dehumanisation: The Revival of Geographical Determinism as Rationalisation to Justify the Preferential Protection of Ukrainian Refugees in the EU," "*In EU Responses to the Large-Scale Refugee Displacement,"*: 448-452.

[330] Please refer to the article of Paul Slovic, Daniel Västfjäll, Arvid Erlandsson and Robin Gregory, "The Iconic photographs and the ebb and flow of empathic response to humanitarian disasters", *Proceedings of the National Academy of Sciences of the United States of America* , *Vol. 114, No. 4,* 24 January, 2017, pp. 640-644, Published by: *National Academy of Sciences*, https://www.jstor.org /stable/10.2307/26479033, accessed: 24.10.2024

[331] Andrew Higgins, 'In Poland, a Warm Welcome for Ukrainian Refugees Wobbles', *The New York Times,* 15 November 2022, https://www.nytimes. com/2022/11/15/world/europe/poland-ukrainian-war-refugees.html, accessed: 24.10.2024

[332] Daniel Trilling, 'How the media contributed to the migrant crisis,' *The Guardian,* 1 August 2019, https://www.theguardian. com/news/2019/aug/01/media-framed-migrant-crisis-disaster-reporting, accessed: 24.10.2024

[333] Brito R, "Europe welcomes Ukrainian refugees — others, less so," "Bulgarian Prime Minister Kiril Petkov stated that, "[t]hese are not the refugees we are used to… these people are Europeans" and "These people are intelligent, they are educated people.... This is not the refugee wave we have been used to, people we were not

typical refugees",[334] reinforced racist and exclusionary narratives. These narratives were widely criticized as institutionalized racism, legitimizing the differential treatment of displaced populations. The UN Special Rapporteurs[335] and the African Union[336] condemned these practices, stressing that racial or national origin should never determine access to asylum or humanitarian protection.

Esposito[337] also draws attention to media coverage biases, where Ukrainian refugees were humanized, portrayed as deserving victims, and consistently referred to as "refugees." In contrast, non-European displaced persons were framed as "migrants" or "economic refugees," undermining their legitimacy and reinforcing negative stereotypes. This linguistic framing, combined with a lack of diversity in newsrooms, shaped public perception in ways that normalized discriminatory policy responses.

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) imposes legal obligations on states to prevent discrimination based on race, nationality, or ethnic origin. Under ICERD, distinctions must serve a legitimate aim and be proportionate to be permissible. The ICJ's rulings on "national origin" have been criticized for narrow interpretations, leaving gaps in the protection of refugees subjected to racialized border practices.[338]

The Ukrainian case has brought long-standing structural inequalities in EU asylum and migration policy into sharp relief. The discriminatory enforcement of visa regimes and border controls, combined with racialized perceptions of vulnerability, challenge the credibility of the EU's commitment to universal human rights and equal protection. The differential treatment of individuals fleeing the same conflict depending on their nationality or race undermines both legal principles and political legitimacy. It also threatens the coherence of EU migration governance, which increasingly relies on instruments like the TPD as alternatives to a reformed CEAS.[339]

---

sure about their identity, people with unclear pasts, who could have been even terrorists…," (2022) In: *AP News*, https://apnews. com/article/russia-ukraine-war-refugees-diversity-230b0cc790820b9bf8883f918fc8e313, accessed: 24.10.2024.

[334] Carrera et al., "The EU Grants Temporary Protection for People Fleeing War in Ukraine," 13-14.

[335] "UNHCR chief condemns 'discrimination, violence and racism' against some fleeing Ukraine," United Nations, 21 March 2022, https://news.un. org/en/story/2022/03/1114282, accessed: 24.10.2024.

[336] "Statement of the African Union on the reported ill treatment of Africans trying to leave Ukraine," African Union (Cabinet of the Chairperson), 28 February 2022, https://au.int/ en/pressreleases/20220228/statement-ill-treatment-africans-trying-leave-ukraine, accessed: 24.10.2024.

[337] Esposito, "The Limitations of Humanity,"

[338] Carrera et al., "The EU Grants Temporary Protection for People Fleeing War in Ukraine," 42.

[339] Kienast, Tan, and Vedsted-Hansen, "Preferential, Differential or Discriminatory?," 387-388.

4.2.5 Geopolitical motivations and policy selectivity

The activation of the TPD in response to the Ukrainian displacement crisis was both a humanitarian measure and a reflection of the EU's geopolitical interests. The speed and unanimity of the decision were facilitated by political alignment among member states, rooted in shared concerns over Russian aggression and a strategic desire to support Ukraine [340]. The Council's discretionary authority to trigger the TPD enabled a response aligned with the Union's foreign policy goals under Articles 2 and 21 of the TEU. Skordas (2023, 428) linked the non-activation of the TPD during the Syrian crisis to the EU's security doctrine, particularly as outlined in the 2022 Strategic Compass, which frames irregular migration as a security threat.

Esposito[341] further contends that the EU's support for Ukrainian refugees served not only humanitarian goals but also reinforced its international reputation and condemned Russian aggression, whereas similar political expediency was absent in more complex cases like Syria. Kostakopoulou[342] challenged the legitimacy of geopolitical factors and emphasized the primacy of humanitarian needs over political utility, arguing that legal principles and fundamental rights must guide refugee protection rather than geopolitical considerations.

Similarly, Bueno Lacy and Houtum[343] reject geographical determinism and stress that the EU's obligations under the 1951 Refugee Convention and 1967 Protocol require equal protection regardless of proximity or cultural similarity. These authors criticize EU border and visa regimes for sustaining a system of exclusion that privileges "desirable" refugees while marginalizing others—an approach they describe as racialized and class-based discrimination[344]. They argue that selective humanitarianism, shaped by media narratives and political discourse, has normalized differential treatment, particularly through the portrayal of Ukrainians as deserving and others as threats [345]. The authors call for a reevaluation of EU asylum governance that prioritizes solidarity, legal equality, and non-discrimination.[346]

---

[340] Florian Trauner and Gabriele Valodskaite, "The EU's Temporary Protection Regime for Ukrainians: Understanding the Legal and Political Background and Its Implications", *CEsifo Forum, Volume 23*, July 4, 2022:19; Skordas, "Temporary Protection and European Racism," 428.
[341] Esposito, "The Limitations of Humanity,"
[342] Kostakopoulou, "Temporary Protection and EU Solidarity," 440-443.
[343] Bueno, Rodrigo, and Van Houtum, "Europe's Selective Dehumanisation," 453-455.
[344] *Ibid,* pg.460-462.
[345] *Ibid,* pg.465-469.
[346] *Ibid,* pg.470-478.

