



## REALIZATION OF THE RIGHT TO WORK BY THE FORCIBLY DISPLACED PERSONS AS A CONDITION FOR THEIR INTEGRATION INTO HOST SOCIETIES IN THE EU COUNTRIES

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DOI: <https://doi.org/10.7220/2029-4239.26.5>

### SUMMARY

*The escalation of the conflict with Russia in Ukraine has led to the mass displacement of people from Ukraine saving themselves from the war. In most cases, displaced persons have found their safe haven in the EU countries. The massive influx of displaced persons has put on the agenda the need to review the EU policy in light of the activation of Directive 2001/55/EC on temporary asylum to better integrate massively displaced persons of different asylum statuses into the society of the host countries. This article aims to consider the realization of the right to work of massively displaced persons as a condition for integration into the host societies. First of all, the differences between refugees, economic migrants, and persons with temporary protection are considered, since they have certain differences and specific features being integrated into labor markets. It has been established that the key aspect of integration of refugees should be observance of the ideas of recognition and enforcement of universally recognized international human rights. The paper identifies the realization of the right to work as one of the key elements in implementing the integration of the displaced persons in the receiving states and determines that displaced persons have the potential to make a positive contribution to the receiving states, if they are integrated into the labor markets of the receiving states. The paper describes the need to realize the right to work, taking into account all the fundamental principles consistent with the concept of decent work. It also identifies the factors that negatively affect integration in the realization of the right to work, elimination thereof should be a key focus of the integration strategy for the displaced persons.*

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## KEY WORDS

*Directive 2001/55/EC, temporary protection, right to work, discrimination and migrants.*

## INTRODUCTION

On February 24, 2022, the Russian Federation escalated a military conflict on the territory of Ukraine and launched military actions on the entire territory of Ukraine, that violated universally recognized human rights and norms of the international law. This situation resulted in massive migration of Ukrainian citizens abroad, where European countries became either destination countries for the Ukrainian migrants or, respectively, transit countries for people migrating from Ukraine. As of July 9, 7,363,623 people from Ukraine crossed the border, 4,904,207 refugees from Ukraine were registered in European countries, and 3,206,642 people were registered for temporary protection status<sup>2</sup>, and as the military conflict continues these numbers keep growing. This massive migration has already been repeatedly described as one of the largest processes of human displacement since World War II and one of the largest migration humanitarian crises on the EU territory. The United Nations High Commissioner for Refugees has declared the situation in Ukraine an emergency of the highest level<sup>3</sup>.

Since February 24, 2022, the EU has been accepting people leaving Ukraine saving themselves from the war. The granting of asylum to Ukrainians is an unprecedented EU decision that had not been introduced before during previous migration phenomena. For the first time, the provisions of Directive 2001/55/EC on temporary protection (hereinafter, the Directive 2001/55/EC) were implemented. The possibility of accepting displaced persons from Ukraine, providing them with temporary protection and implementing the so-called “open door” policy was introduced on March 4, 2022 by the EU Council Decision 2022/3824. Realizing that this military conflict would have implications for the EU and the high likelihood of a massive influx of displaced persons from Ukraine, it was resolved to establish temporary protection in the context of the Directive 2001/55/EC. The implementation of a temporary asylum policy for the massive displacement of persons saving themselves from the war is not new to the global community. However, such actions are justified in granting the asylum, while ensuring that the lives of the people in danger can be preserved. Sergio Carrera, Meltem Ineli Ciger, Lina Vosyliute and Leiza Brumat, has commented on the activation of the Directive 2001/55/EC on the temporary protection as the right decision, since it will provide significant benefits to both host

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<sup>2</sup> The Operational Data Portal (ODP). Ukraine refugee situation. The Refugee agency (UNHCR). (June 2022.) // <https://data.unhcr.org/en/situations/ukraine>.

<sup>3</sup> The United Nations Refugee Agency Ukraine emergency. (July 2022) // <https://www.unhcr.org/ukraine-emergency.html>.

<sup>4</sup> Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection.

states and those seeking asylum from danger<sup>5</sup>. The concept of temporary protection is a mechanism by which states can avoid an unauthorized (illegal) negative influx of the refugees<sup>6</sup> and a manifestation of solidarity on the part of the host states in the time of force majeure.

The mass influx of the displaced persons, due to the military conflict, raises the issue of public policy response of every receiving state, because the mass influx of people always has an impact on the economy of the state and social processes in the society and labor markets of the receiving states. The first issue is the integration of such displaced persons into the receiving states and introduction of effective integration tools. Integration processes are complex and have many components.

One of the key elements in implementing the integration of the displaced persons into the receiving states is providing a person with a possibility to work, exercise his or her right to work, and integrate into the labor markets of the receiving states. Therefore, the central objective of this study is to consider realization of the universally recognized right to work by the temporarily displaced persons, full realization thereof will serve the successful integration of the displaced persons in the receiving states.

In order to clarify the issue of realization of the right to work, the paper considers the following issues. The study starts with clarification of the issues of understanding the legal status of the displaced persons in accordance with the EU Directive No. 2001/55/EC, the differences between persons with temporary protection status and refugees and category of economic migrants. The clarification of this issue is caused by the fact that today the concepts of a migrant, refugee and person with temporary protection are substituted with each other. The understanding of this distinction in the context of this article is caused by the fact that the opportunity to work and exercise their right to work, as an integration element, is provided differently depending on their legal status. Accordingly, the substitution of concepts may have adverse consequences for the displaced persons.

Regardless of the category to which those fleeing from military conflicts will belong, one of the main issues that must be addressed from the perspective of international migration law and taken into account in the policies of every state receiving persons who need protection is the respect and protection of universally recognized human rights for all the displaced persons, which are universal and inviolable. Ensuring access to and enjoyment of basic human rights is key to the proper integration of the displaced persons.

The right to work is one of the main social and economic universally recognized human rights to which the displaced persons should be entitled. Meanwhile, the right to work, in the view of its nature the realization of the right to work by migrants, is an element in which receiving states may be interested, rather than just an element that ensures integration into the receiving states. The last section of this paper identifies the obstacles to the realization of the right to work and thus to the proper integration of the displaced persons in the labor market. The implementation of actions by the receiving states should be aimed at eliminating such negative

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<sup>5</sup> Sergio Carrera, Ciger Meltem Ineli, Lina Vosyliute and Leiza Brumat. “The EU grants temporary protection for people fleeing war in Ukraine: time to rethink unequal solidarity in EU asylum policy”. CEPS Policy Insights. (March 2022): p 1-2 // <http://hdl.handle.net/1814/74394>.

<sup>6</sup> G.I.L. Coles. “Temporary Refuge and the Large Scale Influx of Refugees”. The Australian Year Book of International Law Online (1983): p. 207 // <http://www.austlii.edu.au/au/journals/AUYrBkIntLaw/1978/7.pdf>.

factors in the integration of the displaced persons and are therefore key factors in the integration strategy of every receiving state.

## **LEGAL STATUS OF THE FORCIBLY DISPLACED PERSONS OUTSIDE THE BORDERS OF THEIR STATE IN THE CONTEXT OF THE EU DIRECTIVE NO. 2001/55/EC ON TEMPORARY PROTECTION**

To apply the international legal norms to persons moving outside their country of origin properly, one needs to distinguish the concepts stipulated in the international migration law. Despite the common feature of crossing the border and staying outside their country of the category of persons with temporary protection, refugees and category of economic (labor) migrants are different concepts. These categories of persons have different reasons for their migration, which may condition different degree and speed of their integration into the receiving states.

The mass movement of people has generated great public interest and attention to these processes, which has led to the replacement of these concepts with each other in the media and often in various political documents. However, the distinction between these concepts is important from both a legal and a political point of view, and therefore carries different obligations for the displaced persons<sup>7</sup>, and different activities to integrate them.

First of all, we distinguish between refugees and migrants (economic migrants). The New York Declaration on Refugees and Migrants distinguishes between refugees and migrants in separate categories with different reasons for leaving their country of origin. The UN Refugee Agency stresses that the trend to identify refugees and migrants, and classify refugees as subcategories of migrants, can have serious consequences for the lives and safety of people, who escape the conflict. Refugees are a specifically defined group of people in the international law in the view of their inability to return home<sup>8</sup>, due to the threat to their lives. In contrast to economic migrants, the goal is the very performance of labor activity and economic gain. The distinction between these categories can be seen in the adoption of two different instruments, the Global Compact on Refugees and Global Compact for Safe, Orderly and Legal Migration, which regulate these categories separately. The Global Compact for Safe, Orderly and Legal Migration (paragraph 4) stipulates that migrants and refugees are separate groups and different legal instruments should be applied to them.

