



## Expanding Protection Options?

### Flexible Approaches to Status for Displaced Syrians, Venezuelans, and Ukrainians

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INTERNATIONAL PROGRAM

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## Executive Summary

Since 2011, the global protection system has faced three of the largest international displacement crises in the post-World War II era. The massive and rapid displacement of Syrians, Venezuelans, and Ukrainians presented neighboring countries with an impossible task: providing welcome, legal status, and protection to these vulnerable populations, even though their asylum systems lacked the capacity to handle such a large influx. In response to each of these crises, governments chose to innovate, forgoing the traditional tools of the international protection regime—and crucially, determination of protection needs on a person-by-person basis—in favor of flexible and temporary forms of status.

Receiving-country governments in each case faced similar circumstances. The mass displacement was from neighboring countries with strong cultural and political ties to the receiving society. Entry requirements were few (for example, Syrians and Ukrainians had visa-free entry to Turkey and the European Union, respectively). Additionally, receiving-country governments had political and diplomatic incentives to provide some form of protection because they opposed the causes of displacement: Syria's Bashar al-Assad, Venezuela's Maduro regime, and Russia's invasion of Ukraine. Finally, in each case, the domestic asylum or refugee system was strained beyond capacity, or in the case of Turkey, did not exist for the purposes of the affected population.

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*The massive and rapid displacement of Syrians, Venezuelans, and Ukrainians presented neighboring countries with an impossible task: providing welcome, legal status, and protection to these vulnerable populations, even though their asylum systems lacked the capacity to handle such a large influx.*

Given these circumstances, receiving countries needed legal solutions that were relatively easy to implement and could accommodate large numbers of people—even those who might not meet the relevant legal definition of refugees—without overstraining their protection systems and social services. Thus, governments adopted policies that granted temporary legal status to displaced individuals on a prima facie basis (a grant of legal status based on being part of a protected group) rather than using an individual asylum determination. These policies quickly granted beneficiaries many of the same rights as refugee status: the rights to reside and work in the country and access to education, health care, and social support.

This approach almost always proved politically and practically easier to implement in an expedited way with large-scale displaced populations. The policies' temporary nature eased domestic concerns about large-scale permanent settlement and signaled internationally an expectation that the supported side of the conflict (the opposition) would prevail. Meanwhile, by avoiding individual status determination, these systems allowed swifter access to legal rights and socioeconomic benefits. Finally, each approach had a relatively open-ended timeframe, allowing them to account for subsequent rounds of displacement as the situation in the country of origin worsened.

But the temporariness of these approaches has left beneficiaries in a relatively precarious situation, without the long-term certainty that comes from a more permanent status. The ad hoc nature of many of

these strategies has often made them reversible or produced renewal timelines too short for longer-term planning. And without sufficient statutory grounding or guarantees, protection statuses are subject to the will of changing political leadership. Moreover, as displacement crises have stretched on, the domestic political benefits of providing this protection may wear off as public support for displaced populations wanes. Governments have responded by imposing restrictions and limitations on the rights and benefits provided to displaced individuals, and in some cases discontinued this status altogether.

Given these benefits and limitations, flexible approaches to providing protection are ultimately best used in narrowly proscribed sets of circumstances: when the number or speed of arrivals will likely overwhelm local asylum systems or when individuals in need definitionally fall outside existing protection frameworks. But such policy tools cannot replace refugee status, both legally and operationally. When temporary protection measures are used, it is crucial to design and implement them carefully to mitigate risks. Important steps include:

- ▶ **Maintaining access to territory.** In each case, the success of temporary protection was aided significantly by displaced persons' easy access to the receiving country, often through visa-free agreements. As the duration of each crisis grew, the continued access to territory and the ability to register for protection on an open-ended or multiple-round basis ensured that protection would still be available as the number of people fleeing increased. However, later restrictions on accessing these programs—such as Turkey's border closures and Peru's stringent entry requirements—caused more uncertainty and potentially increased the number of people entering receiving countries without authorization.
- ▶ **Including explicit protections from *refoulement*.**<sup>1</sup> A fundamental component of protection, the right to nonrefoulement should be explicitly included in the authorization of a temporary protection program, as in Turkey and the European Union. However, such safeguards are insufficient if governments can arbitrarily deny or take away access to temporary protection. Creating avenues for legal appeal in cases where temporary protection is rescinded or denied would allow displaced individuals to seek recourse to prevent being returned to a country where they could face harm.
- ▶ **Providing the framework for local integration from the beginning.** While it is difficult to predict the trajectory of any crisis, it is likely that many displaced individuals and families will stay in their country of refuge for much longer than they or the host government initially anticipate. Thus, when early measures to provide access to schools, employment, and safe housing are built on the assumption of a short stay, they often become insufficient as time goes on. States can preemptively address these local integration challenges, as well as compassion fatigue within the host community, by investing immediately in the infrastructure of longer-term local integration of protection beneficiaries, even if their legal status is ostensibly temporary.
- ▶ **Building opportunities for displaced individuals to transition to long-term status.** Creating pathways to longer-term status for protection beneficiaries who have been displaced for a certain number of years can reduce the risk of precarity for those who might otherwise lose their legal status. It also enables a transition away from government support and can alleviate some of the

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<sup>1</sup> Refoulement is the forcible return of refugees or asylum seekers to a country where they may face persecution.

political tension that might arise when a “temporary” population remains throughout a protracted displacement. While politically difficult, building these opportunities into the design of temporary protection measures from the start can help governments lower the political stakes of granting long-term status later on, as the decision to offer status and the conditions under which it is available will have already been determined.

- ▶ **Embedding temporary protection decisions within regional approaches.** Of the three cases, only the European Union implemented a regional response that shared responsibility among Member States and helped alleviate pressure on frontline states. By contrast, Latin American countries did not take a coordinated approach to providing protection to Venezuelans, meaning that a country considering providing more generous protection ran the risk of creating a pull factor for more arrivals and thus taking on more responsibilities. Making decisions regionally and considering the various pressures on different governments can help mitigate the risk of unequal strain on protection systems and host societies.

Beyond addressing the risks associated with temporary protection approaches, the lessons from these cases can apply to refugee and asylum systems more broadly. In particular, governments should critically examine the usefulness of group determinations versus individual status determinations to streamline asylum systems, provide swifter access to status, and prevent the buildup of extensive backlogs. By innovatively repurposing existing tools and devising new strategies to overcome the challenges facing asylum systems, governments can expand protection opportunities in ways that benefit both protection seekers and host societies.

## 1 Introduction

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Governments globally have since 2011 been grappling with a series of cascading displacement crises that have stretched asylum systems to their limits. Crises from Syria to Venezuela, Myanmar to Afghanistan, and South Sudan to Ukraine have forced large numbers of people across international borders, creating a need to rapidly provide those fleeing conflict with legal status, protection from refoulement, and access to basic rights such as education, health care, and employment. While a person’s need for international protection is typically assessed through asylum procedures and granted via refugee status, these systems have increasingly struggled to keep pace with the demands created by mass displacement crises. At the same time, many governments are reluctant to provide recognition of refugee status (which carries long-term responsibilities) on a prima facie basis, concerned that it might encourage additional arrivals.

Instead, countries have increasingly begun to use alternatives to traditional protection tools, often offering temporary forms of status that do not rely on adjudication of individual asylum claims. While these innovations are not completely new, they have gained prominence through some national responses to three of the largest displacement crises of the post-World War II era (from Syria,

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Venezuela, and Ukraine). The principal host governments in these three crises—Turkey, various South American countries, and the European Union—chose as a matter of policy to provide legal status to millions of protection seekers by using existing immigration policies or new temporary statuses, rather than refugee or asylum systems.

These three cases offer important lessons for future responses to displacement crises. Compared to processes for granting refugee status, temporary protection measures have unquestionable advantages in speed and coverage, and they are often more politically palatable for governments trying to open their doors to displaced individuals. But the lack of guarantees regarding nonrefoulement and the measures' explicit temporariness leave unanswered questions about the long-term future of displaced populations. Understanding how to maximize the benefits of these measures while mitigating the challenges (including how to move from an initial, temporary response to one that accounts for the likely protracted nature of displacement) is critical to ensuring that these systems protect those in need and do not overwhelm host communities.

This report examines each of these cases, analyzing the symmetry in the approaches governments took to offering protection while recognizing the profound differences among the cases. By exploring the determinants underpinning government decisions, the specific contours of the protection responses, and the medium- to long-term implications, this study seeks to understand two sets of questions. First, why did governments choose solutions based on their immigration policy frameworks rather than their refugee and asylum policy frameworks? And second, how well did these approaches fulfill the normative and practical requirements for providing protection to the displaced populations? The report concludes with thoughts on what can be learned for future international displacement crises.

## BOX 1

### The Refugee Definition and Status Determination

In each of the three cases examined in this report, host governments largely chose not to confer refugee status upon the displaced populations. At its core, the 1951 Refugee Convention definition of a refugee applies to individuals outside of their country of origin who have a well-founded fear of personal persecution because of a number of protected characteristics (specifically race, religion, nationality, membership in a particular social group, or political opinion). This definition has been expanded through different regional instruments, including the Cartagena Declaration on Refugees (see Box 3), to incorporate a greater diversity of drivers of displacement. Still, certain reasons for movement, including economic ones, are generally not considered grounds for protection.

Because the refugee definition explicitly applies to individuals, the process of determining whether someone qualifies for refugee status typically involves an individual assessment of their case. However, in many situations, governments can also choose to confer refugee status on a *prima facie* basis, meaning that because of generalized circumstances (such as displacement resulting from a specific conflict), all persons with that characteristic are assumed to be refugees. This negates the need for individual status determinations and can allow for swifter access to protection.

Sources: United Nations General Assembly, "[Convention Relating to the Status of Refugees](#)," July 28, 1951; United Nations High Commissioner for Refugees (UNHCR), "[Guidelines on International Protection No. 11: Prima Facie Recognition of Refugee Status](#)" (guideline, June 5, 2015).

## 2 Displaced Syrians in Turkey

Syrians have been displaced for more than a decade, beginning with the onset of the civil war in 2011 and with little end in sight. The vast majority are located in Syria's four neighboring countries—Turkey, Lebanon, Jordan, and Iraq—and were largely welcomed under a variety of nonrefugee statuses.<sup>2</sup> Of these four countries, only Turkey is party to the 1951 Refugee Convention. However, it geographically restricts refugee status to persons displaced by events in Europe, and at the start of the Syrian civil war, it did not have a domestic legal framework to provide any formal status to forcibly displaced persons from outside of Europe.<sup>3</sup> As such, when Syrians arrived in Turkey under an existing visa-free regime, they did not have access to a specific protected status and instead were considered “guests.”<sup>4</sup>

The Turkish government's initial response was primarily humanitarian, meaning it invested in encampments where Syrians had access to shelter, food support, education, and health care.<sup>5</sup> Government officials explicitly stated that Syrians would not be refouled, but they also rejected the prospect of permanent settlement for Syrians.<sup>6</sup> Initially, this approach caused little controversy because the perception among the majority of both Syrians and their hosts was that the displacement would be temporary.<sup>7</sup>

*Government officials explicitly stated that Syrians would not be refouled, but they also rejected the prospect of permanent settlement for Syrians.*

As Turkey deployed this humanitarian approach, it was simultaneously finalizing legislation to overhaul its asylum system. Developed as part of its ongoing accession negotiations with the European Union,<sup>8</sup> the 2013 Law on Foreigners and International Protection (LFIP) established four distinct protection categories that codified Turkey's approach of extending nonrefugee status to most displaced populations: refugee (available only to refugees from Europe), conditional refugee (for non-European refugees), temporary protection, and subsidiary protection (for those neither refugees nor eligible for temporary protection).<sup>9</sup>

2 For example, in Lebanon, Syrians were allowed to enter under an existing visa-free regime. In Jordan, they were treated as “guests,” supported by the United Nations High Commissioner for Refugees (UNHCR), which had an existing operational relationship with the Jordanian government.

3 Turkey is party to the 1951 Refugee Convention and the 1967 Protocol. However, it maintains the geographical limitation such that it considers refugees to be only those from Europe. When Syrians began arriving in 2011, Turkey's most recent domestic framework for protection was its 2006 Asylum Regulation.

4 Turkey had previously framed other populations as guests, such as Iraqis (1988), Bosnians (1992), and Chechens (1999). See Lamis Abdelaaty, “Refugees and Guesthood in Turkey,” *Journal of Refugee Studies* 34, no. 3 (2021): 2827–48.