Kostakopoulou also directly critiques Skordas' dismissal of racism claims, asserting that the activation of the TPD in 2022 marked a positive shift toward a rights-based approach, unlike past crises. She refutes the categorization of the Syrian crisis as irregular migration and argues that the EU had a duty to respond [347]. Furthermore, she criticizes the Council's limited scope of protection in contrast to the more inclusive proposal from the Commission, which included stateless persons, asylum seekers, and long-term residents of Ukraine.

In conclusion, while the activation of the TPD for Ukrainians was a milestone, it also exposed the EU's reliance on strategic, racialized, and politically expedient logics in determining access to protection. The response underscored the need for a reformed EU asylum system grounded in legal consistency, universal protection, and the rejection of discriminatory practices.

4.2.6 International response and the need for equal solidarity

The international response to the Ukrainian refugee crisis was notable not only for its speed and coordination but also for the broad-based mobilization of institutional and grassroots actors. The UNHCR played a central role, swiftly launching a Regional Refugee Response Plan (RRP) in coordination with key partners such as IOM, Save the Children, and the Norwegian Refugee Council. This plan aimed to address the immediate needs of the displaced population, anticipating between 2.4 and 4 million arrivals across Europe.[348]

In parallel with institutional efforts, citizens, NGOs, private companies, and celebrities mobilized to support Ukrainian refugees. Polish and Romanian citizens, for instance, offered shelter and assistance at train stations and border points, while platforms like Airbnb facilitated free accommodation. In Berlin, individuals arrived at train stations offering their homes to newly arrived Ukrainians, seeking to reduce the burden on overcrowded state-run reception centers. Meanwhile, countries such as Poland, Hungary, and Romania adopted unilateral temporary protection mechanisms even before the EU formally activated the TPD. In Poland, for example, new arrivals were given 15 days to regularize their legal status, while Hungary and Romania offered temporary stay permits to facilitate swift entry and support.[349]

However, despite these wide-ranging efforts, the Ukraine crisis also revealed serious inequalities and discriminatory practices in the treatment of displaced persons based on race, ethnicity, and vulnerability. African and South Asian nationals, including students and

[347] Kostakopoulou, "Temporary Protection and EU Solidarity," 438-439.
[348] Carrera et al., "The EU Grants Temporary Protection for People Fleeing War in Ukraine," 11.
[349] *Ibid*, pg. 11.

migrant workers, faced delays, separate queues, and racial profiling, particularly at border crossings such as the Polish frontier. Numerous reports by civil society organizations and media outlets[350] highlighted how these groups were subjected to differential treatment, raising concerns about systemic discrimination in what was otherwise presented as a compassionate response.[351]

The principle of solidarity and fair sharing of responsibility, enshrined in Article 80 of the TFEU, has long been a cornerstone of EU asylum policy. However, the implementation of the TPD during the Ukrainian crisis revived debates about the selective application of solidarity**.** While the EU's swift and coordinated response to Ukrainian refugees was lauded, it also highlighted the inconsistencies and discriminatory patterns in the Union's approach to protection—particularly when contrasted with its response to refugees from Syria, Afghanistan, or African nations. Solidarity, as being the main principle, must be extended equally and non-discriminatorily, regardless of a refugee's origin, race, or ethnicity. The principle requires not only collective action among Member States but also a humane, rights-based approach that ensures equal access to protection. The selective compassion exhibited in 2022 risks undermining the EU's credibility in upholding fundamental rights and non-discrimination, which form the normative core of both EU law and international refugee protection frameworks.[352]

In this context, the Ukrainian response—though exemplary in many respects—also served as a litmus test for the Union's commitment to fair and consistent asylum governance. Moving forward, ensuring the equal application of solidarity will require not only policy coherence and institutional reform, but also the political will to treat all displaced persons with the same dignity, rights, and procedural safeguards, regardless of their back-ground.

[350] "End 'double standards' on refugees, UN expert urges Poland," Aljazeera News, https://www.aljazeera.com/news/2022/7/28/end-double-standards-on-refugees-un-expert-urges-poland; "Ukraine Response 2022 – Poland Crossings to Ukraine Surveys," IOM, 21 April – 21 June 2022, https://dtm.iom. int/sites/ pdf ; "Ukraine: Unequal Treatment for Foreigners Attempting to Flee, Pattern of Blocking, Delaying Non-Ukrainians," Human Rights Watch, 4 March 2022, https://www.hrw. org/news/2022/03/04/ukraine-unequal-treatment-foreigners-attempting-flee; JO HARPER, "Poland's two very different borders," Politico, APRIL 14, 2022, HTTPS://WWW.POLİTİCO. EU/ARTİCLE/POLAND-TWO-VERY-DİFFERENT-BORDERS-UKRAİNE-BELARUS-WAR-REFUGEES/.
[351] Carrera et al., "The EU Grants Temporary Protection for People Fleeing War in Ukraine," 12.
[352] *Ibid*, pg. 5.

4.2.7. Conclusion

The activation of the TPD in response to the large-scale displacement triggered by the war in Ukraine has been widely recognized as a laudable step toward fostering solidarity and compassion within the European Union. This exceptional measure provided crucial protection to those fleeing conflict while alleviating pressure on the asylum systems of Member States. The EUAA confirmed that the temporary protection framework significantly mitigated the burden on asylum case processing. Nevertheless, this response also illuminated disparities in its implementation and raised fundamental questions about the normative and operational underpinnings of the EU asylum framework, particularly regarding the principle of solidarity.[353]

The Ukrainian crisis further exposed embedded political, racial, and religious biases that permeate the EU's asylum practices. Reports of discrimination, racism, and xenophobia experienced by non-European groups - such as Black Africans, Indian and Pakistani nationals, and individuals from the Middle East - highlighted systemic inequalities and structural discrimination within EU asylum policy. These revelations call for a reassessment of the principles guiding the Union's future responses to displacement. While the TPD has proven to be an effective instrument, scholars emphasize the necessity of its consistent and equitable application across all crises to safeguard the EU's commitment to human rights and humanitarian norms.