Hiroshi Motomura, studying the international law and issues related to displacement of persons outside their state, concluded that refugees and all other types of migrants are different and this difference is related to certain consequences for the displaced persons<sup>9</sup>. Substitution of

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<sup>7</sup> Nando Sigona. “The contested politics of naming in Europe’s “refugee crisis”, *Ethnic and Racial Studies*, 41:3, 456-460 // DOI: [10.1080/01419870.2018.1388423](https://doi.org/10.1080/01419870.2018.1388423).

<sup>8</sup> UN High Commissioner for Refugees (UNHCR), *The 10-Point Plan in Action, Glossary*, December 2016, p. 283.

<sup>9</sup> Hiroshi Motomura. “The New Migration Law: Migrants, Refugees, and Citizen in an Anxious Age”. *Cornell Law Review*. Vol. 105, Issue 2. (2020): p. 473 // <https://ssrn.com/abstract=3564476>.

the concept of refugees with the concept of economic migrants will lead to the exclusion of persons fleeing from war from the regime of international humanitarian protection<sup>10</sup>, and, accordingly, a decrease in the obligations of the receiving states with regard to the refugees.

Another subject that needs to be understood and is central to this study is persons granted temporary protection status under Directive No.2001/55/EC. Such persons, like refugees, are forcibly displaced from the territory of their state due to the threat to the life. The Directive No.2001/55/EC determines that by granting temporary protection, the member states assume international obligations for these persons existing in relation to the refugees. It is about granting asylum and the principle of non-refoulement, which is the same. It is the principle of non-refoulement that is the main tool for the protection of a person in life-threatening conditions. Preventing forced return is an effective, and sometimes the only tool to prevent further violations of the human rights.

Nevertheless, refugees and persons with temporary status are different in nature. The Directive also determines that the procedure for providing asylum and certain rights of persons under international protection may be different<sup>11</sup>, which indicates a difference in their legal status. Article 3 of the Directive No.2001/55/EC<sup>12</sup> stipulates that admission of temporarily protected persons shall be subject to non-refoulement obligations.

Different research papers treat persons with international temporary protection differently: as refugees in the course of massive displacement<sup>13</sup> or as a category of persons that is broader than the term “refugee”<sup>14</sup>, but does not correlate with such a term as a category of persons entitled to have protection along with the refugees<sup>15</sup>. Temporary protection is a tool that is applied, when host states are able to deal with a massive influx of refugees, temporary protection was formed as an opportunity to fill the gaps in the refugee law on such issues, and the status of a temporary protected fills this gap between the migration law and refugee law<sup>16</sup>. However, temporary protection for the displaced persons is less secure than the status of a refugee. The legal status of those people, who get temporary protection is limited to a short period of time, and

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<sup>10</sup> Artur Gruszczak. ““Refugees” as a Misnomer: The Parochial Politics and Official Discourse of the Visegrad Four”. *Politics and Governance*. Vol. 9, Issue 4 (2021), p. 180 // [doi.org/10.17645/pag.v9i4.4411](https://doi.org/10.17645/pag.v9i4.4411).

<sup>11</sup> G.I.L. Coles. “Temporary Refuge and the Large Scale Influx of Refugees”. *The Australian Year Book of International Law Online* (1983): p. 207 // <http://www.austlii.edu.au/au/journals/AUYrBkIntLaw/1978/7.pdf>.

<sup>12</sup> Council Directive (EU) 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences.

<sup>13</sup> İrem ŞENGÜL. “Unpacking temporary protection of refugees: failure of durable solution and uncertainties”. *Inonu University Law Review*. 13 (1), (2022): p.25 // <https://dergipark.org.tr/en/download/article-file/1962246>.

<sup>14</sup> Meltem Ineli-Ciger. “A Temporary Protection Regime in Line with International Law: Utopia or Real Possibility?”. *International Community Law Review*. Vol. 18, Issue 3-4 (2016): p. 289. // <https://doi.org/10.1163/18719732-12341332>.

<sup>15</sup> Costello, Cathryn, Ioffe, Yulia, Büchsel, Teresa. “Legal and Protection Policy Research Series № 34: Article 31 of the 1951 Convention Relating to the Status of Refugees”. *Division of International Protection*. UNHCR.(2017): p.24 // <https://www.refworld.org/pdfid/59ad55c24.pdf>.

<sup>16</sup> Hiroshi Motomura. “The New Migration Law: Migrants, Refugees, and Citizen in an Anxious Age”. *Cornell Law Review*. Vol. 105, Issue 2.(2020): p. 491 // <https://ssrn.com/abstract=3564476>.

can be terminated at any time by the resolution of the state providing it<sup>17</sup>. In such cases, there is a threat of further return to the country of origin, where their life would be threatened.

In the context of the Directive No.2001/55/EC, granting temporary protection is a temporary measure in the event of a massive influx of the displaced persons. As for the persons, who receive temporary protection status in the EU, Article 3 of Directive No.2001/55/EC<sup>18</sup> determines that temporary protection does not resolve the question of recognition of refugee status by persons provided with such asylum in the context of the Geneva Convention of July 28, 1951. At that, it does not leave the possibility of obtaining refugee's status in the future and can be applied to the refugee's status at any time. In other words, temporary protection status is not the same as refugee's status, and the Directive 2001/55/EC stipulates that by granting temporary protection, the member states may grant different rights to the displaced persons<sup>19</sup>.

Despite the differences between these categories of persons, the migration policy of any state should be based on the concept of human rights, guaranteeing implementation of the rights granted. Granting rights to migrants and ensuring their observance is the instrument through which a person is integrated into the receiving state. Roxana Barbulescu argues in her study that when human rights and equality are ensured for persons arriving in the receiving states, it is easier to integrate such persons into the receiving states<sup>20</sup>.

It should be noted that despite some differences in the legal status of these categories of the displaced persons, human rights cannot be restricted under any circumstances. The EU policy with regard to those persons, who need protection shall be based on respect for human rights, and the status of protected persons shall accordingly be considered by any state with regard to universally recognized human rights with security in its territories. Human rights are inherent to every human being and cannot be diminished or violated depending on one's status. Article 3 of the Directive No.2001/55/EC<sup>21</sup> notes that states that have granted temporary protection shall treat human rights and fundamental freedoms with due respect. UNHCR, the UN Refugee Agency notes that despite the fact that international human rights law is not real and is “a set of noble aspirations describing a perfect world that does not correspond to reality”, the states shall ensure certain principles of the Refugee Convention, compliance therewith has provided real assistance to a large number of people<sup>22</sup>.

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<sup>17</sup> İrem ŞENGÜL. “Unpacking temporary protection of refugees: failure of durable solution and uncertainties”. Inonu University Law Review. 13 (1), (2022): p. 25 // <https://dergipark.org.tr/en/download/article-file/1962246>.

<sup>18</sup> Council Directive (EU) 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences.

<sup>19</sup> G.I.L. Coles. “Temporary Refuge and the Large Scale Influx of Refugees”. The Australian Year Book of International Law Online (1983): p. 207 // <http://www.austlii.edu.au/au/journals/AUYrBkIntLaw/1978/7.pdf>.

<sup>20</sup> Roxana Barbulescu. “Migrant Integration in a Changing Europe: Immigrants, European Citizens, and Co-ethnics in Italy and Spain”. University of Notre Dame Press (2019): p. 81-153.

<sup>21</sup> Council Directive (EU) 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences.

<sup>22</sup> UN High Commissioner for Refugees, “RLD5-Human Rights and Refugee Protection” (October 1995) // <https://www.refworld.org/docid/3ccea4494.html>.

All the displaced persons are covered by the international human rights law, and their status and location are irrelevant to be included in the scope of international human rights law<sup>23</sup>. The New York Declaration for Refugees and Migrants recognizes the problematic issue of massive displacement and emphasizes the human rights of all the refugees and migrants, regardless of their status<sup>24</sup>. It is human rights that should formulate the principles on which an EU policy to protect displaced persons, that protects universally recognized human rights, should be based on<sup>25</sup>. Migration policy can only be viable and effective, if it is based on the legal norms and operates under the rule of law<sup>26</sup>, which is the basis for social peace, justice, and democracy in the society.

Catryn Costello and Colm O’Cinneide emphasize the importance of the EU policies based on a human rights approach to the displaced persons, as they play a key role in the global processes around the world, and are followed by other states outside the EU to improve their policies<sup>27</sup>. The analytical report prepared by the Office of the High Commissioner for Human Rights also emphasizes the need to respect the human rights of all the displaced persons and notes that in the absence of access to human rights, the contribution to society that they would have made and the displaced themselves would not have benefited<sup>28</sup>.

