

Asylum Seekers and Refugees in Ukraine

Addressing Protection Risks During Wartime



February 2023

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EXECUTIVE SUMMARY

Ukraine has for many years been both a transit and destination country for people fleeing persecution and violence in other parts of the world.¹ In 2021, approximately 5,000 asylum seekers and refugees² were seeking refuge in Ukraine or in transit to the EU.³ While heterogeneous, they share common vulnerabilities. Having already fled other conflicts or persecution, they do not have a safe home country to return to, may lack documents or even nationality,⁴ and are often denied consistent access to legal status due to serious shortcomings in Ukraine's asylum law and practice.

When Russia launched its full-scale invasion on 24 February 2022, Ukraine's asylum seekers and refugees found themselves among the millions displaced or facing wartime threats inside the country.⁵ According to the UN Refugee Agency (UNHCR) in Ukraine, 1,283 of Ukraine's registered asylum seekers fled the country in the first half of 2022.⁶ This means up to 75% of the asylum seeker and refugee population may still be in Ukraine, where they are particularly at risk. This report combines the findings of a Right to Protection (R2P) and HIAS survey of 168 asylum seekers and refugees (many of whom were or are beneficiaries of R2P), research, written submissions from other nongovernmental organisations, and insights from UNHCR Ukraine, to portray the protection challenges this population faces.⁷

Some of the key findings discussed in this report are as follows:

- There is no effective access to the asylum procedure inside Ukraine, yet people unable to apply for protection are faced with fines, deportation, or detention for "irregular stay."
- Two-thirds of the respondents to the survey said they were unable to leave Ukraine, usually due to a lack of documents. More than one-quarter were not able to move freely within the country.
- Asylum seekers and refugees who have fled the country face significant difficulties returning, preventing family reunification.
- Without ID and travel documents, people are unable to access healthcare and humanitarian aid or secure affordable housing.
- Roughly one in five of the respondents in the survey said they faced discrimination in Ukraine.
- Detained migrants are unable to apply for asylum and face poor living conditions and threats to their lives during active hostilities.

Given the scale of the humanitarian crisis inside Ukraine, the small number of asylum seekers and refugees risks being forgotten. Yet, this particularly at-risk group experiences specific challenges that require tailored policy responses. This report recommends constructive actions that the Ukrainian authorities, international organisations, governments, and donors can take to better support asylum seekers and refugees in the country. These include ensuring the following goals:

- Asylum seekers can access asylum procedures.
- Refugees and complementary protection⁸ holders can access travel documents in Ukraine.
- Asylum seekers, refugees, and complementary protection holders can cross borders out of Ukraine without discrimination.
- Refugees and complementary protection holders are permitted to re-enter Ukraine even if they lack travel documents.
- Ukraine and other governments should recognize the asylum seeker document as an ID document and digitise refugee and complementary protection documents.
- Asylum seekers, refugees, and complementary protection holders can access humanitarian aid, healthcare, housing, and employment.
- Asylum seekers, refugees, and complementary protection holders are not subject to discriminatory treatment.
- Detention of asylum seekers should only be used as a last resort. All detainees must enjoy access to asylum procedures and humane and dignified conditions.

INTRODUCTION

Background

Between 2001-2013, HIAS was the primary legal aid provider for people in Ukraine seeking asylum and resettlement. In 2013, HIAS helped to establish the independent Ukrainian NGO Right to Protection (R2P) to continue to provide support to this population, including as an implementing partner of the UN Refugee Agency (UNHCR). From our joint 21-year experience of assisting refugees and asylum seekers in Ukraine, we recognised at the outset of the full-scale conflict that these people would become particularly vulnerable.

In 2021, R2P provided legal assistance to 1,553 refugees and asylum seekers inside Ukraine and supported their social and economic inclusion in Ukrainian society. This long-standing work serving refugee communities in Ukraine was the starting point for this research (see Annex 1 - methodology) and the subsequent recommendations on the protection of asylum seekers and refugees remaining inside the country.