Another concern relates to the future status of individuals under temporary protection. Once the TPD regime ends, beneficiaries must be guaranteed equal access to asylum procedures, as stipulated under EU asylum law and instruments such as the Qualifications Directive. Scholars have therefore underscored the need to reconceptualize solidarity, not merely as an act of discretion among states but as a binding commitment grounded in fundamental rights, the rule of law, and democracy.[354]

The future influence of the TPD on EU asylum governance has been subject to debate. Two potential trajectories have been identified: the first envisions the Ukrainian displacement as remaining largely separate from the broader asylum framework, thereby reinforcing a bifurcated system based on origin and political context. The second foresees the crisis as a catalyst for structural reform, potentially enhancing solidarity mechanisms

[353] İneli-Ciğer, "Reasons for the Activation of the Temporary Protection Directive in 2022," 73; Carrera et al., "The EU Grants Temporary Protection for People Fleeing War in Ukraine," 45; Esposito, "The Limitations of Humanity,"
[354] Carrera et al., "The EU Grants Temporary Protection for People Fleeing War in Ukraine," 46.

among Member states. In this context, Eastern European states -initially reluctant to accept mandatory relocation schemes- may begin to advocate for a more organized redistribution mechanism as they face growing numbers of Ukrainian refugees.[355] Furthermore, there have been calls for similar standards of protection to be extended to other refugee groups, including those from Syria, Afghanistan, and Iraq. The EU's welcoming response to Ukrainians -characterized by immediate access to protection, humane treatment, and open borders- sets a benchmark that should be universally applied, irrespective of nationality.[356]

Importantly, the EU's geopolitical interests played a pivotal role in shaping its policy response. The EU's actions were not purely humanitarian but aligned with broader strategic goals, especially the need to counter Russian aggression. The TPD's activation coincided with a broader foreign policy posture that emphasized border protection and migration control as tools of geopolitical strategy. The principle of solidarity, was thus instrumentalized not as a humanitarian imperative, but as a means of projecting unity and strength amid existential threats. In this view, solidarity became conditional, operationalized only when aligned with national interests.[357]

The EU's collective measures, ranging from imposing financial sanctions on Russia to activating the long-dormant TPD, were unprecedented in scope. While many explanations have been offered regarding the motivations behind these actions, most agree that the convergence of geopolitical imperatives and national political interests among Member states enabled rapid and coordinated responses. In this context, the Ukraine crisis serves as a case study of how European integration can be accelerated when strategic interests align. This offers strong support for intergovernmentalist theories, which emphasize the decisive role of state preferences in driving EU policy outcomes.

Although implementation challenges persisted, the TPD's activation was both necessary and appropriate in response to the Ukrainian displacement. Nevertheless, issues of inconsistency and selectivity emerged. The differentiated treatment of Ukrainian versus non-Ukrainian refugees—reflected in border practices, the discretionary exclusion of third-country nationals, and the EU's preference for externalizing asylum responsibilities in earlier crises—raises serious concerns about the fairness and coherence of EU migration policy. EU must fundamentally reorient its asylum system to align more closely with international

[355] Trauner and Valodskaite, "The EU's Temporary Protection Regime for Ukrainians," 19.
[356] İneli-Ciğer, "Reasons for the Activation of the Temporary Protection Directive in 2022," 78.
[357] Karageorgiou and Noll, "Receiving Ukrainian Refugees in the EU: A Case of Solidarity?," 410-412.

refugee law, particularly the 1951 Refugee Convention, and ensure equal, rights-based protection for all those in need, regardless of origin or political expediency.

5. CONCLUSION

The European Union's response to the 2015 refugee crisis brought to the surface long-standing structural and political deficiencies in its migration and asylum policy framework. Despite the formal legal obligation of solidarity enshrined in Article 80 of the Treaty on the Functioning of the European Union, member states failed to translate this principle into meaningful collective action. The crisis revealed the limitations of existing instruments such as the Dublin Regulation, which disproportionately burdened frontline states like Greece and Italy by assigning them primary responsibility for processing asylum claims. Instead of reforming the structural imbalances at the heart of the CEAS, EU responses largely relied on emergency mechanisms-such as relocation schemes and the Hotspot Approach-that ultimately failed to provide durable or equitable solutions.

The TPD, designed specifically to provide a collective and swift EU-level response to mass influx situations, remained inactive throughout the 2015 Syrian refugee crisis. This inaction was not due to legal or procedural barriers but stemmed primarily from a lack of political consensus. In this context, intergovernmentalism provides the most effective analytical lens to understand the behavior of member states and the outcome of EU policy. National governments retained decisive control over key aspects of asylum and migration policy, often prioritizing domestic political considerations and national sovereignty over EU-level commitments and humanitarian principles.

While neo-functionalism highlights the role of supranational institutions and spillover effects as drivers of integration, the 2015 crisis did not produce such momentum. Instead, supranational actors like the European Commission proposed reforms that were ultimately blocked or diluted by member states. The lack of further institutional integration in response to the crisis undermines neo-functionalist assumptions, showing that supranational authority alone is insufficient in the absence of political will among national governments. Similarly, post-functionalism underscores the influence of identity politics and public opinion in shaping integration outcomes. During the 2015 crisis, rising nationalist sentiment and the politicization of migration across many member states constrained collective EU action. While this theory explains the sociopolitical context and resistance to deeper integration, it does not fully account for the institutional outcomes and decision-making patterns observed within EU institutions.

By contrast, intergovernmentalism most directly explains why the TPD remained dormant in 2015. It emphasizes the central role of member states' preferences, the primacy of the European Council in crisis decision-making, and the tendency of states to cooperate only when national interests converge. The fragmented national responses, refusal by some states to accept relocation quotas, and the reintroduction of internal border controls demonstrated how crisis management was shaped by interstate bargaining, defensive postures, and calculations of self-interest.

Instead of activating a pre-existing collective mechanism like the TPD, the EU leaned heavily on externalization strategies to contain the crisis beyond its borders. This was most evident in the EU–Türkiye Statement of March 2016, a political agreement that aimed to curb irregular migration through financial support, readmission arrangements, and the controversial designation of Türkiye as a "safe third country." These external partnerships reflected an intergovernmentalist logic of negotiating bilateral deals that favored state discretion and control over migration flows, often at the expense of international protection standards.

The consequences of these choices were far-reaching. Refugees remained in legal limbo, humanitarian conditions in reception centers deteriorated, and the credibility of the EU's asylum framework suffered. The absence of shared responsibility undermined trust among member states and deepened East–West divisions over the future of EU migration governance. Moreover, the inability to reform the Dublin system or agree on permanent relocation mechanisms further entrenched the status quo, where the geography of arrival dictated the geography of responsibility.