That is, the migration policy of EU countries to integrate persons who need protection should be based on ensuring the human rights, and status of the persons being protected, respectively, should be considered by any state based on the concept of granting and respecting universally recognized human rights. Without ensuring human rights, the integration processes of a displaced person into the society are impossible. This concept must be taken into account irrespective of the status of the displaced person, but in the view of the specific features of the legal status provided to them.

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<sup>23</sup> Colin Harvey. “Time for Reform? Refugees, Asylum-seekers, and Protection Under International Human Rights Law». *Refugee Survey Quarterly*. Volume 34, Issue 1, (March 2015): p. 47. // <https://doi.org/10.1093/rsq/hdu018>.

<sup>24</sup> UN General Assembly, New York Declaration for Refugees and Migrants: Resolution adopted by the General Assembly on 19 September 2016, 3 October, A/RES/71/1 (2016) ([http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/71/1](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/1))

<sup>25</sup>Jürgen Bast, Frederik Harbou, Janna Wessels. “Human Rights Challenges to European Migration Policy (REMAP): Discussion paper”. *Forschungsgruppe Migration & Menschenrechte* (2018): p. 5-6 // <https://www.stiftung-mercator.de/en/publications/human-rights-challenges-to-european-migration-policy-remap/>

<sup>26</sup> Inter-parliamentary Union. “Migration, human rights and governance: Handbook for Parliamentarian no 24”: p.40 (2015) // [https://www.ohchr.org/sites/default/files/Documents/Publications/MigrationHR\\_and\\_Governance\\_HR\\_PUB\\_15\\_3\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/MigrationHR_and_Governance_HR_PUB_15_3_EN.pdf).

<sup>27</sup> C. Costello and C. O’cinnéide. “The Right to Work of Asylum Seekers and Refugees”, ASILE Project. (2021): p. 37 // [www.asileproject.eu/the-right-to-work-of-asylum-seekers-and-refugees/](http://www.asileproject.eu/the-right-to-work-of-asylum-seekers-and-refugees/).

<sup>28</sup> UN Office of High Commissioner for Human Rights, “Migration and human rights: Improving Human Rights-Based Governance of International Migration”, (December 2012): p.8 // <https://www.refworld.org/docid/5243e8e74.html>.

## **THE ESSENCE OF THE RIGHT TO WORK OF THE TEMPORARILY DISPLACED PERSONS, ITS IMPORTANCE IN THE CONTEXT OF THE INTEGRATION OF THE DISPLACED PERSONS**

Integration of the persons with temporary protection status should take place in all areas of life, including social and economic integration, which is carried out by providing such persons with an access to the labor market to exercise their universally recognized right to work, as an important component of the integration of the displaced persons. Such integration is the most effective tool for preventing violation and deterioration of the human rights.<sup>29</sup> The right to work in massive displacement will have a dual origin, which, on the one hand, will help a person to participate in the social economic and political life, earn a living, on the other hand, a person receives a certain dignity and self-esteem through work, interacting with the environment<sup>30</sup>. The admission of the displaced persons to the labor markets gives them the opportunity to be self-sufficient, an opportunity to provide for themselves, and opportunity for them to participate in employment-related welfare programs<sup>31</sup>, which will result in a higher level of economic and social integration of the displaced persons in the society. The displaced persons are a category of persons vulnerable to violations of their rights, and failure to observe their labor rights is often associated with the use of forced labor. Providing an opportunity to work and opportunity to be integrated into the labor market certainly has the potential to guarantee universally recognized human rights and reduce the risks of illegal practices in the informal economy.

The matter of economic development cannot be realized without allowing the individual to work and exercising his/her right to work. The inability to admit the displaced persons to the right to work and inability to obtain the means to support themselves leads to considerable exposure and insecurity<sup>32</sup>. Catryn Costello and Colm O’Cinneide<sup>33</sup> emphasize the particular importance of respecting such a fundamental human right as the right to work, that they consider to be vital for the displaced persons. The opportunity for the displaced persons to work is essentially the key factor for their integration into the host society. The results of a survey in Switzerland regarding the opportunity to work for the displaced persons showed that

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<sup>29</sup> Alfredo Rizzo. "The Twofold (Internal And External) Dimension Of European Union’S Migration And Asylum Policies: Recent Cases And Future Scenarios," EURINT, Centre for European Studies, Alexandru Ioan Cuza University, vol. 5 (2018): p. 108 // <https://ideas.repec.org/a/jes/eurint/y2018v5p103-119.html>.

<sup>30</sup> C. Costello and C. O’cinnéide. "The Right to Work of Asylum Seekers and Refugees", ASILE Project. (2021): p.9 // [www.asileproject.eu/the-right-to-work-of-asylum-seekers-and-refugees/](http://www.asileproject.eu/the-right-to-work-of-asylum-seekers-and-refugees/).

<sup>31</sup> Johanna K Schenner, Anders Neergaard. "Asylum-seekers and refugees within Europe and labour market integration". Transfer: European Review of Labour and Research. Vol. 25 (1) (2019): p. 13-24. // <https://journals.sagepub.com/doi/pdf/10.1177/1024258919829995>.

<sup>32</sup> İrem ŞENGÜL. "Unpacking temporary protection of refugees: failure of durable solution and uncertainties". Inonu University Law Review. 13 (1), (2022): p. 25 // <https://dergipark.org.tr/en/download/article-file/1962246>.

<sup>33</sup> C. Costello and C. O’cinnéide. "The Right to Work of Asylum Seekers and Refugees", ASILE Project. (2021): p.37 // [www.asileproject.eu/the-right-to-work-of-asylum-seekers-and-refugees/](http://www.asileproject.eu/the-right-to-work-of-asylum-seekers-and-refugees/).



“employment is one of the few available arenas for building social bridges with the host society”<sup>34</sup>.

In addition, another important aspect of ensuring the realization of the right to work is the opportunity for the displaced persons to contribute to the development of the receiving state and society. Explaining this thesis, it should be noted that massive processes of human displacement and providing asylum are usually perceived as a rather negative phenomenon in the society. Migrants are associated with such phenomena as violations of human rights, increased crime and unemployment, and other social disadvantages. This creates certain challenges in the implementation of migration and asylum policies, social and labor market policies of the host countries. For example, a massive increase in the number of people who need labor opportunities creates certain pressure on the operation of the labor market, there is an increase in unemployment due to the inability to quickly create jobs with the rapid growth of the working-age population. At the same time, if such jobs cannot be created, there is pressure on social protection systems to ensure minimum standard of living of the forcibly displaced people.

The matter of making a contribution to the receiving societies and states is first of all relevant to economic migrants, e.g., Communication from the Commission to the Council, European Parliament, European Economic and Social Committee and Committee of the Regions - Migration and Development: Some concrete orientations say: “Countries and international organizations increasingly perceive migration as phenomenon whose positive impacts in development terms can be substantial, provided that appropriate policies are in place”<sup>35</sup>. However, the importance and necessity of the refugees’ contribution is increasingly being emphasized. Global compact on refugees<sup>36</sup> defines that the massive influx of refugees is related to the development problems of the host societies, but can also determine the benefits of collaborative and inclusive economic growth in refugee-hosting areas. There are increasing precedents for the European countries to recognize the expediency of their economic interests: migrants can compensate for the shortages of workers in the labor market and emphasize the need to admit those seeking asylum to the labor market<sup>37</sup>. Since the COVID-19 pandemic, we can see a growing shortage at certain positions for the workforce, and accordingly it needs to be solved. The problem of labor shortages in some countries can be compensated by the displaced people.

Meghan Benton and Andrew Selee emphasize that access to the labor markets for the displaced persons, opportunity to work, and granting them a legal status as early as possible leads

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<sup>34</sup> Averhed Yevgeniya. “The breathing space or impact of temporary protection on integration from the perspective of refugees: RLI Working Paper No. 52” (2020): p. 22 // <https://sas-space.sas.ac.uk/9453/1/WPS%20No.%2052.pdf>.

<sup>35</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, “Migration and Development : some concrete orientations” COM/2005/0390 (September 2005) // <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52005DC0390>.

<sup>36</sup> UN High Commissioner for Refugees. “Global Compact for Refugees: Final Draft” (June 2018) // <https://bit.ly/2QBhGFj>.

<sup>37</sup> Adel-Naim Reyhani, Gloria Golmohammadi. “The Limits of Static Interests: Appreciating Asylum Seekers’ Contributions to a Country’s Economy in Article 8 ECHR Adjudication on Expulsion”. *International Journal of Refugee Law*, Volume 33, Issue 1, 2021: p. 5 (2021) // <https://doi.org/10.1093/ijrl/eeab023>.

to economic benefits for the host states<sup>38</sup>. The economic benefit, in doing so, will also refer to the reduction of pressure on the social protection systems of the receiving states, as the forcibly displaced persons will become economically self-sufficient, and their vulnerability will be reduced accordingly.

