

**“ They told me
they couldn’t
help me...”**

January 2023

Protection Risks Facing Non-Ukrainian Asylum Seekers and Refugees Fleeing Ukraine to the EU

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EXECUTIVE SUMMARY

According to official accounts, prior to Russia's full-scale invasion on 24 February 2022, some 5,000 refugees and asylum seekers were living in Ukraine.¹ While Ukraine's asylum seeking and refugee populations are heterogeneous, they share common vulnerabilities. Having already fled other conflicts or persecution, they lack documents or even a nationality,² do not have a safe home country to return to, and are often denied access to legal status due to serious shortcomings in Ukraine's asylum law and practice.

Since the outbreak of full-scale war, many of these people have found themselves among the millions displaced across borders. Others remain inside the country, where they face wartime threats to their life and safety.³ While Europe has provided an unprecedented level of support and rights to Ukrainian nationals, previously displaced asylum seekers and refugees have faced significant barriers to protection. To better understand the protection risks faced by those who were forced to flee to the European Union (EU), we examined the scope and limitations of the policies enacted by the EU and its Member States to protect those fleeing the war in Ukraine. Additionally, HIAS and Right to Protection (R2P) conducted a survey of 300 non-Ukrainian asylum seekers and refugees – many of whom we had previously been providing legal aid to in Ukraine – and received written information from nongovernmental organisations on challenges faced by non-Ukrainian refugees and asylum seekers that sought refuge in Europe following the war.

The landmark EU decision to provide temporary protection to people fleeing Ukraine has granted rights and temporary protection to at least 4.9 million people.⁴ Yet, many non-Ukrainians who were formerly seeking refuge in Ukraine fall outside the scope of this protection and may instead be redirected to the asylum system or remain irregularly in the European countries.

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

- **Extending temporary protection to protect all non-Ukrainian asylum seekers.** Nearly 4 in 10 survey respondents had not received temporary protection in EU countries.
- **Few have access to legal information or advice.** Only a quarter of respondents knew where to find legal aid to help them secure status and documentation.

- **As a result, many live for long periods in legal limbo.** More than 38% of respondents identified obstacles applying for or being granted status, including waiting up to five months to receive temporary protection (Ukrainian nationals, by contrast, are usually issued temporary protection documentation on the same day as registration in at least 17 countries).
- **In general, access to rights remains elusive.** More than 40% of the survey respondents do not have access to full housing assistance and close to 40% cannot access free medical care.
- **Those without identity and travel documents are particularly vulnerable.** More than 10% surveyed had no identity or travel documents. As a result, they cannot travel within the EU, return to Ukraine, or access basic needs.

The EU and Member States can address these challenges by taking concrete actions, including:

- Extending temporary protection to protect non-Ukrainian asylum seekers.
- Ensuring that all non-Ukrainian asylum seekers and refugees have access to either temporary protection or international protection procedures.
- Making tailored information, legal advice, and support widely available for non-Ukrainian asylum seekers and refugees in relevant languages.
- Ensuring all non-Ukrainian asylum seekers and refugees are granted necessary documents.
- Facilitating access to affordable housing, food, and healthcare.
- Collecting and protecting data on non-Ukrainian asylum seekers and refugees fleeing Ukraine.

The population of asylum seekers and refugees in Ukraine at the time of Russia's invasion is vulnerable, small, and close to invisible in the global narrative. EU countries can dramatically increase their access to status, protection, services, and integration with relatively few resources. In doing so, the EU and Member States can assist a population that has faced multiple phases of displacement and trauma, while upholding their international obligations, and providing a consistent approach to refugee welcome and support.

INTRODUCTION

The full-scale Russian invasion of Ukraine began on 24 February, 2022,⁵ and led to large-scale displacement both within and across the country's borders. As a response, the European Council adopted a Council Decision on 4 March 2022 that granted those fleeing war in Ukraine the right to temporary protection. Activation of the Temporary Protection Directive⁶ has allowed more than 4.9 million persons fleeing Ukraine to receive safety and protection in Europe.⁷ The Directive grants those eligible for temporary protection immediate access to residence permits, employment, health care, and subsistence in the Member States without going through lengthy status determination procedures.⁸ However, the scope of temporary protection does not extend to all persons fleeing Ukraine and leaves out many third country nationals and stateless persons.