In contrast, the EU's response to the 2022 Ukrainian displacement crisis marked a significant departure. Faced with a politically and geographically proximate conflict that posed a direct threat to European stability, member states rapidly and unanimously agreed to activate the TPD for the first time since its adoption in 2001. This decision—taken within days of Russia's invasion—demonstrated that when the geopolitical stakes are high and national interests converge, political will can be mobilized to deliver swift and coordinated action.

Yet this episode also underscored the selectivity of EU solidarity. The same instrument that was deemed "politically unfeasible" in 2015 was seamlessly applied in 2022. The difference lay not in legal feasibility but in Member State preferences, public opinion, and strategic calculations. The selective activation of the TPD reveals the core logic of intergovernmentalism: cooperation emerges not from normative commitments alone but from a convergence of state interests under conditions of mutual benefit or common threat.

Looking ahead, the EU's experience with temporary protection reveals both a critical gap and a valuable opportunity. On one hand, the failure to act collectively in 2015 exposed the fragility of EU solidarity and the risks of politicizing protection. On the other, the successful use of the TPD in 2022 illustrates that rapid and coordinated responses are possible—if underpinned by shared political will. Temporary protection, though imperfect, offers a legal and institutional pathway toward burden-sharing and crisis preparedness. However, unless mechanisms like the TPD are backed by binding commitments and shielded from political discretion, they will remain contingent tools rather than pillars of a common asylum system.

In conclusion, a more equitable and resilient EU asylum regime requires a rebalancing of power and responsibility. This includes reforming the Dublin system, establishing permanent solidarity mechanisms, and clarifying the legal triggers for instruments like the TPD. Most importantly, it requires confronting the asymmetries that intergovernmentalism both explains and sustains, namely, the reluctance of Member States to subordinate national interests to a shared European response. Without this shift, the EU will remain vulnerable to future crises, and its commitment to human rights and refugee protection will continue to depend on political expediency rather than legal obligation.

6. REREFENCES

Alegre, Susie, Monica den Boer, Giuseppe Callovi, Steve Peers, and Cristina Pineda Polo. *The Hague Programme, Strengthening Freedom, Security and Justice in the EU.* Working Paper No.15, EPC (European Policy Centre), 2005.

Aras, N. Ela Gökalp, Evangelia Papatzani, Zeynep Şahin Mencütek, Nadina Leivaditi, and Electra Petracou. *"Refugee Protection in and Beyond Europe Comparative Report", Horizon 2020 RESPOND Project*. Global Migration: Consequences and Responses Working Paper Series, European Commission, 2020.

Archibugi, Daniele, Marco Cellini, and Mattia Vitiello. "Refugees in the European Union: from emergency alarmism to common management." *Journal of Contemporary European Studies, Vol.30, No.3*, 2022: 487-505.

Arenas, Nuria. «The Concept of 'Mass Influx of Displaced Persons' in the European Directive Establishing the Temporary Protection System.» *European Journal of Migration and Law, 7*, 2005: 435-450.

Asian-African Legal Consultative Organization. "Bangkok Principles on the Status and Treatment of Refugees, 1966." *UNHCR*. http://www.unhcr. org/refworld/docid/3de5f2d52.html.

Bahadır, Aydan. "Development of the EU Asylum Policy: Preventing The Access to Protection." *A Thesis Submitted to the Graduate School of Social Sciences of Middle East Technical University.* Middle East technical University, July 2004.

Bastaki, Jinan. «Temporary Protection Regimes and Refugees: What Works? Comparing the Kuwaiti, Bosnian, and Syrian Refugee Protection Regimes.» *Refuge: Canada's Journal on Refugees 34, No.2*, 2018: 73-84.

Beirens, Hanne, Sheila Maas, Salvatore Petronella, and Maurice van der Velden. *Study on the Temporary Protection Directive (Final Report).* Final Report, ICF Consulting Services Limited ("ICF"), on behalf of DG Migration and Home Affairs ("the Commission"), 2016.

Belliveau, Linn Biorklund, and Rhonda Ferguson. "Normalising the Exceptional: The Use of Temporary Protection in Transit Countries to Externalise Borders and Responsibilities." *Geopolitics, 28:1*, 2023: 333-363.

Bosse, Giselle. «Values, rights, and changing interests: The EU's response to the war against Ukraine and the responsibility to protect Europeans.» *Contemporary Security Policy, 43:3*, 2022: 531-546.

Bueno Lacy, Rodrigo, and Henk van Houtum. "Europe's Selective Dehumanisation: The Revival of Geographical Determinism as Rationalisation to Justify the Preferential Protection of Ukrainian Refugees in the EU." In *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, by Sergio Carrera and Meltem İneli-Ciğer. Florence, Italy: European University Institute, Migration Policy Centre, 2023.

Burbano-Herrera, Clara. “Why Has the EU’s Temporary Protection Directive Not Been Applied during the Migration Crisis in Order to Receive Syrians and Other Asylum Seekers?” *AfricLaw*, June 10, 2016. Accessed March 2025. https://africlaw.com/2016/06/10/why-has-the-eus-temporary-protection-directive-not-been-applied-during-the-migration-crisis-in-order-to-receive-syrians-and-other-asylum-seekers/

Carrera, Sergio, Meltem İneli-Ciğer, Lina Vosyliute, and Leiza Brumat. "The EU Grants Temporary Protection for People Fleeing War in Ukraine: Time to Rethink Unequal Solidarity in EU Asylum Policy." In *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, by Sergio Carrera and Meltem İneli-Ciğer. Florence: European University Institute, Migration Policy Centre, 2023.

Ciğer, Meltem İneli. «Time to Activate the Temporary Protection Directive, Why the Directive can Play a Key Role in Solving the Migration Crisis in Europe.» *European Journal of Migration and Law, 18*, 2016.

Ciğer, Meltem İneli. "Implications of the new Turkish Law on foreigners and international protection and Regulation No. 29153 on temporary protection for Syrians seeking protection in Türkiye." *Oxford Monitor of Forced Migration 4, No.2*, 2015: 28-36.

—. "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 the Mediterranean." *International Refugee Law Series, Volume 4 (Seeking Asylum in the European Union, Selected Protection Issues Raised by the Second Phase of the Common European Asylum System)* , 2015: 223-246.

Center for Preventive Action. "War in Ukraine." Global Conflict Tracker*, October 16, 2024. Accessed November 15, 2024. https://www.cfr. org/global-conflict-tracker/conflict/conflict-ukraine.*

Clayton, Jonathan, Hereward Holland, and ed. Tim, UNHCR Gaynor. 2015. UNHCR, The UN Refugee Agency, Over one million sea arrivals reach Europe in 2015. December. Accessed March 2025. https://www.unhcr. org/news/stories/over-one-million-sea-arrivals-reach-europe-2015.

