

Temporary Protection

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Key points

- Temporary protection can be an effective tool for ensuring fast access to protection, rights and services without overwhelming asylum systems, where other protection responses are unavailable or inadequate in the short term.
- The arrangement must, at a minimum, meet people's basic needs and ensure minimum standards of treatment which reflect international refugee and human rights law obligations, and ensure protection from expulsion, refoulement and other protection risks.
- Temporary protection should not be used to discourage or prevent people from seeking asylum. It is NOT a protection scheme replacing existing international obligations, in particular under the 1951 Convention and/or its 1967 Protocol, or regional refugee instruments, when prima facie or more favourable protection is available and suitable.
- Temporary Protection is NOT suitable if the stay becomes prolonged.
- Temporary protection should NOT be structured in a way that encourages premature return.

1. Overview

Temporary protection can be an effective tool for States as an emergency response in situations of mass influx[1] and complex or mixed cross-border population movements where other protection responses are unavailable in the short term or inadequate to allow admission and immediate protection from refoulement. Temporary protection can fill gaps in the [international refugee protection regime](#) as well as in national response systems and capacity, especially in States that are not party to the 1951 Convention, its 1967 Protocol or regional refugee instruments. Temporary protection should guarantee basic minimum treatment and access to rights for the displaced population and be implemented in a streamlined and efficient manner. It offers a way to provide immediate protection and thereby respect the principle of [non-refoulement](#) and other human rights.

The decision to provide temporary protection rests with the responsible authority in the host country. UNHCR does not encourage States to provide temporary protection when it is feasible to recognize refugees through a [prima facie or group-based approach](https://approach)^[1] or through [individual refugee status determination](https://emergency.unhcr.org/protection/legal-framework/refugee-status-determination-rsd).^[1] That said, there are circumstances in which temporary protection will be an appropriate complement to an asylum system. [UNHCR's role](#) involves advising the Government on adequate protection mechanisms, including temporary protection where appropriate, and supporting the establishment of a temporary protection response through technical advice.

[1] A mass influx is defined as "significant numbers of arrivals over a short period of time of person from the same country or geographical region, and for whom, due to their numbers, individual refugee status determination is procedurally impractical".

2. Relevance for emergency operations

Temporary protection is particularly suited in the following four situations:

- (i) Large-scale influxes of asylum-seekers, refugees or other similar humanitarian crises (For example, in the immediate aftermath of a sudden-onset disaster when the country or origin is mobilizing resources, including international assistance, to respond to the disaster);
- (ii) Complex or mixed cross-border population movements, including boat arrivals and rescue at sea scenarios
- (iii) Fluid or transitional contexts (For example, at the beginning of a crisis where the exact cause and character of the movement may be uncertain, or at the end of a crisis, when the motivation for departure may need further assessment); and
- (iv) Other exceptional and temporary conditions in the country of origin necessitating international protection and which prevent return in safety and dignity.

In each of these four scenarios, individual status determination is either not applicable or feasible, or both.

3. Main guidance

Underlying principles and standards

Temporary protection is a pragmatic tool of international protection that should act as a complement to the asylum system. Temporary protection must not be a substitute for other protection mechanisms that respond adequately to the situation at hand, or to replace existing protection schemes that would be applicable or more suitable. Temporary protection is without prejudice to the obligations of States under international law, including particularly the 1951 Convention and its 1967 Protocol, as well as regional refugee instruments and human rights

treaties to which they are party. This means that beneficiaries of temporary protection must have access to asylum procedures if they wish to make an application.

If temporary protection can be agreed on at the multilateral or regional level, it can contribute to a better managed response to humanitarian crises as well as complex and mixed cross-border population movements through an equitable sharing of burdens and responsibilities. It may also address States' concerns about onward movement and mobilize resources and humanitarian assistance through global and regional solidarity.

Providing temporary protection is a humanitarian and non-political act. Temporary protection needs to be flexible to react speedily to a crisis or disaster, while providing at least a minimum level of protection. It ensures access to territory; appropriate reception arrangements; proper systems for identification, registration and documentation; and mechanisms to identify persons with specific protection needs or in vulnerable situations such as children, older people, and people with disabilities and ensure that their immediate needs are met. Persons benefiting from temporary protection must be allowed to stay in the host country and enjoy a minimum set of standards of treatment, while preserving any more favourable standards that may apply.

Temporary protection should be time-limited and solutions-oriented. In the case of extended stay, the standards of treatment need to be gradually improved and considerations must be made for the end of temporary protection with the transition to other, longer term, protection statuses. Temporary protection should not be structured in a way that encourages premature return.

Risks

Protection: Denying temporary protection or a lack of coordinated and efficient temporary protection arrangements can jeopardize access to protection. Making inadequate differentiation between categories of persons requiring protection on a humanitarian basis may leave people destitute and at risk of refoulement and other human rights violations. Misinformation about the purpose, scope and duration of temporary protection arrangements and their misuse may undermine the effectiveness and integrity of the protection granted.

Legal: The choice to apply temporary protection can undermine other available treaty-based protection responses, such as prima facie or group-based recognition or individual procedures for determining refugee status. It is therefore important that UNHCR supports State Parties to the 1951 Convention and/or its 1967 Protocol or regional refugee instruments in identifying and applying the most appropriate protection response.

Assessment of relevance and appropriateness of temporary protection

In an emergency context, UNHCR needs to determine whether temporary protection is a relevant and appropriate mechanism to be advocated for in a particular situation. The decision should be based on an analysis of the operational context, in particular the availability and effectiveness of other protection mechanisms in the host country. Ideally, the assessment would be done in collaboration with the authorities.