Asylum seekers and refugees in Ukraine

Prior to 24 February 2022, an estimated 470,000 third-country nationals were recorded as residing in Ukraine.⁹ Many of these people held permanent residence permits or were international students. Others were escaping persecution and violence in other parts of the world.¹⁰ This latter population – which is the focus of this study – comprises many different nationalities, legal statuses, and backgrounds.¹¹ Of the 5,000 asylum seekers recorded by UNHCR in 2021, about two-fifths were Afghans,¹² while others came from Syria, Somalia, Iraq, and Russia.¹³ Many were fleeing political persecution in post-Soviet countries.¹⁴ In 2021, people from post-USSR states comprised 27% of all asylum applicants and 44% of those who received refugee status in Ukraine.¹⁵ In addition to asylum seekers, the Ukrainian authorities recorded 2,254 people as holding some kind of protection status at the end of 2021.¹⁶

In 2021, 75% of refugees and asylum seekers who resided in Ukraine were men.¹⁷ Nonetheless, the population also includes single mothers and vulnerable women, unaccompanied minors, persons with disabilities, and victims of trauma. The majority of the refugees and complementary protection holders (67%) were located in Kyiv or Odessa,¹⁸ and most spoke Ukrainian and/or Russian (59%).¹⁹

While almost six million people had been internally displaced by January 2023,²⁰ it is not known how many of these people are third-country nationals seeking protection. Our survey found that 27% of respondents inside Ukraine had been internally displaced at some point, while 71% remain in the same city/oblast.

Ukrainian law and policy on asylum and refugees

In law, Ukraine complies with its international obligations to asylum seekers and refugees, whether through the enactment of refugee status determination procedures, or the extension of basic rights and services to these populations. However, our research revealed a significant gap between these legal entitlements and the lived experience of displaced people in Ukraine.

Ukraine is a party to the Convention relating to the Status of Refugees (1951 Refugee Convention) and its 1967 Protocol.²¹ In addition, Ukraine ratified the Fourth Geneva Convention on the Protection of Civilian Persons in Time of War.²² The Convention is a set of rules aimed at protecting civilians in the event of armed conflict, which covers the whole of the populations of the countries in conflict, without any adverse distinction.²³ On 8 July 2011, Ukraine adopted the Law on Refugees and Persons in Need of Complementary or Temporary Protection.²⁴ The Refugee Law offers two forms of protection: refugee status and the status of a person in need of complementary protection. The State Migration Service of Ukraine (SMS) is the principal executive agency responsible for the implementation of the migration and asylum policy.²⁵

As required by international law, Ukraine has passed asylum legislation which allows for the recognition of an individual as a refugee and the granting of subsequent rights. However, asylum seekers have long faced a number of obstacles to accessing legal recognition as refugees or persons in need of complementary protection.²⁶ Even prior to the current invasion, most asylum seekers wait for a decision on their applications for months, some of them for more than five years.²⁷ The recognition rate in 2019 was 21% overall but it was particularly low for persons from refugee-producing countries such as Syria and Afghanistan.²⁸ In 2021, UNHCR noted that only around 100 asylum seekers are granted international protection per year in Ukraine.²⁹

Ukrainian law sets forth access to social services, medical care, housing, and labour for asylum seekers, recognised refugees, and persons in need of complementary protection.³⁰ In practice, asylum seekers face numerous obstacles with access to the asylum procedures, essential rights, and livelihoods. UNHCR and NGOs (both international and local) continue to provide support to this population.³¹



Ukrainians, many of whom fled fighting near their homes, gather at the registration office for refugees in Lviv, Ukraine, March 30, 2022. R2P is providing information and legal consultation to refugees at the center. (AG for HIAS)

KEY PROTECTION RISKS IDENTIFIED IN UKRAINE

Difficulties accessing asylum procedures

According to the Universal Declaration of Human Rights everyone has the right to seek and enjoy in other countries asylum.³² The right to asylum is guaranteed by Article 18 of the EU Charter of Fundamental Rights.³³ In addition, Article 47 of the Charter guarantees the right to an effective remedy and to a fair trial. Directive 2013/32/EU set forth that the Member States shall ensure that decisions on applications for international protection are given in writing.³⁴