ILO Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No.205)<sup>39</sup> emphasizes the importance of providing access to labor markets for the refugees and ensuring their protection in the labor markets. At that, it determines the need to pay special attention to especially vulnerable categories, that refer to migrants, refugees and other displaced persons. The International Labor Organization does not separately distinguish between the concepts of persons under temporary protection and refugees. However, given that displaced persons in the context of the Directive No.2001/55/EC are close in their legal status to the concept of refugees, we can say that the international standards of the International Labor Organization and its fundamental principles of labor regulation are applicable to this category of persons. In addition, the International Labor Organization in its publications classifies the category of Ukrainian migrants as refugees<sup>40</sup>, regardless of the category of protection they received.

Although the categories of refugees and persons with temporary protection status are equal in their rights and obligations in the process of realization of the right to work, the issue of admission to labor markets is different. The issue of the admission of refugees to the labor markets in the EU countries is resolved differently, as defined by the directive EC 2013/33/EU laying down standards for the reception of applicants for international protection (recast)<sup>41</sup>, those seeking for asylum must be provided with an opportunity to stay in the country for at least 9 months. However, in Lithuania, for example, asylum seekers are not given the opportunity to work until refugee status is considered, which does not facilitate prompt and proper integration. It is confirmed by the MIPEX, which lists Lithuania among the countries with insignificant levels of integration of refugees into the receiving state.<sup>42</sup>

Issues of admission to the labor market of persons displaced from Ukraine in the context of the EU Directive No.2001/55/EC<sup>43</sup> is resolved by Article 12, which stipulates that the host states provide permission to work as an employee and opportunity to ensure activities in the form

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<sup>38</sup> Meghan Benton, Selee Andrew. “The Ukrainian Conflict Could Be a Tipping Point for Refugee Protection: Commentaries.” Migration police Institute. (2022) // <https://www.migrationpolicy.org/news/ukrainian-displacement-refugee-protection>.

<sup>39</sup> International Labour Organization. Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205).

<sup>40</sup> ILO, “The impact of the Ukraine crisis on the world of work: Initial assessments”. (2022) // [https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/documents/briefingnote/wcms\\_844295.pdf](https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/documents/briefingnote/wcms_844295.pdf); ILO. “Prevention through information: ILO campaign on Ukrainian railways to prevent labour exploitation among refugees” (2022) // [https://www.ilo.org/budapest/whats-new/WCMS\\_842255/lang--en/index.htm](https://www.ilo.org/budapest/whats-new/WCMS_842255/lang--en/index.htm).

<sup>41</sup> Council Directive (EU) 2013/33/EU of 26 June 2013 laying down standards for the reception of applicants for international protection (recast).

<sup>42</sup> Giacomo Solano, Thomas Huddleston. Migrant International Policy Index. (2020) // <https://www.mipex.eu/key-findings>.

<sup>43</sup> Council Directive (EU) 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences.

of self-employment, and no additional work permits are required. However, the issue when a person can be admitted to work is solved differently in different countries. For example, in Poland, Ukrainian citizens can work once they register their legal residence status and receive the PESEL code<sup>44</sup>. In Germany<sup>45</sup>, Austria<sup>46</sup> they provide a possibility to work, once you have a resident card. It is not prohibited in the context of the Directive 2011/95/EU of the European Parliament and the State Committee of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of protection granted, which suggests that the issue of a residence permit may be a condition for the ability to work and social security<sup>47</sup>. At the moment, the issuance of residence permits, given the massive number of the displaced persons, can take a significant period of time, due to the large influx of people arriving, and therefore administrative agencies are not able to quickly process the applications submitted. Therefore, under such conditions, not getting the resources to support themselves, performance of work by the displaced persons can easily become illegal, and accordingly, the possibility for the migrants to work from the moment of application is a more pragmatic approach, which gives the opportunity to work in compliance with basic labor rights and faster integration in the labor market of the host states. One prominent recent example of temporary protection and labor opportunities is Turkey during the mass influx of Syrian refugees. In Turkey, the massive displaced persons from Syria were provided with work opportunities not immediately, leading to illegal low-wage work, with wages below the minimum wage, as well as departure of highly skilled workers, who could fill the gap in the labor market<sup>48</sup>.

Courtney Brell, Christian Dustmann and Ian Preston have studied economic integration of the refugees in the course of previous migrations in different EU countries (the Netherlands, Switzerland, Germany, etc.) and established that long stays in the refugee camps, long waiting times for employment lead to poorer employment outcomes for the refugees.<sup>49</sup>

Thus, the realization of the right to work by the displaced persons will be of dual importance: first, for the displaced persons - it is a key element for the displaced persons to

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<sup>44</sup> O pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa: Ustawa Rzeczypospolitej Polskiej z dnia 12.03.2022.

<sup>45</sup> Umsetzung des Durchführungsbeschlusses des Rates zur Feststellung des Bestehens eines Massenzustroms im Sinne des Artikels 5 der Richtlinie 2001/55/EG und zur Einführung eines vorübergehenden Schutzes: Bundesministerium des Innern und für Heimat.

<sup>46</sup> European Council on Refugees and Exiles. “Information Sheet – Measures in response to the arrival of displaced people fleeing the war in Ukraine”. (May 2022) // <https://ecre.org/wp-content/uploads/2022/03/Information-Sheet---Access-to-territory-asylum-procedures-and-reception-conditions-for-Ukrainian-nationals-in-European-countries.pdf>.

<sup>47</sup> Council Directive (EU) 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

<sup>48</sup> Sergio Carrera, Ciger Meltem Ineli, Lina Vosyliute and Leiza Brumat. “The EU grants temporary protection for people fleeing war in Ukraine: time to rethink unequal solidarity in EU asylum policy”. CEPS Policy Insights. (March 2022): p. 32 // <http://hdl.handle.net/1814/74394>.

<sup>49</sup> Courtney Brell, Christian Dustmann, and Ian Preston. “The Labor Market Integration of Refugee Migrants in High-Income Countries.” *Journal of Economic Perspectives*. Volume 34, Number 1 (2020): p. 116.

become a part of the labor markets, giving them a certain autonomy, no dependence, and possibility of communication in the society, i.e. the realization of proper integration; second, for the receiving states - giving the displaced persons an opportunity to work will enable the receiving states to reduce the pressure on social security systems, and their labor markets – to fill the gaps for labor force. Moreover, it can be argued that the sooner a person is able to work, the sooner he or she will be able to integrate into the labor market and the receiving state.

## **FACTORS AFFECTING THE LACK OF PROPER IMPLEMENTATION OF THE RIGHT TO WORK OF THE DISPLACED PERSONS**

The realization of the right to work, like any other right, must be based on the principles of respect for human rights in all its manifestations and comprehensive protection of the displaced persons. The right to work is a fundamental human right recognized by all human states. Article 23 of the Universal Declaration of Human Rights<sup>50</sup> assumes that everyone has the right to work, free choice of employment, just and favorable working conditions, and protection against unemployment. The European Social Charter<sup>51</sup> (as revised) defines the basic rights and principles of human labor, and states that the goal of any state policy should be to achieve conditions under which the fundamental ideas of the Charter can be effectively implemented: everyone should be able to earn a living in the profession he/she freely chooses; all workers have the right to fair working conditions; all workers have the right to safe and healthy working conditions; all workers have the right to fair remuneration, which is the right to a fair and equitable remuneration. In doing so, the proper realization of the right to work can be defined only by comprehensively respecting and ensuring certain principles for the displaced persons.

Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205) identifies the need to promote employment with decent work, which is vital to promoting peace, preventing crises, ensuring recovery and enhancing sustainable development, the need to respect, promote and implement fundamental principles and rights at work and international labor standards.

The right to work, that should be based on the principles of decent work and comply with International Labor Organization standards that call for respect for human rights and demonstrate “due diligence” to avoid any social risks, and provide effective remedies for victims of labor abuses. Currently, the shortage and crisis of decent work were those negative factors of the global economy, world trade, that showed how employment can be accompanied by minimum wages, rigid internal labor regulations provided by the employer, lack of the employer’s interest to provide opportunities for self-development and self-improvement of the workers through proper investment in professional training, labor in informal labor relations, etc. Labor of people, who are refugees (displaced person) is most often characterized as unreliable and refers to poorly regulated sectors and activities, namely migrant workers are in conditions of shortage for decent

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<sup>50</sup> The Universal Declaration of Human Rights: Resolution adopted by the United Nations General Assembly of 10 December 1948.

<sup>51</sup> European Social Charter (revised) (ETS No. 163), Council of Europe of 03 May 1996.

labor, and accordingly violation of labor rights will not lead to the integration of the displaced persons in labor markets and in the host societies.

