

Resolution of the Council of Ministers no. 29-A/2022

Summary: Sets out the specific criteria for granting temporary protection to persons displaced from Ukraine as a result of the recent armed conflicts in that country.

The war situation in Ukraine puts millions of Ukraine's citizens at serious risk, leading to a full-scale humanitarian crisis which is already causing large numbers of civilians to leave Ukraine and seek refuge in countries willing to receive them.

There is an objective and generalised situation of breach of human rights and threat to the life and physical integrity of Ukrainians living in Ukraine which requires the granting of temporary protection with the waiver of proof of individualised and concrete risk.

Portugal has a long tradition of welcoming displaced populations and will always honour its solidarity commitments towards those who are forced to leave their countries of residence due to armed conflict or persecution for political, religious, ethnic or other reasons, as provided for in the United Nations Convention relating to the Status of Refugees.

Portugal has, on the other hand, a large community of resident Ukrainian citizens and nationals of Ukrainian origin and meets the conditions for receiving those displaced by the ongoing war in Ukraine who come to our country in search of a place to settle and live in peace and security.

It is important, however, that there are reception and integration mechanisms in place that are both credible and swift, enabling us to generate predictability and confidence in our country's humanitarian response capacity in the current context, namely by making available a set of employment opportunities existing in Portugal, facilitating the wider integration of Ukrainian citizens and their families.

In effect, it is necessary to establish the specific criteria on which the granting of temporary protection to persons displaced from Ukraine as a consequence of the ongoing war in that country will depend, under article 4(3) of Law No. 67/2003 of 23 August, which transposes into national law the Council Directive No. 2001/55/EC of 20 July 2001 and regulates the regime for granting temporary protection in the event of a mass influx of displaced persons from third countries who are unable to return to their country of origin in the short term, establishing the procedures for implementing this regime.

In fact, Law no. 67/2003, of 23 August, does not only transpose the aforementioned directive, but also integrates the mechanism previously included in Law no. 15/98, of 26 March. This allows the Portuguese State, considering, in each situation, the risks that fall upon the displaced persons, the urgency and need for temporary protection and the consequences for public order and national security, to grant temporary protection through a resolution of the Council of Ministers, without the need for a prior act by the competent bodies of the European Union, applying, with the necessary adaptations, the provisions of Law no. 67/2003, of 23 August.

Thus:

Under the terms of article 4(3) of Law no. 67/2003, of 23 August, article 199(g) of the Constitution, the Council of Ministers resolves:

1 - To grant temporary protection, with automatic concession of a residence permit for a period of one year with the possibility of extension, in accordance with Article 7 of Law No 67/2003 of 23 August 2003, to nationals of Ukraine and to foreign citizens of other nationalities or stateless persons entitled to international protection in Ukraine with provenance from that country and who are unable to return to Ukraine as a result of the war occurring there.

2 - To determine that this temporary protection also covers:

- a) Foreign nationals of other nationalities who prove to be family members of the citizens referred to in the preceding paragraph or who prove that they are permanent residents in Ukraine and whose safe and durable return to their country of nationality is not possible;

- b) Stateless persons who prove to be family members of the citizens mentioned in the preceding paragraph or who prove that they are permanent residents in Ukraine.
- 3 - To establish that, for the purposes of the preceding paragraph, the following are considered as family members:
- a) Spouses;
 - b) Persons who have been living with the person referred to in paragraph 1 under similar conditions as spouses since more than two years;
 - c) Minor children of the person referred to in paragraph 1 or of his/her spouse or unmarried partner, including adoptive children;
 - d) Other close relatives who live together under the same roof and who are totally or largely dependent on the person referred to in paragraph 1 above.
- 4 - To establish that, for the purposes of the provisions of the preceding paragraphs, any means of proof shall be admitted.
- 5 - To determine that the grounds for exclusion from temporary protection are those listed in Article 6 of Law no. 67/2003, of 23 August.
- 6 - To determine that, for the purposes of complying with the provisions of the previous paragraph, the Immigration and Borders Service (SEF) consults the Schengen Information System and other relevant databases, and a criminal record certificate is not required.
- 7 - To establish that the requests covered by this resolution can be made in person or by digital means, inside or outside the national territory.
- 8 - To determine that the statement proving the application for temporary protection is communicated by SEF to social security, the Tax and Customs Authority and the *Serviços Partilhados do Ministério da Saúde, E.P.E.* (Shared Services of the Ministry of Health), for the purposes of automatic assignment of the social security identification number, tax identification number and national user number, respectively.
- 9 - To determine that the statement provided for in the previous paragraph is communicated to the Instituto do Emprego e da Formação Profissional, I.P. (Institute of Employment and Vocational Training), for the purposes of registration.
- 10 - To establish that the communications referred to in paragraphs 8 and 9 above are preferably made by electronic data transmission, in respect of the general data protection scheme.
- 11 - To determine that the beneficiaries of temporary protection foreseen in this resolution are allowed to obtain the Digital Mobile Key, namely by associating the number of the respective permit to a single mobile phone number, being also allowed to associate their email address.
- 12 - To determine that the benefits set out in paragraphs 1 and 2 of Article 15 of Law no. 67/2003, of 23 August, are granted when the beneficiary of temporary protection does not have sufficient resources.
- 13 - To determine that, without prejudice to the provisions of the previous paragraph, beneficiaries of temporary protection shall be treated as beneficiaries with refugee status for the purposes of access to social benefits under the non-contributory regime.
- 14 - To determine that the values relative to social support of the responsibility of social security, attributed under the terms of article 15(2) of Law no. 67/2003, of 23 August, are financed by the State Budget.
- 15 - (Revoked).
- 16 - To determine the establishment of an inter-ministerial committee, under Article 5 of Law No 67/2003 of 23 August 2003, jointly chaired by members of Government responsible for the areas of integration and migration, as well as internal administration, and composed of representatives of areas of the economy and digital transition, foreign affairs, justice and labour, solidarity and social security. Representatives of other government areas may also attend the meetings of the inter-ministerial committee, depending on the subject, when convened by the presiding members of Government.
- 17 - To establish that this resolution applies to the applications already formulated, since the beginning of the war situation in Ukraine.
- 18 - To determine that this resolution shall enter into force on the date of its approval.

Presidency of the Council of Ministers, 1 March 2022. - The Prime Minister, *António Luís Santos da Costa*.

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Supplementary Information

The consolidated legislation hereby presented contains amendments from the following legal acts:

- a) Resolution of the Council of Ministers no. 29-D/2022, of 11 March 2022;
- b) Resolution of the Council of Ministers no. 135/2022, of 28 December 2022.

Resolution of the Council of Ministers no. 29-A/2022 (in Portuguese):

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