Official estimates put the number of refugees and asylum seekers in Ukraine at the end of 2021 at around 5,000 people: about two-fifths were Afghan nationals, while others came from Syria, Somalia, Iraq, Russia, and others.⁹ Nonetheless, the exact number of refugees and asylum seekers residing in Ukraine before February 2022 and those who have fled to the EU after that remains unknown. Despite being a small population, this group faces heightened protection risks. Firstly, they cannot return to their home countries due to a risk of death, torture, and persecution, or to Ukraine since it is not safe to do so.

Secondly, they may lack documents to identify themselves or allow them to cross borders, and often cannot obtain documents from their home countries. Thirdly, many non-Ukrainian asylum seekers and refugees do not enjoy temporary protection in the EU, and are instead redirected to asylum procedures. Worse, they remain undocumented, which increases their exposure to trafficking and abuse.

To better understand the types and depth of challenges that this population is facing, HIAS and Right 2 Protection (R2P) surveyed 300 asylum seekers and refugees who were residing in Ukraine prior to 24 February 2022 and had to flee to the European Union+ countries (comprising all Member States, Norway, the UK, and Switzerland).¹⁰ This population is referred to as non-Ukrainian asylum seekers and refugees fleeing the war in Ukraine (NUASR) in this report.

The evidence gathered through this effort reveals that non-Ukrainian asylum seekers and refugees fleeing Ukraine must navigate the labyrinth of EU asylum laws, usually without support or legal assistance. The EU's commendable efforts to protect people fleeing war in Ukraine have failed to address the unique situation and special protection needs of this population.

The findings discussed in this report highlight the need for more targeted policy solutions that address the unique circumstances and challenges facing third country nationals and stateless people forced to flee Ukraine.



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)

KEY PROTECTION RISKS IDENTIFIED IN EUROPE

Ineligibility for temporary protection in the EU

In March 2022, the EU activated the Temporary Protection Directive which foresaw the provision of short-term protection status to people fleeing the Russian invasion. However, a considerable number of third country nationals and stateless persons fleeing Ukraine remain ineligible for temporary protection in the EU. Our survey revealed that 39% of the non-Ukrainian asylum seekers and refugees surveyed who have arrived in the EU+ countries (comprising all Member States, Norway, the UK, and Switzerland) have not received temporary protection.

39% of the non-Ukrainian asylum seekers and refugees surveyed who have arrived in the EU+ countries have not received temporary protection.

Why does being eligible for temporary protection matter?

Persons eligible for temporary protection do not have to apply for asylum or go through lengthy asylum procedures in the EU. Temporary protection is granted, as a group, to people fleeing Ukraine, so persons displaced from Ukraine do not have to apply for asylum and wait for a long period of time to be recognised as an international protection beneficiary.

Once registered, temporary protection holders receive immediate access to residence permits, employment, education, medical care, suitable accommodation, social welfare, and means of subsistence (for those who need it) for the duration of protection (up to three years). Asylum seekers enjoy a lower level of rights and entitlements than those offered to temporary protection beneficiaries in the Union.¹¹ For instance, asylum seekers can be given access to employment within a maximum period of nine months whereas, temporary protection beneficiaries have an immediate right to work.

Moreover, unlike asylum seekers in the EU, temporary protection holders enjoy a right to freedom of movement: they can choose the Member State in which they wish to reside (and register for temporary protection) and move freely within the Union (and stay in other Member States) for up to 90 days within a 180-day period.¹²

Who is eligible for temporary protection in the EU?

The following groups are eligible for temporary protection in the EU:¹³

- Ukrainian nationals residing in Ukraine who have been displaced on or after 24 February 2022 and their family members;
- Third country nationals and stateless people who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022 and who have been displaced from Ukraine on or after 24 February 2022, and their family members.

Among non-Ukrainian asylum seekers and refugees fleeing Ukraine, only those holding a refugee or a national protection status in Ukraine¹⁴ (namely, complementary protection), who fled on or after 24 February 2022, are eligible for temporary protection.