Ensuring equal rights and opportunities to realize such rights, particularly at work, is the central focus of the concept of human rights and decent work. Universal recognition of human rights is closely related to full legal equality between citizens and non-citizens, that embodies the idea of social justice through equality of opportunity and established equal legal standards. All the displaced persons should enjoy the same basic universally recognized rights regardless of their nationality and location, and the migrants should accordingly be subject to the principles set out in international human rights law. The prohibition of discrimination is a universally recognized principle of international and European Union law<sup>52</sup>. Protection against discrimination and non-discrimination are the key components for the integration of the migrants, that can only take place, if there is an appropriate protection against discrimination and should be a key principle of the EU policy on the legal regulation of third-country nationals displaced to the EU for one reason or another. Only in the absence of discriminatory behavior against displaced persons, and established integration, their contribution to the host societies is possible.

International institutions have adopted a significant number of legal instruments on the prohibition of discrimination. The International Covenant on Civil Rights stipulates that any person shall enjoy all the rights provided for in this document without any discrimination<sup>53</sup>. The International Covenant on Economic, Social and Cultural Rights establishes the prohibition of discrimination in the context of economic, social and cultural rights: the right to a decent standard of living, physical and mental health, the right to education, etc.<sup>54</sup>. The Convention on the Elimination of All Forms of Racial Discrimination<sup>55</sup> prohibits discrimination on the grounds of race, color, descent, or national and ethnic origin, and provides for state obligations to prevent these phenomena.

The EU countries and their citizens mostly support Ukrainians on the background of the war with Russia. For example, according to Eurbarometr<sup>56</sup>, the EU citizens in their majority (88% of respondents) support the idea of admitting people saving themselves from war to the EU. However, despite the significant support, one can state the fact of significant discriminatory practices faced by the displaced persons from Ukraine. Discriminatory behavior practices are widespread in relation to the displaced persons exactly in the labor markets of the host states, when they exercise their right to work: illegal (not official) work, inability to have their qualifications recognized (obtained by them in the country of origin) leads to inability to get work according to their professional abilities, language barriers, which as a result can lead to excessive

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<sup>52</sup> Olivier de Schutter, “Links between migration and discrimination”. European Network of Legal Experts in the non-discrimination field. European Commission, (December 2009): p.78 // [https://www.migpolgroup.com/old/public/docs/166.LinksbtwMigratio&Discrimination\\_thematicreport\\_0\\_2.12.09.pdf](https://www.migpolgroup.com/old/public/docs/166.LinksbtwMigratio&Discrimination_thematicreport_0_2.12.09.pdf).

<sup>53</sup> International Covenant on Civil and Political Rights: Resolution adopted by the United Nations General Assembly of 16 December 1966.

<sup>54</sup> UN General Assembly, International Covenant on Economic, Social and Cultural Rights: Resolution adopted by the United Nations General Assembly of 16 December 1966.

<sup>55</sup> UN General Assembly. International Convention on Elimination of All Forms of Racial Discrimination, Resolution adopted by the United Nations General Assembly of 21 December 1965.

<sup>56</sup> European Commission. Flash Eurobarometer 506. EU’s response to the war in Ukraine: Report. (May 2022) // <https://europa.eu/eurobarometer/surveys/detail/2772>.

exploitation or even forced labor. Equinet, The European Network of Equality Bodies, promotes equality in Europe by supporting equality bodies to achieve equality for all, noted that Ukrainians often cannot find housing, have problems with employment, get lower wages in labor markets, and stresses the unacceptability of discrimination of any kind<sup>57</sup>. The right to non-discrimination shall be enshrined as an actual observance of human rights, rather than merely as a formal equality of all persons and purely declaratory norm.

The basic provisions on equality in the labor market are enshrined in the EU Directive 2000/78/EC as of November 27, 2000<sup>58</sup>. This document stipulates that it is applicable to all persons and establishes equal conditions of access to employment, criteria and conditions of employment, promotion, vocational guidance, vocational training, working conditions, dismissal conditions, wage equality, etc. However, the Directive is not applicable to the difference in matters of statelessness. Given the lack of citizenship, the right to work of the displaced persons may be somewhat limited. Thus, the appointment of foreigners to certain positions related to the exercise of public authority, civil service, etc., is limited mainly for the reasons of national security and public interest, and the requirements for admission to these professions may be bound by the condition of citizenship of the country.

The Directive 2001/55/EC<sup>59</sup> has restricted the matter of the employment of people saving themselves from the war to some extent compared to the Refugee Convention. This Directive stipulates that the labor market policies of the member states may give priority to the EU citizens, citizens of states bound by the Agreement on the European Economic Area, and citizens of third countries getting unemployment benefits. The Convention relating to the Status of Refugees establishes that States shall provide refugees with the most favorable legal situation for the exercise of their right to work. Yet, Article 17 of the Convention stipulates that “no restrictive measures relating to foreigners or their employment for the protection of the internal labor market shall be applied to the refugees, and the states hosting the refugees shall, as far as possible, be equal to the rights of citizens<sup>60</sup>.”

This restriction shall not be discriminatory. Foreigners may be prohibited from dealing with those types of work that are inherently connected with the protection of the public interest, national security and related to the exercise of public authority. Restrictions on such types of work can only be provided by law, necessary for legitimate purposes in a democratic society to protect the rights and freedoms of others. However, differences that are essential for certain

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<sup>57</sup>European Network of Equality Bodies. “The War on Ukraine and its impact on Equality in Europe: three month on.” (May 2022) // <https://equineteurope.org/the-war-on-ukraine-and-its-impact-on-equality-in-europe-three-months-on/>.

<sup>58</sup> Council Directive (EU) 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

<sup>59</sup> Council Directive (EU) 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences.

<sup>60</sup> Convention relating to the Status of Refugees: Resolution adopted by the United Nations General Assembly of 28 July 1951.

professions, requirements for certain professions do not constitute discrimination in the labor market<sup>61</sup>.

The UN Human Rights, with the onset of mass displacement from Ukraine, re-emphasizes any prohibition of discrimination against women and the importance of including all women in the scope of fundamental rights and freedoms<sup>62</sup>. This state of affairs is caused by the fact that most of the displaced persons, who can be integrated into the labor markets are women, and their integration into the labor markets is worse than that of men.<sup>63</sup> Moreover, gender discrimination is particularly evident in the labor market, since most women have minor children and are required to combine child-caring duties with their work, along with a number of other negative factors in the labor market, undoubtedly discriminatory.

The Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin<sup>64</sup> and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation are the key regulatory acts in the EU legislation on this matter<sup>65</sup>. And gender equality in employment is addressed by Directive 2006/54/EC of 5 July 2006. The ILO Guidelines on Refugees and Other Displaced Persons call for strengthening the role of equality of opportunity, while also recognizing the special needs of women and other vulnerable groups<sup>66</sup>. The equality of women with children in the labor markets can be ensured through various practices of flexible forms of employment, e. g. telecommuting, flexible working hours, part-time employment contracts, etc.

In the context of discriminatory practices with regard to the displaced persons, especially with regard to women, one needs to pay attention to the work of home workers. Such jobs are often taken by the refugees as an early opportunity to be economically self-sufficient. In the course of their employment home workers face such problems as excessive working hours, irrelevant payment, exclusion from social insurance, lack of participation in the trade union movement. One of the common problems of home workers is psychological and physical violence at work. To provide home workers with conditions of decent work, the International Labor Organization adopted the Convention on Decent Work for Domestic Workers No.189 as

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<sup>61</sup> European Committee of Social Rights. “Conclusions 2012 - Albania - Article 1-2”. (2012) // [https://hudoc.esc.coe.int/eng#{ "sort":\["ESCPublicationDate%20Descending"\],"ESCDcIdentifier":\["2012/def/ALB/1/2/EN"\]}](https://hudoc.esc.coe.int/eng#{ ).

<sup>62</sup> Office of the United Nations High Commissioner for Human Rights. “Ukraine: Protection and participation of women is essential, say UN human rights experts”. (March 2022) // <https://www.ohchr.org/en/press-releases/2022/03/ukraine-protection-and-participation-women-essential-say-un-human-rights>.

<sup>63</sup> Alice Bloch. Refugees in the UK Labour Market: The Conflict between Economic Sntegration and Policy-led Labour Market Restriction. *Journal of Social Policy*. 37(1): p. 21-36 // doi:10.1017/S004737940700147X.

