

Summary: ‘Temporary Protection in Times of Crisis: The European Union, Canada, and the Invasion of Ukraine’

PUBLICATION REVIEWED: Xhardez, C., & Soennecken, D. (2023). Temporary protection in times of crisis: The European Union, Canada, and the Invasion of Ukraine. *Politics and Governance*, 11(3), 264-275.

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ORGANIZATION: Politics and Governance

DATE OF PUBLICATION: 2023/09/27

LINK: <https://www.cogitatiopress.com/politicsandgovernance/article/view/6817>

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DATE OF SUMMARY: 2023/12/30

Book Journal Article Website Report Other (specify):

KEYWORDS: European Union, Comparative literature or study, Emergency Transit Mechanism, Event specific, Complementary pathways, Ukraine, Canada, Temporary Protection.

Temporary Protection in Times of Crisis: The European Union, Canada, and the Invasion of Ukraine

Executive Summary

- The authors compare the history, setting, and goals of the temporary protection mechanisms used by the EU and Canada in their respective responses to Ukrainian displacement.
- The EU Temporary Protection Directive (TPD) and the Canadian Canada-Ukraine Authorization for Emergency Travel (CUAET) are compared in terms of their date of activation, eligibility, visa policy, length of protection, ability to work or study, settlement and integration needs, any caps, long-term access to residence, financial assistance offered, and any costs or fees associated with accessing temporary protection.
- Several observations are made around visa requirements, the absence of asylum instruments used, the impact of multi-governance structures on the implementation, and the impact of internal factors on policy decision making, such as the influence of the Ukrainian diaspora.
- Authors emphasized the following similarities and differences:
 - The immigration settings between Canada and EU countries are fundamentally different.
 - In the context of the war in Ukraine, the two temporary policies may seem similar in their goals, but their instruments differ.
 - A visa was required for those arriving in Canada, whereas EU citizens are exempt and only require an electronic travel authorization to travel to Canada.
 - Both cases lack an asylum instrument in their temporary protection scheme.
 - Multi-level governance dynamics have different impacts on the implementation of the schemes in the two cases.
 - Internal factors such as the Ukrainian diaspora also drive immigration policy, by advocating for pathways in Canada and facilitating integration in the EU.
- The authors conclude by considering the unprecedented utilization of temporary protection mechanisms and how this precedent will impact the long-term dynamics in immigration policy.

Introduction

- The Russian invasion of Ukraine has created the largest displacement in Europe since WWII, with over eight million displaced.
- On March 4, 2022, the EU adopted and enacted provisions of the 2001 Temporary Protection Directive (TPD) for the first time, requiring member states to provide full temporary protection, including the right to live, work, and access healthcare, among others.
- Those fleeing Ukraine were primarily hosted by European countries, however, other states also quickly created protection pathways, such as New Zealand, the US, and Canada.

- On March 17, 2022, Canada launched the Canada-Ukraine Authorization for Emergency Travel (CUAET) allowing Ukrainians to enter with minimal visa requirements, to stay, work, and study for three years.
- CUAET offers temporary admission, as opposed to the traditional permanent resettlement schemes Canada typically has favoured in past crisis situations.
- This article compares the temporary protection responses between Canada and the EU, the historical and political contexts that informed the policy choices, and suggests that these policies are indicative of future changes to regional immigration policies.
- This article uses Hall's typology (Hall, P A "[Policy paradigms, social learning, and the state: The case of economic policymaking in Britain](#)" (1993)) which differentiates between "the overarching goals that guide policy in a particular field, the techniques or policy instruments used to attain the goals, and the precise settings of these instruments" (p. 265).

Comparing and Understanding Immigration Policy Responses in Times of Crisis

- The authors categorize Canada as a typical "settler" society, welcoming, yet with selective immigration approaches (p.265). There is generally a positive public attitude towards immigration and increasing immigration levels in immigration decisions.
- In contrast, the EU, despite having colonial ties, shows how regional cooperation can contribute to migration control, with increasing externalization approaches, strong anti-immigration attitudes, and more securitized responses, to name a few.
- Despite differences in approaches, the EU and Canada have been learning from one another. For example, Canada has been exporting its private refugee sponsorship model, while also adopting more restrictive asylum measures practiced in Europe.
- While immigration policies are typically slow-moving, crisis situations create "critical junctions" where there can be "changes in policy that may previously not have been deemed possible, by potentially generating a sense of urgency, setting the agenda, or opening political windows of opportunity" (p. 266).
- The authors identify why the Ukrainian crisis was exceptional in comparison with other refugee-generating conflicts:
 - (1) It is the first inter-state war on European soil since WWII;
 - (2) The number of displaced has greatly exceeded other conflicts;
 - (3) There is an assumption of a temporary nature of the crisis;
 - (4) Displaced Ukrainians are predominately women and children; and,
 - (5) The fast decision-making and unanimous aid has been exceptional.