It is extremely difficult to apply for international protection in Ukraine, especially since the full-scale invasion.³⁵ On 24 February 2022, the State Migration Service of Ukraine suspended its work at the field level as well as its IT systems.³⁶ On 15 March, the SMS restarted activities in locations that were relatively secure or at a distance from hostilities.³⁷ However, SMS local branches continue to use martial law as a justification for having ceased to register or process applications. Neither the Law on the Legal Regime of Martial Law nor the Decree of the President of Ukraine “On extending the term of martial law in Ukraine” restrict the right of the person to seek asylum in Ukraine. Despite this, asylum seekers are regularly deprived of effective remedies, and asylum applications have been rejected without any written notice or legitimate reason.

Despite being effectively barred from applying for asylum, people unable to register as asylum seekers are nonetheless treated as irregularly staying on the territory. Notably, 17% of our survey respondents said they had been fined or apprehended for irregular stay or entry, or are at risk of forcible expulsion to the country they fled from. Some respondents said that they were fined when they contacted the SMS to apply for asylum, while others were prevented from applying for their asylum seeker document (“MSID”).³⁸

17%

of our survey respondents said they had been fined or apprehended for irregular stay or entry, or are at risk of forcible expulsion to the country they fled from.

“ We were fined when we applied to migration service.

— Testimony of a woman with three children who holds an unexpired asylum seeker document.

“ Our applications for refugee status were not admitted, without any reason. We paid penalties for irregular stay, so we are at risk to be deported.” [sic]

— Testimony of a woman with three children who has no documents.

R2P noted³⁹ that asylum seekers are sometimes rejected without appropriate legal written notice by the SMS. According to the Law on Refugees,⁴⁰ a negative asylum decision should be given in the written form. A person has five working days to challenge the decision.⁴¹ Hence, rejection without written notice deprives people of the right to appeal the decision and the right to an effective remedy. The possibility of appeal would help to protect asylum seekers from being unjustly treated as irregularly staying in Ukraine.

New threats to asylum rights

In September 2022, Ukraine’s parliament approved a legislative proposal that unreasonably expands the scope of detention, permits restrictions on freedom of movement regardless of court decisions, and limits the right to apply for asylum on the border.⁴² In addition, the proposal grants the State Border Guard Service and the Security Service discretionary powers to forcibly deport foreigners and stateless persons without a court order. Currently the bill is under the preparation of submission for the second reading and final voting of the parliament. UNHCR and R2P made corresponding recommendations and continue advocacy efforts to amend the bill.⁴³

Barriers to fleeing Ukraine or moving inside the country

Article 12 of the International Covenant on Civil and Political Rights (ICCPR) recognises the right of all persons to leave any country. Moreover, refugees lawfully staying in the territory of a state party are entitled to travel documents under Article 28 of the 1951 Refugee Convention.⁴⁴ UNHCR stipulates in its position on returnees to Ukraine that people of non-Ukrainian nationalities may also choose, or be compelled, to leave Ukraine as a result of developments related to the conflict and should be allowed to do so.⁴⁵

In the aftermath of the Russian invasion, EU Member States did not require a visa or biometric passport for crossings from Ukraine into the EU.⁴⁶ Yet, R2P stated that⁴⁷ from around April 2022, refugees and complementary protection holders were required to present their travel documents to cross into the Union. This presents a challenge given that most of Ukraine's recognised refugees or complementary protection status holders do not possess travel documents.

According to Ukrainian law, all refugees and people granted complementary protection should be provided with travel documents.⁴⁸ Yet, even prior to the war there were long waiting times for documents to be issued. During wartime, it became even more complicated for refugees or complementary protection holders to obtain or renew documents.⁴⁹ Due to shelling and power cuts, the SMS' local branches have unpredictable

working schedules or may refuse to accept requests for travel documents. Without valid documents, beneficiaries of protection are prevented from leaving Ukraine. Of the survey respondents, 66% said they could not leave the territory of Ukraine.

