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Judgment of the Court in Joined Cases C-244/24 | [Kaduna]¹ and C-290/24 | [Abkez]²

Temporary protection for displaced persons from Ukraine: a Member State which has extended that protection to certain categories of persons, beyond what is required by EU law, may withdraw that protection from them without waiting for the temporary protection granted under EU law to end

The Dutch authorities had initially decided to extend the temporary protection scheme for displaced persons from Ukraine to categories of persons other than those covered by EU law. Subsequently, however, those authorities decided to withdraw the benefit of that optional protection. In its judgment, the Court of Justice confirms that, in such a case, a Member State may, in principle, withdraw the benefit of the temporary protection from those persons before the temporary protection granted under EU law has come to an end. However, such persons may not be the subject of a return decision as long as that optional protection remains in force.

In 2022, following the invasion of Ukraine by the Russian armed forces, the European Union established a temporary protection scheme for displaced persons from Ukraine.³ That European scheme shall apply mandatorily: (i) Ukrainian nationals, (ii) stateless persons and nationals of third countries other than Ukraine, who benefited from international protection, (iii) family members of the persons in the first two categories and (iv) stateless persons and nationals of third countries other than Ukraine who have a permanent residence permit in Ukraine and who are unable to return in safe and durable conditions to their country of region of origin.

However, Member States may extend that temporary protection to any other category of displaced persons from Ukraine for the same reasons.

The Netherlands authorities initially granted temporary protection to all holders of a Ukrainian, including temporary, residence permit. However, those authorities subsequently decided to limit such protection to a more restricted category of persons, namely holders of a permanent Ukrainian residence permit. Several persons who do not hold such a permanent residence permit but who had already been granted **optional temporary protection** in the Netherlands brought proceedings before the Netherlands courts.

The Netherlands Council of State and the District Court of The Hague, sitting in Amsterdam, referred questions to the Court of Justice concerning the possibility for a Member State to put an end to the optional protection granted in that context, and according to what procedures.

In its judgment, the Court recalls that the immediate and temporary protection scheme, which is a manifestation of the principle of solidarity and fair sharing of responsibility between Member States in the implementation of asylum policy, is exceptional in nature and must be reserved for cases of a mass influx of displaced persons.

In that context, a Member State which has **granted optional temporary protection to a category of persons may, in principle, withdraw the benefit of that protection from those persons.** Member States may decide on

the duration of the optional temporary protection which they grant, provided that it does not begin before and does not end after the temporary protection granted by the Union institutions.

In addition, that Member State is required to grant beneficiaries of optional temporary protection a residence permit enabling them to reside on its territory as long as that protection is not withdrawn from them.

It follows that, for as long as those persons continue to benefit from the optional temporary protection, they are lawfully resident in the territory of the Member State concerned. They cannot therefore be the subject of a return decision until the Member State concerned has put an end to that optional protection.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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¹ The name of the present case is a fictitious name. It does not correspond to the real name of any of the parties to the proceedings.

² The name of the present case is a fictitious name. It does not correspond to the real name of any of the parties to the proceedings.

³ [Council Implementing Decision \(EU\) 2022/382](#) of 4 March 2022 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.