5 Laura Batalla and Juliette Tolay, *Toward Long-Term Solidarity with Syrian Refugees? Turkey's Policy Response and Challenges* (Washington, DC: Atlantic Council, 2018).

6 Standing Committee for Economic and Commercial Cooperation of the Organization of the Islamic Cooperation (COMCEC), *Forced Migration in the OIC Member Countries: Policy Framework Adopted by Host Countries* (Ankara: COMCEC, 2016). Several months into the initial response, the Turkish government adopted a temporary protection directive, but it was never made public, and thus what rights were provided or how the response was structured internally is unclear. See Kemal Kirişçi, *Syrian Refugees and Turkey's Challenges: Going Beyond Hospitality* (Washington, DC: Brookings Institution, 2014).

7 Batalla and Tolay, *Toward Long-Term Solidarity with Syrian Refugees?*

8 Metin Çorabatır, *The Evolving Approach to Refugee Protection in Turkey: Assessing the Practical and Political Needs* (Washington, DC: Migration Policy Institute, 2016).

9 Republic of Turkey, Ministry of Interior, Directorate General of Migration Management, *Law on Foreigners and International Protection*, Law No. 6458 of 2013 (April 4, 2013), Article 91.



Under the LFIP, temporary protection is granted during times of mass influx on a prima facie basis. This means that beneficiaries do not need to go through an individual status determination and are instead recognized as needing protection based on the circumstantial risks from which they have fled. Unlike refugee status, temporary protection precludes beneficiaries from accessing long-term integration in Turkey or resettlement in a third country.

In 2014, a year after the LFIP was adopted, the Council of Ministers issued the Temporary Protection Regulation (TPR), which explicitly determined that Syrians would be granted temporary protection on a prima facie basis and not be eligible for any other type of protection.<sup>10</sup> To access temporary protection, Syrians must register with the Presidential Directorate for Migration Management and provide biometric data.<sup>11</sup> In theory, they can register in any of Turkey's provinces, but in practice, they are sent to satellite cities—designated provinces where they are required to register and reside. Under the temporary protection system, Syrians enjoy protection from refoulement, the right to documentation (this includes identification as a temporary protection beneficiary as well as civil registration documents such as birth certificates), access to health care and insurance, and access to free education.<sup>12</sup> Subsequent programs funded by international donors have allowed them to receive cash benefits under the Emergency Social Safety Net and Conditional Cash Transfers for Education programs. Following additional regulations issued in 2016, Syrian temporary protection recipients have been allowed to apply for work permits under certain conditions.<sup>13</sup>

Two related factors drove the adoption of the TPR for Syrians, and Turkey's approach toward Syrians in general. First, domestic support for welcoming Syrians to Turkey was high, partly because of narratives of Islamic solidarity, widespread sympathy for the victims of conflict, the government's opposition to the regime of Bashar al-Assad in Syria, and the perception that Syrians would eventually return to Syria.<sup>14</sup> Second, the Turkish government received diplomatic and humanitarian support from international actors in response to its welcoming policies.<sup>15</sup> Much of this support has come from the European Union, following the signing of the EU-Turkey Statement in 2016.

Concurrent to Turkey's adoption of the LFIP and TPR, the number of Syrians registering to access protection in Turkey was increasing swiftly (see Figure 1). This increase was, in part, driven by developments in Syria, as the Syrian government and Russia escalated bombing campaigns, and Islamic State forces made significant gains in the northern part of the country.<sup>16</sup> Numbers also rose as Turkish authorities undertook a concerted effort to register Syrians already in the country and regularize their status under the new TPR.

10 European Council on Refugees and Exiles (ECRE), *Country Report: Türkiye: 2022 Update* (Brussels: ECRE, 2023).

11 Prior to 2018, UNHCR supported registration, but since then, the Turkish government has been solely responsible for the registration process. See ECRE, *Country Report: Türkiye*.

12 ECRE, *Country Report: Türkiye*.

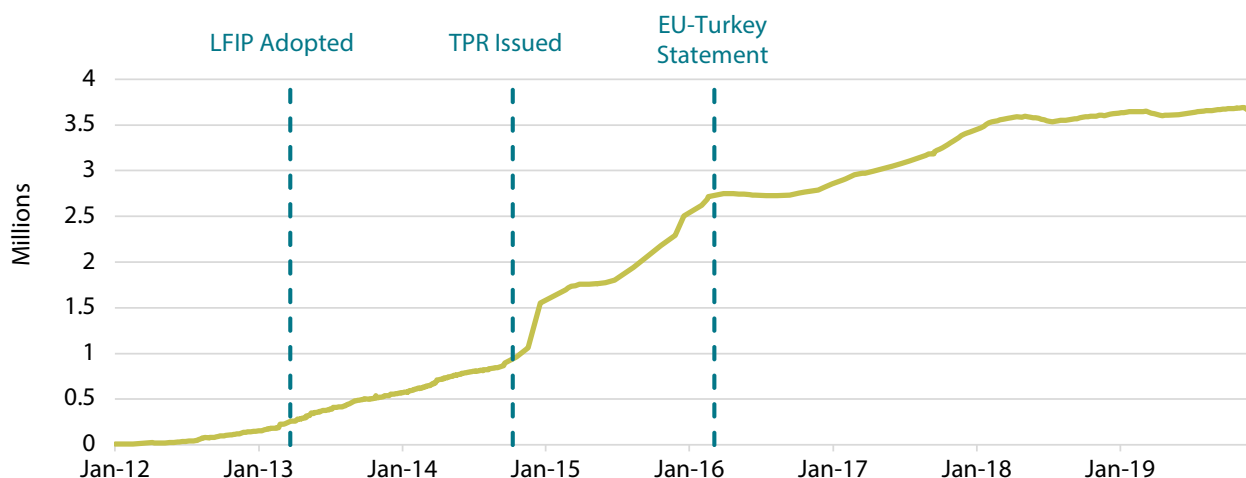
13 Meltem Ineli-Ciger, "Protecting Syrians in Turkey: A Legal Analysis," *International Journal of Refugee Law* 29, no 4. (2017): 555–79. Temporary protection beneficiaries cannot exceed 10 percent of a workforce in a specific workplace.

14 Natalia Banulescu-Bogdan, M. Murat Erdoğan, and Lucia Salgado, *Confronting Compassion Fatigue: Understanding the Arc of Public Support for Displaced Populations in Turkey, Colombia, and Europe* (Brussels: Migration Policy Institute Europe, 2024).

15 UNHCR supported the prima facie acceptance of Syrians rather than engaging in individual refugee status determination processes, hoping that Turkey would maintain the open-door policy. UNHCR supported this development because it relieved some of the pressure on its own resources and did not add to existing refugee status determination and resettlement backlogs. See Çorabatır, *The Evolving Approach to Refugee Protection in Turkey*.

16 COMCEC, *Forced Migration in the OIC Member Countries*.

**FIGURE 1**  
**Syrians Registered with UNHCR in Turkey, 2012–19**



LFIP = Law on Foreigners and International Protection; TPR = Temporary Protection Regulation.

Source: UNHCR, “Operational Data Portal—Syria Regional Refugee Responses—Türkiye,” accessed January 18, 2023.

Following implementation of the TPR and shifting away from the initial humanitarian approach, the Turkish government moved to increase the socioeconomic inclusion of Syrians, which would help increase Syrians’ self-reliance and the sustainability of the response. In 2015, the government announced that it would integrate Syrian children into Turkish schools, halting the dual-track system of temporary education centers that attempted to maintain the Syrian curriculum.<sup>17</sup> Turkey also recognized the need for labor market integration support beyond simply allowing Syrians to apply for work permits. The government has worked with donors to implement programming to enhance Syrians’ employability and adopted a strategy to help facilitate the transition from reliance on social safety net benefits.<sup>18</sup> Accompanying these changes, some political rhetoric shifted to recognize that Syrians could potentially remain in Turkey permanently, such as President Recep Tayyip Erdoğan’s announcement that Syrians had a path to citizenship. This contradicted the temporary nature of the TPR, but Erdoğan justified it as an attempt to harness the potential of Syrians as productive members of Turkish society, though opposition figures saw it as a way to increase Erdoğan’s electoral support.<sup>19</sup>

However, as the Syrian crisis has worn on, Turkish authorities have taken steps to weaken the protections offered under the TPR. In the wake of the 2016 Turkish coup attempt, emergency decrees that were subsequently codified into law weakened some of the protections from refoulement.<sup>20</sup> Other changes since

17 Burcu Meltem Arik Akyüz, Didem Aksoy, Aysel Madra, and Ertuğrul Polat, “Evolution of National Policy in Turkey on Integration of Syrian Children into the National Education System” (background paper ED/GEMR/MRT/2018/P1/18/REV, United Nations Educational, Scientific, and Cultural Organization, Paris, 2018).

18 M. Murat Erdoğan, Kemal Kirişçi, and Gökçe Uysal, *Improving Syrian Refugee Inclusion in the Turkish Economy: How Can the International Community Help?* (Ottawa: World Refugee and Migration Council, 2021).

19 Al Jazeera, “Erdoğan Offers Citizenship to Syrian and Iraqi Refugees,” Al Jazeera, January 7, 2017.

20 The conditions under which refoulement is allowed include those who are in “(i) leadership, membership, or support of a terrorist organization or a benefit-oriented criminal group; (ii) threat to public order or public health; or (iii) relation to terrorist organizations defined by international institutions and organizations.” Given the Turkish government’s propensity to label political opponents under these terms, there was no guarantee that these would be applied judiciously to Syrians. See ECRE, *Country Report: Türkiye*.

2016 have included deportation of Syrians who do not comply with certain notification requirements and a subsequent entry ban for those deported.<sup>21</sup> Similarly, the ability of Syrians to move freely throughout Turkey (already curtailed under the TPR) was restricted further by policies such as the early 2022 announcement by the interior minister that foreigners can only comprise up to 25 percent of the population of any one region or area.<sup>22</sup> Over time, rhetoric across the political spectrum has turned against Syrians, coming to a head during the 2023 elections as politicians competed to promise the swiftest deportation of the largest number of protection beneficiaries.<sup>23</sup>

## *Outcomes of the Response*

Thirteen years since the start of the Syrian crisis, and ten years since the adoption of the TPR, the implementation and further development of Turkey's temporary protection system has had undeniable benefits for Syrians and the Turkish government. Turkey's initial decision to recognize Syrians' protection needs on a prima facie basis meant that Syrians did not have to undergo lengthy status determinations to escape the conflict, thus ensuring that the asylum bureaucracy's limited processing capacity was not overwhelmed. By linking the ability to invoke temporary protection under the LFIP directly with prima facie determination, the government has given itself the opportunity to avoid overwhelming processing systems in future crises.

The TPR provided structure (at least on paper) for Turkey's response to the crisis, which helped address some of the internal coordination and implementation challenges faced in the conflict's first years. Before adopting the TPR, the initial, less-structured humanitarian response to the Syrian crisis allowed the government to adapt its policies and management systems as the conflict matured. It also gave Syrians agency to adapt to their own needs as their stay in Turkey took on more permanence—for example, with no restrictions on their freedom of movement throughout the country.<sup>24</sup> But it also led to chaotic and contradictory decision-making, as the government's lack of expertise in managing large-scale displacement and relevant international norms, the constant shifting of responsibility, and the absence of a long-term strategy left both Syrians and host communities confused and furthered their sense of precarity.<sup>25</sup> Adopting the LFIP and issuing the TPR grounded Syrians' status within a legislative framework, bringing a more standardized approach to Turkey's response and setting a clearer vision for how Syrians could access the rights and benefits of temporary protection.

The rights and benefits the TPR granted to Syrians included legally based protection from refoulement and access to better socioeconomic stability. While the practical implementation of some benefits, particularly the right to work, meant that they were difficult to access in practice, the situation overall was akin to refugee status, and Syrians did not lose out by not being considered refugees. The TPR also granted Syrians formal access to social safety, education, and health-care systems, which gave the international community

21 Syrians who did not meet these notification requirements three consecutive times were now subject to deportation. See ECRE, *Country Report: Türkiye*.

22 ECRE, *Country Report: Türkiye*.

23 Public opinion in Turkey against Syrians shifted because of several factors: the scale and speed of change coupled with a weakening Turkish economy, changing settlement patterns over time such as increased urbanization, and Turkey's broad geopolitical shifts. See Banulescu-Bogdan, Erdoğan, and Salgado, *Confronting Compassion Fatigue*.