66%

said they could not leave the territory of Ukraine.

27%

of respondents noted that they cannot travel freely inside Ukraine.

Moreover, 27% of respondents noted that they cannot travel freely inside Ukraine. Some indicated that they could not leave their domicile because of the checkpoints nearby, or because they fear being fined or deported.

“ I live in Chuhuiev,⁵⁰ so I can't leave. There are many checkpoints. My town is regularly attacked so I live in the basement.

— Testimony of a man with two children and an unexpired asylum seeker certificate.

“ I cannot work outside Kyiv; my freedom of movement is limited due to regular check of documents.

— Testimony of an undocumented man.



Lines outside, for the first day of operations for new R2P registration center for distributing cash assistance to IDPs, funded by UNHCR. The program aims to reach at least 360,000 people. (Alan Chin)

Problems returning to Ukraine from abroad

According to the Universal Declaration of Human Rights everyone has the right to leave any country,⁵¹ including his own, and to return to his country. Article 12 of the International Covenant on Civil and Political Rights (ICCPR) set forth that no one shall be arbitrarily deprived of the right to enter his own country.⁵²

Refugees who fled to the EU face difficulties re-entering Ukraine.⁵³ Ukrainian legislation foresees that refugees, stateless persons, and people granted complementary protection can obtain a certificate for return to Ukraine at a diplomatic mission abroad.⁵⁴ Yet, the prerequisite for obtaining this certificate is the loss, theft, or invalidity of the travel document.⁵⁵ Those refugees and complementary protection holders who never received travel documents but are now displaced abroad (as many fled without documents) thus cannot obtain the documents necessary to return.

This hinders family reunification possibilities. Our parallel research on the protection risks faced by asylum seekers and refugees who fled from Ukraine to the EU found that 20% were separated from their family members. Of the people interviewed inside Ukraine, 35% were separated from family.

In addition, many Ukrainian missions could not issue documents as they were unable to connect to IT systems in Ukraine. Further, some refugees report being refused a certificate and being told that the document would only be issued to citizens of Ukraine. In response to our information request, the Ministry of Foreign Affairs said they lack funding to issue return certificates to people granted protection by Ukraine.⁵⁶

Some respondents who found themselves in the EU are asylum seekers with an asylum seeker certificate. They cannot travel to other countries or re-enter Ukraine, because their asylum seeker certificate is not valid for travel and because the SMS holds their passports.

Difficulties accessing basic rights and livelihoods

The provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR) apply to everyone, namely citizens and non-nationals, at least to a basic level.⁵⁷ ICESCR guarantees everyone the right to an adequate standard of living, including food, clothing, housing, and social security.⁵⁸ The 1951 Refugee Convention guarantees economic and social rights for refugees, such as the rights to wage-earning employment, housing, public education, public relief, and social security.⁵⁹

Ukrainian law lays out minimum living standards that should be afforded to asylum seekers and refugees. In practice, reception conditions remain inadequate.⁶⁰ People unable to submit their asylum applications are deprived of protection and state services, leaving them extremely vulnerable. Even those granted the asylum seeker document (“MSID”) have only minimal access to services which require their identification. The MSID serves as proof that an asylum seeker is staying legally in Ukraine but is not a recognised form of ID.⁶¹ Even persons holding refugee status or complementary protection report discrimination in accessing health services, education, and employment.⁶²

Many refugees and asylum seekers have expressed interest in learning the language, finding a job or starting a business.⁶³ However, without access to basic needs, integration into Ukrainian society is challenging.

ROKADA⁶⁴ found that refugees or complementary protection holders who are internally displaced often cannot receive humanitarian aid as they lack the required documents.⁶⁵ Some services, such as the government-run cash assistance programme Ye Dopomoha,⁶⁶ are accessible only through the state-run Diia website and app,⁶⁷ limiting access to asylum seekers and refugees.