By contrast, individuals who were formerly seeking asylum in Ukraine only benefit from temporary protection in Europe if:

1. They were holding a valid permanent residence permit in Ukraine¹⁵ and are unable to return in safe and durable conditions to their country or region of origin,
2. They are a family member of a person eligible for temporary protection in the EU (this could include cases of people who are family members of a Ukrainian citizen or third-country national or a stateless person who qualifies for temporary protection),
3. They apply for temporary protection in an EU Member State which has chosen to extend the scope of temporary protection to asylum seekers in Ukraine.

Member States are free to extend temporary protection to groups beyond those identified by the Council Decision, on the basis that they are also fleeing Ukraine and need protection.

Countries that have chosen to extend temporary protection to other groups include the following:

Spain - temporary protection is extended to third-country nationals and stateless persons who were legally residing in Ukraine based on a valid residence permit.¹⁶

Portugal - temporary protection is extended to third country nationals and stateless persons who were residents or had a long-term visa in Ukraine and whose safe and durable return to their country of origin is not possible.¹⁷

Germany - temporary protection extends to non-Ukrainian third country nationals who were legally residing in Ukraine on 24 February 2022 for more than a temporary short stay and whose return to the country of origin is unsafe.¹⁸

Finland - temporary protection extends to third country nationals who were residing legally in Ukraine, provided that they cannot return to their countries of origin.¹⁹

Czech Republic - temporary protection applies to all third-country nationals and stateless persons legally staying (e.g. with visa) in Ukraine before 24 February 2022 and who can prove that their return to their country of origin is not possible due to threat of imminent danger.²⁰

Unfortunately, these good practices remain the exception, not the rule. In practice, States have usually focused on extending protection to Ukrainian nationals outside the TPD scope (i.e. those already present in the host state on 24 February 2022 if their respective permits were about to expire (e.g. Finland, Austria, Germany, Netherlands, Estonia, Lithuania, and Poland)²¹ or those who left Ukraine before 24 February 2022 (e.g. Romania, Germany, Spain, and Sweden).²² As a result, a considerable number of third country nationals and stateless persons fleeing Ukraine remain not eligible for temporary protection. The survey we conducted for this report revealed, as could be expected, that nearly 40% of the respondents who had been displaced to the EU did not receive temporary protection.²³

Obstacles to accessing protection procedures

Of the respondents in our survey, 38% mentioned that they faced obstacles in applying for and being granted temporary protection. Some applications for temporary protection were rejected without a valid reason, or respondents were told that since they are not Ukrainian nationals they cannot obtain temporary protection. Similar problems have been identified by UNHCR, who have concluded that some third country nationals fleeing Ukraine are redirected to the regular asylum procedure, despite their entitlement to temporary protection under the current EU laws.²⁴

38%

mentioned that they faced obstacles in applying for and being granted temporary protection.

Other NUASR faced long wait times in registering and obtaining temporary protection. According to the European Union Agency for Asylum (EUAA), Ukrainian nationals are issued relevant temporary protection-related documentation on the same day as registration in at least 17 countries.²⁵ By contrast, our research revealed that non-Ukrainians who are eligible for temporary protection could wait up to five months to be recognised as a temporary protection beneficiary. Respondents also reported delays in obtaining resident permits and identity documents attached to temporary protection.

“Due to the fact that we are not Ukrainians, the migration service said that our application would be accepted last. They consider us third country nationals, not refugees.

— Testimony of a female respondent with 2 children who was holding refugee status in Ukraine (who should qualify for temporary protection as per the Council Decision)

“I arrived to (the Member State) together with my wife and children who are citizens of Ukraine, my wife received a right for work and other rights, however I did not obtain any status so far.

— Testimony of a male respondent with two children who was holding a complementary protection status in Ukraine

In some cases, the asylum seekers and complementary protection documents held by respondents were not recognised by the host state authorities. Non-Ukrainians have also faced difficulties in proving their link to Ukraine and/or their nationality in the absence of travel documents.

“ The Member State didn’t recognize my Ukrainian Complementary Protection document, so now we are waiting for their decision.