Commission of the European Communities. Communication from the Commission to the Council and the European Parliament on Immigration and Asylum Policies*. COM(94) 23 final. Brussels, February 23, 1994. Accessed February 26, 2024. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:51994DC0023&rid=1*

Convention relating to the Status of Refugees, 1951 Refugee Convention. Convention, United Nations (UN), 22 April 1954.

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. Directive, The Council of the European Union, Official Journal of the European Communities, 2001.

Council of the European Union. Council Resolution of 25 September 1995 on Burden-Sharing with Regard to the Admission and Residence of Displaced Persons on a Temporary Basis (95/C 262/01). Accessed February 26, 2024. https://eur-lex.europa. eu/legal-content/EN/TXT/PDF/?uri=CELEX:31995Y1007(01)&from=EN.

Council of the European Union. Commission Staff Working Document Accompanying the 25th Annual Report on Monitoring the Application of Community Law (2007). *SEC(2008) 2854. Brussels, November 18, 2008.* Accessed March 2024. https://data.consilium.europa. eu/doc/document/ST-16311-2008-ADD-1/en/pdf

Council of the European Union. "Ukrainian Refugees: Council Extends Temporary Protection until March 2026." Press Release, June 25, 2024. Accessed November 15, 2024. https://www.consilium.europa. eu/en/press/press-releases/2024/06/25/ukrainian-refugees-council-extends-temporary-protection-until-march-2026/.

Council of the EU. "The European Peace Facility (EPF)." Accessed October 26, 2024. https://www.consilium.europa. eu/en/policies/european-peace-facility/.

Council of the EU. "EU Military Support for Ukraine." Accessed October 26, 2024. https://www.consilium.europa .eu/en/policies/military-support-ukraine/.

Dražanová, Lenka, and Andrew Geddes. "Attitudes towards Ukrainian Refugees and Governmental Responses in 8 European Countries." In *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, by Sergio Carrera and Meltem İneli-Ciğer. Florence, Italy: European University Institute, Migration Policy Centre, 2023.

Edwards, Alice. "Temporary Protection, Derogation and the 1951 Refugee Convention." *Melbourne Journal of Internaitonal Law 13, No.2*, November 2012: 595-635.

Esposito, Addie. «The Limitations of Humanity: Differential Refugee Treatment in the EU.» *Harvard International Review.* 14 September 2022. https://hir.harvard. edu/the-limitations-of-humanity-differential-refugee-treatment-in-the-eu/ Accessed October 2024).

EU Neighbours East. “European Commission Recommends to Grant Ukraine and Moldova EU Candidate Status, Georgia Receives Perspective to Become EU Member.” Accessed October 26, 2024. https://euneighbourseast .eu/news/latest-news/european-commission-recommends-to-grant-ukraine-and-moldova-eu-candidate-status-georgia-receives-perspective-to-become-eu-member/

Eur-Lex. “European Agenda on Migration.” Accessed October 2024. https://eur-lex.europa. eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015AE4319.

Eur-Lex. “Schengen Agreement and Convention.” Accessed November 2023. https://eur-lex.europa. eu/EN/legal-content/glossary/schengen-agreement-and-convention.html.

Eur-Lex. “Treaty on the Functioning of the European Union.” Accessed March 2024. https://eur-lex.europa. eu/legal-content/EN/TXT/?uri=legissum:4301854.

Eur-Lex. “Treaty of Amsterdam.” Accessed February 26, 2024. https://eur-lex.europa. eu/legal-content/EN/TXT/?uri=CELEX:11997D/TXT.

Euronews. “Ukraine Is One of Us and We Want Them in EU, Ursula von der Leyen Tells Euronews.” February 27, 2022. https://www.euronews. com/2022/02/27/ukraine-is-one-of-us-and-we-want-them-in-eu-ursula-von-der-leyen-tells-euronews. Cited in Bosse, *Values, Rights, and Changing Interests*, 532.

European Commission. *Communication Providing Operational Guidelines for External Border Management to Facilitate Border Crossings at the EU-Ukraine Borders.* Official Journal of the EU, C 104 I/1, March 4, 2022. Accessed October 2024. https://eur-lex.europa. eu/legal-content/EN/TXT/?uri=oj:JOC_2022_104_I_0001.

European Commission. *Communication on Establishing a Framework Programme on Solidarity and the Management of Migration Flows for 2007–2013.* COM(2005) 123. Accessed March 2024. https://eur-lex.europa. eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005DC0123.

European Commission. "Common European Asylum System." Migration and Home Affairs. Accessed February 29, 2024. https://home-affairs.ec.europa. eu/policies/migration-and-asylum/common-european-asylum-system_en

European Commission. "European Neighbourhood Policy and Enlargement Negotiations (DG NEAR)." Accessed October 26, 2024. https://neighbourhood-enlargement.ec.europa. eu/news/statement-president-von-der-leyen-opening-accession-negotiations-ukraine-and-moldova-video-message-2024-06-25_en.

European Commission, Migration and Home Affairs. n.d. "Forced Migration." https://home-affairs.ec.europa. eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/forced-migration_en. Accessed November 24, 2024.

European Commission, Migration and Home Affairs. n.d. "Repatriation." https://homeaffairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/repatriation_en. Accessed September 2023.

European Commission. Proposal for a Council Directive on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member states in receiving such persons and bearing the consequences . October 31, 2000 (COM/2000/0303).

European Commission. *Proposal for a Council Implementing Decision Establishing the Existence of a Mass Influx of Displaced Persons from Ukraine.* COM(2022) 91 final. Brussels, March 2, 2022. Accessed October 2024. https://eur-lex.europa. eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022PC0091.

European Commission. "Statement by President von der Leyen on Further Measures to Respond to the Russian Invasion of Ukraine." Brussels, February 27, 2022. Accessed October 2024. https://ec.europa. eu/commission/presscorner/detail/en/statement_22_1441.

European Commission. "Ukraine: Commission Proposes Temporary Protection for People Fleeing War in Ukraine and Guidelines for Border Checks." News Article, March

2, 2022. Accessed October 2024. https://neighbourhood-enlargement.ec.europa.eu/news/ukraine-commission-proposes-temporary-protection-people-fleeing-war-ukraine-and-guidelines-border-2022-03-02_en.

European Commission. “Temporary Protection.” Migration and Home Affairs. Accessed November 15, 2024. https://home-affairs.ec.europa. eu/policies/migration-and-asylum/common-european-asylum-system/temporary-protection_en.