Comparing the European Union's and Canada's Temporary Protection Policies: An Exploration of Differences in Goals, Instruments and Settings

- The broader framework in which policy changes occurred needs to be considered because, "while both the EU and Canada grapple with the liberal paradox of wanting to control

migration while at the same time wanting to encourage it (Hollifield et al., 2022, p. 3), their respective histories shape their divergent immigration paradigms...impacting their policy goals, instruments, and settings” (p. 266).

Immigration and Past Policy Choices in the European Union and Canada

Canada:

- Canada’s history of humanitarianism is accompanied by a history of control and deterrence of immigration.
- Before Canada signed the Geneva Convention and 1967 Protocol, Canada had been admitting significant number of refugees on an ad hoc basis.
- The 1976 Immigration Act created a Designated Class system which recognized, *prima facie*, refugee status, allowing for fast facilitation and flexible admissions. This was abolished in 2011, however discretionary basis to admit groups of people was retained.
- Contemporary Canadian immigration policy contains no separate class for humanitarian admissions, only for visitors, students, workers, and other special permit holders.
- The temporary protection program for Ukrainians is thus, interesting, because swift action had been requested in the past for Afghans, for example, and yet Canada had instead utilized the permanent pathway program.

European Union:

- The EU has a long history of accepting refugees and asylum seekers and has created coordinated measures, such as the Common European Asylum System (CEAS).
- However, “over the years, the rhetoric of ‘burden’ and ‘responsibility’ has contributed to a lack of agreement among member states and an overall reluctance” (p. 267).
- A New Pact on Migration and Asylum in 2020 was proposed by the EU, but it has failed to pass due to political impasses.
- The TPD, adopted in 2001 but never enacted, reflects the EU’s struggle to both develop and implement a policy for large displacement events.
- The policy was invoked twice, in 2011 in response to Libya and in 2015 in response to tragedies in the Mediterranean, however, the TPD was never successfully utilized.
- In 2020, the Commission even suggested that the TPD be repealed as it was viewed as a “potentially lengthen and cumbersome procedure ... that no longer responds to the member states’ current reality” (p. 267).
- However, shortly after this statement, when considered for the Ukrainian crisis, the TPD was enacted in two days.

Comparison of the European Union's and Canada's Temporary Protection Schemes: Disparities, Contradictions, and Complexities

- The immigration settings between Canada and EU countries are fundamentally different.
- Canada is a settler society with a humanitarian history that actively encourages immigration annually. The EU, in contrast, exhibits reluctance and considers humanitarian protection as an obligation or 'burden' to be shared.
- The authors compared the settings of the TPD and CUAET by date of activation, eligibility, visa policy, length of protection, if applicants were able to work or study, settlement and integration needs, any caps, long-term access to residence, financial assistance offered, and any costs or fees associated with accessing temporary protection.
- In the context of the war in Ukraine, the two temporary policies may seem similar in the goal, but the instruments differ in the respective settings. The authors made four key observations:
 - (1) The visa requirement was not removed for those arriving in Canada, however, EU citizens are exempt and only require an electronic travel authorization.
 - In their response to calls for visa-free travel to Canada, government officials cited security reasons and the lengthy bureaucratic process involved in removing the visa requirements.
 - Yet, the visa requirement stayed in place since parliamentary approval was not required to create CUAET. This exemplifies the executive control over immigration in Canada.
 - (2) The authors also identified the lack of an asylum instrument used in either of these cases.
 - For example, "the EU media and government sources speak of the asylum system as already 'overburdened' and are discussing other pathways to permanence for Ukrainian nations" (p. 268).
 - This difference in response suggests that asylum and temporary protection policies can operate in coexistence or complementary ways, however, this area will be important to track as those with temporary protection status need a path to more permanent status.
 - (3) Multi-level governance dynamics impact and create variations in implementation of temporary protection mechanisms.
 - For example, in the EU, the TPD was more collective than responses in the past, however member states still differed in application, such as the definition of dependents or the provision of services.
 - In Canada, some provinces provided additional support beyond those offered to other newcomers, such as providing income support, or organizing charter flights to bring Ukrainians to their territories.
 - (4) Immigration policy is driven by internal factors, not just external factors.
 - Canada has the second largest Ukrainian diaspora after Russia, and the diaspora has been influential in advocating for pathways.

- In the EU, the value of diaspora to integration was recognized, as those with connections in EU countries were able to access settlement support more easily with the help of their friends and family.

Conclusion and Outlook

- The unprecedented utilization of temporary protection mechanisms in the EU and Canada for the Ukrainian conflict will impact the long-term dynamics around immigration policy.
- In the EU, this conflict exemplified the possibilities of cohesive and common regional protection systems, and the importance of political will in making this happen.
- In Canada, the unprecedented use raises questions about the possible dilution of permanent refugee protection schemes and the use of preferential and expeditious treatment for particular groups of displaced people.
- Further, the temporary nature of this scheme mirrors trends of temporariness in Canadian immigration policy, such as in labour migration, and there may be long-term implications of these decisions.
- The article ends with a question: will this incident mark a turning point for the use of similar temporary protection schemes in responding to future displacement crises?