

1 March 2022

PRESIDENCY OF THE COUNCIL OF MINISTERS

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 citizens living in that country 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 violation of human rights and threat to the life and physical integrity of Ukrainian citizens living in Ukraine which requires the granting of temporary protection without 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, allowing for 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 a broader 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

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will depend, under paragraph 3 of Article 4 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 that 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 August 23, does not only transpose the aforementioned directive, but also integrates the mechanism previously included in Law no. 15/98, of March 26, which 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 paragraph 3 of Article 4 of Law no. 67/2003, of 23 August, and paragraph g) of Article 199 of the Constitution, the Council of Ministers resolves to:

1 - Grant temporary protection, with the automatic attribution of a residence permit, for a period of one year, with the possibility of extending the respective residence permit, under the terms of article 7 of Law no. 67/2003, of 23 August, with the necessary adaptations, to nationals of Ukraine and their family members, coming from their country of origin, who cannot return there due to the ongoing war situation.

2 - Determine that foreign nationals of other nationalities who prove to be parents, relatives, spouses or unmarried partners of citizens of Ukrainian nationality who find themselves in the circumstances set out in the previous paragraph shall also benefit from this temporary protection.

3 - Establish that, for the purposes of the provisions of the preceding numbers, any means of proof shall be admitted.

4 - Determine that the reasons listed in Article 6 of Law no. 67/2003, of 23 August, constitute grounds for exclusion from temporary protection.

5 - Determine that, for the purposes of complying with the provisions of the previous number, the Foreigners and Borders Service (SEF) consults the Schengen Information System and other relevant databases, and a certificate of criminal record is not required.

6 - Establish that the requests covered by this resolution can be made in person or by digital means, inside or outside the national territory.

7 - Determine that the statement proving the application for temporary protection is communicated by SEF to social security, the Tax and Customs Authority and the Shared Services of the Ministry of Health, E. P. E., for the purposes of automatic attribution of the social security identification number, tax identification number and national healthcare number, respectively.

8 - Determine that the declaration provided for in the previous number is communicated to the Institute of Employment and Vocational Training, I. P., for the purposes of registration.

9 - Establish that the communications referred to in paragraphs no. 7 and 8 are preferably made by electronic data transmission, in compliance with the general data protection regime.

10 - Determine that the beneficiaries of temporary protection foreseen in this resolution are allowed to obtain the Mobile Digital Key, namely by associating the number of the respective title to a single mobile phone number, being also allowed to associate their email address.

11 - Determine that the benefits provided in paragraphs no. 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.

12 - Determine that, without prejudice to the provisions of the previous number, the 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.

13 - Determine that the values related to social support under the responsibility of social security, attributed under the terms of paragraph no. 2 of Article 15 of Law no. 67/2003, of 23 August, are financed by the State Budget.

14 - Establish that the provisions of Law no. 67/2003, of 23 August, are applicable to the beneficiaries of temporary protection provided for in this resolution, with the necessary adaptations, without prejudice to what is established in the previous numbers.

15 - Establish that this resolution is applicable to the requests already formulated, since the beginning of the war situation in Ukraine.

16 - Determine that this resolution shall enter into force on the date of its adoption.

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