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## Features of exercising the right to education for persons granted temporary protection in European Union member states

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■ **Abstract.** The Council of the European Union, by an implementing decision on March 4, 2022, put into effect Directive No. 2001/55/EU of July 20, 2001, on minimum standards for the provision of temporary protection in the event of a mass influx of displaced persons and measures promoting the balancing of efforts between member states to receive such persons and solving the consequences thereof. The problems of exercising the right to education as a natural human right by persons granted temporary protection in the European Union are urgent. In view of the above, the purpose of the study was to address the unique aspects of exercising of the right to education by persons who were granted temporary protection in the member states of the European Union. The methodological basis of the research is the dialectical method and methods of analysis, synthesis, comparison, modelling, system and functional approach, statistical, and formal legal. The paper defines that access to education for persons granted temporary protection in the European Union is provided for by Council Directive No. 2001/55/EU, according to which the member states of the European Union provide full access to the education system for all minors who were granted temporary protection status, on an equal basis with their citizens. It is noted that member states of the European Union may provide for restrictions on such access by the state education system. The specifics of the exercise of the right to education by these persons are also consolidated in the national legislation of EU member states. It was found that these states can provide for restrictions on access to the state education system. They also carry out procedures for recognising foreign diplomas, certificates, and other documents confirming the official qualifications of persons granted temporary protection. The practical value of the results obtained lies in the fact that they can be used to improve the legislation regulating the grounds and procedure for obtaining temporary protection for persons forcibly displaced from Ukraine in EU member states, and the specifics of exercising the rights and obligations by persons with temporary protection

■ **Keywords:** refugees; European asylum system; human rights; migration; training; martial law; legal status

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## ■ Introduction

For the first time, the international community faced the problems of forced migration in the early 20<sup>th</sup> century, which were the consequences of the First World War, the collapse of the Ottoman Empire, and the revolutionary events on the territory of the Russian Empire. This problem became even more acute after the Second World War. As a result, the international legal institution of forced migration was created to address this issue, including the concept, principles, mechanism of international legal regulation, rights and obligations, grounds for recognition, etc. In the 21<sup>st</sup> century, forced migration has acquired a new scale, which is associated with various international armed conflicts and military operations in Syria, Afghanistan, Iraq, Pakistan, and other states. The full-scale invasion of Russian troops on the territory of Ukraine has led to the emergence of a large number of forcibly displaced persons in European countries (The number of..., 2023). In order to adapt them in a short time in the states of the European Union (EU) a temporary protection mechanism was introduced under which forcibly displaced persons from Ukraine received a number of rights, in particular, the right to reside, work, education, medical care, social protection, etc.

Certain aspects of the legal status of refugees and persons in need of protection were highlighted by V. Bosyi (2021), O. Melnichuk (2016) and Ya.P. Turetska (2019). These studies considered the problems of forced migration and the exercising of rights by refugees and persons who have received international protection, which are relevant until 2022. L.V. Zabolotna & D.V. Barchuk (2022) analysed the legal regulation of the introduction of martial law in Ukraine and the resulting problems it in the field of education. A. Osler (2020), analysing changes in migration patterns in Europe, revealed their impact on education and the growing number of migrants and refugees seeking asylum in Europe as a result of regional conflicts and global inequality. The researcher examined the European standards and policy framework for education and migration, and the specifics of their implementation in policy and practice at the national and subnational levels. He identified contradictions between the establishment of European standards in the field of human rights and democracy and the responsibilities of national governments in the field of migration and education, including education for citizenship.

M. Dei *et al.* (2019) examined universal and regional instruments for the protection of refugees' right

to education and analysed obstacles to exercising refugees' right to education, in particular, such as language barriers, lack of documents, lack of qualified teachers, lack of classes, child labour, young marriages, parents' unwillingness to educate their children, etc., and suggested ways to improve its practical implementation. Z. Erdoğan (2023) analysed the problems of refugees' access to higher education during the Syrian crisis, which have not lost their relevance in relation to the Ukrainian crisis. The authors of this study agree with the researcher's opinion on the need to support countries and donors to ensure equal opportunities for refugees to access higher education.