<sup>64</sup> Council Directive (EU) 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

<sup>65</sup> Council Directive (EU) 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

<sup>66</sup> International Labour Organization. “Guiding principles: Access of refugees and other forcibly displaced persons to the labour market”. (2016) // [https://www.ilo.org/global/topics/labour-migration/publications/WCMS\\_536440/lang--en/index.htm](https://www.ilo.org/global/topics/labour-migration/publications/WCMS_536440/lang--en/index.htm)

of June 16, 2011<sup>67</sup>, acknowledging that home workers enjoy all the current labor standards, with the need to supplement them with specific norms to be able to equally enforce their rights.

One of the factors contributing to discrimination against the displaced persons with temporary protection status is the temporary nature of their legal asylum status. Temporary protection does not allow getting a stable job, what will also reduce the level of integration of the displaced persons into the host societies. The way to solve this issue could be a transition to labor migration with the provision of residence permits with the condition of being able to work in the territories of the state, which “needs to adopt more flexible boundaries between humanitarian protection and labor migration”<sup>68</sup>. This would also enhance the level of protection by providing the ability to reside in the receiving states for a longer period of time than temporary protection, which could end at any time.

These conditions can be properly ensured by the positive commitments of the host states to ensure the right to work and take positive measures to ensure that an individual enjoys the right to work, and take educational and information measures for the possibility and necessity of exercising one’s right to work<sup>69</sup>. So here we need to talk about increasing the role of public employment agencies, that have to promote the employment. That is, time the realization of the right to work and other labor rights of the displaced persons should be perceived only as an exclusively private sphere of interests of workers and employers, as well as controlled by the state.

The private sector with employment activities also needs enhanced state control. Private employment agencies in practice are more effective tools for the employment of the migrants, but with the help of such agencies there is a greater spread of negative employment practices, i. e., unofficial employment and cases of forced labor or conditions close to forced labor. Therefore, the control over the activities of such organizations should be strengthened in compliance with the principles of their activities enshrined by the ILO.

The lack of an active policy to promote employment and inform migrants makes the displaced persons agree to any conditions of employment. This is mainly caused by the fact that once the migrants find themselves in the new environment, they often do not have any means of living, or housing, do not have opportunities for normal communication due to lack of knowledge of the language. Policies for the employment of migrants shall be accompanied by efforts to introduce language training and opportunities for them to learn either within their professions or in other professions in the absence of appropriate opportunities in the labor markets. The lack of such policies and pursuit of the host states for early economic self-sufficiency of the refugees often results in their loss of opportunities to find employment according to their skills and

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<sup>67</sup> International Labour Organization. Domestic Workers Convention, 2011 (No. 189).

<sup>68</sup> Meghan Benton, Selee Andrew. “The Ukrainian Conflict Could Be a Tipping Point for Refugee Protection: Commentaries.” Migration police Institute. (2022) // <https://www.migrationpolicy.org/news/ukrainian-displacement-refugee-protection>.

<sup>69</sup> United Nations Human Rights Committee on Economic, Social and Cultural Rights. “The right to work: General comment no 18”. (2005) // [http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1a0Szab0oXTdImnsJZZVOfUKxXVIsd7Dae%2FCu%2B13J25Nha719NlwYZ%2FTmK57O%2FSr7TB2hbCAidyVu5x7XcqjNXn44LZ52C%2BikX8AGOrVylc#:~:text=The%20obligation%20to%20fulfil%20\(facilitate,to%20facilitate%20access%20to%20employment](http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1a0Szab0oXTdImnsJZZVOfUKxXVIsd7Dae%2FCu%2B13J25Nha719NlwYZ%2FTmK57O%2FSr7TB2hbCAidyVu5x7XcqjNXn44LZ52C%2BikX8AGOrVylc#:~:text=The%20obligation%20to%20fulfil%20(facilitate,to%20facilitate%20access%20to%20employment).



qualifications, that would be contrary to the concept of decent work.<sup>70</sup> Despite the fact that integration politicians for the most part note the need to learn the languages of the host states, in practice there are often no such opportunities for the displaced persons, especially in the states with low levels of integration of the displaced persons. Language courses can be sometimes organized on a voluntary basis by certain private organizations and there is often no proper communication on such courses. This problem can also be solved by allowing displaced persons, who have the right to work in the receiving state to work, have more motivation to learn the language of the receiving state, and an opportunity to practice their language skills in a linguistic environment.

ILO publications have determined that the majority of the displaced persons from Ukraine are with high qualifications, who worked before the war and lost their jobs due to hostilities. Often these skills and qualification are not recognized in the host countries, and thereafter displaced person does not have the opportunity to find employment according to previously obtained speciality. However, the inability to confirm such qualifications has been recognized a significant problem in the EU, and the European Commission has developed Guidelines on fast-track recognition of Ukrainian academic qualifications<sup>71</sup>. The above document provided recommendations to the EU authorities and higher education institutions for the recognition of diplomas of the displaced Ukrainians, and the education system in Ukraine was reviewed. Such a document should greatly simplify the procedure of recognition of qualifications acquired by Ukrainians and find a job that will meet the requirements of their qualifications and skills, and is undoubtedly a positive step for the ability to integrate into the labor markets without discrimination.

The discriminatory practices may arise due to language barriers of the newcomers and lack of knowledge of their rights and possible ways to protect them. María José Añón, in examining the rights of the refugees and migrants, noted the importance of providing pro bono legal assistance to the refugees by the state, who often do not have adequate access to judicial proceedings regarding violations of their rights, to ensure social justice. It is through the provision of legal assistance that the right to effective judicial protection can be ensured<sup>72</sup>, without thereof discriminatory practices and equality for refugees are not possible.

## CONCLUSION

The massive movement of people from Ukraine and providing them with an opportunity to stay on the safe territory has raised many questions in the EU. The EU migration policy faces the issue of ensuring the proper integration of these displaced persons.

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<sup>70</sup> Roger Zetter, Héloïse Ruauzel. “Refugees’ right to work and access to labour markets: constraints, challenges and ways forward”. Forced Migration review. *Economies: rights and access to work*. (June 2018) // <https://www.fmreview.org/economies/zetter-ruauzel>.

<sup>71</sup> European Commission. European Education Area. “Guidelines on fast-track recognition of Ukrainian academic qualifications”. (2022) // <https://education.ec.europa.eu/document/guidelines-on-fast-track-recognition-of-ukrainian-academic-qualifications>.

<sup>72</sup> María José Anon. “The Fight Against Discrimination and Access to Justice. A Path to Integration”. *Migraciones Internacionales*. Vol. 8 No. 30: 221-254 (2016) // <https://doi.org/10.17428/rmi.v8i3.620>.

Displaced persons in connection with the war in Ukraine have mostly been granted temporary protection status in the EU, which is close to the legal status of a refugee, and has the same essence for the reasons that led to their displacement. Persons with temporary protection are those, who have been provided with a temporary international protection, based on the impossibility of being expelled, in contrast to refugees, from the territory of the receiving state because their lives are threatened in their country of origin. However, it is important not to confuse these concepts, as they are different because of the temporary nature of protection. It is also important not to confuse these concepts with the concept of economic migrant, since their integration into the receiving states goes differently.

When granting international protection, the scope of protection is important, rather than just mere fact that it is granted.<sup>73</sup> Therefore, first and foremost, persons with temporary protection status must be considered against the concept of respect for universally recognized human rights, which will provide proper protection.

The receiving states must build their policies based on raising human rights standards, ensuring integration of the displaced persons into the receiving states. The realization of one's right to work will be one of the key factors for proper integration. Proper realization of the right to work, on the one hand, will give some autonomy to the displaced persons, integrating them into the labor market and work-related social protection schemes, which will of course increase the level of respect for human rights. On the other hand, the importance of the realization of the right to work is to contribute to the receiving societies and states and reduce the costs of keeping the displaced persons. That is, the realization of the right to work is key to ensuring that issues related to mass displacement in Europe are not perceived as crises and have a chance to provide mutual economic development. At the same time, the sooner the displaced persons have a chance to work, the better their integration into the labor markets will be.

For proper integration into labor markets, the challenge for the receiving states is to build a strategy for the integration of the displaced persons. Such a strategy should be based on respect for the fundamental human rights and concept of decent work and proper realization of one's right to work. The key areas of such a strategy are to address the negative factors faced by the displaced persons. It is the elimination of discriminatory practices based on nationality, as the displaced persons have the same rights as nationals in the labor markets. One should make a focus on eliminating discrimination against women in their enjoyment of the right to work, as women are slower to integrate than men, in particular in the view of their childcare responsibilities. To ensure decent work, the integration strategy for the displaced persons should ensure that their skills and qualifications are recognized and that they are taught the language of the receiving state, which is often an obstacle to the realization of the universally recognized right to work. To address these disadvantages the receiving states have to take active actions to employ the displaced persons and monitor respect for the fundamental human rights at work.

