UNHCR's comments on the draft Government Decision on the amendment of the Government Decision 21/2023 granting Temporary Protection to displaced individuals from Ukraine

I. Introduction

1. The United Nations High Commissioner for Refugees Representation in the Republic of Moldova (hereafter "UNHCR") is grateful to the Ministry of Internal Affairs (MIA) for the opportunity to express views on the draft Decision and its Annex 1 (hereafter the "Draft Decision") amending Government Decision 21/2023, which granted temporary protection (TP) to displaced individuals from Ukraine. The draft Decision extends TP for a period of one year, until 1 March 2027, and makes specific amendments to various provisions of GD 21/2023.[1]

2. UNHCR offers these comments as the agency entrusted by the United Nations General Assembly with the responsibility for providing international protection to refugees and other persons within its mandate, and for assisting governments in seeking permanent solutions to the problem of refugees.[2] As set forth in its Statute, UNHCR fulfils its international protection mandate by, *inter alia*, "[p]romoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto."[3] UNHCR's supervisory responsibility under its Statute is reiterated in Article 35 of the 1951 Convention relating to the Status of Refugees ("the 1951 Convention")[4] according to which State parties undertake to "co-operate with the Office of the United Nations High Commissioner for Refugees […] in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the Convention." The same provision is included in Article II of the 1967 Protocol relating to the Status of Refugees ("the 1967 Protocol").[5]

---

[1] *https://particip.gov.md/ro/document/stages/proiectul-hotararii-guvernului-cu-privire-la-modificarea-hotararii-guvernului-nr-212023-privind-acordarea-protectiei-temporare-persoanelor-stramutate-din-ucraina/15397.*

[2] *UN General Assembly, Statute of the Office of the United Nations High Commissioner for Refugees, 14 December 1950, A/RES/428(V), available at: https://www.refworld.org/docid/3ae6b3628.html ("the Statute").*

[3] *Ibid., para. 8(a).*

[4] *UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: https://www.refworld.org/docid/3be01b964.html. According to Article 35 (1) of the 1951 Convention, UNHCR has the "duty of supervising the application of the provisions of the Convention".*

[5] *UN General Assembly, Protocol Relating to the Status of Refugees, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267, available at: https://www.refworld.org/docid/3ae6b3ae4.html. UNHCR's supervisory responsibility has also been*

3. UNHCR's supervisory responsibility is exercised in part by the issuance of interpretative guidelines on the meaning of provisions and terms contained in international refugee instruments, in particular the 1951 Convention. Such guidelines are included in the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status and subsequent Guidelines on International Protection ("UNHCR Handbook").[6] UNHCR also fulfils its supervisory responsibility by providing comments on legislative and policy proposals impacting on the protection and durable solutions of its persons of concern.

4. The following sections, thus, include observations related to various aspects of the draft Decision, addressing selected points where clarification is needed to ensure legal certainty, procedural safeguards, and continuity for persons currently benefiting from temporary protection. UNHCR stands ready to offer additional clarifications as considered useful and to continue the dialogue with the MIA to further improve the draft decision, with the involvement of other relevant stakeholders.

II. General Observations

5. UNHCR welcomes the extension of TP for an additional year, until 1 March 2027, per point 6 of the draft Decision, as well as the overall intention of updating the TP legal regime, considering experiences to date. TP has been of critical importance to the protection and inclusion of refugees from Ukraine in the Republic of Moldova. It has facilitated the entry into Moldova of Ukrainians fleeing the war in Ukraine, has ensured access to basic rights, and has provided security to those re-building their lives in a new country.

6. The proposed extension of TP into March 2027 also brings Moldova into alignment with the Council Implementing Decision (EU) 2025/1460 of 15 July 2025 extending the temporary protection introduced by 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 the Directive 2001/55/EC7, and having the effect of introducing temporary protection.

---

reflected in EU law, including by way of general reference to the 1951 Convention in Article 78 (1) of the Treaty on the Functioning of the EU.

[6] UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, April 2019, HCR/1P/4/ENG/REV. 4, available at: https://www.refworld.org/docid/5cb474b27.html

[7] Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof

III. Specific Observations

a. Eligibility criteria and safeguards in the extension and refusal of TP

7. UNHCR notes that points 12^5 and 12^6 of the annex of the draft Decision refer to "conditions that allow" or "conditions that do not allow" the extension of temporary protection, without explicitly indicating where these conditions are defined or which legal provisions govern their application.

8. The absence of an explicit reference to the applicable eligibility and refusal criteria may create legal uncertainty for beneficiaries and increase the risk of inconsistent interpretation and application at operational level. From a protection and procedural perspective, beneficiaries should be able to understand, in advance, the basis on which their status may be extended or refused, particularly in a framework that relies on automated processes and inter-institutional examination.

9. UNHCR further notes that point 12^6 of the annex 1 of the draft Decision provides for notification of a refusal to extend temporary protection, but does not clarify whether such a decision is subject to appeal or under which procedure. The wording referring to "conditions that do not allow the extension" is vague and may undermine transparency and predictability. Any refusal to extend temporary protection should be based on clearly defined and accessible criteria and be accompanied by adequate procedural safeguards, including a reasoned notification and clear information on the availability of an effective right to appeal, in accordance with the applicable legislation.