The purpose of the study was to analyse the specifics of exercising the right to education by persons granted temporary protection in EU member states. In the process of preparing the paper, the following tasks were identified:

1. Analysis of the state of affairs in the field of education for persons in the status of temporary protection in EU member states: problems and achievements.
2. Legal aspect: comparison of the legal framework and legal protection of educational rights for persons granted temporary protection in different countries of the European Union.
3. Socio-cultural challenges and adaptation: the impact of cultural and social factors on educational opportunities for persons with temporary protection status.

## ■ Materials and Methods

The methodological basis of this study was a system of scientific methods for understanding legal processes, including the dialectical method, which allowed analysing the mechanism for obtaining temporary protection for displaced persons. The hermeneutic method was used to interpret legal acts and decisions of the European Court of Human Rights (ECHR) and statements of representatives of EU bodies and public authorities of individual EU member states regarding the full-scale invasion and support of the people of Ukraine, and the specifics of providing temporary protection to displaced persons from Ukraine. With the help of an axiological approach, legislative initiatives of EU institutions and individual EU member states to improve legislation regulating the criteria and procedure for granting temporary protection to persons displaced from Ukraine to EU countries were analysed.

The principle of scientific objectivity allowed considering the whole set of factors affecting the implementation of Council Directive No. 2001/55/EU<sup>1</sup>,

<sup>1</sup>Council Directive No. 2001/55/EU "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 the Member States in Receiving Such Persons and Bearing the Consequences Thereof". (2001, July). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32001L0055>.

and is impossible without moving from the abstract to the concrete, from the simple to the complex. The use of induction and deduction helped identify and systematise the rights and obligations of persons granted temporary protection in the EU, in the field of education, and analyse the forms of their implementation. Using the statistical method, the number of displaced persons from Ukraine as a whole to European countries, as well as to each EU country separately, was analysed. The structural and functional method was implemented by determining the legal status of persons granted temporary protection in the EU. This method was used to analyse the system of rights and obligations of displaced persons from Ukraine in the field of education, and the characteristics of their implementation in certain EU countries. This approach was used to establish differences in the organisation of the procedure for obtaining temporary protection and exercising the right to education of persons with temporary protection in individual EU member states.

The comparative legal method revealed common and distinctive features of the legislation regulating the procedure for obtaining temporary protection in the EU. The comparative legal method was used to analyse laws and regulations on cooperation between Ukraine and EU member states regarding the legal status of persons from Ukraine who were granted temporary protection in the EU, for example, in the field of education. The use of this method was necessary when comparing the features of exercising the right to education of persons forcibly displaced from Ukraine to the EU. The use of the formal legal method contributed to the systematisation and periodisation of scientific views on the legal nature of the concept of “temporary protection” and the study of the legal regulation of the right to education by persons granted temporary protection in the EU. A special place was given to the axiological approach, which provided valuable ideas about the criteria and conditions for temporary protection of displaced persons from Ukraine to the EU and the specifics of exercising the right to education.

Thus, the use of general, special and separate scientific methods allowed characterising the specifics of exercising the right to education by persons granted temporary protection in EU member states.

## ■ Results

EU Council Implementing Decision 2022/382 of 04 March 2022<sup>1</sup> enacted Council Directive<sup>2</sup> No. 2001/55/EU for the first time, which was the response of EU member states to the military aggression against Ukraine and the solution of the problems of the influx of forcibly displaced persons from Ukraine and the implementation of the temporary protection procedure. Temporary protection is a special form of international protection used as a result of the massive influx of displaced persons and should provide immediate and collective protection, that is, without the need to consider individual applications, for displaced persons who are unable to return to their country of origin. The Council Directive No. 2001/55/EU<sup>3</sup> is of a recommendatory nature for EU member states, except Denmark. In turn, in compliance with the provisions of this Directive, Iceland, Norway, and Switzerland have introduced similar provisions in their national legislation. As a result, each EU member state has established the duration and conditions for granting temporary protection in its national legislation pursuant to Council Directive No. 2001/55/EU<sup>4</sup>.

