**EU Temporary Protection Directive:**
**What lessons have been learned?**

**2001: EU Lessons learned**
Preamble to the 2001 Directive on Temporary Protection: ‘The European Council, at its special meeting in Tampere (1999) acknowledged the need to reach agreement on the issue of temporary protection for displaced persons on the basis of solidarity between Member States. On 27 May 1999 the Council adopted conclusions on displaced persons from Kosovo. These conclusions call on the Commission and the Member States to learn the lessons of their response to the Kosovo crisis in order to establish the measures in accordance with the Treaty.’

**2001: EU passes Directive 2001/55/EC**
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 recouping such persons and bearing the consequences thereof. See box top right.

In the 1990s temporary protection (TP) was seen as an innovation in refugee protection balancing state interests with international obligations.

In 2001 the EU passed the Temporary Protection Directive (TPD) to coordinate the EU’s response in situations of mass influx of ‘displaced persons’. This directive was passed following lessons learned from the mass influxes caused by the break up of Yugoslavia.

**What has the directive never been used?**
A link between non-refoulement and a durable solution, TP is linked with the persistence of the causes of persecution.

**Key features under TPD**
- **Council – right of adoption by qualified majority**
- States inform Commission of their capacity to receive displaced persons.
- Council – right of adhesion by qualified majority voting (>16 states representing 65% of total EU population)

**2001: EU Temporary Protection Directive: What lessons have been learned?**

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**What is Temporary Protection (TP)?**
Temporary protection, unlike refugee status, never became a consistent category enshrined in international law. It is a temporary sojourn in a host country, or is it a precursor to more permanent protection?

**In most EU states Bosnians were given a form of permanent status, however between 2007–2008 repatriation from Germany of approx. 250,000 Bosnians.**

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**Key features under TPD**
- Recognition for mass influx into EU – large number of ‘displaced persons’ coming from a specific country or geographical area, whether spontaneous arrival or evacuated by EU
- Displaced persons includes ‘persons who have fled areas of armed conflict’
- TP Period: immediate and up to 3 years
- Burden-sharing between states – promulgated for reasons of effectiveness, coherence and solidarity and in order, in particular, to avert the risk of secondary movements.
- Harmonised rights: minimum set of rights: right to non-refoulement during period of TP protection, social and economic rights, right to claim asylum (though latter can be suspended)
- Rights (mechanism)
  - EU Commission initiates – identifiers mass influx and group(s) of beneficiaries
  - States inform Commission of their capacity to receive displaced persons
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**Temporary Protection in Europe: new lessons**

The 1990s break-up of Yugoslavia was a particular type of situation where: 1) influx was an impermanent green displacement was a goal of ethnic cleansing and 2) The West had an interest in the ending of the causes of displacement.

TPD itself serves no purpose for states if it does not ensure burden sharing and/or repatriation – it cannot ensure either.

The TPD Directive 2001 offers two benefits to asylum seekers – EU asylum law provides protection for those fleeing armed conflict (subsidiary protection) and harmonised rights relating to reception and recognition.

TPD activation and mechanics contain problems and risks: over trigger mechanisms, states under reporting or not reporting receptions capacities, lack of clarity around question of consent of person to be relocated to a state, potential pitfalls with any repatriation schemes.

‘States have no reason to support temporary protection if it proves simply to be an extended pathway to permanent immigration.’

**668,000 asylum applications**
Principal cause of increase: Yugoslav civil war
Principal nationality: Bosnian

**444,000 asylum applications**
Principal cause of increase: Yugoslav civil war
Principal nationality: Bosnian

**349,000**
In part caused by Iraqi war

**Spain calls for TPD to be activated**

**Malta and Italy calls for TPD to be activated**

**301,000**
In part caused by Libyan war

**1,322,000**
Principal causes of increase: Syrian civil war and claims from nationals of Balkan states, Afghans and Iraq

**Top 3 EU asylum receiving states – total number of asylum applications:**
- Germany: 477,000
- Hungary: 177,000
- Sweden: 162,000

**Calls to activate – European Parliamentary motion; UNCHR; activists; academics**