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<sup>73</sup> Briddick, Catherine. "Mobility and Sanctuary: How to Revive Asylum in Europe". Oxford Human Rights Hub. A global perspective on human rights. (April 2022) // <https://ohrh.law.ox.ac.uk/mobility-and-sanctuary-how-to-revive-asylum-in-europe>.

## LEGAL REFERENCES

### Legislation

1. A Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection.
2. Council Directive (EU) 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences.
3. New York Declaration for Refugees and Migrants: Resolution adopted by the General Assembly UN General Assembly of 19 September 2016.
4. The Universal Declaration of Human Rights: Resolution adopted by the United Nations General Assembly of 10 December 1948.
5. European Social Charter (revised) (ETS No. 163), Council of Europe of 03 May 1996.
6. O pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa: Ustawa Rzeczypospolitej Polskiej z dnia 12.03.2022.
7. Umsetzung des Durchführungsbeschlusses des Rates zur Feststellung des Bestehens eines Massenzustroms im Sinne des Artikels 5 der Richtlinie 2001/55/EG und zur Einführung eines vorübergehenden Schutzes: Bundesministerium des Innern und für Heimat.
8. Council Directive (EU) 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.
9. International Covenant on Civil and Political Rights: Resolution adopted by the United Nations General Assembly of 16 December 1966.
10. UN General Assembly, International Covenant on Economic, Social and Cultural Rights: Resolution adopted by the United Nations General Assembly of 16 December 1966.
11. UN General Assembly, International Convention on Elimination of All Forms of Racial Discrimination, Resolution adopted by the United Nations General Assembly of 21 December 1965.
12. Council Directive (EU) 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
13. Council Directive (EU) 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.
14. Council Directive (EU) 2013/33/EU of 26 June 2013 laying down standards for the reception of applicants for international protection (recast).
15. International Labour Organization. Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205).

16. Convention relating to the Status of Refugees: Resolution adopted by the United Nations General Assembly of 28 July 1951.
17. International Labour Organization. Domestic Workers Convention, 2011 (No. 189).

### Special literature

18. Anon, María José. “The Fight Against Discrimination and Access to Justice. A Path to Integration”. *Migraciones Internacionales*. Vol. 8 No. 30: 221-254 (2016) // <https://doi.org/10.17428/rmi.v8i3.620>.
19. Averhed Yevgeniya. “The breathing space or impact of temporary protection on integration from the perspective of refugees: RLI Working Paper No. 52” (2020): p. 52 // <https://sas-space.sas.ac.uk/9453/1/WPS%20No.%2052.pdf>.
20. Bast, Jürgen, Harbou, Frederik, Wessels, Janna. “Human Rights Challenges to European Migration Policy (REMAP): Discussion paper”. *Forschungsgruppe Migration & Menschenrechte* (2018): p. 6 // <https://www.stiftung-mercator.de/en/publications/human-rights-challenges-to-european-migration-policy-remap/>.
21. Barbulescu, Roxana. “Migrant Integration in a Changing Europe: Immigrants, European Citizens, and Co-ethnics in Italy and Spain”. *University of Notre Dame Press* (2019): p. 304.
22. Benton, Meghan, Andrew, Selee. “The Ukrainian Conflict Could Be a Tipping Point for Refugee Protection: Commentaries.” *Migration Policy Institute*. (2022) // <https://www.migrationpolicy.org/news/ukrainian-displacement-refugee-protection>.
23. Bloch, Alice. *Refugees in the UK Labour Market: The Conflict between Economic Integration and Policy-led Labour Market Restriction*. *Journal of Social Policy*. 37(1): p. 21-36 // doi:10.1017/S004737940700147X.
24. Brell, Courtney, Dustmann, Christian, Preston, Ian. “The Labor Market Integration of Refugee Migrants in High-Income Countries.” *Journal of Economic Perspectives*. Volume 34, Number 1 (2020): p. 94-121.
25. Briddick, Catherine. “Mobility and Sanctuary: How to Revive Asylum in Europe”. *Oxford Human Rights Hub*. A global perspective on human rights. (April 2022) // <https://ohrh.law.ox.ac.uk/mobility-and-sanctuary-how-to-revive-asylum-in-europe>.
26. Carrera, Sergio, Ineli, Ciger Meltem, Vosyliute, Lina and Brumat, Leiza. “The EU grants temporary protection for people fleeing war in Ukraine: time to rethink unequal solidarity in EU asylum policy”. *CEPS Policy Insights*. (March 2022): p.33 // <http://hdl.handle.net/1814/74394>.
27. Coles, G.I.L. “Temporary Refuge and the Large Scale Influx of Refugees”. *The Australian Year Book of International Law Online* (1983): p. 189-2011 // <http://www.austlii.edu.au/au/journals/AUYrBkIntLaw/1978/7.pdf>.
28. Costello, Cathryn, Ioffe, Yulia, Büchsel, Teresa. “Legal and Protection Policy Research Series № 34: Article 31 of the 1951 Convention Relating to the Status of

- Refugees”. Division of International Protection. UNHCR. (2017): p.83  
[//https://www.refworld.org/pdfid/59ad55c24.pdf](https://www.refworld.org/pdfid/59ad55c24.pdf).
29. Costello, C. and O’cinnéide, C., “The Right to Work of Asylum Seekers and Refugees”, ASILE Project. (2021): p.39 // [www.asileproject.eu/the-right-to-work-of-asylum-seekers-and-refugees/](http://www.asileproject.eu/the-right-to-work-of-asylum-seekers-and-refugees/).
  30. Gruszczak, Artur, ““Refugees” as a Misnomer: The Parochial Politics and Official Discourse of the Visegrad Four”. *Politics and Governance*. Vol. 9, Issue 4 (2021), p. 174-184 // [doi.org/10.17645/pag.v9i4.4411](https://doi.org/10.17645/pag.v9i4.4411).
  31. Harvey, Colin. “Time for Reform? Refugees, Asylum-seekers, and Protection Under International Human Rights Law”. *Refugee Survey Quarterly*. Volume 34, Issue 1, March 2015: p. 43–60. // <https://doi.org/10.1093/rsq/hdu018>.
  32. Ineli-Ciger, Meltem. “A Temporary Protection Regime in Line with International Law: Utopia or Real Possibility?” *International Community Law Review*. Vol. 18, Issue 3-4 (2016): 278-316. // <https://doi.org/10.1163/18719732-12341332>.
  33. Motomura, Hiroshi. “The New Migration Law: Migrants, Refugees, and Citizen in an Anxious Age”. *Cornell Law Review*. Vol. 105, Issue 2.(2020): p. 457-548 // <https://ssrn.com/abstract=3564476>.
  34. Peace, Timothy, Meer, Nasar. “Refugee integration in Europe since the ‘crisis’: EUI Working Paper RSCAS 2019/31”. European University Institute. (2019): p. 22 // [www.eui.eu/RSCAS/Publications/](http://www.eui.eu/RSCAS/Publications/).
  35. Solano, Giacomo and Huddleston, Thomas. *Migrant International Policy Index*. (2020) // <https://www.mipex.eu/key-findings>.
  36. Schenner, Johanna K, Neergaard, Anders. “Asylum-seekers and refugees within Europe and labour market integration”. *Transfer: European Review of Labour and Research*. Vol. 25 (1) (2019): p. 13-24. // <https://journals.sagepub.com/doi/pdf/10.1177/1024258919829995>.
  37. Schutter, Olivier, “Links between migration and discrimination”. *European Network of Legal Experts in the non-discrimination field*. European Commission, (December 2009): p.88 // [https://www.migpolgroup.com/old/public/docs/166.LinksbtwMigratio&Discrimination\\_thematicreport\\_02.12.09.pdf](https://www.migpolgroup.com/old/public/docs/166.LinksbtwMigratio&Discrimination_thematicreport_02.12.09.pdf).
  38. ŞENGÜL, İrem. “Unpacking temporary protection of refugees: failure of durable solution and uncertainties”. *Inonu University Law Review*. 13(1), (2022): p. 16-28 // <https://dergipark.org.tr/en/download/article-file/1962246>.
  39. Sigona, Nando. “The contested politics of naming in Europe’s “refugee crisis”, *Ethnic and Racial Studies*, 41:3, 456-460 // DOI: [10.1080/01419870.2018.1388423](https://doi.org/10.1080/01419870.2018.1388423).
  40. Reyhani, Adel-Naim, Golmohammadi, Gloria. “The Limits of Static Interests: Appreciating Asylum Seekers’ Contributions to a Country’s Economy in Article 8 ECHR Adjudication on Expulsion”. *International Journal of Refugee Law*, Volume 33, Issue 1, (2021): p. 3–27 // <https://doi.org/10.1093/ijrl/eeab023>.
  41. Rizzo, Alfredo. "The Twofold (Internal And External) Dimension Of European Union’S Migration And Asylum Policies: Recent Cases And Future Scenarios," EURINT, Centre for European Studies, Alexandru Ioan Cuza

- University, vol. 5 (2018): p. 103-119//  
<https://ideas.repec.org/a/jes/eurint/y2018v5p103-119.html>.
42. Zetter, Roger, Ruaudel, H elo ise. “Refugees’ right to work and access to labour markets: constraints, challenges and ways forward”. Forced Migration review. Economies: rights and access to work. (June 2018) // <https://www.fmreview.org/economies/zetter-ruaudel>.