The right to education as one of the natural human rights is consolidated in international regulations, in particular, the Universal Declaration of Human Rights, adopted by the UN General Assembly resolution of December 10, 1948<sup>5</sup>; The International Covenant on Economic, Social and Cultural Rights, adopted by the UN General Assembly on December 16, 1966<sup>6</sup>; The Convention on the Rights of the Child, adopted by the UN General Assembly Resolution of November 20, 1989<sup>7</sup>; The World Declaration on Higher Education for the XXI Century, adopted by UNESCO in 1988<sup>8</sup>; Recommendation on science and

<sup>1</sup>Council Implementing Decision (EU) No. 2022/382 “On Establishing the Existence of a Mass Influx of Displaced Persons from Ukraine Within the Meaning of Article 5 of Directive 2001/55/EU, and Having the Effect of Introducing Temporary Protection”. (2022, March). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022D0382&from=EN>.

<sup>2</sup>Council Directive No. 2001/55/EU “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 the Member States in Receiving Such Persons and Bearing the Consequences Thereof”. (2001, July). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32001L0055>.

<sup>3</sup>Ibidem, 2001.

<sup>4</sup>Ibidem, 2001.

<sup>5</sup>Resolution of UN General Assembly No. 217 A(III) “On Universal Declaration of Human Rights”. (1948, December). Retrieved from [https://zakon.rada.gov.ua/laws/show/995\\_015#Text](https://zakon.rada.gov.ua/laws/show/995_015#Text).

<sup>6</sup>Resolution of UN General Assembly No. 2200 A(XXI) “On International Covenant on Economic, Social and Cultural Rights”. (1966, December). Retrieved from <https://www.ohchr.org/sites/default/files/cesr.pdf>.

<sup>7</sup>Resolution of UN General Assembly No. 44/25 “On Convention on the Rights of the Child”. (1989, November). Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

<sup>8</sup>World Declaration No. ED/2005/ME/H/1 “On Higher Education for the XXI Century: Vision and Action”. (1998, October). Retrieved from <https://www.ohchr.org/en/resources/educators/human-rights-education-training/16-world-declaration-higher-education-twenty-first-century-vision-and-action-1998>.

scientific researchers (1974); Convention Against Discrimination in Education, 1960<sup>1</sup>; etc.

The 1948 Universal Declaration of Human Rights provides for the right of everyone to education<sup>2</sup>. Article 13 of the International Covenant on Economic, Social and Cultural Rights of 1966 stipulates that “Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace”<sup>3</sup>. Protocol No. 1 to the European Convention on Human Rights<sup>4</sup> singles out the right to education as the only social right for which legal protection is created and confirms its extremely important place and role in the system of modern democratic values. Considering the above factor, it was determined that no one can be denied the right to education. Since human rights belong to every individual without exception, it should be remembered that the enjoyment of human rights precludes any discrimination. Thus, according to the provisions of the Convention against Discrimination in Education, adopted on 14 December 1960 by the United Nations General Conference on Education, Science and Culture at its 11th session, the concept of “discrimination” encompasses “includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education”<sup>5</sup>.

In pursuance of the provisions of the above-mentioned international instruments on the right to education, the EU member states have adopted similar articles in Council Directive No. 2001/55/EU<sup>6</sup>. Access to education is regulated by Article 14 of this Directive, according to which the member states of the European Union provide full access to the education system for all minors who have acquired temporary protection status, on equal grounds with their citizens. EU member states may provide for restrictions on such access by the state education system.