European Council on Refugees and Exiles (ECRE). 2017. Debunking the "Safe Third Country" Myth: ECRE's concerns about EU proposals for Expanded Use of the Safe Third Country Concept, Policy Note No. 08/2017. Brussels.

European Union Agency for Asylum (EUAA). 2022. Applying the Concept of Safe Countries in the Asylum Procedure. Luxembourg, Publications Office of the European Union, December.

European University Institute. “The Empty Chair Crisis.” European NAvigator (ENA). Accessed April 2024. https://www.cvce. eu/en/education/unit-content/-/unit/02bb76df-d066-4c08-a58a-d4686a3e68ff/62cd6534-f1a9-442a-b6fb-0bab7c842180.

Eurostat. “Eurostat News Release.” European Commission, September 7, 2016. Accessed October 2024. https://ec.europa.eu/eurostat/documents/2995521/7602753/1-07092016-AP-EN.pdf/ba7aedba-bec3-4ae4-a3c0-8207726ad141.

Eurostat. “Asylum Decisions in the EU.” Press Release, April 20, 2016. Accessed March 2025. https://ec.europa.eu/eurostat/documents/2995521/7233417/3-20042016-AP-EN.pdf/34c4f5af-eb93-4ecd-984c-577a5271c8c5.

Ferrara, Federico Maria, and Hanspeter Kriesi. "Crisis pressures and European Integration." *Journal of European Public Policy, Vol. 29, No.9*, 2022: 1351-1373.

Ferreira, Nuno, Pamela Kea, Albert Kraler, and Martin Wagner. "The EU and protracted displacement: providing solutions or creating obstacles?" *Journal of Ethnic and Migration Studies, 48:18*, 2022: 4436-4455.

Frank, Matthew, ve Jessica Reinisch. «Refugees and the Nation-State in Europe 1919-59.» *Jorunal of Contemporary History, Vol. 49(3)* , 2014: 477-490.

Geddes, Andrew. *Introduction to Migration Studies, An Interactive Guide to the Literatures on Migration and Diversity.* IMISCOE Research Series, 2022.

Geddes, Andrew, and Leila Hadj-Abdou. "Changing the path? EU migration governance after the 'Arab spring'." *Mediterranean Politics, 23:1*, 2018: 142-160.

Genç, H. Deniz, and N. Aslı Şirin Öner. "Why not Activated? The Temporary Protection Directive and the Mystery of Temporary Protection in the European Union." *International Journal of Political Science & Urban Studies*, 2019: 1-18.

Gkliati, Mariana. «Frontex Assisting in the Ukrainian Displacement - A Welcoming Committee at Racialised Passage?» *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Aslum Policy* içinde, yazan Sergio Carrera ve Meltem İneli-Ciğer. Florence, Italy: European University Institute, Migration Policy Centre, 2023.

Goodwin-Gill, Guy S. "The Politics of Refugee Protection." *Refugee Survey Quarterly, Vol.27, No.1, UNHCR and the Global Cold War, Oxford University Press*, 2008: 8-23.

—. "Challenges to Protection." *The International Migration Review, Vol.35, No.1, Special Issue:UNHCR at 50: Past, Present and Future of Refugee Assistance*, 2001: 130-142.

Greek Council for Refugees & Refugee Support Aegean. 2024. "Press release on the hearing before the CJEU regarding the designation of Turkeu as a safe third country." March 13. Accessed March 2025. https://gcr.gr/en/news/item/2256-akroasi-sto-dikastirio-tis-evropaikis-enosis-tin-pempti-14-martiou-sxetika-me-ta-prodikastika-erotimata-tou-ste-gia-tin-tourkia-os-asfali-triti-xora/.

Guild, Elspeth, and Violeta Moreno-Lax. *Current Challenges for International Refugee Law, With a Focus on EU Policies and EU Co-operation with the UNHCR* .

Briefing Paper, European Parliament, Directorate-General For External Policies of the Union, Directorate B, Policy Department, 2013.

Güçer, Mehmet, Sema Karaca, and Bahadır Dinçer. *International Law on Refugees and the Turkish Legislation, The Struggle for Life Between Borders, Syrian Refugees.* International Strategic Research Organization (USAK), 2013.

Haas, Ernst B. *The Uniting of Europe: Political, Social, and Economic Forces, 1950–1957.* New ed. Notre Dame, IN: University of Notre Dame Press, 2004.

Hailbronner, Kay, and Daniel Thym. "Evolution of Asylum Policy." In *EU Immigration and Asylum Law*. Beck/Hart; 2nd edition, 2016.

Hampshire, James. «European migration governance since the Lisbon treaty: introduction to the special issue.» *Journal of Ethnic and Migration Studies, 42:4*, 2016: 537-553.

Harvey, C.J. «Strangers at the Gate: Human Rights and Refugee Protection.» *Irish Studies in International Affairs, Vol.10, Royal Irish Academy*, 1999: 7-20.

Hathaway, James C., and Anne Neve. 2017. *"Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection."* Harvard Human Rights Journal *10.*

History.com Editors. n.d. *"Spain announces it will expel all Jews."* History. *https://www.history.com/this-day-in-history/march-31/spain-announces-it-will-expel-all-jews. Accessed November 26, 2024.*

Hoffmann, Stanley. "Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe." *Daedalus* 95, no. 3 (Summer 1966): 904–15.

Holocaust Encyclopedia. n.d. "Nazi Territorial Aggression: The Anschluss." United States Holocaust Memorial Museum. https://encyclopedia.ushmm. org/content/en/article/nazi-territorial-aggression-the-anschluss. Accessed November 24, 2024.

Hooghe, Liesbet, and Gary Marks. "Grand Theories of European Integration in the twentyfirst century." Journal of European Public Policy, Vol.26, No.8, 2019: 1113-1133.

İneli-Ciğer, Meltem. "Reasons for the Activation of the Temporary Protection Directive in 2022: A Tale of Double Standards." In *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, by Sergio Carrera and Meltem İneli-Ciğer. Florence, Italy: European University Institute, Migration Policy Centre, 2023.

International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations, EC/55/SC/CRP.14. Refugee Survey Quarterly, Vol.25, No.1, UNHCR EXCOM 2005 , 7 June 2005.

International Rescue Commitee, Naomi Bartram. 2024. *Why don't Refugees Stay in the First Country They Reach?* August 21. Accessed March 2025. https://www.rescue.org/uk/article/why-dont-refugees-stay-first-country-they-reach.

