

Temporary Protection Status Practices in the Context of Human Rights in Türkiye and European Union*

Türkiye ve Avrupa Birliği'nde İnsan Hakları Bağlamında
Geçici Koruma Statüsü Uygulamaları

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ABSTRACT

Migration and refugees are among the most important and complex problems of today's world, deeply affecting the international community. Civil unrest and violence, especially in the Middle East, have led to the displacement of millions of people. Most of these displaced people have sought refuge in neighboring countries and Europe. However, this situation has led to many legal status debates and human rights violations. Türkiye stands out with the number of asylum seekers it has hosted and the policies it has pursued in this process. Syrians who have sought refuge in Türkiye since 2011 are under "Temporary Protection Status". However, while temporary protection status should be temporary in duration, when it evolves into a permanent temporary status, various uncertainties arise regarding the social cohesion of the protected persons and the standard of living befitting human dignity. Although temporary protection status was historically developed in European Union (EU) law, the Temporary Protection Directive adopted in 2001 was never activated until the Ukrainian crisis in 2022. In this context, the attitudes and practices of the EU towards asylum-seekers from different countries, such as Syrian and Ukrainian asylum-seekers, are also compared in terms of temporary protection status. Temporary protection status is recognized as an important mechanism in the human rights context and the international community needs to do more to protect the fundamental rights and freedoms of protected persons. The compliance of temporary protection policies with human rights standards and their effective implementation are considered as critical steps to protect the dignity of protected persons and guarantee their human rights. In this study, a review article was conducted from a legal perspective by analyzing the current situation of temporary protection status implemented in Türkiye and the EU through a literature review. The examination of temporary protection status only in the context of Türkiye and the EU constitutes the limitation of the study. This study aims to contribute to theoretical debates by evaluating temporary protection status in international law, its implementation in Türkiye, and EU asylum policies from a human rights perspective.

Keywords: Forced Migration, Mass Influx, Temporary Protection, Human Rights, Türkiye

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ÖZ

Göç ve mültecilik, günümüz dünyasının önemli ve karmaşık sorunları arasında yer almakta olup uluslararası toplumu derinden etkilemektedir. Özellikle Ortadoğu'da yaşanan iç karışıklıklar ve şiddet olayları milyonlarca insanın yerinden edilmesine yol açmıştır. Bu yerinden edilen insanların çoğu, komşu ülkelere ve Avrupa'ya sığınmıştır. Ancak bu durum birçok hukuki statü tartışmasına ve insan hakları ihlaline sebep olmuştur. Türkiye, bu süreçte misafir ettiği sığınmacı sayısı ve izlediği politikalarla ön plana çıkmaktadır. 2011'den bu yana Türkiye'ye sığınan Suriyeliler, "Geçici Koruma Statüsü" altında bulunmaktadır. Ancak, geçici koruma statüsü, süre olarak geçici olması gerekirken; kalıcı bir geçiciliğe evrildiğinde korunan kişilerin sosyal uyumu ve insan onuruna yakışır yaşam standardı konusunda çeşitli belirsizlikler ortaya çıkmaktadır. Geçici koruma tarihsel olarak Avrupa Birliği (AB) hukukunda doğmuş olsa da 2001 yılında kabul edilen Geçici Koruma Yönergesi 2022 yılında yaşanan Ukrayna krizine kadar hiç aktifleştirilmemiştir. Bu bağlamda, Suriyeli ve Ukraynalı sığınmacılar gibi farklı ülkelere gelen sığınmacı gruplarına yönelik AB'nin tutum ve uygulamaları da geçici koruma statüsü özelinde karşılaştırılmıştır. Geçici koruma statüsü, insan hakları bağlamında önemli bir mekanizma olarak kabul edilmekte olup korunan kişilerin temel hak ve özgürlüklerinin korunması için uluslararası toplumun daha fazla çaba sarf etmesi gerekmektedir. Geçici koruma politikalarının insan hakları standartlarına uygunluğu ve etkin uygulanması, korunan kişilerin onurunu korumak ve insan haklarını güvence altına almak için kritik adımlar olarak değerlendirilmektedir. Bu çalışmada Türkiye ve AB'de uygulanan geçici koruma statüsüne ilişkin mevcut durum literatür taraması ile analiz edilerek hukuki perspektiften bir derleme çalışması yapılmıştır. Geçici koruma statüsünün Türkiye ve AB boyutunda ele alınması çalışmanın sınırlılığını oluşturmaktadır. Bu çalışma, geçici koruma statüsünün uluslararası hukukta ve Türkiye'deki uygulaması ile AB'nin sığınma politikalarında bu statüyü insan hakları bağlamında değerlendirerek kuramsal tartışmalara katkı sunmayı amaçlamaktadır.

Anahtar Kelimeler: Zorunlu Göç, Kitlese Akın, Geçici Koruma, İnsan Hakları, Türkiye

Introduction

Today, the number of individuals who have been forcibly displaced and forced to migrate internationally has increased significantly. Millions of individuals have been displaced for reasons such as wars, violence, civil unrest, human rights violations, discrimination, economic hardship and climate change. This situation leads to numerous challenges for displaced individuals in their new countries of residence. These problems and the state of uncertainty in which asylum-seekers find themselves prevent individuals from living in peace and cause various security risks in the future.