24 Çorabatır, *The Evolving Approach to Refugee Protection in Turkey*.

25 International Crisis Group, *Turkey's Refugee Crisis: The Politics of Permanence* (Brussels: International Crisis Group, 2016).

entry points to provide support. By investing in these areas, the international community was helping both Syrians and host communities.

But the lack of an off ramp from temporary protection has made the situation for Syrians more difficult as time passes. Syrians have few avenues through which to transition to long-term legal status in Turkey, leading to many attempting to irregularly migrate to Europe. The Turkish government has allowed some Syrians to access alternative visas and naturalization because of exceptional circumstances or intermarriage with Turkish citizens, but policies have not materialized to address the much larger need for permanent stay options.<sup>26</sup> As of the end of 2022, approximately 223,000 Syrians had become Turkish citizens—a sizable number but a small proportion of the more than 3.5 million Syrians benefiting from temporary protection in Turkey.<sup>27</sup>

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The lack of an off ramp outside of Turkey (such as third-country resettlement, safe onward movement to Europe, or safe repatriation to Syria) also creates a fundamental contradiction for the Turkish public, which supported Syrians' stay partly because of the promise that it would be temporary. Despite official rhetoric shifting to promote more integration and acknowledging Syrians' de facto permanence in Turkey, their legal status remains temporary and thus volatile, and public infrastructure has not adapted to the larger, changing population. Coupled with fears of demographic shifts and widespread economic turmoil, public opinion has turned significantly against Syrians.<sup>28</sup>

The government has tried to use tools within the TPR to curtail the challenges raised by this de facto permanence in ways that end up limiting some rights that Syrians had enjoyed informally and undermining some of the temporary protection system's fundamental protections. First, the temporary protection program reduced Syrians' freedom of movement—and relatedly, their ability to move to find work—restricting them to residing and working within the province in which they are registered.<sup>29</sup> Periodic police sweeps have caught Syrians living outside their province without authorization, exposing them to relocation within Turkey. These mobility restrictions have increased as public opinion has deteriorated, partly to steer Syrians away from the most populated areas.

Second, the TPR offered the government several ways of forcing or coercing Syrians to return to Syria. The regulation gave the government authority to rescind temporary protection status on an individual basis on public safety and national security grounds, which has allowed Turkey to threaten, and sometimes implement, deportations in response to negative public opinion. Additionally, the government's insistence

<sup>26</sup> International Crisis Group, *Turkey's Refugee Crisis*.

<sup>27</sup> Menekşe Tokyay, "First Syrian Refugee with Türkiye Citizenship to Fulfill Military Service," *Arab News*, January 10, 2023; Joshua Levkowitz, "Naturalized Syrians Are in the Spotlight Ahead of Turkey's Upcoming Elections," Middle East Institute, April 19, 2023.

<sup>28</sup> Public opinion in Turkey against Syrians shifted because of several factors: the scale and speed of change coupled with a weakening Turkish economy, changing settlement patterns over time such as increased urbanization, and Turkey's broad geopolitical shifts. See Banulescu-Bogdan, Erdoğan, and Salgado, *Confronting Compassion Fatigue*.

<sup>29</sup> Only those with a special travel permit are allowed to move between provinces within the country and only for a period of up to 90 days before they have to return to their registered province. See Human Rights Watch, "Turkey Stops Registering Syrian Asylum Seekers," Human Rights Watch, July 16, 2018. Controls over Syrian refugees' mobility were reinforced following the EU-Turkey agreement at the same time the approval of travel permits outside refugees' designated province became more difficult. See ECRE, *Country Report: Türkiye*.

that certain sections of Syria are safe provides it with justification to not only cease temporary protected status for some Syrians but also to enforce their return. Deported Syrians are sent to the so-called safe zones that Turkey has created in northern Syria, but those from territories controlled by the Syrian government cannot continue onward to return home.<sup>30</sup> They remain displaced and cannot avail themselves of their government's protection.

In other cases, Turkey has used the "voluntary cessation" of temporary protected status to provide (or at least appear to provide) an end to some individuals' displacement. Syrians cease to qualify for temporary protected status when they voluntarily return to Syria. When they do so, the government marks them as a "voluntarily returned foreigner," and they are no longer allowed to re-enter Turkey without an individual assessment to regain temporary protection (in contrast to their initial ability to register for temporary protection on a prima facie basis). Although some Syrians have voluntarily returned to Syria permanently (often to reunite with family), others intend their return to be temporary (often for administrative reasons such as document renewal) and are unaware of the re-entry ban. In addition, Syrians may be coerced into signing admissions of voluntariness, sometimes through threats or abuse.<sup>31</sup> This allows Turkey to prevent re-entry while also claiming that more Syrian departures are voluntary than in fact are.

## BOX 2

### Regional Responses to Syrian Displacement

The policy shifts occurring in Turkey were mirrored in other Syrian host countries, although not necessarily in ways that expanded protection. In Jordan, Syrians have benefited from the government's ongoing partnership with UNHCR, which was built during the Iraqi refugee response. This has created a relatively stable situation for Syrians, who have access to documentation, education, and health care. As the Syrian crisis has worn on, Jordan has taken some steps to restrict Syrians' access to its territory, including closing its borders; however, the political and policy environment conditioned by long experience hosting and integrating refugee populations and the country's stable monarchy have meant that there has always been some measure of durability in Jordan's response. In Lebanon, on the other hand, Syrians have not found stability. They were initially allowed to enter as visitors under an existing agreement with Syria, although they had to register with UNHCR to receive humanitarian assistance. Starting in 2015, however, Lebanon barred UNHCR from registering Syrians and increased restrictions and penalties for Syrians overstaying their permits. This permanent temporariness stems partly from Lebanon's long experience hosting Palestinian refugees in camps (and the role these camps played in the Lebanese Civil War) as well as from fears that providing Syrians with pathways to permanence could exacerbate sectarian divisions.

Sources: Omer Karasapan, "Syrian Refugees in Jordan: A Decade and Counting," Brookings Institution, January 27, 2022; Faten Kikano, Gabriel Fauveaud, and Gonzalo Lizarralde, "Policies of Exclusion: The Case of Syrian Refugees in Lebanon," *Journal of Refugee Studies* 34, no. 1 (2021): 422—52; Amir Salameh Al Qaralleh, "Jordan and Syrian Humanitarian Refugees' Dilemma: International Law Perspective," *Heliyon* 8, no. 5 (2022); Samuel Davidoff-Gore, "Compliance without Obligation: Examining State Responses to the Syrian Refugee Crisis" (senior thesis, Brown University, Providence, RI, 2015).

30 Human Rights Watch, "Turkey: Hundreds of Refugees Deported to Syria," Human Rights Watch, October 24, 2022.

31 ECRE, *Country Report: Türkiye*.

### 3 Displaced Venezuelans in Latin America and the Caribbean

Venezuela has a long history of internal conflict and economic volatility, but the country reached a tipping point in 2016. Spiraling inflation that reached more than 130,000 percent in 2018,<sup>32</sup> targeted political violence against protesters and political opponents, generalized violence, and the collapse of public services (especially the health-care system)<sup>33</sup> has led to a humanitarian crisis during which more than 7.7 million Venezuelans have left their country, mostly from 2016 to 2021.<sup>34</sup> About 6.5 million Venezuelans have moved to other countries in Latin America and the Caribbean, while the United States and Spain have each received a half a million or more.<sup>35</sup> Not all Venezuelans self-identify as refugees (partly because of the lack of information about the Cartagena Declaration's expanded refugee definition; see Box 3), but almost all describe their displacement as forced and as a matter of survival.<sup>36</sup>

At the beginning of the crisis, governments in the region largely welcomed Venezuelans, providing them with some form of legal status, though not necessarily applying existing legislation that incorporates the expanded Cartagena Declaration definition of who is a refugee.<sup>37</sup> This initial generosity was driven by a groundswell of public support early on for receiving and integrating displaced

Venezuelans, often based on notions of reciprocity, given earlier large-scale emigration from countries such as Colombia to Venezuela. However, welcoming approaches would soon give way to greater public skepticism and political backlash after the numbers of Venezuelans grew significantly in most countries in 2019 and 2020.<sup>38</sup> Regional politics also played a role in policy decisions. Many Latin American and Caribbean

*Not all Venezuelans self-identify as refugees... but almost all describe their displacement as forced and as a matter of survival.*

32 Jorge Luis Pérez Valery and Abdel Alvarado, "Venezuela Gives a Rare Look at Its Economy. It's an Ugly, Ugly Picture," CNN Español, May 29, 2019.

33 According to a World Bank study, Venezuelan adults had already lost an average of 22 pounds by 2017, while infant mortality skyrocketed. See World Bank, *Beyond Borders: A Look at the Venezuelan Exodus* (Washington, DC: World Bank, 2019). See also Catalina Lobo-Guerrero, *Los restos de la revolución: Crónicas desde las entrañas de una Venezuela herida* (Bogotá: Penguin Random House, 2021).

34 The Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela (known as R4V) maintains updated numbers that are tabulated by host governments, the International Organization for Migration, and UNHCR. See R4V, "Refugees and Migrants from Venezuela," accessed November 30, 2023.

35 R4V, "Refugees and Migrants from Venezuela."

36 Matthew Bird and Luisa Feline Freier, "To Be or Not to Be a Refugee: Self-Identification and Socioeconomic Integration of 'Survival Migrants' in the Global South" (working paper, Center for Comparative Immigration Studies at UC San Diego, 2021).

37 Diego Acosta, Cécile Blouin, and Luisa Feline Freier, "La emigración venezolana: respuestas latinoamericanas" (working paper 3, Fundación Carolina, Madrid, 2019).

38 Marta Luzes and Lucina Rodríguez Guillén, *La opinión pública respecto a la migración en América Latina y el Caribe* (Washington, DC: Inter-American Development Bank, 2023). Public support in Colombia, for example, stemmed partly from a moral obligation and sense of reciprocity because Colombians had previously received welcome in Venezuela. See Banulescu-Bogdan, Erdoğan, and Salgado, *Confronting Compassion Fatigue*.

governments were actively trying to isolate the Venezuelan regime, and their domestic decisions to receive displaced Venezuelans reflected their critical foreign policy positions toward the Venezuelan government.<sup>39</sup>

Even though most Latin American countries have passed refugee laws that encompass the Cartagena Declaration's refugee definition, national asylum systems have not been widely used to provide status to displaced Venezuelans in the region. Prior Migration Policy Institute (MPI) research has estimated that just 15 percent of all Venezuelans who moved to other countries in the region between January 2016 and June 2022 filed claims for asylum (roughly 900,000 people). Moreover, asylum claims have been processed slowly, with only 19 percent having been resolved as of June 2022. Of those adjudicated claims, about half resulted in refugee status, amounting to just 1.4 percent of all displaced Venezuelans who moved to other countries in the region.<sup>40</sup> The majority of Venezuelans who applied for asylum did so in Peru (more than 539,000), but less than 2 percent of Venezuelan asylum cases in Peru had been decided as of June 2022.<sup>41</sup> Only Brazil and Mexico, which also received large numbers of asylum applications, have relied on the wider refugee definition under the Cartagena Declaration to grant refugee status in the overwhelming majority of these cases (88 percent).<sup>42</sup>

### BOX 3

#### Widening the Refugee Definition in Latin America

Because most Venezuelans were not fleeing individual persecution, the majority would not qualify as refugees under the legal framework of the 1951 Refugee Convention and its 1967 Protocol. However, most Latin American countries have long ascribed to a separate normative framework on displacement laid out in the Cartagena Declaration of 1984, which recognizes as refugees “persons who have fled their country because their lives, safety, or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights, or other circumstances which have seriously disturbed public order.” While the declaration itself is not binding on signatories, most countries in the region have incorporated this more expansive refugee definition into their legislative protection frameworks, and it has shaped discussions on refugee protection for decades.

Sources: “Cartagena Declaration on Refugees,” Conclusion III, No. 3, November 22, 1984; Liliana Lyra Jubilit, Marcia Vera Espinoza, and Gabriella Mezzanotti, *Latin America and Refugee Protection: Regimes, Logics, and Challenges* (New York: Berghahn Books, 2021); Cécile Blouin, Isabel Berganza, and Luisa Feline Freier, “The Spirit of Cartagena? Applying the Extended Refugee Definition to Venezuelans in Latin America,” *Forced Migration Review* 63 (February 2020): 64–6.