In the absence of any state assistance for refugees and asylum seekers, during the initial months of 2022, UNHCR continued providing assistance to the most vulnerable.⁶⁸ By autumn 2022, UNHCR identified increased vulnerabilities among this population and chose to provide blanket cash assistance to all registered refugees and asylum seekers for six months. The payments were reportedly in process at the time of this report drafting.⁶⁹

50% of the respondents said their documents were insufficient for accessing their basic needs.

In our survey, 50% of the respondents said their documents were insufficient for accessing their basic needs. Another 30% said they were only partially sufficient. Beneficiaries of complementary protection and asylum seekers holding MSID reported problems in getting their documents recognised by governmental institutions, as well as poor access to social or medical services, the labour market, and housing. Some respondents said their bank account was blocked after 24 February. Additionally, respondents expressed their willingness to be employed, however, they indicated that they could not get or find job.

“ I’ve been living in Ukraine for 22 years, but I don’t have a normal document. MSID is just a paper for authorities. I can’t be officially employed.

— Testimony of a man with an expired asylum seeker document.

“ I have only a protection letter. I can’t use Diia, for example. I can’t get humanitarian aid.

— Testimony of a man with two children without an asylum seeker document.

“ I can’t have a medical declaration or prolong my driving license.

— Testimony of a man with two children and an unexpired asylum seeker certificate.

“ My [bank] card is blocked, I can’t move freely, I can’t have a medical declaration.

— Testimony of a man with an unexpired asylum seeker certificate.

Regarding housing, the Refugee Law sets forth the right of asylum seekers to be placed in temporary accommodation centres.⁷⁰ However, the total reception capacity in Ukraine is limited to 320 places, which is insufficient for the asylum-seeking population in the country.⁷¹ The majority of respondents were renting apartments (64%). Financial challenges, as well as the absence of necessary documents, were cited as roadblocks to renting or owning housing. Several respondents were forced to flee their homes due to hostilities. One man reported paying the equivalent of 600 EUR for housing, when the average salary in Ukraine was around 400 EUR:

“ I lived in Kharkiv, but my flat was destroyed by the shelling. Now I moved to Dnipro where I rent a small apartment for 22,000 UAH.⁷²

— Testimony of a man holding complementary protection with two children.

Asylum seekers and refugees in Ukraine struggle to access basic needs. Of the respondents:

- 82%** are not provided with food or cash assistance.
- 10%** are supplied with food packages.
- 13%** receive full medical assistance.
- 11%** have access only to urgent medical aid.
- 10%** receive prescribed medication for free.
- 50%** of respondents said their income was sufficient before 24 February but is not sufficient now.
- 27%** indicated that their income was insufficient before this date and is still insufficient now.

The main factors behind poor access to subsistence and healthcare are likely to be a lack of documents, and the failure of authorities to recognise specific asylum seeker and protection documents.

87% of the people surveyed indicated that they know where to receive legal aid and/or have lawyers.

It is worth noting that 87% of the people surveyed indicated that they know where to receive legal aid and/or have lawyers. This reflects the fact that many respondents were supported by legal and social assistance programmes of Ukrainian NGOs, including R2P, ROKADA, and The Tenth of April.⁷³

Good practice: Labour market access

Historically, asylum seekers have enjoyed only very limited access to work in Ukraine. In order to legally employ an asylum seeker, employers had to offer a salary ten times higher than the Ukrainian minimum wage.⁷⁴ In September 2022, the Parliament changed the law⁷⁵ to suspend this rule. This is likely to improve access to livelihoods: however, the recent nature of the law and the complex conditions inside Ukraine make it a challenge to measure the efficacy of this policy change.

Risks of discrimination

Ukraine has ratified international human rights treaties⁷⁶ that apply to both national and non-nationals in its territory, with few exceptions.⁷⁷ In addition, the International Convention on the Elimination of All Forms of Racial Discrimination obliges Ukraine to condemn racial discrimination and pursue a policy of eliminating racial discrimination.⁷⁸

Ukrainian legislation prohibits discriminatory acts from state bodies and private legal entities.⁷⁹ In our survey, asylum seekers and recognised refugees reported that they were subject to double standards. In its reports, UNHCR has already indicated discrimination as one of the obstacles for asylum seekers and refugees to integrate into society.⁸⁰ Refugees report facing discrimination when attempting to access health services, education, and employment.⁸¹ As in many European countries, media coverage of refugees has turned increasingly negative since the 2015 “refugee crisis”.⁸² ROKADA⁸³ reported that asylum seekers and refugees are subjected to additional controls at checkpoints, or have difficulties accessing administrative or private services.