In addition, Part 2 of Article 14 of this Directive provides that EU member states can grant adults who enjoy temporary protection access to the general education system<sup>7</sup>. These states also carry out procedures for recognising foreign diplomats, certificates, and other documents confirming the official qualifications of persons granted temporary protection.

Despite the interstate regulation of these issues, each state that is a member of the European Union independently determines the specifics of obtaining education by persons who were granted temporary protection. For example, in the Republic of Poland (RP), which has hosted the largest number of forcibly displaced persons from Ukraine, children who were granted temporary protection receive the right to free education at the primary school and gymnasium levels. Children between the ages of 7 and the end of high school, but not older than 18, must receive an education. For example, as of February 14, 2023, according to the system of educational information (SIO), there were 43.8 thousand children from Ukraine in pre-school education institutions of the RP who arrived after February 24, 2022, 116.8 thousand in secondary education institutions, 27.2 thousand in lyceums, technical and vocational schools, as well as 1 792 teachers from Ukraine, of which 1 120 arrived in the RP after February 24, 2022 (Summary of the..., 2023).

In the RP, there are two learning models to choose from, in particular: a) a model for including students from Ukraine in the Polish education system; b) a model for continuing distance learning in Ukraine if possible. Therefore, parents or guardians decide which form of education to choose (Yablonska-Bonsa, 2022). If the first model of education was chosen for children who received temporary protection in the RP, the position of “teacher’s assistant” was created in the Polish school system to facilitate the adaptation of schoolchildren from Ukraine. It is usually occupied by teachers from Ukraine who were granted temporary protection and know the Polish language at a sufficient level for communication and can help students who have little or no knowledge of Polish. In the second case, children who were granted temporary protection in the RP and do not want to study

<sup>1</sup>Convention of United Nations General Conference on Education, Science and Culture No. 995\_174 “On Recommendation Against Discrimination in Education”. (1960, December). Retrieved from [https://zakon.rada.gov.ua/laws/show/995\\_174#Text](https://zakon.rada.gov.ua/laws/show/995_174#Text).

<sup>2</sup>Resolution of UN General Assembly No. 217 A(III) “On Universal Declaration of Human Rights”. (1948, December). Retrieved from [https://zakon.rada.gov.ua/laws/show/995\\_015#Text](https://zakon.rada.gov.ua/laws/show/995_015#Text).

<sup>3</sup>Resolution of UN General Assembly No. 2200 A(XXI) “On International Covenant on Economic, Social and Cultural Rights”. (1966, December). Retrieved from <https://www.ohchr.org/sites/default/files/cescr.pdf>.

<sup>4</sup>Law of Ukraine No. 3436-IV “On the Ratification of the Convention on the Protection of Human Rights and Fundamental Freedoms of 1950, the First Protocol and Protocols No. 2, 4, 7 and 11 to the Convention”. (2006, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/475/97-%D0%B2%D1%80#Text>.

<sup>5</sup>Convention of United Nations General Conference on Education, Science and Culture No. 995\_174 “On Recommendation Against Discrimination in Education”. (1960, December). Retrieved from [https://zakon.rada.gov.ua/laws/show/995\\_174#Text](https://zakon.rada.gov.ua/laws/show/995_174#Text).

<sup>6</sup>Council Directive No. 2001/55/EU “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 the Member States in Receiving Such Persons and Bearing the Consequences Thereof”. (2001, July). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32001L0055>.

<sup>7</sup>Ibidem, 2001.



in Polish educational institutions have the right to continue their studies in Ukrainian educational institutions using distance learning technologies. One of the parents or persons who replace them are required to submit a declaration to the municipal property authority of the RP stating that the child continues to study in Ukraine<sup>1</sup>.