- 39 Luisa Feline Freier and Nicolas Parent, “The Regional Response to the Venezuelan Exodus,” *Current History* 118, no. 805 (2019): 56–61; Scott Smith, “Isolation Greets Maduro’s New Term as Venezuela’s President,” AP News, January 10, 2019. For a few Caribbean countries, the comparatively closer diplomatic relationships with the Venezuelan government almost certainly influenced the decisions to pursue far fewer measures for legal inclusion and access to other public services. See Luciana Gandini and Andrew Selee, *Betting on Legality: Latin American and Caribbean Responses to the Venezuelan Displacement Crisis* (Washington, DC: Migration Policy Institute, 2023).
- 40 See Gandini and Selee, *Betting on Legality*, based on data from UNHCR, “Refugee Data Finder,” accessed December 2022.
- 41 Gandini and Selee, *Betting on Legality*, with data from UNHCR, “Refugee Data Finder.” For Peru, the available evidence suggests that the government used asylum applications for a number of years as a way to permit entry into Peru for those who lacked passports, but it never sought to resolve most of these applications. See Andrew Selee and Jessica Bolter, *An Uneven Welcome: Latin American and Caribbean Responses to Venezuelan and Nicaraguan Migration* (Washington, DC: Migration Policy Institute, 2020).
- 42 Gandini and Selee, *Betting on Legality*, based on data from UNHCR, “Refugee Data Finder.” This calculation excludes those that UNHCR recognized as refugees in Trinidad and Tobago (the only country where UNHCR conducts the refugee status determinations) because the government does not recognize these decisions.

Instead of granting refugee status, most governments have relied on a patchwork of temporary protection programs, ordinary work visas, and regional mobility agreements to accommodate arrivals and provide them with legal status.<sup>43</sup> As in Turkey, temporary protection measures have been used extensively, representing the principal route to legal status for Venezuelans who moved to other countries in Latin America and the Caribbean. Peru adopted the first program in the region, the Temporary Residence Permit (Permiso Temporal de Permanencia, or PTP), in January 2017 and received about 1.5 million Venezuelans from 2016 to 2022. PTP provided one-year temporary status to more than 460,000 Venezuelans who applied, renewable for an additional year. As of April 2022, 315,268 of those Venezuelans had obtained their foreigner identification card (Carnet de Extranjería), which allowed them to adjust to permanent status.<sup>44</sup> Following Peru, Colombia (which received almost 3 million Venezuelans during the same time period) pursued a similar temporary legal status measure in 2018, the Special Stay Permit (Permiso Especial de Permanencia, or PEP), and it eventually provided two-year renewable status to more than 707,000 Venezuelans over six rounds.

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In 2021, however, the Colombian government took a critical step toward providing long-term stability for Venezuelans through a new decree creating a ten-year residence permit, the Temporary Statute of Protection for Venezuelans (Estatuto Temporal de Protección para Migrantes Venezolanos, or ETPV). This decision came following high-level political engagement and efforts to build trust between the Colombian government and Venezuelan migrants over several years. As of October 2022, 2,293,636 Venezuelans had applied for the permit and 1,627,005 of those applications had already been approved, meaning that at least 60 percent of Venezuelans in the country had legal status, and 80–90 percent were on track to do so.<sup>45</sup> Additionally, Venezuelans can apply for a resident visa after five years if certain conditions are met, representing a pathway to a more permanent, nonhumanitarian status for a substantial number of those who currently have temporary status.

By contrast, for Peru, the end of the PTP and increasing entry requirements (including a so-called humanitarian visa) resulted in growing numbers of Venezuelan irregular migrants in the country.<sup>46</sup> Despite providing additional forms of temporary status to Venezuelans through the Temporary Permanence Permit

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43 Luciana Gandini, “Between Openness and Closure? Migration Governance in Latin America in the Context of Venezuelan Displacement,” in *The Routledge History of Modern Latin American Migration*, eds. Andreas E. Feldmann, Xóchitl Bada, Jorge Durand, and Stephanie Schütze (New York: Routledge, 2022).

44 Gandini and Selee, *Betting on Legality*.

45 See the calculations in Gandini and Selee, *Betting on Legality*. The lower bound estimate of 60 percent assumes only those who were already approved for their ten-year permit as of October 2022, along with those who have permanent visas, a small percentage of those with temporary visas, and all approved refugees. The upper bound estimate assumes that all those who applied will eventually receive their residence permits (or already have), and that another 295,000 Venezuelans have other kinds of legal status, including residence visas, refugee status, and naturalization (an estimate made by the Colombian Migration Service in October 2022). Data on visas shared with the authors by the Colombian Foreign Ministry and data on temporary protection from Migración Colombia, “Distribución de las Venezolanas y Venezolanos en Colombia” (internal document shared with the authors).

46 Luisa Feline Freier and Marta Luzes, “How Humanitarian Are Humanitarian Visas? An Analysis of Theory and Practice in Latin America,” in *Latin America and Refugee Protection: Regimes, Logics, and Challenges*, eds. Liliana Lyra Jubilut, Marcia Vera Espinoza, and Gabriela Mezzanotti (New York: Berghahn Books, 2022), 276–93.



Card (Carné de Permiso Temporal de Permanencia, or CPP), it is likely that only a minority of Venezuelans in the country—probably 30–50 percent—had legal status as of April 2022.<sup>47</sup> This contrast is partly due to the Colombian government having greater capacity to develop coherent policies than the Peruvian government, which had four different presidents in the span of five years. However, the historically close relationship between Colombia and Venezuela undoubtedly played a part as well.<sup>48</sup>

Other countries have experimented with different types of temporary status measures, with varying durations, possibilities for transition to permanent status, and access to public benefits. Brazil, for example, provided more than 402,000 Venezuelans with a two-year temporary status between 2017 and March 2023<sup>49</sup> (compared with 50,081 who received refugee status between January 2016 and June 2022), and this status can be converted into permanent residence after two years and provides eligibility for all social programs on equal terms with Brazilian nationals.<sup>50</sup> In Chile, Ecuador, and Panama, significant numbers of Venezuelans have also obtained legal status through temporary status measures. But requirements such as proving legal entry and having a passport and clean criminal record (which in practice function as socioeconomic filters) have often made it impossible for most Venezuelans to apply, and not all who obtain permits have been able to obtain permanent status. In the Caribbean, some countries (including Curaçao, the Dominican Republic, and Trinidad and Tobago) have also created temporary status measures with relatively limited scope and impact, due to their very short duration and particularly stringent eligibility requirements (see Table 1 for country-by-country statistics).

Other countries (including Chile, Colombia, Costa Rica, the Dominican Republic, and Mexico) have allowed displaced Venezuelans to apply for existing visas. In Mexico, for example, 50,590 Venezuelans received permanent residency visas from 2016 to 2022 (58 percent of all Venezuelans in Mexico), far more than the 18,514 who received refugee status. Similarly, in Costa Rica from 2016 to 2021, 19,009 Venezuelans (63.2 percent of all Venezuelans in the country) received permanent residence visas, and an additional 23,263 temporary visas were issued—again much more than the 1,612 who were granted refugee status.<sup>51</sup> These visas can be for study, family reunification, and employment, among others, with the latter mainly being open to Venezuelans who have professional degrees and the ability to access formal employment contracts. In Chile, where almost half of all Venezuelans now have permanent residency status, the government

47 The government calculates the number at 41 percent. See Gandini and Selee, *Betting on Legality*, with data from the Directorate of Migration Policies, National Superintendence of Migration, “Información del Perfil Sociodemográfico de los Migrantes, Abril 29, 2022” (official document shared with the report’s authors in June 2022).

48 Many Colombians recall that the then-well-off Venezuela had taken in millions of their compatriots in the 1980s and 1990s, when Colombia was in the middle of a period of violence.

49 R4V, “Permisos de Residencia y Estancias Regulares Concedidos,” accessed December 4, 2023.

50 Intriguingly, Brazil offered Venezuelans a choice between receiving refugee status or temporary protection status, with many preferring the latter. See Leiza Brumat and Andrew Geddes, “Refugee Recognition in Brazil under Bolsonaro: The Domestic Impact of International Norms and Standards,” *Third World Quarterly* 44, no. 3 (2023): 478–95.

51 In Costa Rica and Mexico, some overlap almost certainly exists among asylum seekers, recognized refugees, and those with permanent visas because some asylum seekers probably obtained permanent visas later, and some recognized refugees eventually transitioned to permanent residence. However, the numbers underscore how much regular visa systems were used in those countries as a pathway to permanence. See Gandini and Selee, *Betting on Legality*, based on data from the Costa Rican Department of Migration and Foreigners, “Informe Anual,” 2016–21; Mexican Secretariat of the Interior’s Migration Policy, Registration, and Identity of Persons Unit, “II. Documentación y legal estancia en México,” in *Boletín Mensual de Estadísticas Migratorias, 2023* (Mexico City: Mexican Secretariat of the Interior, 2023).

deliberately made work visas more flexible so that Venezuelans (and Haitians) could arrive on a tourist visa, find work, and then transition to an employment-based visa.<sup>52</sup>

In a variation on this approach, the Argentinian and Uruguayan governments chose to use the Mercosur Residence Agreement to provide a pathway to legal status for Venezuelans. The agreement allows any citizen of a Mercosur-affiliated country to apply for a temporary residence permit and then transition to permanent residence after two years. Although the Venezuelan government was suspended from Mercosur, the Argentinian and Uruguayan governments made a strategic choice to allow Venezuelans to continue to access Mercosur residence visas, which created an easy pathway for Venezuelans who moved to one of the two countries.<sup>53</sup>

Most Latin American and Caribbean countries' widespread reliance on migration policy rather than protection tools to offer Venezuelans legal residence, the right to work, and in some cases access to public services was driven by the desire to maintain political control amid the rapidly unfolding and protracted displacement crisis; providing prima facie (and thus open-ended) protection to all Venezuelans would have given receiving-country governments far less flexibility. In the context of increasing xenophobic sentiment, media coverage, and political discourse, many governments found it more feasible to extend temporary protection than to provide a pathway to permanent status for those arriving. However, these decisions also reflected a recognition that existing refugee protection systems, which were set up for much smaller numbers and often managed by foreign ministries, were not capable of processing a large number of cases efficiently.<sup>54</sup> Temporary protection measures, along with regular visas and regional agreements, were simply more timely ways for the governments to respond.

At the same time, all countries in the region except for Trinidad and Tobago have formally provided Venezuelans access to primary and secondary education, and most have provided some access to basic health care (though only a few have offered full health-care access).<sup>55</sup> However, in practice, documentation challenges, reduced financial resources in refugee and migrant households, lack of access to digital devices and internet connectivity, and discrimination have restricted access to both education and health care, even during the pandemic, in many countries.<sup>56</sup> Meanwhile, access to formal employment has been very limited

52 The policy changed after 2018, making this much more difficult, but 198,398 Venezuelans in Chile at the end of 2022 (44.6 percent) had a permanent residence visa as a result of this process, with more than 680,000 visas issued to Venezuelan nationals (with the same applicants often receiving multiple short-term visas). See Gandini and Selee, *Betting on Legality*, with data from Chilean National Migration Service, "Registros Administrativos," accessed December 2022.

53 In Argentina, the status adjustment was to permanent residency, while in Uruguay, Venezuelans could apply for either temporary or permanent residence. See Luciana Gandini, Fernando Lozano, and Victoria Prieto, eds., *Crisis y migración de población venezolana: Entre la desprotección y la seguridad jurídica en Latinoamérica* (Mexico City: National Autonomous University of Mexico, 2019); Leiza Brumat, "State Control + Human Rights: Venezuelan Displacement to Colombia and Lessons from South American Migration Governance," Migration Policy Centre Blog, European University Institute, April 15, 2021.

54 Based on the authors' multiple conversations with key policymakers in Colombia, Ecuador, Peru, and Chile between 2019 and 2022, including three migration directors, two undersecretaries, and senior officials in both the Interior and Foreign Ministries.

55 A few countries offered access to health care on equal terms with the native born, including Argentina, Brazil, Ecuador, and Uruguay (and Chile and Mexico, to some extent), but most offered access to a sparser menu of emergency services and sometimes medical attention for those who were pregnant or small children. Barriers to education and health-care access often existed in practice, despite official openness, and some of these challenges remain. See Gandini and Selee, *Betting on Legality*.