Forcibly displaced people have the right to live humanely in the countries where they reside, regardless of differences such as language, religion, race or belief. These rights include the most basic human rights such as health, education, employment and housing and are guaranteed by international agreements. However, practical difficulties and new experiences faced by societies reveal situations where international law is insufficient. Therefore, it is important to evaluate and discuss the current waves of forced migration according to the needs and situations of societies.

In the aftermath of the World War II, the legal basis for human movement gained momentum in the international arena. On 10 December 1948, the Universal Declaration of Human Rights declared the right to asylum as a fundamental right. One of the most important steps in this process was the Geneva Convention Relating to the Status of Refugees of 1951 and its 1967 Protocol. These documents aim to provide international protection to refugees. The temporary protection regime has emerged as

an interim solution to protect the fundamental rights of forcibly displaced persons and people experiencing mass migration. It provides international protection, at least in terms of security and basic needs, to asylum-seekers who do not have refugee status or for whom individual status determination cannot be made. In this way, temporary protection protects the fundamental rights and freedoms of asylum seekers and prevents human rights violations. The temporary protection regime affects the lives of millions of people who have been displaced in recent years. However, there is no text in international law that defines temporary protection and regulates it with mandatory provisions. Therefore, states have developed different temporary protection arrangements. This situation leads asylum-seekers to uncertainty and deprives them of legal protection. However, uncertainties and deprivation cause many human rights violations. Therefore, it is important to discuss the temporary protection status and evaluate it from a human rights perspective. In this study, the legal framework of the temporary protection regime and the practices of the temporary protection regime in Türkiye and the EU are discussed. The EU's approach to Ukrainian asylum seekers and Syrian asylum seekers in terms of asylum policies is evaluated in the context of human rights. This study aims to provide policy recommendations at national and international levels by evaluating the compliance of the temporary protection regime with human rights.

1. The Concept of Temporary Protection and Temporary Protection in International Law

Temporary protection status provides a provisional solution for individuals or groups fleeing their countries due to armed conflicts, widespread violence, or systematic human rights violations. This status is applied in exceptional circumstances and for a limited period of time and is valid under a state of emergency (Goodwin-Gill & McAdam, 2007, p.340). Since it is not possible to assess individual applications in cases of mass influx, states envisage a type of protection called temporary protection to solve this problem. When we look at the history of Temporary Protection, it was a legal mechanism applied in Europe to solve the asylum problem in Kosovo and Yugoslavia crises. Similar forms of protection are regulated in the 1969 African Refugee Convention. This type of protection was also utilised during large waves of migration from South Asia. Moreover, as the number of people fleeing civil wars in Central America increased in the 1980s, there were serious debates on temporary protection (Fitzpatrick, 2000, p.279).

When large numbers of asylum-seekers are displaced by forced displacement, there is often no possibility to determine personal status. This is often the case in situations of civil war. Temporary protection is meant to postpone refugee status determination in short-term and emergency situations. Individuals are provided with minimum protection within the standards of the 1951 Convention. If the situation in the country of origin normalizes, most asylum seekers can return safely. However, if the situation in the country of origin has not changed after several years, another avenue of international protection should be sought. To do otherwise means that people who might otherwise have better rights benefit from limited protection, which can lead to human rights violations (UNHCR, 2005, p. 112).

The lack of an internationally recognized definition of temporary protection paves the way for arbitrary use by states. There is no definition of temporary protection in a binding international source yet. This situation creates a gap in international law. At the same time, it may pose the danger of being

substituted for the refugee regime. In this direction, many international organizations are working to determine minimum rules of conduct for people under temporary protection.

According to the United Nations High Commissioner for Refugees, temporary protection is generally applied as a measure in humanitarian crises such as mass migrations of asylum seekers, rescue of maritime arrivals and cross-border mixed population movements, where exceptional or temporary circumstances in the country of origin require international protection, or in the face of conditions that prevent a safe and dignified return to the country of origin (UNHCR, 2014, p.3). However, there is no precise definition of a mass influx situation. In general, the fact that many asylum seekers come from the same region is accepted as the common elements of a mass influx (İneli Ciğer, 2016, p.67). However, the asylum system of the receiving state and its capacity to provide protection should also be taken into account as important criteria in this case. Therefore, it is important whether the state where protection is sought has the possibility to examine asylum applications individually (Yılmaz, 2016, p.77).

Looking at the temporary protection mechanisms in the world, it is seen that states make their own regulations. There are various discussions on the duration of temporary protection status in Türkiye in terms of permanence and temporary duration. Looking at the legislation, practices and regulations in Türkiye, it is observed that the implementation of temporary protection status is at a level to set an example for the international process. Australia provides temporary protection status to those displaced as a result of natural disasters caused by climatic change. Canada, on the other hand, grants temporary protection status to certain groups for a limited period of time in the face of armed conflict, natural disasters caused by climatic change and other extraordinary situations. In practice, the principle of non-refoulement is observed and the duration of protection can be extended according to the concrete case. In EU countries, temporary protection status is applied to persons arriving in the EU territory in mass influx. The practices of some European States to protect people fleeing the conflicts in the former Yugoslavia in the early 1990s are shown as an example of temporary protection (TGNA, 2018, p. 247).

An important international principle in situations of mass influx and mass asylum is known as the principle of non-refoulement. Although the 1951 Convention and 1967 Protocol do not contain provisions on the concept of temporary protection, the principle of non-refoulement makes it possible to establish a legal relationship between the 1951 Convention and the concept of temporary protection. Therefore, it is the most important principle to be taken into account for persons under temporary protection, especially in cases of mass influx and mass asylum. This principle constitutes the legal and conceptual basis of such protection (Yılmaz, 2016, p.51).