10. UNHCR therefore recommends that points 12^5 and 12^6 explicitly refer to the relevant provisions of the Government Decision and/or Law No. 270/2008 that establish the conditions for extension and non-extension of temporary protection, and clarify that these criteria are applied uniformly. It further recommends that point 12^6 expressly provides that the notification of a refusal includes information on the reasons for the decision and the right to appeal, in order to enhance legal certainty, ensure predictable implementation, and strengthen procedural fairness for beneficiaries.

b. Continuity of TP status during the application and examination period

11. UNHCR notes that the current formulation of point 12^1 allows beneficiaries to apply for extension until 30 April 2026, while their existing temporary protection is valid only until 28 February 2026. This creates a legal gap during March – April 2026 for persons who apply later in the allowed period, potentially exposing them to a temporary loss of legal

stay and interruption of rights (employment, health care, education, car registration, etc.).

12. To avoid this unintended consequence and to ensure compliance with art. 38[2] (2) of Law 270/2008, UNHCR recommends clarifying point 12[7] to expressly guarantee that temporary protection remains valid and uninterrupted throughout March and April 2026 for all existing beneficiaries, until their application is examined.

UNHCR proposes changes to point 12[7] of the annex of the draft Decision as follows:

12[7]. The temporary protection status of all existing beneficiaries shall remain valid throughout March and April 2026. It shall continue to apply, without interruption of the rights attached to temporary protection, until the examination of the renewal application submitted within the timeframe set under point 12[1] is completed.

c. Avoiding retroactive cessation of TP

13. UNHCR considers that the current drafting may create legal uncertainty and the risk of unintended retroactive cessation of TP. Under the Government Decision No. 21/2023, identity documents are extended automatically until 1 March 2026, regardless of the individual date printed on earlier-issued documents. Linking cessation to "the date indicated in the identity document" (point 12[8]) may therefore lead to inconsistent interpretation, particularly where cards issued in 2023 or early 2024 display validity dates that no longer correspond to the legal extensions already granted by the Government.

14. To avoid contradictory application at operational level and to ensure clarity for beneficiaries and authorities, UNHCR recommends specifying a single, prospective date of cessation, applicable uniformly to all beneficiaries who do not submit a renewal request within the prescribed timeframe. This would eliminate the risk of retroactive loss of legal stay and ensure predictable implementation.

UNHCR proposes changes to point 12[8] of the annex of the draft Decision as follows:

12[8]. *In case of failure to submit the renewal request within the period established under point 12[1], the temporary protection granted to the beneficiary shall cease as of 1 May 2026 following the expiry of the application period, without prejudice to the person's right to request temporary protection in accordance with point 5.*

d. Safeguards and standards for exclusion and termination of TP

15. **As further elucidated in the draft under points 1.2.5 and, respectively, 1.2.6,** UNHCR notes that the proposed amendments to points 16 and 16[1] modify the evidentiary standard applicable to exclusion from, and termination of, TP. In both cases, the current wording referring to the existence of "reasonable grounds to consider" is proposed to be replaced with the formulation "there are indications for the application" of Articles 38[4] and 38[5](d) of Law No. 270/2008 on asylum.

16. While UNHCR recognizes that TP constitutes a distinct and exceptional protection regime, designed to respond to situations of mass influx and not to replace individual refugee status determination, it recalls that exclusion from and termination of temporary protection must be applied restrictively and with appropriate safeguards, **including clear evidentiary thresholds, individual assessment, due process guarantees, and access to effective remedies, in line with international refugee law and UNHCR guidance on temporary protection and exclusion clauses.[8]**

17. Lowering the applicable evidentiary threshold at the same time would further widen the margin of appreciation of the authorities and increase the risk of exclusion from, or termination of, temporary protection based on insufficiently substantiated information.

18. Furthermore, UNHCR recalls that Article 28 of Council Directive 2001/55/EC on temporary protection allows exclusion from temporary protection only on the basis of **serious reasons for considering** that a person has committed a crime against peace, a war crime or a crime against humanity, a serious non-political crime prior to entry into the Member State, or an act contrary to the purposes and principles of the United Nations, pursuant to **Article 28(1)(a)**, or where there are **reasonable grounds for regarding the person as a danger to the security of the host State**, pursuant to **Article 28(1)(b)**. The Directive further requires that such decisions be subject to legal remedies, in accordance with **Article 29**. Reducing the standard of proof to the level of "indications" would not be consistent with these minimum safeguards and could undermine legal certainty, proportionality, and the predictable implementation of the temporary protection regime.

19. From the perspective of adequate procedural safeguards and legal certainty and taking into account Moldova's stated objective of

[8] *See Articles 28 and 29 of Council Directive 2001/55/EC on minimum standards for giving temporary protection; UNHCR, Guidelines on Temporary Protection or Stay Arrangements (February 2014).*

alignment with relevant European standards, UNHCR considers it important to maintain a clear and sufficiently high standard of proof in decisions affecting access to and continuation of TP.

20. **With reference to the issues further detailed in the draft under points 1.2.5 and, respectively, 1.2.6,** UNHCR therefore recommends retaining the existing wording “reasonable grounds to consider” in points 16 and 16[1] and not replacing it with the term “indications”, in order to ensure the proportional application of exclusion and termination clauses and adequate safeguards for beneficiaries of temporary protection.

IV. Conclusions

21. In the context of consultations on the draft Decision, UNHCR welcomes the authorities’ continued efforts to support refugees from Ukraine and would like to reiterate the need to review aspects of the draft Decision with a view to ensure full compliance with international refugee and human rights law and EU standards.

22. UNHCR trusts that the MIA will give due consideration to UNHCR’s comments and recommendations. UNHCR remains committed to supporting the authorities of the Republic of Moldova and remains available to provide further technical support, expertise, and necessary clarifications.

UNHCR
22 December 2025