56 Katharine Summers, Jessica Crist, and Bernhard Streitwieser, "Education as an Opportunity for Integration: Assessing Colombia, Peru, and Chile's Educational Responses to the Venezuelan Migration Crisis," *Journal on Migration and Human Security* 10, no. 2 (2022): 95–112; Patricio Zambrano-Barragán et al., "The Impact of COVID-19 on Venezuelan Migrants' Access to Health: A Qualitative Study in Colombian and Peruvian Cities," *Journal of Migration and Health* 3 (January 1, 2021): 1–8.

due to many receiving countries' largely informal economies and barriers Venezuelans have faced to getting their professional degrees validated and recognized by employers.<sup>57</sup>

As the crisis continued, more countries began implementing more restrictive entry policies for Venezuelans, including requirements that they present a passport (which has been extremely costly and often impossible for most Venezuelans to obtain) and at times a visa. It is hard to assess whether these requirements have dissuaded any Venezuelans from moving, but they have led to a steep increase in irregular entries in some countries.<sup>58</sup> Nevertheless, some neighboring countries such as Brazil, Colombia, and Guyana have maintained minimal entry requirements for Venezuelans to enter, usually only a national identification document.

TABLE 1

**Venezuelan Population in Selected Latin American and Caribbean Countries, by Status, 2016–June 2022**

Country	Venezuelan Population	Refugee Status	Visas	Temporary Protection Permits
Colombia	2,894,593	1,280	90,574	1,627,005
Peru	1,490,673	4,172	36,854	564,743
Ecuador	502,200	1,137	150,106	85,549
Chile	444,717	30	680,678	158,214
Brazil	388,120	50,081	No data	229,218
Argentina	171,050	317	337,178	N/A
Panama	146,400	43	33,639	47,658
Dominican Republic	115,283	0	20,183	30,000
Mexico	87,152	18,514	78,274	N/A
Trinidad and Tobago	35,314	0	No data	13,500
Costa Rica	30,100	1,612	42,272	1,445
Uruguay	23,400	507	20,329	N/A
Guyana	19,600	0	No data	25,650
Curaçao	14,000	54	4,600	No data

Note: The same person may receive more than one visa and, in some cases, more than one temporary protection permit.

Source: Luciana Gandini and Andrew Selee, *Betting on Legality: Latin American and Caribbean Responses to the Venezuelan Displacement Crisis* (Washington, DC: Migration Policy Institute, 2023).

## Outcomes of the Response

As a series of rapid response mechanisms to a large-scale displacement crisis in a region that had never experienced one on this scale before, this patchwork of policy measures provided status recipients with some degree of security that they could remain in the country legally, work, and access basic services as they restarted their lives. The use of migration tools such as regular visas, regional residency agreements,

57 Marta Castro, Gustav Brauckmeyer, Marta Luzes, and Luisa Feline Freier, *Migración calificada en contextos de desplazamiento. Avances y retos para la integración profesional de población venezolana en Perú* (Lima: Equilibrium CenDE, 2021).

58 Gandini and Selee, *Betting on Legality*.

and especially temporary status measures was crucial in allowing governments to avoid overburdening their refugee systems, and to shift responsibility for addressing questions of status and rights to arenas of governance that had the capacity to meet large-scale demands. Thus, governments have mostly managed to retain responsibility for the response to Venezuelan displacement rather than delegate it to international organizations, as has often happened in other displacement crisis contexts.<sup>59</sup> Certainly, international organizations, coordinated by the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM), have played a vital role in providing support, guidance, and resources to Latin America countries hosting large displaced Venezuelan populations, but governments have largely determined the policy responses, not the international community.

There have, however, been limitations to the response. Many Venezuelans have yet to receive any legal status at all, and some countries have much lower registration rates than the average. In others, the pathway from temporary to permanent status remains closed or uncertain, even as it becomes apparent that many displaced Venezuelans may never return to their country of origin. Moreover, legal access to public benefits, especially education and health care, has varied across countries, and in many cases, the lack of clarity on documentation requirements and eligibility has left displaced Venezuelans with significant barriers to access, even when the rights exist on paper.

In addition, none of these legal mechanisms has a built-in guarantee of nonrefoulement, except for refugee status. Thus, even though deportations are generally rare in most Latin American and Caribbean countries, they do take place sporadically (usually involving noncitizens convicted of crimes, but mass expulsions at borders have occurred, for example, between Peru and Ecuador). This presents a significant vulnerability in this approach to providing protection.<sup>60</sup>

As a result, the flexible measures adopted have both advantages and notable shortcomings. They provide an immediate pathway to inclusion for displaced Venezuelans, and they can be established quickly within existing legal frameworks. But they are often temporary, lack pathways to permanence in many cases, fail to achieve universal coverage, and lack guarantees on nonrefoulement. These issues must be addressed in the broader discussion regarding their use within the international protection regime. Moreover, Venezuelans' different levels of access to education, health care, and public services granted across different countries shows that the region greatly lacks a unified or even coherent set of policies, despite attempts to build consensus on common measures.

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*The flexible measures adopted have both advantages and notable shortcomings.*

<sup>59</sup> Lamis Elmy Abdelaaty, *Discrimination and Delegation: Explaining State Responses to Refugees* (Oxford, UK: Oxford University Press, 2021).

<sup>60</sup> See, for example, Luisa Feline Freier and Leda M. Pérez, "Nationality-Based Criminalisation of South-South Migration: The Experience of Venezuelan Forced Migrants in Peru," *European Journal on Criminal Policy and Research* 27, no. 1 (2021): 113–33.

**BOX 4****Non-Deportation Orders and Paroled Entry in the United States**

Several countries have long used temporary protection as a means of providing some form of legal status to entire populations from specific countries where significant political and economic crises, armed conflicts, or environmental disasters are taking place. The United States especially has several tools at its disposal to allow such displaced populations to enter or remain in its territory, and it has used all of them for Venezuelan nationals.

In January 2021, at the end of the Trump administration, the U.S. government designated Venezuelan nationals as eligible for Deferred Enforced Departure (DED), meaning that if they are in the country illegally and in deportation proceedings, they would be allowed to remain. While DED allows designees to stay in the country, thus protecting against refoulement, it confers relatively few additional benefits and can easily be rescinded by executive order.

The next month, under the Biden administration, Venezuelans were granted Temporary Protected Status (TPS), an affirmative status with a statutory basis that provides renewable temporary residency. TPS beneficiaries get access to work authorization and may be allowed to travel abroad and return to the United States. However, to be eligible for TPS, Venezuelans had to have been in the United States by a specified date—March 8, 2021 for the Biden administration’s initial designation. Subsequently, the administration redesignated TPS for Venezuelans who have been in the United States since July 31, 2023. New arrivals will benefit only if TPS is further redesignated with a later date. As of March 31, 2023, 201,895 Venezuelans had received TPS.

Another temporary status, humanitarian parole, allowed the U.S. government to admit about 250,000 Venezuelans at the U.S.-Mexico border between January 2021 and September 2022. Parole allows recipients to enter the country legally to apply for asylum or other legal remedies. In September 2022, however, the U.S. government stopped issuing parole to Venezuelans at the border and began to return Venezuelans to Mexico under the Title 42 public health order that allows for summary returns. Simultaneously, it opened a sponsorship program for Venezuelan nationals, with up to 24,000 slots per month for those who had a U.S.-based sponsor who could meet a series of minimal conditions, and they were offered humanitarian parole on arrival. By the end of 2022, approximately 11,000 Venezuelans had applied and been approved through this process, and in January 2023, the measure was broadened to include nationals of Cuba, Haiti, and Nicaragua, with 30,000 slots reserved per month for all four nationalities. The U.S. government has also introduced a new processing tool, known as the CBP One app, to ease pressure on the border by allowing asylum seekers and other migrants to make appointments to be screened and receive parole into the country, with a notice to appear in immigration court. While not explicitly a protection measure, it has allowed some Venezuelans to enter the country, after which many likely seek asylum.

Despite being farther away from the immediate Venezuelan displacement crisis, the United States has become a significant destination for Venezuelans and faced challenges responding to pressures at its southern border. By implementing these successive measures, the government recognized that it could not initially deport Venezuelans to their country of origin because of the crisis, and that it needed a way to provide protection more quickly than would be possible via the backlogged asylum system. At the same time, it has attempted to shift arrivals into safe and legal pathways, such as sponsorship, or orderly arrivals at ports of entry along the U.S.-Mexico border. The experimentation with linking different protection approaches with varying means of entry, as well as the resumption of deportations of some Venezuelans, points to the potential of non-refugee statuses in addressing a highly politicized and sensitive protection situation.

Sources: Jill H. Wilson, *Temporary Protected Status and Deferred Enforced Departure* (Washington, DC: Congressional Research Service, 2023); Muzaffar Chishti and Jessica Bolter, “Border Challenges Dominate, but Biden’s First 100 Days Mark Notable Under-the-Radar Immigration Accomplishments,” *Migration Information Source*, April 26, 2021; Muzaffar Chishti and Jessica Bolter, “Biden at the One-Year Mark: A Greater Change in Direction on Immigration Than Is Recognized,” *Migration Information Source*, January 19, 2022; Muzaffar Chishti and Kathleen Bush-Joseph, “Biden at the Two-Year Mark: Significant Immigration Actions Eclipsed by Record Border Numbers,” *Migration Information Source*, January 26, 2023; Ariel G. Ruiz Soto, Colleen Putzel-Kavanaugh, and Doris Meissner, *Shifting Realities at the U.S.-Mexico Border: Immigration Enforcement and Control in a Fast-Evolving Landscape* (Washington, DC: Migration Policy Institute, 2024).

## 4 Displaced Ukrainians in the European Union

The Ukrainian displacement crisis has been Europe's fastest escalating and largest displacement crisis since World War II. More than 1.5 million people fled Ukraine in the ten days following Russia's large-scale invasion,<sup>61</sup> and 8 million people had fled to other parts of Europe by a year into the conflict.<sup>62</sup> Most Ukrainians initially crossed the borders into Moldova and the neighboring EU Member States of Poland, Hungary, Slovakia, and Romania under the European Union's 90-day visa-free travel agreement with Ukraine.<sup>63</sup> Created in 2017, the agreement allows Ukrainian nationals with biometric passports to enter EU Member States without a visa, simplifying border crossings significantly for those fleeing the conflict. In addition, many states streamlined entrance procedures to release the pressure that nevertheless built at the front line and to expedite onward travel to other EU countries. For instance, Austria, Bulgaria, Estonia, Hungary, and Slovakia<sup>64</sup> waived the requirement for Ukrainian nationals to present a biometric passport,<sup>65</sup> and Austria, the Czech Republic, Poland, and Slovakia allowed Ukrainian citizens to travel on trains for free.<sup>66</sup> Countries also removed restrictions implemented in response to the COVID-19 pandemic: Poland suspended all quarantine and vaccine requirements at its border crossings with Ukraine, and Austria and the Czech Republic lifted similar requirements for Ukrainian citizens.<sup>67</sup>

On March 4, 2022, just eight days after the start of the war, EU leaders chose to activate Council Directive 2001/55/EC, also known as the Temporary Protection Directive (TPD).<sup>68</sup> When triggered, the TPD directs EU Member States to grant immediate and temporary protection to displaced persons from designated non-EU countries, circumventing the normal asylum procedure in situations where there is a mass influx of displaced persons that threatens to overwhelm national asylum systems.<sup>69</sup> This marked the first use of the directive since it was introduced in 2001, although there had been earlier efforts to use it, including during the arrival of large numbers of Syrians and refugees of other nationalities in 2015. While use of the TPD had been controversial in the past, the European Council moved to trigger it relatively quickly and with little debate following Russia's invasion of Ukraine.

61 BBC, "Ukraine Conflict: Russian Forces Attack from Three Sides," BBC News, February 24, 2022; Matthew Luxmoore and Bojan Pancevski, "Refugees Fleeing Ukraine Now Represent Biggest Movement of People in Europe since World War II," *The Wall Street Journal*, March 5, 2022.

62 Valentin Stoquer, "How Many Refugees Are in Europe One Year after the Beginning of the War in Ukraine?," *Le Monde*, February 22, 2023.

63 Paola Tamma, "UN Agency: Number of Ukrainian Refugees Hits 1.5 Million," Politico EU, March 6, 2022.

64 In Austria, Ukrainian citizens without a biometric passport were issued a visa in a facilitated process, and they were allowed to enter the country directly.

65 ECRE, "Measures in Response to the Arrival of Displaced People Fleeing the War in Ukraine" (information sheet, ECRE, Brussels, May 31, 2022).

