Frequently asked questions on the verification process for the eligibility for temporary protection in accordance with Council Implementing Decision 2026/1912

These FAQs clarify the Commission services' understanding of how the verification process for the eligibility for temporary protection in accordance with Article 2 of Council Implementing Decision 2026/1912can be operationalised by national authorities.

The views set out in this FAQ are without prejudice to the interpretation by the Union Courts; the primary reference for interpreting the Treaty is always the case–law of the Union Courts. The views set out in this FAQs are without prejudice to the Ukrainian competences and legislation concerning military service obligations.

The FAQs will be expanded and integrated at a later stage in the Commission operational guidelines[1] on temporary protection of 21 March 2022.

Under Article 2 of Council Decision 2026/1912, without prejudice to Union law and fundamental rights, the temporary protection referred to in Article 2 of Implementing Decision (EU) 2022/382 and as extended, where applicable, by Article 1 of Implementing Decision (EU) 2025/1460 or by Article 1 of this Decision, shall only be granted to those who satisfy their military obligations in Ukraine, upon presenting, where applicable, proof thereof.

Under Recital 16 of that Decision, the legal crossing of the border leaving the territory of Ukraine or an exit stamp in the passport constitutes evidence of such authorisation. In cases where such a departure cannot be confirmed, the persons concerned should be required to present an easily verifiable official document, in paper or electronic form, such as in the Reserv+ application, confirming their exemption from, or compliance with, military obligations in Ukraine to the Member State authorities to avail themselves of the rights attached to temporary protection.

The burden of proof rests with the person requesting temporary protection.

The below aims at providing operational guidelines to displaced persons from Ukraine coming to the EU to seek temporary protection, while providing clarifications of the implementation of the new eligibility criteria to obtain the protection.

I. Entering the EU to seek temporary protection

Displaced persons from Ukraine seeking temporary protection as of the date of the entry into force of Council Decision 2026/1912 will have to prove that they leave Ukraine legally, in compliance with military obligations in Ukraine. This means that when presenting themselves to the national authorities of a Member State to avail themselves of the rights under temporary protection, the competent authorities of that Member States must be in a position to easily verify that the person concerned left legally the territory of Ukraine, notably in compliance with his or her military obligations.

[1] COMMUNICATION FROM THE COMMISSION on Operational guidelines for the implementation of Council implementing Decision 2022/382 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

In practice, the Commission services are of the view that two levels of verification could prove necessary.

First level

A person who has legally crossed the external border of the Union from Ukraine at a border crossing point, or a person who holds a passport with an exit stamp affixed by the Ukrainian border authorities is eligible for temporary protection under Council Decision 2026/1912. This would depend on the Member State:

A) **For the Member States bordering Ukraine**, the legal crossing of the border at a border crossing point from the Ukrainian territory into the territory of the Member State should be sufficient to prove the eligibility for temporary protection. The checks on departure from Ukraine during the period of martial law are carried out by Ukrainian authorities in accordance with the requirements under the relevant Ukrainian law[2]. Therefore, if a person has been allowed to leave the territory of Ukraine by the Ukrainian authorities, it is reasonable for the Member State to assume that s/he left Ukraine legally in compliance with the military obligations under the Ukrainian law. As consequence, when s/he presents him/herself at the external Union border, s/he should be considered as a person who fulfils the eligibility criteria under Council Decision 2026/1912 and therefore be able to obtain the temporary protection status, provided that the person concerned falls under the scope of temporary protection in accordance with Article 2 of Council Decision 2022/382.

B) **For the Member States not bordering Ukraine**, an exit stamp in the passport of the person concerned by the Ukrainian authorities indicating that the person has been allowed to leave Ukraine should be sufficient to consider that the person concerned fulfils the eligibility criteria under Council Decision 2026/1912 and therefore is able to obtain the temporary protection status, provided that the person concerned falls under the scope of temporary protection in accordance with Article 2 of Council Decision 2022/382. Given that there is no systematic stamping of the passport of Ukrainian nationals, displaced persons from Ukraine who are not persons enjoying temporary protection and who, as of the date of entry into application of Council Decision 2022/382, intend to avail themselves of the rights ensued to temporary protection are advised to consider requesting the Ukrainian authorities for an exit stamp in their passport, to facilitate the verification procedures by the Member States authorities. In order to fulfil the eligibility criteria, the date on the exit stamp should be, as a rule, no earlier than 90 days prior to the date of request of temporary protection, in line with the right of displaced persons from Ukraine to move freely under the Commission operational Guidelines on temporary protection[3]. This is without prejudice to the possibility for the person concerned to prove that the above deadline has not been complied with due to exceptional circumstances.