Although there is no binding international agreement regulating temporary protection status universally, the European Union Council Directive of 2001 is an important legal text. Temporary protection policies are limited to a certain period and cannot be applied permanently, as they are applied in case of mass influx and emergencies. Therefore, temporary protection is an extraordinary protection regime. This status is not a substitute for international protection statuses, but it is necessary to ensure that individuals have access to international protection statuses when the extraordinary conditions disappear. Temporary protection has three main elements. These are a mass influx, respect for the principle of non-refoulement, and the fulfilment of minimum conditions in the context of human rights. In terms of EU law, the EU Council must take a decision on mass asylum by a

qualified majority. Due to the requirement of a qualified majority in decision-making, the EU Temporary Protection Directive was not implemented until 2022 (Oba, 2018, p. 181).

Although there is no general rule regulating temporary protection in international law, it is not possible to say that states are completely free in this regard. States are obliged not to act contrary to the principles of customary international law and human rights law when determining their policies on temporary protection. Temporary protection is a type of interim protection provided until individual refugee status can be granted. Temporary protection status provides individuals with a minimum level of protection in the context of fundamental human rights, in particular non-refoulement. As it is an extraordinary protection regime, it is expected to be of short duration.

2. History of Temporary Protection and Temporary Protection in the EU's Asylum Policies

Temporary protection has emerged as a practical solution to sudden and mass migration waves and has a historical background. While the terms temporary refugee and temporary asylum were previously used, it was decided to remove the word "asylum" as a result of discussions at the 13th session of the UNHCR Executive Committee in 1979. The addition of the word "protection" to the concept of temporary protection took place more recently (Luca, 1994, p. 535). Perluss and Hartman state that the first temporary refugee practice was the provision of safe haven by France and the UK to people fleeing the Spanish Civil War in 1936 (1986, p. 580). Later, the temporary asylum provided by Austria and Yugoslavia to two hundred thousand people fleeing the October Revolution is also a historical example (Gibney, 2000, p.689). This asylum lasted for about 9 months, during which time some of these people settled in other Western European countries, North America or Austria. Others returned. In 1956 and 1968, Austria provided similar temporary asylum following the Soviet invasion of Czechoslovakia (Selm-Thorburn, 1998, pp 198-200). Subsequent examples have occurred mainly in Asia and Africa. South-East Asian countries used the term when they accepted Vietnamese boat arrivals until they could be resettled in third countries. Pakistan has also frequently stated that Afghan refugees in the country are only under temporary protection and are expected to return when conditions in their country improve (UNHCR, 1995; Chimni, 2000, p.141).

In the early 1980s, the concept of temporary refugees came to the fore in an attempt to fill the gap between the principle of non-refoulement, which is a mandatory norm, and the discretionary rights of states (Luca, 1994, p.535). The principle of non-refoulement should be applied with care in cases of mass migration. In this context, the special characteristics of the concept of temporary refugee were emphasized and the need to define and examine this concept in more detail was pointed out. UNHCR Executive Committee Resolution No. 19 sets out the framework for the concept of temporary refugee. In this resolution, it was emphasized that such persons should at least be recognized as temporary refugees and that, in addition to their right to benefit from the principle of non-refoulement, their minimum basic humanitarian needs should be met (UNHCR, 1980).

Resolution 22 (UNCHR ExCom), adopted in 1981, reiterated the points made in previous resolutions and included the provision of temporary protection to persons awaiting a durable solution. Developed by UNHCR ExCoM Resolution 22, temporary protection has been used as a pragmatic tool to provide international protection to people who do not have refugee status but are in need of protection (UNHCR, ExCom, 1994, para 45).

Following these developments, the conceptual evolution of temporary protection took place in the 1990s. While the term temporary refugee was replaced by the concept of temporary protection, the difference between these terms was expressed by the necessity of a more comprehensive regulation in order to determine not only the acceptance of those in need of asylum by states, but also a minimum standard of treatment (Edwards, 2012, p.601). In 1992, UNHCR stated that individuals fleeing the former Yugoslavia and in need of international protection should be provided protection on a temporary basis. However, after the Kosovo crisis, this concept came to the fore again as temporary protection on the European agenda (Kerber, 1999, p.38).

After World War II, there was a massive mass influx in Europe. Then, due to the declaration of independence of Bosnia and Herzegovina in 1992, 95% of the Bosniak and Croat population in Eastern Bosnia was subjected to forced migration (Özcan, 2005, p.102). Simultaneously with the Kosovo crisis in Europe, the influx of refugees from Northern Iraq to Türkiye due to the Gulf War was evaluated in the context of mass asylum and the issue of temporary protection came to the agenda. The fact that temporary protection is not subject to universally determined conditions leads countries facing mass migration to determine this status based on their own interpretations. For this reason, the rights provided to asylum seekers and the responsibilities imposed on the country regarding temporary protection status are shaped depending on internal and external factors (Fitzpatrick, 2000, p.281).

Temporary protection practices were codified in the EU Temporary Protection Directive of 20 July 2001. This Directive sets minimum standards for temporary protection in the event of a mass influx. Türkiye was inspired by the EU Temporary Protection Directive when establishing its own temporary protection regime. However, the scope of temporary protection is wider in Türkiye. In addition, the transition from temporary protection to international protection is blocked (Elçin, 2016). Based on this, it can be said that temporary protection in Türkiye has become unique.

