

Frequently asked questions on going home to Ukraine on a voluntary basis in the context of the Temporary Protection Directive

These FAQs clarify the Commission services' understanding of the Temporary Protection Directive (TPD) and relevant EU law. The views set out in this FAQ are without prejudice to the interpretation by the Union Courts; the primary reference for interpreting the Treaty is always the case-law of the Union Courts.

Under Article 21 of the TPD Member States have an obligation to take the measures necessary to make possible the voluntary return of persons enjoying temporary protection and ensure that the decision of those persons to return is taken **in full knowledge of the facts**. They also may provide for exploratory visits.

As indicated in the FAQ published in August, regarding the consequences for the persons concerned in the case of **voluntary return¹ to Ukraine within the meaning of Article 21** of the TPD while the temporary protection under the Council implementing Decision has not ended, the persons concerned cease to be entitled to temporary protection.

If afterwards, the person decides to come back to the EU, the person would again be entitled to temporary protection. However, the host Member State in which the person concerned was enjoying temporary protection is not obliged to take the person back. Nevertheless, in accordance with Article 21(2) of the TPD, for such time as the temporary protection under the Council implementing Decision 2022/382 has not ended, the Member State where the person had initially enjoyed temporary protection ('the host Member State') shall, based on the circumstances prevailing in the country of origin, **give favourable consideration** to requests for coming back to its territory to enjoy temporary protection.

Bearing in mind that Member States should "take the measures necessary to make possible the voluntary return", it should be avoided to discourage persons from going home.

The below aims at providing safeguards to those who wish to go home (back) to Ukraine (and who might decide or need to come back to the EU afterwards), while limiting wrong use of the provisions.

I. Providing safeguards to those going home (back) to Ukraine

a. Possibility to re-enter the EU for those who went home (back) to Ukraine²

The persons who went home (back) to Ukraine should encounter no problems to re-enter the EU. Their passports or EU residence permits (if still valid) should be sufficient. In addition, the Commission Communication of 4 March 2022 provides guidance concerning the situation of persons who wish to re-enter the Schengen area and who no longer have a residence permit issued under the Temporary Protection Directive. Such guidance, among other things, recommended to Member States to allow such persons to enter on

¹ Different from 'voluntary return' in the context of the Return Directive (Article 3(3)). The Return Directive applies to third country nationals who are illegally staying in the EU and where the person is issued with a return decision. This is not the situation of beneficiaries of temporary protection, as before the end of temporary protection they are legally staying in the EU.

² In any case, it should be recalled that third-country nationals arriving at the borders of the EU Member States seeking international protection must be let in.

'humanitarian grounds' even if they do not fulfil the entry conditions set out in the Schengen Borders Code.

b. Regain access to the benefits corresponding to the rights under the Temporary Protection Directive in a swift and easy manner.

The Commission services consider that Member States can take the following actions to ensure persons who went home (back) to Ukraine regain access to the benefits corresponding to the rights under the Temporary Protection Directive in a swift and easy manner:

1. To **keep the registration in the national registry of the host Member State as 'inactive'** with the purpose of facilitating faster access to benefits³. This would entail that when the person goes home (back) to Ukraine, the benefits would be discontinued. But, if the person comes back to the EU, as his/her profile and data will still be in the system, there will be no need to start the process from scratch.

Provided the person remains in the national registry, it could be possible to keep the registration as 'inactive'⁴ in the Temporary Protection Platform.

2. **To avoid revoking the residence permit** when a person decides to go home (back) to Ukraine, thus only discontinuing the benefits associated to the rights deriving from temporary protection. The advantage of this solution lies with the easing of the process of 're-activation' of benefits should the person need or decide to come back to the EU, as issuance of residence permit has emerged to be one of the most time-consuming and bureaucratic hassles for beneficiaries of temporary protection.
3. To recommend to **banks to keep the bank account open** for those persons who went home (back) to Ukraine on a voluntary basis or in case the persons concerned left behind family members in the host Member State⁵.
4. **For the host Member State, to take back** those persons who were enjoying temporary protection in its territory before leaving for Ukraine when s/he comes back to the EU thus ensuring the person can enjoy temporary protection in its territory, in line with the Commission services FAQ document published in August⁶. This solution would also fit the needs of those who went home but still have links with the host Member States, for example because they left children or family members there.

II. Limiting wrong use

The Commission services consider that Member States can take the following actions to limit wrong use of rights when persons go home (back) to Ukraine:

³ It is for Member States to assess what personal data they can store in their national databases and for how long, fully respecting the General Data Protection Regulation (GDPR). If data is kept in the national registry it has to be with a clear purpose defined at their level i.e., keeping the inactive profile would serve the purpose of ensuring that the person could regain access to the benefits and continue to enjoy temporary protection should s/he come back to the EU quicker than if the profile was not kept.

⁴ This is already the case when one person moves from one Member State to another.

⁵ On the basis of Article 19 of the Payment Accounts Directive (PAD), banks may close a basic bank account if the consumer is no longer legally resident in the Union. Banks would therefore not be obliged to keep open basic bank accounts in case the person concerned is no longer a legal resident in the EU territory but they could opt to do so.

⁶ [Frequently asked questions received on the interpretation of the Temporary Protection Directive and Council Implementing Decision 2022-382_en.pdf \(europa.eu\)](#)

- To set up a **specific procedure allowing those who intend to go home (back to Ukraine) to notify about their movements.**
- To require the persons who intend to go home to Ukraine to **notify the authorities of the host Member State about their absence from the host Member State.** Provided that such a notification system is in place and that the Member State has properly communicated the consequences of not notifying the authorities about leaving the territory of the host Member State to reestablish residence in Ukraine, if the person has not communicated his/her possible absence or s/he does not present him/herself to one of the regular reports, it could be reasonable for the Member State to assume that the person has gone home (back) to Ukraine and take the necessary follow-up measures (e.g., apply the legal framework, thus de-registration, revocation of the residence permit, possible closing of the bank account). This would mean that should the person decide to come back into the EU, the process will have to restart from scratch, and the original host Member State would not be obliged as such to take the person concerned back (the person concerned could still enjoy again temporary protection in another Member State).
- To **refrain from adopting measures that could discourage people from going back home.** For example, by setting unreasonable periods of absence or unreasonable reporting obligations that could lead to an automatic discontinuation of benefits.

III. Information provisions

According to Article 21(1) of the Temporary Protection Directive, Member State shall ensure that the decision of those persons to return is taken in full knowledge of the facts. In this regard, the Commission services remind Member States to clearly communicate to the persons concerned the following aspects:

- the current (security) situation in Ukraine so they are aware of what to expect;
- the procedure to notify their whereabouts and the consequences of not notifying to the authorities;
- the abovementioned safeguards (under point I) in place in case the person wishes to go home to Ukraine.

IV. Financial support

Costs related to voluntary return programmes set by Member States can be covered by the Member State's Asylum, Migration and Integration Fund (AMIF) national programmes, under Specific Objective 1⁷. Support should be prioritised to those most in need and any pre-condition should be proof that a person is not able to finance it with her/his own means. Any funding should also be linked to the obligation to have informed the host Member State, prior to going home for a longer period, of this decision, allowing the Member State to include this information in its national registration database(s).

⁷ Support for these activities under AMIF SO 1 comes from the obligation under Article 21(1) of the Temporary Protection Directive, read in conjunction with Recital (22) of the Council Implementing Decision 2022/382. Beneficiaries of temporary protection who decide to go home (back) to Ukraine on a voluntary basis within the meaning of Article 21 of TPD are not considered returnees in the sense of referring to illegally staying third country nationals (which would fall under SO3).