### Other references

43. Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, “Migration and Development : some concrete orientations” COM/2005/0390 (September 2005) // <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52005DC0390>.
44. European Committee of Social Rights. “Conclusions 2012 - Albania - Article 1-2”. (2012) // [https://hudoc.esc.coe.int/eng#{\"sort\":\[\"ESCPublicationDate%20Descending\"\],\"ESCDcIdentifier\":\[\"2012/def/ALB/1/2/EN\"\]}](https://hudoc.esc.coe.int/eng#{\).
45. European Commission. European Education Area. “Guidelines on fast-track recognition of Ukrainian academic qualifications”. (2022) // <https://education.ec.europa.eu/document/guidelines-on-fast-track-recognition-of-ukrainian-academic-qualifications>.
46. European Commission. Flash Eurobarometer 506. EU’s response to the war in Ukraine: Report. (May 2022) // <https://europa.eu/eurobarometer/surveys/detail/2772>.
47. European Council on Refugees and Exiles. “Information Sheet – Measures in response to the arrival of displaced people fleeing the war in Ukraine”. (May 2022) // <https://ecre.org/wp-content/uploads/2022/03/Information-Sheet---Access-to-territory-asylum-procedures-and-reception-conditions-for-Ukrainian-nationals-in-European-countries.pdf>.
48. European Network of Equality Bodies. “The War on Ukraine and its impact on Equality in Europe: three month on.” (May 2022) // <https://equineteurope.org/the-war-on-ukraine-and-its-impact-on-equality-in-europe-three-months-on/>.
49. International Labour Organization. “Guiding principles: Access of refugees and other forcibly displaced persons to the labour market”. (2016) // [https://www.ilo.org/global/topics/labour-migration/publications/WCMS\\_536440/lang--en/index.htm](https://www.ilo.org/global/topics/labour-migration/publications/WCMS_536440/lang--en/index.htm).
50. Inter-parliamentary Union. “Migration, human rights and governance: Handbook for Parliamentarian no 24”: p.192 (2015) // [https://www.ohchr.org/sites/default/files/Documents/Publications/MigrationHR\\_and\\_Governance\\_HR\\_PUB\\_15\\_3\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/MigrationHR_and_Governance_HR_PUB_15_3_EN.pdf).
51. Office of the United Nations High Commissioner for Human Rights. “Ukraine: Protection and participation of women is essential, say UN human rights experts”.

- (March 2022) // <https://www.ohchr.org/en/press-releases/2022/03/ukraine-protection-and-participation-women-essential-say-un-human-rights>.
52. The Operational Data Portal (ODP). Ukraine refugee situation. The Refugee agency (UNHCR). (June 2022) // <https://data.unhcr.org/en/situations/ukraine>.
53. The United Nations Refugee Agency Ukraine emergency. (July 2022) // <https://www.unhcr.org/ukraine-emergency.html>.
54. UN High Commissioner for Refugees. “Global Compact for Refugees: Final Draft” ( June 2018) // <https://bit.ly/2QBhGFj>.
55. UN High Commissioner for Refugees, “RLD5-Human Rights and Refugee Protection” (October 1995) // <https://www.refworld.org/docid/3ccea4494.html>.
56. UN High Commissioner for Refugees, “The 10-Point Plan in Action, 2016 – Glossary”. (December 2016) // <https://www.refworld.org/docid/59e99eb94.html>.
57. UN Office of High Commissioner for Human Rights, “Migration and human rights: Improving Human Rights-Based Governance of International Migration”, (December 2012) // <https://www.refworld.org/docid/5243e8e74.html>.
58. United Nations Human Rights Committee on Economic, Social and Cultural Rights. “The right to work: General comment no 18”. (2005) // [http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1a0Szab0oXTdImnsJZZVQfUKxXVIsd7Dae%2FCu%2B13J25Nha7l9NlwYZ%2FTmK57O%2FSr7TB2hbCAidyVu5x7XcqjNXn44LZ52C%2BIkX8AGQrVyIc#:~:text=The%20obligation%20to%20fulfil%20\(facilitate,to%20facilitate%20access%20to%20employment](http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1a0Szab0oXTdImnsJZZVQfUKxXVIsd7Dae%2FCu%2B13J25Nha7l9NlwYZ%2FTmK57O%2FSr7TB2hbCAidyVu5x7XcqjNXn44LZ52C%2BIkX8AGQrVyIc#:~:text=The%20obligation%20to%20fulfil%20(facilitate,to%20facilitate%20access%20to%20employment).

## SANTRAUKA

### **PRIVERSTINAI PERKELTŲ ASMENŲ TEISĖS Į DARBĄ ĮGYVENDINIMAS, KAIP SĄLYGA JŲ INTEGRACIJAI Į PRIIMANČIŲJŲ ES ŠALIŲ VISUOMENĘ**

*Didžiulis perkeltųjų asmenų antplūdis iškėlė klausimą, kad reikia peržiūrėti migracijos politiką, bėgančių nuo karo integraciją. Šio straipsnio tikslas – masiškai persikėlusių asmenų teisės į darbą įgyvendinimas kaip pagrindinė sąlyga norint juos integruoti į priimančiąją visuomenę. Siekiant šių tikslų, pirmiausia, buvo svarstomas klausimas dėl teisinio statuso skirtumo tarp pabėgėlio, ekonominio migranto ir asmens, turinčio laikinosios apsaugos statusą, kadangi šiandien šios sąvokos dažnai keičiamos, nepaisant kai kurių skirtumų jų integracijos kontekste. Tuo pat metu svarbiausias pabėgėlių integracijos aspektas turi būti tarptautinių žmogaus teisių pripažinimas ir įgyvendinimas visiems persikėlusiesiems asmenims, kurios yra universalios ir negali būti pažeistos.*

*Darbas atkreipia dėmesį į tai, kad būtent perkeltųjų asmenų teisės į darbą įgyvendinimas lems tinkamą perkeltųjų asmenų socialinę ir ekonominę integraciją. Teisės į darbą įgyvendinimas leis persikėlusiesiems asmenims savarankiškai save aprūpinti ir integruotis į bendruomenės ir*

*socialinio aprūpinimo sistemas, kurios yra susijusios su darbu. Kita vertus, teisė į darbą įgyvendinimas ir integracija į darbo rinkas gali teigiamai įtakoti juos priimančias visuomenes. Kartu buvo svarstomas ir persikėlusiu asmenų prieigos prie darbo rinkos klausimas, kur dėmesys sutelkiamas į tai, kad galimybės dirbti termino sutrumpinimas prisidės prie integracijos priimančiose valstybėse.*

*Taip pat svarstomas klausimas, kad teisė į darbą turėtų būti realizuojama remiantis padoraus darbo sampratos numatytais principais, be kurių teisė į darbą nebus tinkamai įgyvendinta ir atitinkamai neįvyks tinkamos integracijos. Straipsnyje nurodomi veiksniai, trukdantys realizuoti teisę į darbą ir tinkamai perkeltųjų asmenų integracijai į darbo rinką. Didžiausias dėmesys skiriamas lygybės užtikrinimo principui ir diskriminacijos draudimui, nes tai yra vienas pagrindinių elementų užtikrinant tiek žmogaus teisių įgyvendinimą, tiek padoraus darbo koncepciją. Neigiamai įtakoja integraciją šie veiksniai: diskriminacija dėl pilietybės neturėjimo, moterų diskriminacija darbo rinkoje, sunkumai integruojantis į darbo rinką dėl kalbos barjerų ir kvalifikacijų bei įgūdžių nepripažinimo, aktyvios politikos trūkumas dėl galimo užimtumo informacijos.*

*Todėl, siekiant tinkamai integruoti persikėlusius asmenis juos priimančiose šalyse, svarbu apskritai panaikinti veiksnius, kurie neleidžia įgyvendinti integraciją į priimančiųjų valstybių darbo rinkas.*

## **REIKŠMINIAI ŽODŽIAI**

*Direktyva 2001/55/EB, laikinoji apsauga, teisė į darbą, diskriminacija, migrantai.*