3. Temporary Protection in Türkiye

Temporary protection in Turkish law is regulated by Article 91 of the Law No. 6548 on Foreigners and International Protection (LFIP) and the Temporary Protection Regulation (TPR) published in the Official Gazette No. 29153 dated 22/10/2014. The type of protection legally provided to Syrians is important both in determining the scope of Türkiye's obligations towards Syrians and in determining the rights of Syrians. According to the Glossary of Migration Terms, temporary protection is defined as "the arrangement developed by the state to provide temporary protection to persons fleeing massively from conflict or widespread violence without prior individual status determination" (IOM, 2013, p.33). According to the definition, the existence of a mass asylum situation is important for temporary protection status.

Due to its geographical location, Türkiye has experienced both mass migration flows and individual migrations. Finally, the mass influx due to the civil war in Syria in 2011 brought the temporary protection status to the agenda. For the first time in the LFIP, a different protection status under the name of "Temporary Protection" has been regulated by law. Article 91 of the LFIP, which provides a legal basis for temporary protection status.

According to the text of the Article, temporary protection provides a temporary solution in cases of mass influx between countries that make it impossible to determine individual status. Temporary protection is applied not only in cases of asylum in the event of a mass influx, but also in

cases of individual asylum during the period of mass influx (Yılmaz, 2016, p.137). As an emergency policy for situations such as armed conflict, systematic or widespread violence and human rights violations, temporary protection provides protection as a requirement of the principle of non-refoulement in cases of mass influx and guarantees the fundamental human rights of asylum seekers to ensure that they reach a safe environment.

Article 91 of the LFIP sets out the basic framework for temporary protection and stipulates that the details shall be regulated by regulation. The LRP prepared by the Council of Ministers entered into force on 22.10.2014. With the provisional Article 1 added to the Regulation, Syrians in Türkiye are included in this scope. The conditions and procedure of temporary protection, which is envisaged to be applied in the event of a mass influx, the rights granted to those under temporary protection and the conditions that terminate temporary protection have been clarified.

The term "urgent" in the concept of temporary protection actually reveals a characteristic of temporary protection. This characteristic requires urgent measures to be taken to protect fundamental human rights in the event that the masses are unable to return from the countries from which they were forcibly removed. The first paragraph of Article 91 of the LFIP gives the administration discretionary power to grant temporary protection. In this way, flexibility is recognized at the end of the sentence with the word "may be provided" (Asar, 2021, p.297).

4. Syrians under Temporary Protection in Türkiye

The legal status of Syrians who came to Türkiye seeking asylum due to the civil war in their country and who cannot benefit from the individual international protection status of refugee and conditional refugee under the LFIP is determined as temporary protection. According to the provisional Article 1 of the TPL, "Citizens of the Syrian Arab Republic, stateless persons and refugees who have arrived or crossed our borders en masse or individually from the Syrian Arab Republic for temporary protection due to the events that took place in the Syrian Arab Republic as of 28.4.2011 shall be under temporary protection even if they have applied for international protection. During the period of temporary protection, individual international protection applications shall not be processed." "Foreigners mentioned in the first paragraph who applied for international protection before 28.04.2011 shall be taken under temporary protection upon their request " provisions are included.

Syrians who came to Türkiye due to the civil war in Syria were initially defined as "guests" as it was thought that the civil war would not last long. However, due to the migration caused by the ongoing war, Türkiye abandoned its initial stance and started to provide temporary protection to Syrians. The legal status of foreigners under temporary protection, including Syrians, and foreigners who may be considered within this scope in the future, has been regulated in a single document with the LRP in line with the LFIP, taking into account the current situation and needs.

The rights and freedoms of persons under temporary protection are more limited compared to the rights and freedoms of persons under international protection (Elçin, 2016, p.35). In this context, the EU Temporary Protection Directive refers to the obligations of the state towards persons under temporary protection rather than their rights. National law, although the TPL refers to the right to temporary protection, it regulates the provision of services to persons under temporary protection rather than granting them certain rights (Elçin, 2016, pp. 50-51). Therefore, although Syrians have been

under temporary protection in Türkiye for an extended period of time, they have to remain in the country without the possibility of accessing the guarantees offered by international protection. The rights available to Syrians are not sufficient to ensure a secure life; for example, work permits, health services and the criteria for obtaining citizenship are limited. Therefore, Syrians continue to live in the country without refugee status. Although they are under the protection of the LFIP and TPL, they face an uncertain future (Şimşek, 2017).

There are mainly three different permanent solutions for Syrians in Türkiye: voluntary return, resettlement or local integration. Murat Erdoğan (2019, p.24) argues that the majority of Syrians under temporary protection in Türkiye are permanent. However, since the international community has not made sufficient efforts to solve the refugee problem arising from the Syrian crisis, the adequacy of the existing legal arrangements for the adaptation of Syrians to the local society should be discussed, taking into account the possibility of Syrians settling permanently in the country (İneli Cığır, 2017). It is very important to enlighten and carry out various awareness- raising activities to prevent local people from seeing Syrians as a big burden and to reduce prejudice.