Both models have their own advantages and disadvantages. In particular, some Ukrainian children joined the educational institutions of the RP in the middle of the school year; significant differences in the curricula between the RP and Ukraine; the language barrier faced by Ukrainian children; it is psychologically difficult for children to accept the new reality, survive the horrors of war and perceive the new environment. Another problem in the field of education of persons granted temporary protection in the RP is related to the continuation of education by students of grades 8, 9, and 11 of Ukrainian educational institutions. On March 21, 2022, the Law of Poland "On the Organisation of Education, Upbringing and Care of Children and Youth Who are Citizens of Ukraine" was adopted<sup>2</sup>, which amended the Law of Poland "On Education" of December 14, 2016<sup>3</sup>, and the conditions for passing exams in the 8th grade and the final school examination for students from Ukraine have been regulated (Yablonska-Bonsa, 2022). In addition, language courses are held in educational institutions of the RP, as in other EU states, for children and adults with temporary protection. The above-mentioned problems are also typical for persons who were granted temporary protection in other EU member states.

For example, in Belgium, schooling for persons between the ages of 6 and 18 is compulsory and free, regardless of their status, including those who were granted temporary protection. For persons over the age of 18, regional employment centres organise special trainings and language courses, which are held free of charge. Therefore, minor citizens of Ukraine who come to Belgium are required to register with an educational institution within 60 days. If there are no available places in the school, the administration must provide a certificate of registration to the person accompanying the child. Some educational institutions have a special initiative called "DASPA" aimed at accepting,

educating, and integrating newly arrived children. This programme provides supervision of the child for one week to 12 months (maximum 18 months) to help them adapt and integrate into the Belgian educational system (Check-list of minimum..., 2021).

The Law of France "On Education Orientation"<sup>4</sup> lacks provisions that regulate education for refugees and persons granted temporary protection. At the same time, the legislation provides for compulsory school education for refugees and persons under temporary protection aged from 6 to 16 years. Primary schools accept applications for education through the municipality, and senior schools accept applications directly at the school that is closest to the child's place of residence. If the child speaks French at a sufficient level for learning, the assessment of their knowledge will be supervised by the Information and Advice Centre. If a child does not have sufficient French language skills, they are supervised by the Academic centres for the education of newly arrived allophone children and children from non-sedentary families (CASNAV) (Enroll your children..., 2022). Special French language courses are organised for such children to promote their integration into the language environment.

The learning process for children between the ages of 16 and 18 is more complex, as they are required to be admitted to schools. They can take French language courses organised by charitable foundations, but the situation depends on the municipality where the child resides. In the Republic of Austria, the right to temporary protection is provided for in Article 62 of the Law "On Granting Asylum" of 2005<sup>5</sup> and the Decree of the Federal Government of Austria "On the Temporary Right to Residence of Immigrants from Ukraine" dated March 11, 2022<sup>6</sup>. According to these regulations, minors who arrived in Austria from Ukraine have the right to free education and all the rights that children of the host state have. In turn, all children living in Austria who turn 6 years old on or before September 1 are required to receive general secondary education. In addition, in Austria, school attendance is mandatory until the age of 16, so displaced minors are allowed to study in educational institutions at their place of residence or in another place defined by law.

<sup>1</sup>Law of Poland No. 59 "On Education". (2016, December). Retrieved from <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu20170000059>.

<sup>2</sup>Regulation of the Minister of Education and Science No. 645 "On the Organisation of Education, Upbringing and Care of Children and Youth Who are Citizens of Ukraine". (2022, March). Retrieved from <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20220000645>.

<sup>3</sup>Law of Poland No. 59 "On Education". (2016, December). Retrieved from <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu20170000059>.

<sup>4</sup>Law of France No. 89-486 "On Education Orientation". (1989, July). Retrieved from <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000509314/>.

<sup>5</sup>Law of Austria No. 100/2005 "On Granting Asylum". (2005). Retrieved from <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5c8628c54>.

<sup>6</sup>Law of Austria No. 92 "On the Temporary Right to Residence of Immigrants from Ukraine". (2022, March). Retrieved from <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20011842>.