— Testimony of a single male respondent who was holding a complementary protection status in Ukraine (who should qualify for temporary protection as per the Council Decision)

Even if not eligible for temporary protection, all NUASR have a right to apply for international protection in the EU. Yet, the European Network on Statelessness (ENS) notes that in Hungary and Austria, third country nationals and stateless persons fleeing Ukraine falling outside the scope of the Council Decision face difficulties accessing international protection procedures.²⁶ 23% of the individuals surveyed for this project remain in the EU as international protection applicants (asylum seekers).

At least 12% of the respondents remain irregularly in European countries. Furthermore, 14% of the surveyed non-Ukrainian asylum seekers and refugees in the EU said their children are undocumented.

Poor access to information and legal advice

Information and legal advice can be a powerful means of protecting refugees from being forced to remain undocumented in Europe. Under EU law, both persons eligible for temporary protection²⁷ and those who are not must enjoy access to information about their protection options and asylum procedures in the EU.²⁸

Member States have been using both old and new technologies including websites, helplines, QR codes, and chatbots to distribute information on temporary protection.²⁹ This digitalisation improves access to information for refugees and asylum seekers, and thus indirectly improves access to temporary protection and asylum procedures. However, both online and offline material is usually targeted at Ukrainian nationals. As non-Ukrainian asylum seekers and refugees may not be eligible for temporary protection or may lack documents, they need tailored information and legal assistance. Nevertheless, our survey revealed that only 24% of the respondents are aware of where to receive legal assistance in the Member States.

This reflects serious shortcomings in access to information and legal support for non-Ukrainian asylum seekers and refugees.

Problems with identity and travel documents

Non-Ukrainian asylum seekers and refugees fleeing the war in Ukraine include stateless persons and third country nationals who cannot obtain documents, including identity documents and passports, from their country of origin. Moreover, since 24 February 2022, many asylum seekers and refugees in Ukraine face problems obtaining or renewing their ID, protection, and travel documents. More than 10% of our survey respondents mentioned they did not possess any valid identity and/or travel documents issued by any state.

Non-Ukrainian asylum seekers and refugees not holding valid identity or travel documents face issues re-entering and exiting Ukraine, as well as accessing EU territory. Further, they encounter problems accessing social assistance, humanitarian aid, or opening bank accounts due to their lack of documents in Europe.

A lack of documents creates problems leaving and re-entering Ukraine

The European Commission advised Member States to admit all persons fleeing Ukraine, including those who do not qualify for temporary protection.³⁰ ENS, in a brief dated 23 June 2022, notes that most Member States had thus far permitted broad entry to people fleeing Ukraine on humanitarian grounds, regardless of their documentation or residence status in Ukraine.³¹ Of the individuals in the survey, 99% were not fined or apprehended for their irregular entry or stay in the Member States. However, one of the respondents said:

“ I wasn’t allowed to cross the border to Poland. Border personnel were very rude and threatened me. Then I left [the] country by crossing Slovakia border. In France, I told [the] organisation that helped refugees that I come from Ukraine (I lived there for 4 years), but after they understood I’m not Ukrainian they told me they couldn’t help me. It happened a few times.

— Testimony of a single male respondent who was holding a valid asylum seeker document (MSID) in Ukraine

In preparing this report, R2P and HIAS consulted with Ukrainian nongovernmental organisations (NGOs) on the situation on the ground for displaced non-Ukrainian asylum seekers and refugees. They reported various problems regarding obtaining identity and travel documents and access to EU territory. One NGO

reported³² that since April 2022, the Ukraine-Poland border has operated the same as it did before February 2022: that is, there are no simplified procedures and there are strict border controls. The NGO reported that non-Ukrainians require a valid travel document to be admitted to the Union territories. Since many asylum seekers and refugees lack these documents, they face substantial challenges in both reaching the Member State territories and re-entering and exiting Ukraine. More than one Ukrainian NGO³³ noted that Ukrainian migration authorities are reluctant to issue new identity and travel documents to asylum seekers and refugees following the Russian invasion. This leaves people without valid documents unable to escape Ukraine.³⁴

Almost all asylum seekers were required to surrender their passports to the State Migration Service of Ukraine at the time of their application. These people face difficulties if they crossed into the EU before April 2022, when border guards were admitting everyone fleeing Ukraine without requiring valid travel documents. The Ukrainian authorities require asylum seekers to collect their passports in person, leaving a significant number of people without their passports and other travel documents when they are abroad.