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[2] Decree of the President of Ukraine No. 64/2022 of 24 February 2022 "On the Introduction of Martial Law in Ukraine"; the Laws of Ukraine "On Mobilisation Preparation and Mobilisation" and "On the Legal Regime of Martial Law"; and the Rules for Crossing the State Border by Citizens of Ukraine, approved by Resolution No. 57 of the Cabinet of Ministers of Ukraine of 27 January 1995.

[3] Pp. 8-9 of the COMMUNICATION FROM THE COMMISSION on Operational guidelines for the implementation of Council implementing Decision 2022/382 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

Second level

The second-level verification allows the authorities of the Member State concerned for additional verification, in case of doubts on whether a person seeking temporary protection status has left Ukraine legally and in compliance with the military obligations under Ukrainian law. This could be the case, for example, of a person presenting him/herself to the authorities of the Member State following an unauthorised crossing of the Union external border or a person who is not in possession of a valid passport or claims not to be able to obtain an exit stamp on the passport.

In this case, Member States' competent authorities should request that (alternative) documentation be provided by the person concerned seeking temporary protection.

As alternative documentation, the Commission services have identified and consider that a certificate or official document attesting the person is exempt from military obligations should be sufficient to prove the person concerned is eligible for temporary protection, provided that the person concerned falls under the scope of temporary protection in accordance with Article 2 of Council Decision 2022/382.

Such a document would be available on the Reserv+ application developed by the Ukrainian authorities, to which Ukrainian nationals have access. The document would need to indicate, at minimum, the personal data of the person concerned (name, surname, date of birth), whether the person is exempted from military obligations and, if so, the time validity of this exemption. Member States could consider that incomplete information, especially as to whether the person is exempted or not from military obligations in Ukraine, does not qualify as sufficient evidence to be eligible for temporary protection.

The document should be presented either in paper or electronic format, at the request of the Member States' authorities responsible for examining the request for temporary protection.

Given that the abovementioned document is currently not available in languages other than Ukrainian, with the view to facilitate the verification by the Member States authorities and consequently the eligibility for temporary protection, displaced persons from Ukraine seeking temporary protection are encouraged to request to Ukrainian authorities, prior to their departure from Ukraine or via the Consulates of Ukraine in the Member State concerned, a sworn translation in English language or in the official language of the Member State concerned of the abovementioned certificate. Member States' authorities responsible to examine the request for temporary protection are encouraged to use available translation tools to verify that the document presented by the person concerned is providing for the exemption from military obligations.

The authorities of the Member States concerned should retain a copy of the document and/or the translation, when provided.

Certificates or documentation presented by displaced persons from Ukraine seeking temporary protection other than the ones mentioned above could be used and presented to Member States' authorities to prove they legally left Ukraine in compliance with military obligations, provided the documentation gives clear indication that the person concerned has left Ukraine legally in compliance with military obligations. Member States' authorities will retain the decision-making power as to whether to accept such forms of alternative or supportive documentation and, when

they are accepted, to determine if they sufficiently indicate that the person concerned is eligible for temporary protection.

Under the Council Decision 2026/1912, the eligibility criteria apply only to newcomers seeking termporary protection as of the date of entry into force of the Decision. The Commission services consider that if a displaced person from Ukraine arrived after the date of entry into force of Council Decision 2026/1912 and was not, at the time, subject to eligibility criteria and consequently obtained the temporary protection status, then s/he should be able to retain the status without further eligibility checks. This means that the authorities of the Member State concerned should not require the person concerned to provide additional evidence, at a later stage, that he or she left Ukraine legally in compliance with military obligations on the basis that the personal circumstances have changed (that person would at a future moment in time not be a subject to such eligibility criteria); in other words, those eligible for temporary protection at the time of the request should continue to retain the status. In the same vein, the temporary protection status obtained should continue to be active.