In the Federal Republic of Germany, Article 24 of the Law “On the Legal Status of Foreign Citizens”<sup>1</sup> defines the conditions and procedure for obtaining temporary protection for displaced persons from Ukraine in connection with the military aggression of the Russian Federation. General German school education is compulsory and free of charge and provides for the full integration of foreign arrivals. At the initial stage, foreign children who do not speak German can be enrolled in the so-called integration classes, where training is focused on mastering the German language by applicants, which further provides for transfer to regular German-language classes. To apply to the school, a minor must be registered with the coordination office in the area where they reside. In addition, preschool-age children have the right to attend preschool institutions if they are vaccinated against COVID-19 and if there are vacancies.

In summary, in order to promote faster adaptation of Ukrainian children to education in schools of the European Union member states, a practical guide with pictograms was developed. This manual is aimed at overcoming language barriers and the first difficulties in communication (English-Ukrainian pictograms..., 2022). In addition, EU member states are developing various measures to facilitate the adaptation and integration of minors in forced displacement into the European education system. The problems of forced migration have always attracted public attention, and therefore, require their own scientific substantiation and recognition. They became particularly relevant in 2022-2023, when millions of residents of Ukraine were forced to leave the country to escape the hostilities. In these circumstances, EU Council Implementing Decision 2022/382 of 04 March 2022 enacted Council Directive No. 2001/55/EU, which consolidates the rights of persons granted temporary protection in EU countries, including the right to education<sup>2</sup>. The authors of this study share the views of H.M.-E. Khen (2023) on the establishment of a trust fund to compensate states affected by armed conflict and use it to restore the right to education. It is also necessary to develop a joint system of measures with EU member states to return to Ukraine persons who have received education in EU countries after the end of hostilities in order to restore and develop the state. Some aspects of the legal situation of refugees and persons in need of protection are considered in the following studies.

H.M.-E. Khen (2023) draws attention to the problems of protecting the rights of children during

armed conflicts, and the specifics of exercising their right to education. Analysing empirical data on violations of the right to education, the researcher offers recommendations for improving the activities of the international community in the field of education and proposes a mechanism for creating a trust fund to compensate states affected by armed conflict, and its use to restore the right to education. The studies by T. Blashchuk & H. Myronova (2022), P. Jurs & I. Neimane (2020) are devoted to the problems of exercising the right to education. Some aspects of access to education by refugees and persons granted protection in EU countries are revealed in studies by foreign researchers that analyse obstacles to education for refugee and migrant children (Yeo & Yoo, 2022; Van Esveld, 2023). The specifics of exercising the right to education as one of the fundamental human rights provided for by international acts are considered by K. Willems & J. Vernimmen (2018), A.N. Esteban (2020).

J. Zajda & S. Ozdowski (2017), analysing the causes of migration, examine the problems of the right to education of school-age children of refugees and asylum seekers from African countries living in Israel and suggest ways to improve it. O. Sosnina *et al.* (2021) examine international aspects of protecting the rights of victims of the armed conflict in eastern Ukraine. M.À. Essomba (2017) reveals certain aspects of the exercising of the right to education for children and youth from refugee families in Europe. The researcher notes that the actual exercising of the right to education for asylum seekers and refugees is the result of a complex combination of factors related to the asylum process: demographic, psychological, economic, legal, and sociological. As of 2023, researchers are just beginning to consider the features and mechanism of implementation of the EU Council Directive No. 2001/55/EU on minimum standards for providing temporary protection in cases of mass influx of displaced persons and on measures to maintain a balance in the efforts of member states in connection with the reception and consequences of such reception of July 20, 2001<sup>3</sup>. A. Pokrasen *et al.* (2022) analyse the problems of legal regulation of temporary protection in the European Union countries. Also noteworthy are the studies by M. Hrushko & K. Dymova (2022), Y. Yablonska-Bonsa (2022) and O. Malynovska (2022). EU Council Directive No. 2001/55/EU provides for full access to the education system for all minors who have been granted temporary protection status on an equal basis with EU citizens. The right to

<sup>1</sup>Law of the Federal Republic of Germany No. 24 “On the Legal Status of Foreign Citizens” (2022). Retrieved from <https://kiew.diplo.de/ua-de/service/05-VisaEinreise/faq-finanzen---66-68aufenthg/1289754>.