The following steps should be followed to come to an appropriate decision:

- Collect and analyze information on the profile of individuals arriving, the national legal framework and available options for granting protection and assistance to determine the most appropriate protection response. Consider whether existing protection mechanisms, particularly refugee status determination, including through a prima facie or group-based approach, are able to respond before considering temporary protection.
- Consider if the application of temporary protection in fluid or transitional contexts requires transitioning into a prima facie or group-based approach once the refugee character of the movement is better understood.
- Consider the practicalities of implementing temporary protection within the operational context to assess the feasibility of such an approach.
- Country Offices should discuss these aspects with the relevant Regional Bureau and the Division of International Protection to ensure regional and global consistency.
- If temporary protection is deemed an appropriate approach, UNHCR should advise the authorities on the need, appropriateness and benefits of the application of temporary protection.
- If temporary protection is not deemed to be an appropriate approach, UNHCR should advise the authorities on alternative protection mechanisms, such as [prima facie](#) or group-based recognition or individual procedures for determining refugee status, based on the 1951 Convention and/or its 1967 Protocol and regional refugee instruments and provide technical support. In mixed movement situations, UNHCR, together with partners, should provide technical support on operationalizing protection-sensitive entry systems (See Chapter 3 of [The 10-Point Plan in Action](#)).

Application of temporary protection

- If the authorities take the decision that temporary protection is the appropriate protection response to this emergency situation, the following points on the establishment/application of a temporary protection scheme should be taken into consideration by the Government and UNHCR: The temporary protection scheme should be regulated through the applicable national legislative procedures if the national or regional legal framework does not yet provide for temporary protection.
- A timeframe for the application of temporary protection should be set. The initial timeframe is often for six months and can be extended as conditions persist.

- Beneficiaries of temporary protection should have access to asylum procedures if they wish to make an application.
- It is important to ensure that temporary protection includes minimum standards of treatment. In cases of extended stay, the standards of treatment need to be gradually improved and considerations must be made for when temporary protection will end.
- Ensure that the group that will be eligible for temporary protection is clearly defined. Consideration needs to be given to those sharing the same country of origin or nationality that are already in the territory (sur place), who are not able to return nor have other legal means of stay.
- Develop an efficient procedure for applying and screening/registration for temporary protection as well as issuing documentation. Such procedures should include support for persons with specific protection needs or in vulnerable situations.
- Put in place counselling and information for the affected populations. It is critical to ensure that individuals or groups are regularly informed of the purpose, scope and duration of the protection provided in order to manage expectations and avoid movement into and out of the host country and onward movement.
- In emergencies linked to armed conflict or other situations of violence, active fighters or combatants need to be identified promptly and separated from the civilian population (See the entry on the [civilian character of asylum](#)).
- Establish a monitoring mechanism and regular assessments of temporary protection to ensure that the response implemented is adequate for the individuals in different stages of the emergency.
- Establish national and/or regional level partnerships for an efficient implementation of temporary protection, including with governments, including relevant ministries, agencies and border management authorities; relevant regional organizations and fora; international organizations including UN country teams; civil society organizations; and implementing partners.
- In the course of application of temporary protection, UNHCR should make available relevant information on the situation in the country of origin.

Post emergency phase

- Temporary protection should be time-limited and solutions-oriented. Temporary protection should not be structured in a way that encourages premature return.
- After the emergency phase, the transition to either prima facie or group-based recognition or individual procedures for determining refugee status or other, complementary, forms of international protection must be considered and kept under review, as appropriate.
- In the case of extended stay, the standards of treatment need to be gradually improved, and considerations must be made for the end of temporary protection and possible transition to other, longer term, protection statuses.
- In complex or mixed cross-border population movement situations, differentiated approaches may be needed after the emergency phase, particularly when temporary protection has ended. However, regionally coordinated approaches may be desirable to ensure the same level of treatment, prevent onward movement, and ensure stability and continuity in the life of affected people.

Checklist

- Assess whether temporary protection is a relevant and appropriate mechanism to be advocated for in this particular emergency situation. The decision should be based on an analysis of the operational context, in particular the availability and effectiveness of other protection mechanisms in the host country.
- Assess whether temporary protection can be agreed at the multilateral or regional level for equitable burden- and responsibility-sharing.
- Temporary protection should be time-limited and solutions-oriented. Temporary protection should not be structured in a way that encourages premature return.
- Ensure that the group that will be eligible for temporary protection is clearly defined, including persons sur place.
- Ensure that beneficiaries of temporary protection continue to have access to asylum procedures if they wish to make an application.

- Ensure that basic needs and minimum standards of treatment in accordance with international refugee and human rights law obligations, including protection from expulsion and refoulement, are met, while preserving any more favourable standards that may apply.
- In the case of extended stay, the standards of treatment need to be gradually improved.
- Establish national and/or regional level partnerships for an efficient implementation of temporary protection.

4. Policies, Guidelines and Useful Links

[UNHCR, Guidelines on Temporary Protection or Stay Arrangements, February 2014](#)

5. Links

[UNHCR, Legal considerations regarding claims for international protection made ... UNHCR, Guidelines on International Protection No. 12: Claims for refugee status...](#) [UNHCR, 10-Point Plan in Action](#) [Refugee definition](#) [Refugee Status Determination](#) [Prima facie approach to recognition of refugee status](#) [Access to territory and non-refoulement](#)

6. Main contacts

Contact, in the Division of International Protection and Solutions (HQ), the Policy and Law Service (for doctrinal clarification); Asylum Systems and Determination Section (for application of temporary protection as part of processing strategies in mandate operations); Asylum and Migration Section (for advice on operationalization in mixed movement situations).