17%

of the respondents mentioned that they encountered discrimination in Ukraine.

“ I feel neglect attitude. Maybe I’m wrong, but it is how I feel. I can’t now find a job, even non-official.

— Testimony of a woman with two children and an unexpired asylum seeker certificate.

“ They constantly stop at checkpoints and check documents for a long time (they find fault with the fact that the document looks too new, too neat). Not all checkpoint workers understand what kind of document this is. They look with distrust because of the nationality [of the document].

— Testimony of a man who holds complementary protection.

Detention during hostilities

The 1951 Convention provides for the non-penalisation of asylum seekers having entered or stayed irregularly if they present themselves without delay and show good cause for their illegal entry or stay.⁸⁴ Detention should only be used only as a last resort, and alternatives to detention should be considered.⁸⁵

Ukraine has a systemic problem with the detention of migrants. Human rights organisations have raised concerns about poor imprisonment conditions and treatment, non-compliance with detention limits, and a significant risk of arbitrary detention.⁸⁶ Ukrainian NGOs consulted for this report cited several cases in which detained third-country nationals were limited in their right to apply for asylum or access to a fair trial.⁸⁷ Moreover, the European Court of Human Rights has found Ukraine’s detention of migrants to violate Article 5 of the European Convention on Human Rights.⁸⁸

At the end of 2021, 881 persons were in migration detention facilities.⁸⁹ According to the report for the first half of 2022, 450 third-country nationals were held in these centres.⁹⁰ In response to an R2P information request, the SMS said only 75 third-country nationals remained in the detention centres as of 29 September 2022.⁹¹

On 4 April 2022, Human Rights Watch reported that third-country nationals were trapped in Zhuravychi Migration Custody Centre (MCC), Volyn oblast,⁹² after being detained for irregularly trying to cross the border into Poland before the Russian invasion.⁹³ Human Rights Watch also reported the presence of military personnel and vehicles near the Zhuravychi MCC. This puts detainees at risk, especially during active hostilities, as civilian objects could lose their protection under international humanitarian law or suffer from incidental casualties. The risk of indiscriminate attacks and constant electricity cuts contribute significantly to the vulnerability of the detainees and put their welfare at grave risk.⁹⁴

In our survey, respondents staying in detention reported poor living conditions and said they were denied the opportunity to apply for asylum.

Under such conditions, extra precautions are needed to guarantee the safety of detained people. In September 2022, the SMS responded to R2P’s request for information on the measures taken by the government,⁹⁵ highlighting safety measures taken in the detention centres, as well as the provision of food supplies and medical aid.⁹⁶ In addition, R2P provides legal consultations for the migrants in detention during its monthly visits to the centre. The SMS noted that eight persons in detention were able to apply for international protection. Despite these good-faith measures, continuing detention of third-country nationals and stateless persons continues to have implications for their right to life.

CONCLUSIONS AND RECOMMENDATIONS

Despite the immense challenges, many refugees and asylum seekers have shown resilience in facing and overcoming the difficulties they have encountered while seeking protection in Ukraine. Though they are in an extremely vulnerable situation, refugees and asylum seekers are determined to build a better future for themselves and their families. They are actively searching for opportunities to learn Ukrainian, find a job, and integrate into Ukrainian society. Our research finds that asylum seekers and refugees in Ukraine face numerous restrictions of their rights to access protection procedures, move freely, enjoy family reunification, and access basic needs such as healthcare, humanitarian aid, and shelter. This already at-risk population is made all the more vulnerable by the ongoing hostilities. People seeking protection who find themselves in detention face threats to their rights to liberty, security, and even life.