Temporary Protection Status provides Syrians with social and economic rights similar to those enjoyed by Turkish citizens. However, the temporary nature of this status makes it difficult to predict the long-term integration of asylum seekers. The rights of persons under temporary protection status include accommodation, free movement within the city of registration, access to health services and free education, limited labour market participation and family reunification. These rights are provided to facilitate the daily life of Syrians under temporary protection and to meet their basic needs. However, the temporary recognition of this status may hinder integration in the long term (Uğur Göksel, 2019, p.186). The assumption that temporary status is not permanent and will expire over time prevents asylum seekers from settling permanently, finding a job and fully integrating into society. It is important to implement longer-term and sustainable solutions for the integration of asylum seekers. This should include integration programmes focusing on factors such as education, vocational skills development, language learning and wider access to the labour market. Policies and programmes that promote the full participation of asylum-seekers in society can enable asylum-seekers to reach their full potential while supporting their social and economic integration process.

Despite the services and obligations of states under temporary protection, effective integration planning requires a comprehensive policy that can realise the rights of individuals under temporary protection to work and education (Bildinger, 2015, pp.240-241). In order to make a long-term plan for the integration of Syrians into the local society, it may be considered as another option to include them under international protection and to extend their rights. However, considering the high number of Syrians under TP, this does not seem possible. As approximately 4 million Syrians are under temporary protection in Türkiye, evaluating their international protection applications individually or granting them international protection status collectively is a solution that Türkiye cannot cope with socially and economically. Therefore, to find a permanent solution, in addition to focusing on protection statuses in national law, how the international community can be forced to cooperate should also be explored. In this context, the temporary protection mechanism implemented in Türkiye is closely related to the concept of international cooperation (Bildinger, 2015, p.237).

5. The Situation of Syrians in the Context of Human Rights

According to Article 16 of the Constitution, the fundamental rights and freedoms of foreigners may only be restricted by law in accordance with international law. According to this article, there are two criteria for the limitations to be imposed on the fundamental rights and freedoms of foreigners to be in conformity with the Constitution: The first is that the restriction must be made by law. The second is that the restriction must be in accordance with international law. Temporary Protection is regulated in general terms by Article 91 of the LFIP and the RA. In this context, regulating the scope of the minimum protection to be provided to those under temporary protection by regulation rather than by law constitutes a violation of the Constitution (Oba, 2018, p.183). Although it is technically possible to talk about a contradiction here, this does not show that the content of the regulation is against asylum seekers in terms of rights or that its content is insufficient. On the contrary, the regulation is quite comprehensive and detailed in terms of the rights of asylum seekers.

The provisions of the LFIP were applied for the first time for the dramatically increased migration coming from Syria. In this context, the purpose of the LFIP is to provide temporary protection for Syrians, stateless persons and refugees who have arrived in Türkiye or crossed the borders of Türkiye as groups or individually due to the events occurring in the Syrian Arab Republic. During temporary protection, individual applications for international protection are not processed (Temporary Article 1). This is in order to ensure that Syrians are collectively protected and their needs are met. Temporary protection status is offered as a solution to ensure the safety and fundamental rights of individuals in need of protection. This arrangement aims to meet the accommodation, healthcare, education and other basic needs of those under temporary protection, in accordance with international protection law and humanitarian values.

After the civil war, settlements and infrastructure in Syria were severely damaged. Even if the war ends, Syrians will not want to return to their country until the destroyed settlements are repaired and living conditions are normalized. However, in accordance with the "prohibition of refoulement" set out in Article 6 of the Official Development Assistance (ODA), Syrians living in Türkiye cannot be sent back against their will. As long as the war in Syria and the consequent need for protection of asylum-seekers continues, the termination of temporary protection and the return of Syrians to their country is out of the question. According to Article 6, no one under temporary protection shall be sent to a place where he/she would be subjected to torture, inhuman or degrading punishment or treatment, or where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion. Looking at the 13 years that have passed as of 2024, it is stated by researchers that the tendency of Syrians in Türkiye to stay in Türkiye permanently has increased over time. For the reasons mentioned above, it is evident that the Syrian issue, which was seen as a short-term and temporary situation, has become more permanent day by day. This situation creates a permanent state of transience and known the fact is that Syrians, who are temporary, will remain in Türkiye for an indefinite period. When the war in Syria ends, whether the Syrians will return to their country or not, or how long they will continue to live in Türkiye is a matter of great uncertainty. Therefore, it is necessary to plan policies regarding Syrians in the long term and to take measures to eliminate potential tensions and conflicts between Syrians and the local population. In this respect, resettlement can be a permanent solution for Syrians and will also reduce the pressure and burden on countries such as Türkiye in terms of international burden sharing. On the other hand, considering the duration of Syrians' stay in Türkiye, social cohesion policies should be prioritized (Topal, 2015, pp. 20-21).

In the migration literature, the policy of temporariness emerges as the biggest obstacle to integration. Legally, Syrians under temporary protection can neither be resettled in a third country nor have a permanent status in Türkiye. There is an uncertainty regarding the criteria for granting citizenship and who is eligible. The perception of transience regarding the legal status of Syrian asylum seekers is one of the main factors affecting the integration experience of Syrian asylum seekers (Balta Özgen, 2018). Based on this, it can be said that the perception of temporariness regarding legal status and the uncertainty about what will happen if the temporary protection status ends negatively affects social cohesion.

Although the temporary protection status granted to Syrians was initially seen as an adequate and appropriate solution, it is currently far from meeting the needs and is not sustainable. With the increase in the tendency to stay in the country of migration, the fact that Syrians still have temporary protection has a negative impact on social cohesion. Citizenship requests by Syrians should be evaluated by taking into account the prejudices of the local community. At the same time, it is necessary to eliminate uncertainty by drawing a clear framework regarding the conditions and circumstances under which citizenship will be granted to those under temporary protection (Şirin, 2022, p.321). In this context, it is very important to recognize the legal status of asylum seekers on the basis of rights. Although there is no time limit for temporary protection status, the ways in which the status will end and the types of permanent solutions to be applied afterwards are important.