Kalin, Walter. «Temporary Protection in the EC: Refugee Law, Human Rights and the Temptations of Pragmatism.» *German Yearbook of International Law 44*, 2001: 202-236.

Karageorgiou, Eleni. «Solidarity and sharing in the Common European Asylum System: the case of Syrian refugees.» *European Politics and Society, 17:2*, 2016: 196-214.

Karageorgiou, Eleni, and Gregor Noll. "Receiving Ukrainian Refugees in the EU: A Case of Solidarity?" In *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, by Sergio Carrera and Meltem İneli-Ciğer. Florence, Italy: European University Institute, Migration Policy Centre, 2023.

Karageorgiou, Eleni, ve Gregor Noll. «Receiving Ukrainian Refugees in the EU: A Case of Solidarity?» *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy* içinde, yazan Sergio Carrera ve Meltem İneli-

Ciğer. Florence, Italy: European University Institute, Migration Policy Centre, 2023.

Kienast, Julia, Nikolas Feith Tan, and Jens Vedsted-Hansen. "Preferential, Differential or Discriminatory? EU Protection Arrangements for Persons Displaced from Ukraine." In *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, by Sergio Carrera and Meltem İneli-Ciğer. Florence, Italy: European University Institute, Migration Policy Centre, 2023.

Kjaerum, Morten. «Temporary Protection in Europe in the 1990s.» *International Journal of Refugee Law, 6(3)*, 1994: 444-456.

Kalantaryan, Sona. 2015. *EUI, Migration Policy Centre, Turkey and the EU: consensus or contention?* November. Accessed March 2025. https://migrationpolicycentre.eu/turkey-and-the-eu-consensus-or-contention/.

Kriesi, Hanspeter, Argyrios Altiparmakis, Abel Bojar Oana, and Ioana-Elena. "Debordering and rebordering in the refugee crisis: a case of 'defensive integration'." *Journal of European Public Policy, 28:3*, 2021: 331-349.

Lambert, Helene. "Temporary Refuge From War: Customary International Law and the Syrian Conflict." *International and Comparative Law Quarterly*, July 2017: 723-745.

—. *International Refugee Law, The Library of Essays in International Law.* New York, USA: Routledge, 2016.

Lehman, Julian, and Angeliki Dimitriadi. "Temporary Protection: The Ukrainian Field Trial." In *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy*, by Sergio Carrera and Meltem İneli-Ciğer. Florence, Italy: European University Institute, Migration Policy Centre, 2023.

Lewis, Corinne. *UNHCR and International Refugee Law, From Treaties to Innovation.* Routledge, 2012.

(LFIP), Law No. 6458 on Foreigners and International Protection. Law, Ankara: Presidency of Migration Management, 2013.

Loescher, Gil. «A Universal Mandate to Protect: The Challenges of Refugee Protection.» *Harvard International Review, Vol.31, No.3, Harvard International Review*, 2009: 44-48.

Lubbers, Ruud. «Asylum for All: Refugee Protection in the 21st Century.» *Harvard International Review, Vol.24, No.1,* , 2002: 60-64.

Martins, Bruno Oliveira, and Michael Strange. "Rethinking EU External Migration Policy: Contestation and Critique." *Global Affairs* 5, no. 3 (2019): 195–210.

Migration Policy Centre. "Observatory of Public Attitudes to Migration (OPAM)." Accessed October 26, 2024. https://migrationpolicycentre.eu/observatory-of-public-attitudes-to-migration/state-of-the-research/.

Müftüler-Bac, Meltem. «Externalization of migration governance, Türkiye's migration regime, and the protection of the European Union's external borders.» *Turkish Studies, 23:2*, 2022: 290-316.

Nascimbene, Bruno. «The Global Approach to Migration: European Union Policy in the Light of the Implementation of the Hague Programme.» *ERA (Academy of European Law) Forum*, 2008: 291-300.

Open Case Studies, The 2015 European Refugee Crisis. *The University of British Columbia.* Accessed March 2025. https://cases.open.ubc.ca/the-2015-european-refugee-crisis/.

Ovacık, Gamze. Spring-Summer 2020. "Compatibility of the Safe Third Country Concept with International Refugee Law and Its Application to Turkey." *Perceptions 25, No.1*, 61-80.

Pachocka, Marta. "Looking Beyond the Current Migration And Refugee Crises In Europe: A Common Policy of the EU and the Outlook for the Future, In Search of

Solutions." *Jean Monnet Seminar "Migrations"*. Tunis: European Commission, 2016.

Panebianco, Stefania. «The EU and migration in the Mediterranean: EU borders' control by proxy.» *Journal of Ethnic and Migration Studies, 48:6*, 2022: 1398-1416.

Panebianco, Stefania, and Iole Fontana. "When responsibility to protect 'hits home': the refugee crisis and the EU response." *Third World Quarterly, 39:1*, 2018: 1-17.

Pastore, Ferruccio, and Giulia Henry. "Explaining the Crisis of the European Migration and Asylum Regime." *The International Spectator* 51, no. 1 (2016): 52–53.

Pelgrom, Siem. Scrutinizing European decision-making regarding the Temporary EU Relocation System, Testing neo-functionalism, liberal intergovernmentalism and post-functionalism. Erasmus University, Rotterdam, 2017.

Peters, Linda, Peter-Jan Engelen, and Danny Cassimon. 2023. "Explaining refugee flows, Understanding the 2015 European refugee crisis through a real options lens." Plos One 18 (4).

PEW Research Center, Immigration & Migration, Immigration Issues, Refugees & Asylum Seekers. Accessed March 2025. https://www.pewresearch.org/global/2016/08/02/3-europes-asylum-seeker-flows-uneven-dispersion-across-europe/

Presidency of Migration Management. n.d. "Statistics, Temporary Protection." https://www.goc.gov.tr/gecici-koruma5638. Accessed December 3, 2024.

Phuong, Catherine. n.d. Identifying States' Responsibilitie towards Refugees and Asylum Seekers.

Protection of Asylum-Seekers in Situations of Large-Scale Influx No. 22 (XXXII) – 21 October 1981, Executive Committee 32nd session. Conclusion, UNHCR, 1981.

Rygiel, Kim, Feyzi Baban, and Suzan Ilcan. "The Syrian Refugee Crisis: The EU-Türkiye 'deal' and temporary prtection." *Global Social Policy, Vol. 16(3)*, 2016: 315-320.