66 ECRE, "Measures in Response to the Arrival of Displaced People."

67 ECRE, "Measures in Response to the Arrival of Displaced People."

68 Charlotte Hauswedell, "Special Protection for Ukrainian refugees in the EU: What's the 'Temporary Protection Directive?'" InfoMigrants, February 28, 2022. The decision came into force for all EU Member States on the same day but did not include Denmark, which introduced the Danish Special Act that closely resembled the Temporary Protection Directive (TPD) and entered into force on March 18, 2022. See European Commission, "New Danish Law for Those Fleeing Ukraine Mirrors EU Temporary Protection Directive," European Website on Integration, March 16, 2022. In addition, Iceland, Norway, and Switzerland introduced their own national temporary protection programs for refugees from Ukraine, similar to the EU directive.

69 The Council can apply it on a proposal from the Commission by determining that a mass influx of displaced persons threatens to overwhelm the national refugee systems. See European Commission, Migration and Home Affairs, "Temporary Protection," accessed May 2, 2023.

Geography, along with historical, cultural, and political ties, likely played a role in this decision. The war in Ukraine was a regional and geopolitical crisis occurring directly next to the European Union, displacing a large number of people with existing access and links to the bloc. For example, even before the war, more than 651,000 Ukrainians held Polish residence permits.<sup>70</sup> These factors generated greater sympathy and political will than previous crises. The geographic proximity of the crisis to several central and eastern EU Member States also shifted incentives for these countries, which have historically opposed EU responsibility-sharing actions on asylum such as measures to relocate refugees from one overwhelmed Member State to another (a response that can be activated as part of the TPD).<sup>71</sup> However, their new role on the front lines of the displacement crisis<sup>72</sup> made an EU-level response much more appealing as it meant that other countries would also welcome those arriving.

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Under the March 2022 implementing decision that activated the TPD, Ukrainian nationals, third-country nationals, and stateless persons receiving international protection or equivalent protection in Ukraine and their family members are eligible for temporary protection, as long as they resided in Ukraine on or before February 24, 2022.<sup>73</sup> While the directive mandates this protection for Ukrainian nationals, the inclusion of third-country nationals and stateless persons was at the discretion of each Member State. The directive was initially valid for only a year, but six months into the conflict, the Council of the European Union made the decision to extend it until March 2024, and in September 2023, subsequently extended it again for a final year.<sup>74</sup> By November 2023, nearly 6 million individuals<sup>75</sup> had registered for temporary protection or a similar protection program in European countries.<sup>76</sup> And as of November 2023, Poland, Germany, the Czech Republic, Italy, and Spain hosted the largest number of beneficiaries.<sup>77</sup>

Beneficiaries of TPD enjoy a number of rights, including a residence permit for the duration of the protection; access to work authorization, housing, education, social welfare, medical care, and banking

70 Eurostat, “All Valid Permits by Reason, Length of Validity and Citizenship on 31 December of Each Year [MIGR\_RESVALID],” accessed November 30, 2023.

71 Lorena Stella Martini, “Movement to Action: How Russia’s War on Ukraine Could Reshape EU Migration Policy,” European Council on Foreign Relations, April 8, 2022.

72 Martin Wagner, “The War in Ukraine and the Renaissance of Temporary Protection: Why This Might Be the Only Way to Go,” International Center for Migration Policy Development, March 2, 2022.

73 Council of the EU, “Ukraine: Council Unanimously Introduces Temporary Protection for Persons Fleeing the War” (press release, March 4, 2022).

74 Council of the EU, “Ukrainian Refugees: EU Member States Agree to Extend Temporary Protection” (press release, September 28, 2023).

75 These data can include multiple registrations of the same individual in two or more EU+ countries. See UNHCR, “Operational Data Portal—Ukraine Refugee Situation,” accessed November 30, 2023.

76 Additionally, Ukrainian nationals in the EU+3 countries had submitted 41,950 asylum applications by November 7, 2023. See European Commission, Migration and Home Affairs, “Migration Management: Welcoming Refugees from Ukraine,” accessed November 30, 2023.

77 Furthermore, as of November 7, 2023, the United Kingdom hosted 249,920 refugees from Ukraine under special family, sponsorship, and extension programs, and as of November 19, 2023, Moldova is hosting 113,130 Ukrainians. See UNHCR, “Operational Data Portal—Ukraine Refugee Situation.”

services; and opportunities for family reunification.<sup>78</sup> Ukrainian beneficiaries may apply for temporary protection in any Member State and travel to another Member State to seek temporary protection, if they choose.<sup>79</sup> Ukrainians can also move back and forth to Ukraine without having to deregister from the temporary protection system, allowing returnees to maintain their protection status and reenter the European Union when necessary.<sup>80</sup>

While the implementing decision delineates categories of individuals who must be granted temporary protection, it allows Member States to extend protection to other groups, including nationals of third countries and stateless persons who were legally residing in Ukraine before or on the cut-off date (with a permanent residence permit as proof) and who could not return safely to their country of origin.<sup>81</sup> Member States may also choose to grant protection to Ukrainians who resided in their countries before the start of the crisis. Several months into the conflict, 12 Member States had decided to extend temporary protection to non-Ukrainian nationals who were residents in Ukraine and fled or Ukrainians who were living in that Member State before the conflict began; however, some states decided not to extend this protection beyond the first year.<sup>82</sup>

## *Outcomes of the Response*

The TPD has clearly been a tremendous asset to EU Member States in their response to ongoing displacement from Ukraine. Because registration is the only requirement (the directive does not have an individual procedure to adjudicate protection needs), access to registration and legal status for people displaced from Ukraine has been incredibly swift. Most Member States issue documentation of status within a matter of days—much faster than asylum procedures, which can take months, if not years.<sup>83</sup> The TPD also allows Member States to bypass their asylum systems during a period when asylum claims from nationals of other countries are high or growing, enabling 6 million Ukrainians to access legal status in less than a year. Immediate work authorization has also facilitated Ukrainians' swift access to jobs in some Member States, where enabling factors such as use of a common language, temporary waivers of qualification requirements, and access to child care were present.<sup>84</sup> A survey by the National Bank of Poland, for example, found that one-third of Ukrainians had secured work by early May 2022, and in the Czech Republic, more

78 European Commission, Migration and Home Affairs, "Temporary Protection."

79 ECRE, "Movement to and from Ukraine under the Temporary Protection Directive" (policy note 43, ECRE, Brussels, January 2023). In triggering the TPD, the council elected not to include Article 11 in the implementing decision, which would have allowed Member States to return beneficiaries to the first Member State where they applied for protection. This de facto results in free movement within the European Union for temporary protection beneficiaries.

80 ANSA, "EU Extends Ukrainian Refugee Protection to March 2024," InfoMigrants, October 12, 2022.

81 Katrien Luyten, "Temporary Protection Directive" (briefing, European Parliamentary Research Service, March 2022).

82 Catherine Woollard, "TPD Implementation: Ukraine Displacement Crisis at the End of Its Beginning," ECRE, May 13, 2022. For example, the Netherlands initially planned to prolong temporary protection for non-Ukrainians that had resided in Ukraine beyond the first year of the conflict but later reversed that decision. Their protection was extended only until September 2023 rather than March 2024 (and later March 2025) for Ukrainian nationals. As of October 6, the decision to stop providing protection to non-Ukrainians was on hold pending a final decision by the Council of State. See ECRE, "Measures in Response to the Arrival of Displaced People"; Fragomen, "Worldwide/Ukraine: Temporary Protection Status – Country-Specific Updates," updated November 29, 2023.

83 In 17 countries, beneficiaries received documents at registration. In some, such as Finland, the process took up to two weeks. See European Union Agency for Asylum (EUAA), *Analysis of Measures to Provide Protection to Displaced Persons from Ukraine* (Valletta, Malta: EUAA, 2022).

84 Maria Vincenza Desiderio and Kate Hooper, *Displaced Ukrainians in European Labour Markets: Leveraging Innovations for More Inclusive Integration* (Brussels: Migration Policy Institute Europe, 2023).



than 40 percent of displaced working-age Ukrainians were employed by August 2022.<sup>85</sup> The decision to allow Ukrainian temporary protection holders freedom of movement within the European Union increased responsibility sharing for hosting Ukrainians beyond the immediate bordering states, although Poland continues to be the largest host of Ukrainian temporary protection holders.<sup>86</sup>

The TPD was successful partly because the political and legal framework for a regional, structured temporary protection approach was already in place at the EU level at the start of the crisis (unlike in the Syrian and Venezuelan cases), enabling governments to apply it to Ukrainian displacement almost immediately. This not only avoided leaving displaced Ukrainians in an extended legal limbo with unclear rights but also facilitated swift access to formal support systems in each country.

Other ancillary measures also buttressed the TPD's successful implementation. First, Ukrainians' ability to enter the European Union without a visa provided them a legal basis for entry and was the foundation for an extremely simplified border crossing procedure that helped mitigate pressures on border crossing points. The EU Agency for Asylum (EUAA) has provided operational support to the Member States most heavily affected by the crisis. The agency has deployed experts to assist with registering Ukrainian arrivals for temporary protection and rolled out a training for Member State agencies and nongovernmental organizations on TPD implementation and best practices for addressing large numbers of humanitarian arrivals.<sup>87</sup> The EUAA has also created information booklets on temporary protection procedures, rights, and benefits for Ukrainians in each Member State.<sup>88</sup>

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Member States have also benefited from operational and financial support provided under the European Union's civil protection mechanism (which deploys emergency and humanitarian support following a crisis) and the EU Asylum, Migration, and Integration Fund (which provides financial support for Member States to build capacity within these systems). Both proved valuable in directing additional resources to border areas and states and allowing for the rapid creation of the architecture to handle reception, care, and registration of new arrivals. While implementation of the directive has been relatively swift and straightforward, Member States are still working through the implications of using TPD for schools, labor markets, and local communities. The directive gives leeway to Member States regarding what supports and benefits they should provide to temporary protection holders. For example, temporary protection holders always have the right to work, but the extent to which Member States provide job search assistance, language training, or other integration support measures varies. Across the European Union, Member States' investments in language courses, bridging training to fill gaps in education or certifications, qualifications recognition, and other measures to facilitate Ukrainians' labor market entry have been uneven.<sup>89</sup> A large majority of states have allowed Ukrainians to use job counseling services, but just over half have provided them with access

85 Iza Chmielewska-Kalińska, Beata Dudek, and Paweł Strzelecki, *The Living and Economic Situation of Ukrainian Refugees in Poland: Report of the Questionnaire Survey Conducted by NBP Regional Branches* (Warsaw: Narodowy Bank Polski, 2022); ČTK, "Práci v Česku má 107 tisíc uprchlíků z Ukrajiny," Novinky.cz, August 23, 2022.

86 UNHCR, "Operational Data Portal—Ukraine Refugee Situation."

87 EUAA, *Analysis of Measures to Provide Protection*.

88 See EUAA, "EUAA Response to the Russian Invasion of Ukraine," accessed September 20, 2023.

89 Desiderio and Hooper, *Displaced Ukrainians in European Labour Markets*.

to language courses or skills validation programs, and the lack of both can be significant barriers to labor market entry.<sup>90</sup>

Similarly, even though the TPD requires Member States to allow children under age 18 to enroll in education under the same conditions as nationals, approaches to facilitating educational access have varied in practice. Some Member States, such as the Netherlands, have relied on already established newcomer programs to support school entry and language learning, while others have developed specific support programs for Ukrainian students. Poland, for example, has hired Ukrainian teaching assistants to support Ukrainian children in schools. Still others continue to support children in accessing online learning through the Ukrainian educational system.<sup>91</sup> Other factors can make it difficult for temporary protection beneficiaries to access these and other services. Sweden, for example, has elected to provide Ukrainians with the same status given to asylum seekers, which makes them ineligible for the national ID number that is required to interact with most formal systems in the country, including core social services.<sup>92</sup>

Finally, the TPD is unclear about what beneficiaries' status will be if displacement lasts more than a few years. The implementing decision has been renewed for up to three years but there are no provisions for a transition to longer-term legal status after that.<sup>93</sup> Beneficiaries can submit an asylum application at any point, which can lead to longer-term status, but this requires examining each claim individually, a daunting prospect for Member States if all 6 million temporary protection holders choose to do so. Member States did not immediately plan for the possibility that temporary protection holders could stay for longer. A November 2022 report by the European Migration Network, for example, found that just one Member State (the Czech Republic) had made any plans for how to handle the long-term integration of Ukrainian children into schools if the conflict were to become protracted.<sup>94</sup>

It also remains unclear what Ukrainians are likely to want for their own futures. A survey conducted by the German Federal Office for Migration and Refugees between August and October 2022 found that 37 percent of Ukrainians would like to stay in Germany permanently or for several years, 34 percent planned to stay just until the end of the war, and 27 percent were undecided.<sup>95</sup> Diplomatic relations between Ukraine and the European Union further complicate the picture. The Ukrainian government ultimately hopes that most Ukrainians will return home to assist with reconstruction.<sup>96</sup> This may make it politically sensitive for EU countries to shift their own policies to promote Ukrainians' longer-term integration,<sup>97</sup> though some have made this change. The Dutch government, for example, announced in December 2022 that it had begun to

90 Twenty EU Member States provide access to job counseling, and 16 provide access to language courses. See European Migration Network (EMN), "Access to Services for Beneficiaries of Temporary Protection" (issue brief, EMN, Brussels, November 2022).