Both the HIAS-R2P research and the submissions received from other NGOs³⁵ indicate that NUASR residing currently in the EU face difficulties re-entering Ukraine, especially those whose complementary protection document's validity has expired.³⁶ One NGO³⁷ reported that complementary protection beneficiaries face problems at the Polish and Romanian borders while trying to re-enter Ukraine.

“ Me and my family member do not have CP (Complementary Protection) travel documents, so we are unable to travel back to Ukraine.

— Testimony of a single female respondent who was holding a complementary protection status in Ukraine (who should qualify for temporary protection as per the Council Decision)

Ukrainian legislation³⁸ allows refugees, stateless persons, and complementary protection beneficiaries to obtain a certificate for return to Ukraine at a diplomatic mission abroad. Yet, the prerequisite for obtaining this certificate is the loss or theft of the travel document or the recognition of this document as invalid.³⁹ Those refugees and complementary protection holders who never received these documents but are now displaced abroad thus cannot obtain the documents necessary to return. Moreover, a number of Ukrainian missions cannot issue documents as they are unable to connect to IT systems in Ukraine. Further, some

refugees report being refused a certificate and told that the document would only be issued to citizens of Ukraine. In response to an R2P information request, the Ukrainian Ministry of Foreign Affairs said they lack funding to issue return certificates to all NUASR.⁴⁰

In addition, some respondents who found themselves in the EU are asylum seekers with valid or expired asylum seeker documents (MSID). They cannot travel to other countries or re-enter Ukraine, either because their MSID is not valid or because the State Migration Service holds their passports. This restricts family reunification possibilities, given 20% of all the respondents in the survey are separated from family members.

20%

of all the respondents in the survey are separated from family members.

A lack of documents prevents access to basic needs and services

Our research revealed that a considerable number of asylum seekers and refugees, especially stateless persons and people holding complementary protection status in Ukraine, have faced difficulties in accessing resident permits, IDs, and travel documents in the Member States. These documents are necessary to access subsistence, social assistance, and decent living conditions.

Nearly half of the respondents, 44%, reported that the ID, travel, and residence documents (either issued by the Ukrainian authorities or Member States) they possessed were only partially sufficient or insufficient to meet their basic needs. Given the difficulties accessing speedy temporary protection and asylum registration procedures in the Member States, non-Ukrainians were left to rely on the asylum seeker or complementary protection documents given by the Ukrainian authorities. Moreover, many said their documents were not accepted by banks and/or local authorities, so they were not able to open bank accounts, receive assistance, find jobs, or access services.

“ It takes too long for me to get appropriate documents, so I cannot go to work and feed my family.

— Testimony of a male respondent with 2 children who was holding a complementary protection status in Ukraine

Difficulties accessing rights and livelihoods

As is the case for many Ukrainians who are forced to flee Ukraine, non-Ukrainian asylum seekers and refugees who are seeking protection in the EU experience serious difficulties meeting their basic needs. Yet, compared to Ukrainian nationals, many NUASR face even more challenges in accessing necessities since they may not be eligible for temporary protection, may lack necessary documents, and may not be aware of how to access rights and services in the Member States.

Many Member States already struggle to uphold the socioeconomic rights foreseen by the Temporary Protection Directive (namely, access to accommodation, education, social assistance, and employment) in light of economic hardship and capacity challenges.⁴¹ There are stark differences in state practice on the provision of information, registration, access to rights, counselling, referrals to accommodation, basic care, and security screening.⁴² Access to affordable accommodation presents a major challenge across the Union, especially for countries such as Poland, which faces the largest numbers of arrivals.⁴³ Offering quality education to nearly two million children who have fled the conflict in Ukraine is another challenge.⁴⁴ Countries hosting the greatest number of children also face teacher shortages, overcrowded schools and classrooms, and lack of funding to accommodate displaced children.⁴⁵