The situation of the Syrian asylum seekers in Türkiye cannot be resolved in the short term without the cooperation of the international community. In recent years, with the escalation of political and military conflicts in Ukraine, Ukrainians have been forced to flee their country, similar to Syrian refugees. This has led to a new wave of migration towards Europe and affected the EU's refugee policies. However, compared to Syrian asylum seekers, the EU's approach to Ukrainian asylum seekers is different. This may vary depending on the EU's political, economic and security priorities, the reception capacities of member states and public perception. A comparative analysis of Ukraine-Syria migration can identify similarities and differences between the EU's approach to Ukrainian asylum seekers and Syrian asylum seekers. In this context, the EU's policy towards Ukrainian asylum seekers and the human rights implications of this policy should be analyzed in more detail.

6. Comparison of Ukrainian and Syrian Asylum Seekers in the EU's Asylum Policies

When the historical process is analysed, European states have never adopted a welcoming attitude towards asylum seekers. Europe's attitude towards refugees and asylum seekers has generally been reactive, cautious and negative. Unlike Extra-EU states, Europe's refugee policy has tended to keep its doors firmly closed. This policy continues today in a similar manner as in the past. However, it is known that the EU tends to go in the opposite direction to the policy it has adopted on migrants that it deems appropriate for its own interests (Erdem, 2017, p. 345).

When we look at the citizenship policies of continental European states in terms of immigrants, we do not see a human rights-based approach. It is possible to see a policy based solely on the political, sociological and economic interests of the state. On the other hand, Türkiye differs from Europe in its asylum seeker policy and approaches the issue in a much more humanitarian way. Türkiye has similar citizenship law provisions with almost all states of the world in terms of naturalization of foreigners. However, in the period after the Syrian civil war in 2011, Türkiye has displayed an attitude in international migration policy in a way to be the conscience of the whole world (Erdem, 2017, p.347). The 10-year immigration policies implemented by France, one of the EU countries, between 2005 and 2015 led to an increase in xenophobia towards immigrants (Özer, 2015, p.34).

The Council of the EU has experienced a period of increased need for the implementation of the Temporary Protection Directive 2001/55/EC, especially since 2011, in situations such as the mass influx of asylum seekers from Libya and Syria. However, in this process, the temporary protection regulation has not been implemented in an effective manner (European Commission, COM 2011). Moreover, temporary protection was not included in the European Agenda on Migration. On the other hand, somehow during the Ukraine crisis, the Council took a unanimous decision on 4 March 2022 to implement the Directive for Ukrainians who had to seek refuge in neighbouring countries as a result of Russia's invasion of Ukraine, which started on 24 February 2022. The EU decided to implement the temporary protection status, which it had not implemented for years for various reasons. This shows that the EU can use temporary protection when faced with emergencies and mass migration flows. However, in other similar situations, the temporary protection mechanism has not been used, citing the difficulties of implementing the Directive. In order to implement temporary protection effectively, the EU needs to be able to react quickly and effectively to emergencies and the mechanism of the Directive needs to be revised and made more practical. In this way, the EU can provide a better solution with temporary protection in migration emergencies and offer better protection to asylum seekers.

European countries, which generally remained silent on the issue of refugees and acted according to the reactions of public opinion when the Russian invasion of Ukraine had not yet begun, displayed an unexpected attitude in their statements regarding Ukrainian asylum seekers. Before the start of the Ukrainian crisis, European countries stated that all Ukrainian asylum seekers would be accepted and all kinds of assistance would be provided to them. This approach stands out as a departure from the strategy of waiting and making decisions according to the reactions of the public opinion, as was usually the case in previous refugee crises. This time, the EU deviated from its usual policies in the face of the Ukraine crisis and chose to take a quick decision and millions of Ukrainians took refuge in Europe in a very short time (Işığışok & Kariman, 2022, p.1585).

In the process, Ukrainian asylum seekers were forced to migrate to Ukraine's neighbouring countries and EU member states such as Poland, Romania, Hungary and Slovakia. This situation caused the EU to face the issue of irregular migration once again. Significant differences exist between the EU and its member states' approaches to Ukrainian asylum seekers compared to those from Syria or Africa. It can be said that the EU has a more tolerant and tolerant attitude towards Ukrainian asylum seekers. It has been stated by the international press that the fact that Ukrainian asylum seekers are blond, blue-eyed and European is one of the main reasons for this tolerance. However, it is observed that the EU and its member states do not show the same level of empathy towards irregular migrants of Syrian, Iraqi or African origin. This discriminatory approach, sometimes even racist practices, has led to various debates and criticisms in international public opinion (Bayoumi, 2022).

The forced displacement and migration of Ukrainian asylum seekers clearly shows that they deserve international protection. However, the different approaches and discriminatory attitude of the EU and some EU Member States towards asylum seekers have been criticised. For this reason, it can be said that the EU and some member states have not been successful in the field of refugee law. The EU and some member states have shown a tolerant approach towards Ukrainian asylum seekers. However, there is no guarantee that these approaches will continue as long-term and permanent policies. With the increase in the number of Ukrainian asylum seekers, it can be predicted that changes in the EU's irregular migration policies and especially in the Dublin System and important debates within the Union are possible (Bozkurt, 2022, p.219).