Saunders, Paul C. “Theories of European Integration.” *Global Affairs Review*, February 13, 2020. Accessed April 2024. https://wp.nyu.edu/schoolofprofessionalstudies-ga_review/theories-of-european-integration/.

Schimmelfennig, Frank. “European Integration (Theory) in Times of Crisis (Why the Euro Crisis Led to More Integration but the Migrant Crisis Did Not).” *Journal of European Public Policy*, 2018: 1–17.

Scipioni, Marco. "Failing forward in EU migration policy? EU integration after the 2015 asylum and migration crisis." *Journal of European Public Policy, 25:9*, 2018: 1357-1375.

Selm, Joanne van. «Temporary Protection for Ukrainians: Learning the Lessons of the 1990s?» *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy* içinde, yazan Sergio Carrera ve Meltem İneli-Ciğer. Florence, Italy: European University Institute, Migration Policy Centre, 2023.

Skordas, Achilles. «Temporary Protection and European Racism.» *EU Responses to the Large-Scale Refugee Displacement from Ukraine: An Analysis on the Temporary Protection Directive and Its Implications for the Future EU Asylum Policy* içinde, yazan Sergio Carrera ve Meltem İneli-Ciğer. Florence, Italy: European University Institute, Migration Policy Centre, 2023.

Smeets, Sandrino, and Natascha Zaun. "What is intergovernmental about the EU's '(new) intergovernmentalist' turn? Evidence from the Eurozone and asylum crises." *West European Politics, Vol.44, No.4*, 2021: 852-872.

Stevens, Dallal, and Angeliki Dimitriadi. "Crossing the Eastern Mediterranean Sea in Search of Protection." *Journal of Immigrant & Refugee Studies, Vol.17, No.3*, 2019: 261-278.

Study.com. n.d. “Edict of Nantes.” https://study.com/learn/lesson/edict-of-nantes.html. Accessed November 26, 2024.

Talani, Leila Simona. «The 2014/2015 Refugee Crisis in the EU and the Mediterranean Route.» *Journal of Balkan and Near Eastern Studies, 22:3*, 2020: 448-464.

"Tampere European Council, Presidency Conclusions." *European Parliament.* October 15 and 16, European Council, 1999. (accessed February 2024).

Thielemann, Eiko, and Nadine El-Enany. "Common Laws, Diverse Outcomes: Can EU Asylum Initiatives lead to More Effective Refugee Protection?" *European Union Studies Association's 12th Biennial International Conference.* Boston, 2011.

Trauner, Florian. «Asylum Policy: the EU's crises and the looming policy regime failure.» *Journal of European Integration, 38:3*, 2016: 311-325.

Trauner, Florian, and Gabriele Valodskaite. "The EU's Temporary Protection Regime for Ukrainians: Understanding the Legal and Political Background and Its Implications." *CEsifo Forum, Volume 23*, July 4, 2022.

Tsourdi, Evangelia (Lilian). "The Emerging Architecture of EU Asylum Policy, Insights into the Administrative Governance of the Common European Asylum System." In *EU Law in Populist Times, Crises and Prospects*, 191-226. Cambrige University Press, 2020.

Tsourdi, Evangelia (Lilian), and Philippe De Bruycker. *EU Asylum Policy: In Search of Solidarity and Access to Protection.* European University Institute, Robert Schuman Centre for Advanced Studies, Migration Policy Centre, 2015.

Tsourdi, Evangelia (Lilian), and Philippe De Bruycker. "The Evolving EU asylum and migration law." In *Research Handbook on EU Migration and Asylum Law*, 1-55. Edward Elgar Publishing, 2022.

Türközü, Dilek. «Two Sides of the Same Coin.» *Die Friedens-Warte, Vol.92, No.3/4, Berliner Wissenschafts-Verlag Stable*, 2017-2019: 215-237.

UNHCR. *Global Report 2015.* Accessed December 12, 2024. https://reporting.unhcr. org/sites/default/files/GR_2015_Eng.pdf.

UNHCR. n.d. “Global Trends.” https://www.unhcr.org/global-trends. Accessed November 24, 2024.

UNHCR Guidelines on Temporary Protection or Stay Arrangements. Guideline, UNHCR, 2013.

UNHCR. n.d. “Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees.” https://www.unhcr.org/media/handbook-procedures-and-criteria-determining-refugee-status-under-1951-convention-and-1967. Accessed October 2023.

UNHCR. n.d. “ExCom Members and Parties to Conventions.” https://reporting.unhcr.org/excom-members-and-parties-conventions. Accessed November 26, 2024.

UNHCR. 1969. “OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.” http://www.unhcr.org/refworld/docid/3ae6b36018.html.

UNHCR. 1981. “Protection of Asylum-Seekers in Situations of Large-Scale Influx No. 22 (XXXII).” https://www.unhcr.org/publications/protection-asylum-seekers-situations-large-scale-influx. Accessed November 26, 2024.

UNHCR. 1984. “Cartagena Declaration on Refugees.” http://www.unhcr.org/refworld/docid/3ae6b36ec.html.

UNHCR. 2024. “Syria Refugee Crisis Explained.” https://www.unrefugees.org/news/syria-refugee-crisis-explained. Accessed November 26, 2024.

Wagner, Martin. “2015 in Review: How Europe Reacted to the Refugee Crisis.” *ICMPD Blog*, December 21, 2015. Accessed March 2025. https://www.icmpd.org/blog/2015/2015-in-review-how-europe-reacted-to-the-refugee-crisis.

Wiesbrock, Anna. "Sources of Law, Regulatory Processes and Enforcement Mechanisms in EU Migration Policy: The Slow Decline of National Sovereignty." *Maastricht Journal of European and Comparative Law, 20 (3)*, 2013: 423-441.

World Report 2015, Syria. 2015. *Human Rights Watch.* Accessed March 2025. https://www.hrw.org/world-report/2015/country-chapters/syria.

Vaitovich, Viktoryia. "The EU Is Stretching the Limits of the Temporary Protection Directive Beyond 2025, but Is It Enough?" *ECRE*, June 14, 2024. Accessed November 15, 2024. https://ecre.org/op-ed-the-eu-is-stretching-the-limits-of-the-temporary-protection-directive-beyond-2025-but-is-it-enough/.

Visegrad Group. "About the Visegrad Group." Accessed October 2024. https://www.visegradgroup.eu/about.

Yeo, Colin. 2024. *Free Movement* (Updates, commentary, training and advice on immigration and asylum law). June 20. Accessed March 2025. https://freemovement.org.uk/are-refugees-obliged-to-claim-asylum-in-the-first-safe-country-they-reach/.