In September 2022, a UNHCR survey found that the most frequently reported source of income of displaced persons from Ukraine in host European states is social protection benefits and cash assistance. Further, Ukrainians face significant socio-economic gaps related to employment.⁴⁶ Similarly, respondents in another UNHCR study of people fleeing Ukraine (of whom 99% were Ukrainian nationals) described their most urgent needs as access to cash, employment, accommodation, material assistance, and healthcare, respectively.⁴⁷ Our study showed that non-Ukrainians face the same, if not exacerbated, problems accessing affordable housing and livelihoods, as illustrated by the following testimonies:

- “Now we live in a refugee centre, however we are willing to rent an apartment, which is quite difficult to do because it is expensive” whereas, another mentioned “Yes, it (finding accommodation) was very difficult. There are not many houses available, it is expensive. It has been two months; we cannot find another housing.
- “It is very hard to find housing in Germany, there are not many options available, and it is very expensive.
- “Yes, it is very expensive and there are not many options, and not all people want to give their housing for rent for refugees.



People fleeing Ukraine are seen after crossing the Ukrainian-Polish border at Korczowa, Poland, March 2, 2022. (Beata Zawrzel/NurPhoto via Getty Images)

NUASR with temporary protection

Compared to NUASR holding temporary protection in EU+ countries, those who do not hold temporary protection face more challenges in accessing livelihoods and meeting their basic needs. Of the survey respondents holding temporary protection:

3%

said that they were not supplied with **food or subsistence support** to cover food expenses. 44% noted that they receive reimbursement for food, but it is not enough to satisfy their needs.

42%

noted that their **accommodation costs** are not covered fully by the Member State or will not be covered once they find employment.

30%

reported not receiving fully free **medical aid and/or prescription medication**.

64%

reported that they have not received **clothes and/or hygiene kits**.

NUASR without temporary protection

By contrast, NUASR who do not hold temporary protection face more challenges in accessing livelihoods and meeting their basic needs. Of this population:

15%

were not supplied with **food or subsistence support** to cover food expenses.

41%

said they do not have access to **adequate housing** arrangements and/or assistance.

59%

reported not receiving fully **free medical aid and/or prescription medication**.

68%

reported that they have not received **clothes and/or hygiene kits**.



Civilians enter Poland from Ukraine at the Krakovets border crossing, March 30, 2022. (AG for HIAS)



A man from Comoros, Africa, walks across the Medyka border crossing from Ukraine to Poland, February 28, 2022. (Alejandro Martinez Velez/Europa Press via Getty Images)

Free movement problems within the EU

Temporary protection holders enjoy a right to freedom of movement within the EU: they can choose the Member State in which they wish to reside (and register for temporary protection) and move freely within the Union (and stay in other Member States) for up to 90 days within a 180-day period.⁴⁸ This stands in stark contrast to the Dublin Rules,⁴⁹ the rigid system which governs where asylum seekers in the EU (fleeing contexts other than Ukraine) must register their application and reside until their applications are decided. Whereas the Dublin system focuses on restricting and punishing when an asylum seeker leaves the Member States in which they applied for asylum, the decision to allow people fleeing Ukraine to “self-relocate” has both empowered refugees to join family and loved ones, and has eased the burden on states by enabling the organic distribution of protection beneficiaries.⁵⁰

According to our survey, a significant number of asylum seekers and refugees holding temporary protection cannot exercise the right to travel to another Member State. Only 35% of the surveyed NUASR who are holding temporary protection in the EU reported that they have no obstacles to traveling freely across the EU countries.

35%

of the surveyed NUASR who are holding temporary protection in the EU reported that they have no obstacles to traveling freely across the EU countries.

The rest either noted they cannot travel to other Member States since they do not hold valid travel documents, or they are not aware of such a right.

CONCLUSIONS AND RECOMMENDATIONS

The evidence discussed in this report shows that a considerable number of third country nationals and stateless persons fleeing Ukraine are not eligible for temporary protection in the EU. This leaves many individuals in a very vulnerable place. Granting these individuals and their families temporary protection would offer them the right to education, work, and access to social assistance. It would also protect many from becoming undocumented and would benefit host states by reducing pressure on asylum systems.