As the armed conflict in Ukraine turned into a war, not only Ukrainians but also asylum seekers, irregular migrants and many foreigners who were in the country for education or work purposes were affected by this situation and therefore tried to cross to neighbouring countries for asylum. In this process, people of African origin, Afghan migrants, migrants from Asian countries and foreigners in Ukraine for educational purposes were subjected to forced migration. These asylum seekers are known to have been subjected to discriminatory behaviour by some Ukrainian security officials and border guards of third countries, such as Poland, which is incompatible with international refugee law and violates their right to asylum (Achiri & Sandilya, 2022).

Social exclusion and marginalisation are among the main challenges faced by migrants and asylum seekers in the societies they settle in. In order to better understand and explain these challenges, the term "racialisation", which is considered as an evolved form of racism, can be used. According to Karaman, the emergence of the term racialisation has played a vital role in understanding why different religious, social and cultural groups are racialised and how they are "otherised", "excluded", "subjected to hate speech and violence" as a result of this racialisation (2022, p.272). As asylum seekers try to adapt to a new society, they can often be marginalized based on their identity, culture and belief systems. Being perceived as "different" by the majority group of society can lead to their racialisation. This can lead to asylum seekers being defined not only by their physical differences, but also by their ethnicity, language and religious beliefs. Racialisation therefore not only discriminates against individuals, but can also deepen social inequalities. This can result in asylum seekers' access to basic services such as employment opportunities, education and health being restricted. This can further cause disadvantages to asylum seekers economically and socially.

According to Süleymanlı, it has been argued that the asylum-seeker policies of EU member states are shaped according to the understanding of "racialised hierarchy" rather than fundamental values. Süleymanlı stated that the humanitarian situation has been left in the background in the acceptance of asylum seekers and preferences are made according to language, religion, race and colour. In this context, he emphasised that asylum seekers face similar difficulties regardless of their countries of origin, yet the EU remains insensitive to the brutal loss of babies and children who have left their country. He stated that such an approach can be explained by the concept of "racialised hierarchy" in migration policies (Anadolu Agency, 2022). In an interview with Yusuf Adıgüzel of Sakarya University, he stated that the European continent is facing an unprecedented refugee crisis in its history. He emphasised that refugee status is a fundamental human right and that every individual who leaves their country due to torture or persecution has the right to seek asylum in another country. While pointing out that EU member states have generally focused only on refugees coming from outside Europe so far, he stated that with the Ukraine crisis, they had to face the fact that Europeans could also become refugees. He predicted that European countries, that opened their doors to asylum seekers of Ukrainian origin, may have difficulties in managing the process with the increase in the refugee population and the prolongation of the war, and may experience difficulties in combating the refugee population in economic and social terms in the future (Sakarya University, 2022). In this context, Süleymanlı's view that the EU's asylum-seeker policies are based on racialised hierarchy is combined with a perspective that the EU may face economic and social difficulties in the future, as Adıgüzel also emphasises.

There are clear and striking differences between the approaches of the EU and its member states towards Ukrainian and Syrian asylum seekers. The EU has adopted an open door policy by opening its doors to Ukrainian asylum seekers without hesitation. However, it has adopted the opposite attitude towards Syrian migration. It has been stated that the physical characteristics of Ukrainian asylum-seekers with blonde hair and blue eyes, their cultural similarities, and their

civilised(!) nature form the basis of this empathetic approach, as expressed in the international media (Bayoumi, 2022). Especially during the Ukraine crisis, the EU's swift and effective embrace of Ukrainian asylum seekers was appreciated internationally. However, when it comes to asylum seekers from Syria, EU member states have generally adopted a more reserved approach. The underlying reasons for this different approach include political, economic and security concerns, as well as social acceptance and domestic political dynamics. This approach of the EU raises questions about human rights and universal values. The view that every asylum seeker should be treated within the framework of human rights and not on the basis of the country of origin or physical appearance is important for the fair and humane implementation of asylum policies. Therefore, the policies of EU member states that approach Ukrainian and Syrian asylum seekers in different ways should be questioned in terms of human rights, justice and humanitarian values.

Conclusion

In 2011, Syrians who came to Türkiye's borders en masse due to the civil war in Syria were initially granted temporary protection status without any time limit, with the idea that they were temporary and would return. Syrians under temporary protection were unable to seek individual international protection during this time, leading to a prolonged state of uncertainty and restricted rights compared to those granted under international protection. This situation has persisted for approximately 13 years. From a rights-based perspective, temporary protection status is increasingly being used as an alternative to refugee status. While this approach aims to provide a rapid response to urgent humanitarian needs, it can also leave asylum-seekers in a state of uncertainty and limbo.

Temporary protection status may leave the long-term future of asylum-seekers in limbo and weaken the perception of permanence. The prolonged stay of asylum-seekers under temporary protection may make their integration process more difficult. This situation may prevent asylum-seekers from fully utilising their potential and contributing to the society economically, socially and culturally and prevent social cohesion. Studies showing the permanence of Syrian asylum-seekers in Türkiye reveal that the temporary protection status has a permanent character in practice. Although Syrians experience various adaptation problems, they have somehow got used to the living conditions in Türkiye and settled in. In this context, long-term integration policies need to be reviewed and updated, taking into account that the majority of Syrians under temporary protection are permanent in Türkiye. At this point, the issue of whether Syrians will continue to remain under temporary protection should be addressed in detail by policy makers and practitioners. Firstly, policies that promote the long-term integration of asylum-seekers need to be developed. These policies should support better integration of asylum seekers into local society in areas such as education, employment opportunities and social services.