While the Ukrainian authorities evidently face certain constraints in wartime, Ukraine remains bound by international and national law to uphold the human rights of these people. Further, authorities can take concrete actions, that require relatively few resources, to drastically improve the safety of this population. International organisations, NGOs, and foreign donors are also responsible for implementing targeted solutions that address the specific needs of people fleeing persecution and conflict elsewhere. R2P and HIAS recommend the following actions:

Ensure access to asylum procedures

- The State Migration Service of Ukraine (SMS) should **resume registering asylum applications, without any discrimination**. The refusal to accept the application must be carried out in accordance with Article 5 of the Law on Refugees.
- The SMS should prioritise the provision of **travel documents** for refugees and complementary protection holders.
- The SMS should actively **disseminate information and updates** necessary for asylum seekers and refugees to access protection, including via websites, social media, and local branches, in cooperation with international organisations and civil society.

Ensure free movement, exit, and re-entry to Ukraine

- The SMS should cooperate with the State Border Guard Service **to enable border crossings for asylum seekers and refugees without discrimination**. Everyone seeking to flee conflict-affected areas should be able to do so.
- The State Border Guard Service should **allow re-entry into Ukraine** for refugees and complementary protection beneficiaries, even if they lack travel documents.

Ensure access to rights through necessary legislative amendments and provision of proper documents

- The Parliament should include recognition of MSID as a form of ID to the draft law (No. 3387) **on granting protection to foreigners and stateless persons and continue to consider its further amendment and discussion** in cooperation with international organisations and civil society.
- The Ministries of Internal Affairs and Digital Transformation respectively should **renew, update, and digitise the documents held by refugees and asylum seekers**.⁹⁷ These digital certificates should be deemed equivalent to paper ones.

Promote access basic needs and services

- The Ministry of Health should guarantee **access to primary healthcare for asylum seekers and refugees**, for instance, by ensuring this population can sign a medical declaration with doctors.
- International organisations, local authorities, and NGOs should **ensure access to life-saving humanitarian aid for all persons** in need, without discrimination.
- Considering that refugees and people granted complementary protection are also eligible for IDP benefits, they **should enjoy the same scope of protection as Ukrainians**.
- The Cabinet of Ministers should guarantee **access to secure and affordable housing** for asylum seekers and refugees in Ukraine.
- Ukrainian authorities, NGOs and employers should work to promote **good faith implementation of the recent amendments to the Law on Population Employment**,⁹⁸ including dissemination of the information regarding the Law among beneficiaries, the State Employment Service, and other actors.

Prevent and address discriminatory treatment

- The Cabinet of Ministers should establish **effective mechanisms for identifying and reporting discriminatory treatments** against refugees and asylum seekers through public actors, including through cooperation with the Ombudsperson and civil society.
- The Cabinet of Ministers should **train local authorities and service providers on identifying, preventing, and responding to any type of discrimination.**

Protect detained foreigners and stateless persons, including by ensuring their access to the asylum procedure

- Considering the threats to detained third-country nationals during hostilities, alternatives to detention must be considered whenever possible.
- SMS must only request the **detention of third country nationals or stateless persons as a last resort**, where detention is necessary and unavoidable.
- Likewise, the State Border Guard Service should use **detention only as a last resort.**
- The SMS and the State Border Guard Service must **ensure detainees enjoy access to an asylum procedure and humane and dignified detention conditions.**



Bunk beds for refugees at Arena Lviv, a transit area where many gathered before continuing their journeys to safety elsewhere in Ukraine or other countries, Lviv, Ukraine, April 1, 2022. (AG for HIAS)

ANNEX 1: METHODOLOGY

From July to October 2022, R2P staff conducted a survey of 168 asylum seekers and refugees affected by the war and remained inside Ukraine. Most of the survey participants were beneficiaries of R2P in partnership with UNHCR. The survey questionnaire contained questions on sociodemographic characteristics; migration status; documentation; ability to travel; perceived risks and obstacles encountered; and access to housing, food, medical care, employment, and social networks. In total, the questionnaire comprised 29 items, which included multiple-choice questions and four open-ended questions. R2P conducted interviews using the questionnaire via Telegram, WhatsApp, Viber, Facebook, email, and phone. Some survey participants were referred by refugee community leaders, UNHCR, or other NGOs such as The Tenth of April.