91 EMN, "Access to Services for Beneficiaries of Temporary Protection."

92 Anna Berlina, *Implementation of Temporary Protection for Refugees from Ukraine: A Systematic Review of the Nordic Countries* (Copenhagen: Nordic Council of Ministers, 2022).

93 European Commission, "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 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* 2001 L212/12, August 7, 2001.

94 EMN, "Access to Services for Beneficiaries of Temporary Protection."

95 Herbert Brücker et al., *Ukrainian Refugees in Germany: Fleeing, Arriving, and Living* (Nürnberg, Wiesbaden, and Berlin: Institut für Arbeitsmarkt- und Berufsforschung, Bundesinstitut für Bevölkerungsforschung, Bundesamt für Migration und Flüchtlinge, and Sozio-oekonomisches Panel, 2022).

96 Peter Sidel, "Ukraine's Biggest Postwar Challenge: Bringing Back Those Who Fleed, Zelensky Says," *The Wall Street Journal*, June 2, 2022.

97 Migration Policy Institute (MPI) Europe, "Ukrainian Displacement in Europe, One Year Later" (webinar, February 14, 2023).

explore options for granting long-term status once temporary protection ends, along with facilitating return when possible.<sup>98</sup> However, more concerted planning will be needed across the European Union to address both the possibility of long-term stay and of return for Ukrainians, whichever trajectory becomes reality.<sup>99</sup>

## 5 The Promises and Perils of Temporary Protection

As each of the three cases shows, temporary protection measures can enable governments to provide protection to large numbers of displaced persons in a short period of time. In each response, certain common circumstances led to similar government decisions, which may highlight the specific areas where these approaches could work. At the same time, carefully weighing the benefits and costs of these approaches is critical to deciding whether to use them in the future and, when using them, how to mitigate the risks.

### A. *An Emerging Model for Crisis Response?*

The responses deployed in Turkey, Latin America, and Europe all share several commonalities, both in the circumstances under which they were deployed and the structure and content of the response. The links among these three cases offer an emerging model for providing protection during displacement crises.

In each case, governments faced mass displacement from neighboring countries over a relatively short period of time. Both Syrian and Venezuelan displacement increased along the same exponential trajectory over the first four years of each crisis,<sup>100</sup> and while the timeline of mass Ukrainian displacement was much more condensed, in all three cases, the massive and rapid influx required a dedicated response. At the same time, not all of the displaced persons fit the receiving countries' legal definition of who is a refugee, either because they were not fleeing individual persecution (in particular, Ukrainians fleeing general conflict) or because they did not meet specific criteria in national country legislation (such as Syrians not fitting into Turkey's geographically limited refugee definition).

Still, in each case, receiving governments had political and diplomatic reasons to provide some form of protection. They were receiving their displaced neighbors, and they had specific ties to the country in crisis. Syria and Turkey have a long shared political history, Venezuela has long been a destination country for other Latin American migrants and refugees, and Ukraine has increasingly been an EU partner, especially following the Maidan Revolution in 2014. In addition, the causes of displacement generated sympathy among potential host communities, which echoed host governments' foreign policy goals: Turkey supported the Syrian opposition, most Latin American countries turned against the increasingly autocratic government in Venezuela, and the European Union universally condemned Russia's invasion of Ukraine. These stances were also shared by host governments' allies.

98 Government of the Netherlands, "Update on Long-Term Policy for Refugees from Ukraine" (news release, December 16, 2022).

99 Organization for Economic Cooperation and Development (OECD), "Working Towards Dual Intent Integration of Ukrainian Refugees" (policy brief, OECD Publishing, Paris, 2023).

100 Dany Bahar and Meagan Dooley, "Venezuela Refugee Crisis to Become the Largest and Most Underfunded in Modern History" (commentary, Brookings Institution, Washington, DC, December 9, 2019).

But the domestic asylum and refugee systems in the receiving countries were not sufficiently established or resourced to handle the large number of potential applicants. In Turkey, the laws in place at the beginning of the Syrian crisis did not account for non-European refugees, and as a result, only 19,000 refugees were registered prior to the Syrian conflict.<sup>101</sup> The country did not have updated asylum procedures, and UNHCR handled the processing and registration of all other protection seekers. Countries across Latin America and the Caribbean had recently reformed their asylum laws, but none of the countries had a system set up to accommodate the numbers of Venezuelans that arrived in a short span of time. And in Europe, arrivals from Ukraine were concentrated in eastern European countries, whose asylum and reception systems lacked sufficient investment. At the same time, Europe was facing an asylum backlog, with more than 400,000 pending asylum claims in February 2022 and half of them pending for more than six months.<sup>102</sup> In addition to strained asylum systems, there were concerns about the pressures on public amenities and services that a more permanent refugee population would bring.

In the face of these circumstances, governments needed solutions that from a legal perspective were relatively easy to implement, could accommodate large numbers of people without overstraining registration and processing systems, would account for those who were not technically

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*Governments needed solutions that from a legal perspective were relatively easy to implement, could accommodate large numbers of people without overstraining registration and processing systems, would account for those who were not technically refugees, and did not overburden social services.*

refugees, and did not overburden social services. This response also needed to account for domestic political concerns about welcoming large numbers on a permanent basis, while signaling externally the government's belief that the opposition in their neighboring country's crisis would prevail, meaning the displacement would only be temporary.

To meet these needs, in all three situations, governments tapped into or developed similar frameworks that allowed for relatively smooth implementation. Turkey's prior experience hosting Iraqi, Balkan, and Chechen "guest" populations provided an initial method for welcoming Syrians, and the ongoing development of comprehensive migration legislation meant that codifying temporary protection was already in progress. In the European Union, the TPD framework had already been adopted and enacted in national legislations, so designing a new framework was unnecessary. Finally, Latin America had undergone significant regional harmonization regarding the management of human mobility, including both the liberalization of asylum legislation and the development of a regional mobility agreement, and several countries had previously engaged in large-scale regularization of irregular migrants from other parts of the region.<sup>103</sup> Nevertheless, when welcoming Venezuelans, most countries developed ad hoc policies and new visa categories that stretched executive branch authority in new directions.

101 Ibrahim Efe and Tim Jacoby, "Making Sense' of Turkey's Refugee Policy: The Case of the Directorate General of Migration Management," *Migration Studies* 10, no. 1 (2022): 62–81.

102 EUAA, "Latest Asylum Trends (February 2022)," updated April 29, 2022.

103 Diego Acosta Arcarazo and Luisa Feline Freier, "Regional Governance of Migration in South America," in *Handbook of Migration and Globalisation*, ed. Anna Triandafyllidou (Cheltenham, UK and Northampton, MA: Edward Elgar Publishing, 2024), 69–85.

These approaches shared several similarities. First, they initially granted legal status on a temporary basis, though the length of status granted varies across contexts, reflecting how uncertain hosting states were about when the crises would be resolved. Each of these measures also relied on group eligibility to determine who could qualify (meaning eligibility based solely on membership in a protected group—in this case, a national of Syria, Ukraine, or Venezuela) instead of individual status determinations, which require protection seekers to prove that they, as individuals, are specifically at risk of harm or persecution, as is the norm in asylum procedures. By defining eligibility in terms of nationality rather than individual risk of harm, these temporary protection measures also extended eligibility for status beyond the confines of the traditional refugee definition.

The temporary approaches adopted across all three regions also did not limit applications for protection or support to those that fled during the initial phase of displacement. Instead, both the Turkish and the EU temporary protection measures have had relatively open-ended timeframes for when a displaced person had to have entered its territory to claim protection. Although responses in Latin America did have such a restriction (particularly the regularization programs in Colombia and Peru), they accounted for the continued arrivals through multiple rounds of regularization.<sup>104</sup> This flexibility recognizes that these crises are not one-time events and that they evolve, and often worsen, over time. It also recognizes the different thresholds that people have for fleeing their homes and seeking protection.<sup>105</sup> However, the flexibility is undercut when host governments subsequently make it more difficult to access their territory, as Turkey and various Latin American countries did through border closures and through adding visa requirements for Venezuelans.

Finally, each response provided protection and access to rights and benefits akin to refugee status. In most cases, beneficiaries had access to free or subsidized health care and education and the right to work, although this was limited by sector, particularly in Turkey. In many cases, beneficiaries had the right to free movement within their host countries, at least in the initial phases of their displacement. Most governments have largely avoided refouling those with temporary protection, and they have sought to continuously extend the time periods that the target populations can remain in status. Although ensuring access in practice to the rights and benefits laid out on paper continues to be the subject of humanitarian and development work, these legal statuses still provide some stability and support to the displaced populations, which often improve displaced peoples' mental health and well-being significantly.

## *B. Calculating the Costs and Benefits of a Temporary Approach*

By and large, the approaches used to respond to the Syrian, Ukrainian, and Venezuelan displacement crises accomplished their initial goals of providing at least temporary legal status and orderly reception processes and were useful tools in managing a challenging situation.

<sup>104</sup> Natalia Banulescu-Bogdan and Diego Chaves-González, "What Comes Next Now that Colombia Has Taken a Historic Step on Migration?" (commentary, MPI, February 2021).

<sup>105</sup> By contrast, the U.S. Temporary Protected Status (TPS) applies only to those who are in the country at the time designated by the TPS decision. Any later arrivals will only be protected if TPS is redesignated to a later date (see Box 4). This means that unless an affirmative decision is taken to expand who is eligible for protection, individuals fleeing the same crisis may have different protection outcomes based on what side of the designation date they arrived in the United States.

The primary benefit of temporary protection approaches has been how quickly and easily displaced individuals could register and their host countries could move them into some form of secure status. This was mostly because the approaches relied on group eligibility criteria or prima facie recognition of protection needs. In Europe, for example, many Member States could issue status documents to temporary protection beneficiaries the same day as registration.<sup>106</sup> By contrast, receiving a decision on an asylum application in 2022 took on average four months in Poland, which received the largest number of Ukrainians,<sup>107</sup> and more than seven months in Germany, the recipient of the largest number of asylum applications in Europe.<sup>108</sup> In Peru, which processed less than 2 percent of received asylum claims in the first six years of the Venezuelan crisis, Venezuelans had to wait only weeks for their PTP applications to be approved (although this sometimes extended to months), rather than years for an asylum decision.

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Responses to large-scale displacement elsewhere in the world have similarly used group eligibility and prima facie determinations in the context of refugee procedures. Uganda, for example, has relied extensively on prima facie recognition and currently grants status on this basis to South Sudanese and Congolese refugees who enter through official border points of entry, while others (such as Somalis and Eritreans) go through individual refugee status determination procedures.<sup>109</sup> The Ugandan government has preferred to use prima facie recognition in certain situations to speed up registration procedures and quickly provide access to humanitarian assistance and socioeconomic services within designated refugee settlements.<sup>110</sup>

By enabling swift access to legal status, temporary protection arrangements ensure that displaced people have access to a right to reside and often basic rights and benefits, such as a legal right to work and access to education and health care. Thus, in many EU Member States, working-age Ukrainians were able to quickly find jobs in the formal sector within the first six months of the crisis, including 41 percent in Estonia, nearly 50 percent in Lithuania, 32 percent in Ireland, 53 percent in Denmark, and up to 38 percent in Spain.<sup>111</sup> In Turkey, by 2019, about 63 percent of Syrian children with temporary protection were enrolled in schools.<sup>112</sup> And in Latin America, most Venezuelans have some form of basic access to health care, regardless of their status in most countries, with some countries such as Ecuador and Brazil providing full health-care access.<sup>113</sup>

Other ancillary factors enabled the success of these approaches. First, governments were able to receive substantial financial and technical support to strengthen and invest in both temporary protection systems

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106 EUAA, *Analysis of Measures to Provide Protection*.