This could be for example the case of a young Ukrainian man aged 22 who, before or after the entry into force of the Decision 2026/1912 has requested and obtained temporary protection, irrespective of the fact that, at a future point in time, e.g. when he turns 23, he would be, in principle, under the currently applicable Ukrainian rules, subject to military obligations in Ukraine and not allowed to leave the country and, as consequence, not be eligible for temporary protection.

II. Possibility to maintain temporary protection status for those who went home (back) to Ukraine under the new rules

Under Council Decision 2026/1912, persons already enjoying temporary protection prior to the date of entry into force of the Decision will retain their status. In practice, this means that the authorities of the EU Member States should not request the current beneficiaries concerned to provide documentation proving they had left Ukraine legally in compliance with military obligations.

In accordance with the Temporary Protection Directive and as recalled in the previous Commission's FAQs document on going home back to Ukraine[4], Member States were advised to set up a specific procedure allowing those who intend to go home (back to Ukraine) to notify about their movements and to require the persons who intend to go home to Ukraine to notify the authorities of the host Member State about their absence from the host Member State. Provided that such notification system is in place, if the person has not communicated his/her possible absence or s/he does not present him/herself to one of the regular reports, it could be reasonable for the Member State to assume that the person has gone home (back) to Ukraine and take the necessary follow-up measures (such as de-registration and revocation of the residence permit). This would mean that should the person decide to come back into the EU, the process will have to restart from the beginning. In addition, Member States were advised not to set up unreasonable

[4] Frequently asked questions on going home to Ukraine on a voluntary basis in the context of the Temporary Protection Directive

periods of absence or unreasonable reporting obligations that could lead to an automatic discontinuation of benefits.

The Commission services consider the same indications to continue being applicable after the entry into application of the new eligibility criteria under Council Decision 2026/1912.

Accordingly, where a person who benefits from temporary protection decides to go home back to Ukraine for longer periods of time, that person will, in accordance with the applicable rules in the Member States concerned, be subject to de-registration and revocation of the residence permit. Where at a later stage that same person decides to come back to the EU, he or she would need to restart the process for obtaining temporary protection and would need to present evidence that he or she legally left Ukraine in compliance with military obligations.

The Commission services consider that the period of time/absence from the territory of the Member State and the modalities that would lead to the de-registration from temporary protection and revocation of the residence permit fall under the responsibility of Member States' authorities and therefore might differ across the Union.

III. Verification of the eligibility criteria for temporary protection for persons who move from one Member State to another to seek temporary protection

Under the current rules, Ukrainian nationals with biometric passport have the right to move freely within the Schengen area after being admitted into the territory for a 90-day period within a 180-day period.

With a view to limit abuse and given that Member States do not currently have the possibility to verify that another Member State has not granted temporary protection to the person concerned on the basis that the latter does not fulfil the new eligibility criteria, a person who presents him/herself to the national authorities of a Member State different from the one where they entered into the EU and sought temporary protection should provide evidence, in accordance with Section I point B and Section II above, that they left Ukraine legally, in compliance with the military obligations under Ukrainian law.

IV. Entry into application

Under Council Decision 2026/1912, the new eligibility criteria enter into force the day after the publication of the Decision in the Official Journal of the European Union. As a consequence, the verification of the new eligibility criteria for temporary protection by the authorities of the Member States will start on that date.

To ensure a correct application of the new and qualified rules, the Commission services consider that Member States' authorities should not require proof of compliance with military obligations from displaced persons from Ukraine who, at the date of the entry into force of the new eligibility criteria, are already present in the territory of that EU Member State and already requested, but not yet obtained, temporary protection. Therefore, any person who already lodged a request for temporary protection prior to the entry into application of the new rules, and for reasons beyond his/her control, has not yet obtained it should be considered as person eligible for temporary protection, provided that s/he falls under the scope of temporary protection provided under Article 2 of Council Decision 2022/382.