<sup>2</sup>Council Directive No. 2001/55/EU “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 the Member States in Receiving Such Persons and Bearing the Consequences Thereof”. (2001, July). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32001L0055>.

<sup>3</sup>Ibidem, 2001.

education as one of the constitutional human rights and its comparative legal analysis in foreign countries have been studied by O. Melnychuk & M. Melnychuk (2019) and O. Pyzhov (2023).

The above approaches are not universal in nature, but they could significantly help in solving such a complex problem on the scale of the Russian-Ukrainian war. Analysing the conducted research on the features of exercising the right to education by persons granted temporary protection in EU member states, it is important to pay attention to several key elements that are of great importance for understanding and analysing this topic.

1. Context of migration and conflict: In order to analyse the effectiveness of the considered approaches, it is necessary to consider the context of the Russian-Ukrainian war. Armed conflict, internally displaced persons and refugees create a unique situation that may differ from other migration situations.

2. International obligations: Evaluation of the effectiveness of approaches should consider the international obligations to which EU member states are bound, including international law on refugee protection and human rights in general.

3. EU directives: It is important to analyse the implementation of specific EU directives, in particular, Council Directive No. 2001/55/EU, which regulates the temporary protection of persons during mass displacement<sup>1</sup>.

4. Legal status and access to education: The study should consider how the legal status of persons who were granted protection affects their educational opportunities in EU member states.

5. Obstacles and challenges: It is important to identify obstacles that people with temporary protection face when trying to access education. This can include language barriers, cultural differences, lack of recognition of documents, etc.

6. Recommendations and improvements: It is important to pay attention to the recommendations proposed in various studies to improve the exercise of the right to education for the target group. These recommendations can be useful for developing policies and programmes.

7. Comparison with practice: It is important to compare the results of the study with the actual practice of implementing education for people with temporary protection in the framework of the Russian-Ukrainian war. This can help determine how well the proposals and recommendations meet real needs.

In general, the study provides a valuable contribution to understanding the problem and possible

ways to improve the implementation of the right to education for persons granted temporary protection in EU member states. However, the successful implementation of these approaches may depend on many factors that should be considered when developing and implementing policies and programmes. As of 2023, there are still many problems in the field of education of persons with temporary protection that need to be addressed and regulated. These include the improvement of the mechanism for recognising educational documents issued in Ukraine in the EU countries. Another problem is the regulation of the mechanism for obtaining education for children with temporary protection simultaneously in Ukraine and EU countries (especially students in grades 9 and 11). The last unresolved issue is improving the implementation of the right to education for preschool and primary school children staying in an EU country with one of their parents, and deepening language integration courses for students.

Summing up the above information, it can be concluded that the study of the problems of forced migration has always aroused considerable public interest and required scientific substantiation and analysis. In a special context for Ukraine, this topic became important in 2022-2023. Although there are already some studies on the exercise of the right to education, most of them relate to other aspects of forced migration. However, as of 2023, many aspects of education for persons with temporary protection still need to be improved, including the recognition of educational documents, improving mechanisms for obtaining education, and the exercise of the rights of preschool and primary school children. To achieve these goals, cooperation and improvement of legislation between Ukraine and the EU member states is necessary.

## ■ Conclusions

The study found that for children granted temporary protection in the Republic of Poland, the opportunity to continue their education is becoming important. This helps them adapt to their new environment and learn the knowledge and skills they need for their future. Support for the inclusion of these children in the Polish education system or the possibility of distance learning in Ukraine becomes the basis for their personal growth and integration into society.