107 ECRE, *Country Report: Poland* (Brussels: ECRE, 2023).

108 ECRE, *Country Report: Germany* (Brussels: ECRE, 2023).

109 Government of Uganda and UNHCR, "Uganda Refugee Response Plan 2022–2023, Protection Dashboard—Quarter 4, January–December 2022," updated February 28, 2023.

110 Stephen Meili, *The Constitutionalization of Human Rights Law: Implications for Refugees* (Oxford, UK: Oxford University Press, 2022).

111 OECD, *What We Know about the Skills and Early Labour Market Outcomes of Refugees from Ukraine* (Paris: OECD Publishing, 2023).

112 ECRE, *Country Report: Türkiye*.

113 Gandini and Selee, *Betting on Legality*.

and in public and social services. In Europe, investments and support by the EUAA and the European Commission were critical in frontline states, including support with conducting needs assessments and registration, preparing and conducting trainings, and supplying up-to-date situational analyses. In Latin America, the U.S. government and other donor governments have provided substantial amounts to support the Venezuelan response, with the United States contributing USD 2.8 billion in humanitarian and development support since 2017.<sup>114</sup> And the European Union has supported Turkey through the Facility for Refugees in Turkey, providing 6 billion euros over a decade for education support, access to social safety nets, and health care.<sup>115</sup>

Second, each system benefited from the use of existing visa-free entry regimes, at least initially. In some cases, this provided an initial, short-term legal status similar to tourist visas while a longer-term response was developed. But the largest benefit was in solving the issue of entry, allowing for relatively simple border crossings that avoided massive lines and delays and allowed people to move quickly into the country without having to undergo registration procedures at the border. Though this did not eliminate long lines, such as those that formed during the early stages of the Ukrainian crisis, it smoothed the entry process and helped relieve pressure on border areas.

It is worth noting that visa-free entry did not remove all barriers to travel, particularly the requirement to have a travel document in many cases. Syrians, for example, need to have a passport or travel document to enter Turkey regularly, with some discretion at the border, and passports are also needed to access some of the benefits offered by temporary protection. Those without passports often try to enter irregularly using smugglers. When Syrians' passports expire, they are in jeopardy of losing status unless they renew their documents with Syrian authorities, which could expose them to significant protection risks.<sup>116</sup> At the start of the Venezuelan crisis, Venezuelans had passport-free entry to some countries as long as they had a national identification card.<sup>117</sup> As the crisis has continued, however, many governments have imposed passport and visa requirements aimed at preventing further entries, or at least lowering official entry statistics.<sup>118</sup>

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*There are also broader, endemic costs to adopting temporary protection approaches. Chief among these are the risks associated with protracted temporariness.*

There are also broader, endemic costs to adopting temporary protection approaches. Chief among these are the risks associated with protracted temporariness. Few of these systems have a way for displaced individuals to transition to sustainable legal status. While several South American countries do have opportunities for Venezuelans to obtain permanent status (especially Argentina and Uruguay because of their application of the Mercosur agreement), in other countries, such options are only available to some

114 U.S. Embassy in Chile, "U.S. Humanitarian and Development Assistance for Venezuela Regional Crisis" (fact sheet, March 23, 2023).

115 European Commission, European Neighbourhood Policy and Enlargement Negotiations, "EU Support to Refugees in Türkiye," accessed September 20, 2023.

116 UNHCR, "Syrian Refugees in Turkey: Frequently Asked Questions" (fact sheet, February 2017); ECRE, *Country Report: Türkiye*.

117 Selee and Bolter, *An Uneven Welcome*.

118 Most countries that did not have a passport requirement at the start of the Venezuelan crisis, such as Ecuador and Peru, later decided to require passports. As of December 2022, of the 15 principal destination countries for Venezuelans in Latin America and the Caribbean, all but four (Argentina, Brazil, Colombia, and Uruguay) had imposed a tourist visa requirement. See Gandini and Selee, *Betting on Legality*; Selee and Bolter, *An Uneven Welcome*.

Venezuelans (often those with family ties or who can access employment in the formal sector).<sup>119</sup> Individuals experiencing protracted temporariness, such as Syrians in Turkey and TPS holders in the United States, suffer long-term vulnerabilities because they are unable to plan and invest in their futures, and they live in continuing fear that protection may someday end and they may be forced to return. For example, estimates show that only 25 to 33 percent of Ukrainian children living in the European Union were registered in local schools more than a year into the conflict.<sup>120</sup>

Temporary status can also forestall necessary government investments in integration and asylum systems. In the European Union, for example, many Member States have not planned for long-term integration of Ukrainian children into schools. Depending on how long the Ukrainian conflict lasts, investments could still be made in integration infrastructure, such as those made in Turkey several years into the conflict. But as the Turkish and Latin American examples show, the earlier these investments are made, the better the integration outcomes will be for both the displaced populations and receiving communities. Similarly, temporary protection systems could divert attention from needed improvements to asylum systems because countries may prioritize extended maintenance and support for a parallel system.

Temporary protection programs lack many of the protections inherent in refugee status. Most crucially, protection from refoulement is inconsistent. Colombia, for example, does not protect against refoulement, and Turkey's efforts to deport or "voluntarily" return Syrians to safe zones may also qualify as a violation of the principle of nonrefoulement. Other associated rights guaranteed by refugee status (though far from implemented universally) include freedom of movement, which is severely restricted for temporary protection beneficiaries in Turkey, and access to social safety nets, from which many Venezuelans were excluded either in policy or practice during the COVID-19 pandemic.<sup>121</sup>

Finally, temporary protection can be politically precarious. In some cases, such as in Latin America, these approaches have largely been the initiative of particular executives and faced the risk of being ended upon the election of a new government. Surprisingly, most Latin American and Caribbean countries under new governments have not made wholesale policy changes toward ending temporary protection. However, the tone and tenor of debates about temporary protection have shifted noticeably within and across governments and receiving countries, exposing the vulnerability of these policies to political backlash. Turkey, for example, has made changes to the TPR both administratively and legislatively. And in Europe, EU Member States have renewed the TPD to the full extent possible, but this was not explicitly guaranteed to happen and it is unclear what protection options will be available after the TPD ends. This creates precarity for displaced individuals, who are not sure whether their status is stable, particularly around elections. Amid heightened anti-refugee electoral rhetoric in Turkey, for example, some naturalized Syrians were concerned about voting for the opposition candidate because of their anti-refugee promises.<sup>122</sup> With anti-migrant and anti-refugee politicians consistently demonstrating bases of support throughout each of these contexts, the fear that status could be taken away is not an idle one.

119 Gandini and Selee, *Betting on Legality*.

120 This is partly due to the option for children to continue studying in Ukrainian schools online. See Shelly Culbertson and Thomas S. Szayna, "The EU Can't Treat Ukrainian Refugees Like Short-Term Visitors," *The Rand Blog*, July 24, 2023.

121 Anna Carolina Machado et al., *Social Protection and Venezuelan Migration in Latin America and the Caribbean in the Context of COVID-19* (Brasilia and Panama City: International Policy Center for Inclusive Growth, United Nations Development Program, United Nations Children's Fund, and World Food Program, 2021).

122 Levkowitz, "Naturalized Syrians Are in the Spotlight."



## 6 The Best of Both Worlds? Building on the Lessons of Temporary Protection for the Future

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Temporary protection approaches have a clear utility and place within the protection landscape. From Syria to Venezuela to Ukraine, mass displacement events have become a feature of the 21st century, not an aberration. These events pose unique challenges for states because of their rapid nature and the scale of the needs they create. Determining and addressing protection needs on an individual level is nearly impossible in these situations, and not all legislative frameworks foresee the *prima facie* granting of refugee status, nor is this necessarily politically feasible. By contrast, the approaches that states neighboring Syria, Ukraine, and Venezuela used to address the large-scale displacement of individuals caused by conflict and political crises in those countries were, at least initially, highly effective at swiftly registering new arrivals and providing them with legal status and basic rights. Given the likelihood that conflict and large-scale displacement will remain a feature of modern migration, it is paramount for states to ensure that they have similar approaches in their tool kits, should the need arise.

However, temporary protection approaches alone are not a panacea for the ills of the global protection system, which has long struggled to provide *de facto* protection from refoulement, legal status, and access to long-term solutions to the majority of the world's refugees. Rather, temporary and flexible protection measures' utility is greatest in specific situations: when the number or speed of arrivals, facilitated by eased opportunities for entry, will likely exceed the local asylum system's capacity or when the causes of flight fall outside the eligibility criteria of existing protection frameworks. Temporary approaches should not be used as a replacement for refugee status because, along with their benefits, they have inherent risks—in particular, their vulnerability to politicization and termination and the practical and political difficulty of transitioning a large population from temporary to longer-term status as displacement crises continue.

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The question of how to apply and use temporary protection measures is equally important to the question of when temporary protection is an appropriate tool. Careful and thoughtful program design and implementation can reduce the risks of temporary approaches. This includes:

- ▶ **Ensuring that temporary approaches are not used concurrently with (de facto) border closures or impossible entry requirements for displaced populations.** Flexible approaches in each of the three cases succeeded in large part because displaced populations had easy access to receiving countries. Strict entry requirements, on the other hand, would render a program difficult for any of its intended beneficiaries to access (although this is sometimes the intention). If the driver of displacement persists, this can lead to increased irregular entries and result in larger numbers of individuals living in precarious statuses.

- ▶ **Ensuring that the status given to temporary protection beneficiaries includes protections from refoulement.** This should also include an avenue to appeal any decisions to revoke status or return a temporary protection beneficiary to a country where they might face harm. By explicitly ensuring that temporary protection follows the principle of nonrefoulement, governments are differentiating it as a protection status rather than a temporary status such as a visitor visa. It also grants beneficiaries an avenue for redress should this principle not be respected and provides an additional layer of state accountability.
- ▶ **Providing the framework for and investing in integration from the beginning.** It is difficult to predict the course of any crisis, and if history is an example, many displaced individuals and families will ultimately stay in their countries of refuge for much longer than initially intended. States can minimize the disruption to individual lives and increase the positive, long-term effects on host societies by investing immediately in access to schools, work, and safe housing. This can both facilitate better short-term integration outcomes by providing access to services right away and lay the groundwork for an easier transition to extended residence, should displaced individuals stay longer than expected.
- ▶ **Building opportunities for displaced individuals to transition to long-term status.** Experience from the crises in Syria, Ukraine, and Venezuela suggests that many, if not most, individuals seeking temporary protection will ultimately need longer-term stays. Providing a built-in opportunity to transition to long-term status after a certain number of years lessens the risk of precarity for individuals who might otherwise fall out of status. Yet, doing this can be politically difficult, as it contradicts the “temporary” nature of these approaches—an element often important to public support for them. By building these opportunities into the legislative structure, however, it can help ease that political burden and alleviate the need for governments to make high-profile decisions later on to proactively enable these changes.
- ▶ **Embedding decisions to provide temporary protection in larger regional approaches that facilitate burden and responsibility sharing.** Deciding to provide temporary protection to a displaced population can be risky for individual governments, which may fear creating a pull factor for more arrivals and thus taking on more responsibility than neighboring countries. Ensuring that decisions are made jointly with other governments in the hosting region (which can either take similar measures or provide financial or practical support) can reduce this risk.

Finally, while well-implemented temporary protection approaches can offer a solution to the distinct challenges of acute displacement crises, they may also offer lessons for more traditional forms of protection. Chief among these is the value of rapid access to needs determinations and status in situations where these are easily identified and substantiated. One of the most critical values of temporary protection approaches as used across these three contexts has been their ability to be applied on a group basis. It is worth considering whether and how such low-friction approaches could be applied more widely within normal asylum and refugee status determination procedures to speed access to status and ease burdens on individual determination systems, especially in regions where expanded refugee definitions (such as the Cartagena Declaration definition in Latin America) provide the legal bases for prima facie recognition. Speedier access to status and relieving pressure on national protection systems could also be accomplished

while still maintaining some aspects of individual status determination by easing requirements within traditional refugee systems, such as interview or additional evidentiary or scrutiny requirements for individuals who have clearly demonstrated that they are part of a protected group. As asylum systems globally face accelerating demand and mounting backlogs, identifying ways to simplify and streamline procedures for groups with clear needs and applying the lessons of temporary approaches may help relieve some of these strains and prevent systems from buckling under growing pressure.

Meeting the needs of the global protection system requires creativity to account for the system's limitations. By using existing tools in new ways and developing new tools to overcome existing obstacles, governments can expand opportunities for protection in ways that benefit both protection seekers and host societies.

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