The integration process is designed to help asylum seekers adapt socially, culturally, and economically to a new country and engage with the local community. At the centre of this process, the issue of citizenship plays a critical role for asylum seekers to become a full part of the society. Although temporary protection status provides asylum seekers with legal rights, it cannot be equated with citizenship status. Acquiring citizenship encourages asylum-seekers to establish ties with the local community and fulfil their social responsibilities as a participatory citizen; it also affects their sense of

belonging and enables asylum-seekers to see themselves as part of the social structure, that is, as an active subject. Therefore, the acquisition of citizenship is crucial in the integration process of refugees.

The issue of granting citizenship to Syrians is closely related to the possibility of Syrians returning to their country. At this point, the future of Syrians is uncertain, as it does not seem possible for a large proportion of asylum-seekers to return. The temporary protection status in Türkiye is not yet time-limited and affects a large population. A common decision on the citizenship policy for Syrians under temporary protection is needed. This issue is important for the future of Syrians and their integration and should be determined as a state policy. If the State of Türkiye is considering granting citizenship to Syrians, the legal regulation of this decision should be made in accordance with the basic principles of Turkish citizenship law. To increase social cohesion and avoid conflicts, the state should promote social acceptance by making the necessary explanations to the local people.

Considering permanent solutions for Syrians under temporary protection in Türkiye, such as long-term residence permits in addition to citizenship, is important both to secure the future of Syrians and to support social cohesion. Such solutions may encourage the long-term integration of asylum-seekers, allowing them to build a more solid relationship with the local community. The granting of citizenship may provoke strong reactions from the local population due to the high number of asylum seekers. However, alternative solutions such as long-term residence permits may offer a more flexible and viable option. Long-term residence permits allow Syrians to benefit from many of the same rights and privileges as Turkish citizens. This can help asylum-seekers gain access to the labour market, education, health services and other social rights. In this process, it is important that the restrictions in the LFIP be reviewed and amended where necessary. Removing or relaxing these restrictions could make it easier for Syrians seeking long-term residence permits to exercise this right. These types of permanent solutions can both encourage a more positive reaction from the local population and contribute to long-term integration. Stronger participation of Syrians in social, economic and cultural life would not only improve their individual quality of life, but also allow Türkiye to gain in various areas.

In order to overcome the uncertainty and loss of rights experienced by individuals under temporary protection status, permanent solutions should be implemented. However, these permanent solutions cannot be achieved by a single state alone. Instead, it should be realised through international cooperation and responsibility sharing. In this context, the discriminatory and selective attitudes of the EU and its member states towards asylum seekers are particularly striking. The attitudes of EU member states are often characterised by double standards and different practices towards asylum seekers. Therefore, the EU should adopt a unified and fair approach and focus on permanent solutions in co-operation with the international community.

While irregular migration movements in the world continue to increase, the war that started with Russia's military intervention in Ukraine in February 2022 caused the displacement of millions of Ukrainians. This situation caused the EU and its member states to face an intense influx of refugees once again. However, the EU and its member states' distancing from the Syrian migration issue and their failure to assume their responsibilities have given way to the embracing and tolerant attitude developed with the Ukrainian migration. The EU Temporary Protection Directive, which had never been activated until now, was activated for Ukrainian asylum seekers and Ukrainians were granted temporary protection status. However, the point to be emphasised here is that the EU has not shown the same attitude towards Syrian asylum seekers. This situation causes criticism and question marks

as to how much the EU's core values are reflected in practice. EU countries should use objective criteria when accepting asylum seekers and should be based on the principle of accountability during and after the migration management process. In this context, the importance of finding solutions through international solidarity and co-operation has once again emerged in the face of the magnitude and globalisation of the problem and crisis.

Since 2011, the Syrian migration, the Russia-Ukraine war that started in 2022 and the intensive migration movements have shown that migrations will continue to be experienced in the world for various reasons such as war, conflict, natural disasters, climate change and economic insufficiencies. The duty of states here is to act not only according to their material interests, but also on the basis of rights and international solidarity and cooperation. In sharing responsibility, all member states should take responsibility and develop and implement solution-oriented policies. It is important that states pay utmost attention to the co-management of all forms of migration, solidarity and responsibility sharing.

The issue of migration will have an important place in Türkiye-EU relations in the future. For this reason, the steps to be taken by both sides should be taken carefully considering that they will affect both Türkiye-EU relations and asylum seekers. It would be more beneficial for developed countries to utilize the funds they are spending on border control and barriers for solving the problems in the source countries of migration. In this context, efforts focused on solving problems such as hunger, unemployment and climate change in the regions that cause migration will improve living conditions in the region in need. It is necessary to focus on the solution of the problems and to increase the investments to be made in the place of migration and to develop new economic employment opportunities.

International migration is one of the biggest and most complex problems of today's world, which requires the conscientious and legal responsibility of all countries. The obligation to respect the rights of asylum-seekers in the context of forced migration and to protect their right to live in humanitarian conditions is a responsibility for all countries. The international community must therefore co-operate effectively to protect the well-being and human rights of asylum-seekers and share the burden of this problem fairly with the whole world. A global solution to global problems is an imperative for humanity and an important step towards building a fairer world for future generations.

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