The rights of forcibly displaced persons from Ukraine to temporary protection in the European Union countries, in particular, with regard to education, have become particularly important in the context of the events of 2022-2023. This made it possible not

<sup>1</sup>Council Directive No. 2001/55/EU "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 the Member States in Receiving Such Persons and Bearing the Consequences Thereof". (2001, July). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32001L0055>.

only to avoid the threat but also to ensure the continuity of the educational process for these children, which contributes to preserving the educational potential for the future development of Ukraine. Notably, the exercising of the right to education in the context of forced displacement has certain challenges and limitations. Disparity in curricula, language barriers, and adaptation problems can pose some challenges for children and their families. Integration and training of forcibly displaced persons is becoming an important task both for Ukraine and for countries that provide them with temporary protection. Education systems must be continuously improved to ensure the quality and accessibility of education, regardless of status or background.

Obtaining temporary protection for forcibly displaced persons from Ukraine in the EU countries and related rights is important, as it provides an opportunity to escape from danger and continue their

education, which is important for the post-war reconstruction of Ukraine. Consequently, the right to education is one of the main social categories in the human rights system and cannot be exercised without the participation of the state and without the creation of the necessary conditions by the public authorities. Promising areas for further research can be topical issues of ensuring the right to education and creating the necessary conditions for it; challenges and restrictions associated with the education of forcibly displaced children; the importance of supporting and integrating children with temporary protection into the educational system.

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### ■ Conflict of Interest

None.

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## Особливості реалізації права на освіту особами, які отримали тимчасовий захист у країнах – членах Європейського Союзу

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■ **Анотація.** Рада Європейського Союзу імплементаційним рішенням 4 березня 2022 року ввела в дію Директиву № 2001/55/ЄС від 20 липня 2001 року про мінімальні стандарти для надання тимчасового захисту у випадку масового припливу переміщених осіб і заходи, що сприяють збалансованості зусиль між державами-членами щодо прийому таких осіб та вирішення наслідків цього. Актуальними є проблеми реалізації особами, які отримали тимчасовий захист в Європейському Союзі, права на освіту як природного права людини. З огляду на зазначене, мета статті полягала в розгляді унікальних аспектів здійснення права на освіту особами, які отримали тимчасовий захист у країнах – членах Європейського Союзу. Методологічною основою дослідження є діалектичний метод і методи аналізу, синтезу, порівняння, моделювання, системного та функціонального підходу, статистичний та формально-юридичний. У публікації визначено, що доступ до освіти осіб, які отримали тимчасовий захист у Європейському Союзі, передбачено Директивою Ради Європейського Союзу № 2001/55/ЄС, згідно з якою держави – члени Європейського Союзу надають повний доступ до системи освіти для всіх неповнолітніх осіб, що набули статусу тимчасового захисту, на рівних підставах з їхніми громадянами. Зауважено, що держави – члени Європейського Союзу можуть передбачити обмеження такого доступу державною системою освіти. Особливості реалізації права на освіту зазначеними особами закріплено також у національному законодавстві держав – членів Європейського Союзу. З'ясовано, що ці держави можуть передбачити обмеження доступу до державної системи освіти. Також вони здійснюють процедури визнання іноземних дипломів, сертифікатів та інших документів, що підтверджують офіційну кваліфікацію осіб, які отримали тимчасовий захист. Практична цінність результатів дослідження полягає в тому, що їх може бути використано для вдосконалення законодавства, яке регулює підстави та процедуру отримання вимушено переміщеними особами з України тимчасового захисту в країнах – членах Європейського Союзу, а також особливості реалізації особами з тимчасовим захистом своїх прав й обов'язків

■ **Ключові слова:** біженці; європейська система притулку; права людини; міграція; навчання; воєнний стан; правовий статус