R2P received written submissions from three⁹⁹ of the foremost Ukrainian NGOs working with refugees, complementary protection beneficiaries, and asylum seekers on the challenges they had witnessed. These organisations were selected because of their extensive experience as implementing partners of UNHCR in providing social and legal services to

refugees and asylum seekers. Additionally, extensive research was undertaken to analyse Ukrainian law and policy. Information requests were made to Ukrainian authorities in order to include the most recent statistics.

On 22 November 2022 R2P provided an overview of the findings and recommendations to the Ukrainian Parliament, The Cabinet of Ministries, the SMS, the State Border Guard Service, the Ministry of Health, the Ministry of Digital Transformation, and the Ministry of Internal Affairs. By 22 December 2022, responses had been received from the Parliament, the Ministry of Social Policy (redirected by the Cabinet of Ministries), the Ministry of Internal Affairs, the Ministry of Digital Transformation, and the Ministry of Foreign Affairs (redirected by the Cabinet of Ministries). These responses were included in the report where relevant. UNHCR Ukraine was also consulted on the findings and recommendations.

All refugees and asylum seekers participating in the survey were clearly informed about the purpose of the questionnaire and are aware of how their responses will be used.



R2P monitor Natalia Zigula (blue coat) offer information and legal consultations at the Krakovets border crossing on the Ukraine-Poland border, March 30, 2022. Right to Protection (R2P) is a Ukrainian refugee assistance organization established with help from HIAS in 2013. (AG for HIAS)

ANNEX 2: PROFILE OF RESPONDENTS IN UKRAINE

Of the respondents for this research that remained in Ukraine, most were male and aged 18-45 years. 43% identified as Muslim, while 36% identified as Christian. The majority had children.

Countries of origin: respondents remaining in Ukraine	States held by respondents remaining in Ukraine
Russia 41% Belarus 12% Syria 7% Uzbekistan 6% Tajikistan 5% Kyrgyzstan, Azerbaijan, Kazakhstan (4% each)	31% are asylum seekers without asylum seeker certificates (MSID) or holding expired MSID 17% are asylum seekers with unexpired asylum seeker certificates (MSID) 14% are beneficiaries of complementary protection 13% are undocumented 11% have a temporary residence permit 10% are recognized refugees in Ukraine

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Thanks are also owed to all the survey respondents and NGOs [ROKADA](#) and [The Tenth of April](#).

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This report is dedicated to and informed by the experiences of at-risk populations in Ukraine.

ENDNOTES

1. Multi-Year, Multi-Partner Protection and Solutions Strategy for Ukraine, 2018 - 2022. (2018, January 8). UNHCR. https://www.unhcr.org/ua/wp-content/uploads/sites/38/2018/06/Ukraine-MYMP-Protection-and-Solutions-strategy-2018_2022_FINAL.pdf.
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50. Chuhuiev is a town in the Kharkiv oblast, which is subjected to constant artillery and rocket attacks starting from 24 February 2022.
51. Article 13(2).
52. The scope of “his own country” is broader than the concept of “country of his nationality”, which might embrace other categories of long-term residents. For further detail see: CCPR General Comment No. 27: Article 12 (Freedom of Movement), <https://www.refworld.org/docid/45139c394.html>.

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54. Resolution of the Cabinet of Ministers on Approval of the Sample Form, Technical Description and Procedure for Issuance of the Identity Card for Return to Ukraine No. 285, 5th of April 2017.
55. Ibid, Article 14.
56. Ministry of Foreign Affairs of Ukraine answer to the request for public information, 05/05/2022, No. 417.
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73. Mentioned NGOs are UNHCR implementing partners.
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97. Namely: the MSID, refugee certificate, complementary protection certificate, refugee’s document for travelling abroad and travel document for a person granted complementary protection.
98. See section three, “Access to rights and livelihoods”.
99. ROKADA, The Tenth of April and R2P.



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