Not only does the scope of temporary protection need to be extended, but practical access to protection procedures must also be improved for this population. Access to registration procedures is crucial for exercising one's right to asylum and protection. As asylum seekers and refugees fleeing Ukraine face a labyrinth of laws and policies, access to information, legal advice, and documentation is key. Under EU law, NUASR have the right to be informed of their rights, protection options, and procedures to be followed. Information campaigns for people fleeing Ukraine have however generally targeted Ukrainian nationals and focused on temporary protection. As NUASR may not be eligible for temporary protection or may lack documents, they need tailored information and legal assistance.

Additionally, targeted policies and solutions should also be enacted to address the barriers that have hindered this population's access to fundamental rights and assistance such as housing, food, and healthcare.

Some concrete actions that the EU and Member States can take to address these challenges are outlined as follows.

Extend temporary protection to non-Ukrainian asylum seekers

- The EU should extend temporary protection to all non-Ukrainian asylum seekers fleeing Ukraine.
- Member States must amend national laws to extend temporary protection to all non-Ukrainian asylum seekers fleeing Ukraine.

Ensure all non-Ukrainian asylum seekers and refugees can access procedures for either temporary protection or international protection

- Member States should make sure non-Ukrainian asylum seekers and refugees fleeing Ukraine can apply for temporary protection and/or international protection procedures.
- Member States should make sure protection claims of non-Ukrainian asylum seekers and refugees are registered without any unnecessary delays.
- Non-Ukrainian asylum seekers and refugees' documents provided by the Ukrainian authorities should be recognised during status determination and registration procedures by the Member State authorities.

Make tailored information, legal advice, and support readily available for non-Ukrainian asylum seekers and refugees

- The EU, Member States, NGOs, and international organisations (IOs) should develop and mobilise information campaigns tailored to the specific needs of non-Ukrainian asylum seekers and refugees. New technologies can be used to provide details on protection options and rights available to NUASR, as well as how and when resident permits, IDs, and travel documents can be obtained and should be renewed.
- The EU, Member States, NGOs, and IOs should ensure legal advice and support is available for non-Ukrainian asylum seekers and refugees that address their complex legal protection needs.
- The EU, Member States, NGOs, and IOs should make sure non-Ukrainian asylum seekers and refugees holding temporary protection are informed of their right to freedom of movement, and they can exercise this right in practice.



Staff members from HIAS Ukrainian partner organization Right to Protection (R2P) at work in Slavyansk, East Ukraine, February 23, 2022. (AG for HIAS)

Ensure all non-Ukrainian asylum seekers and refugees can access necessary documents

- Member States must facilitate access of non-Ukrainian asylum seekers and refugees to documentation (including resident permits, IDs, and travel documents) and address delays in document provision.
- Member States should facilitate access of non-Ukrainian asylum seekers and refugees who do not have any valid documents to basic assistance and services.
- EU and Member States should design policies to make sure non-Ukrainian asylum seekers and refugees and their children do not remain undocumented.
- Member States must facilitate access of non-Ukrainian asylum seekers and refugees to travel documents so that they can return to Ukraine to see their families and return to the EU when they need to.

Facilitate access to affordable housing, healthcare, employment, and education

- The EU, Member States, IOs, and civil society organisations should mobilise cash-based assistance and humanitarian aid to ensure access to housing, subsistence, healthcare, education, and dignified living standards.
- The EU, Member States, IOs, and civil society organisations should design policies to facilitate access to affordable housing.

Collect data on non-Ukrainian asylum seekers and refugees fleeing Ukraine

- Both the EU and Member States should collect data on third country nationals arriving from Ukraine and make this publicly available (with due respect for EU data protection laws).
 - » Data should include breakdowns of country of origin and nationality, as well as the number of asylum seekers arriving via Ukraine, and the number of non-Ukrainian asylum seekers and refugees receiving temporary protection, international, or other protection statuses.

ANNEX 1: METHODOLOGY

From July to October 2022, R2P staff conducted a survey of 300 non-Ukrainian asylum seekers and refugees who had been displaced from Ukraine to the EU+ (that is, EU States, Norway, the UK, and Switzerland) after the Russian invasion of Ukraine. Of these individuals, some held an asylum seeker certificate in Ukraine (“MSID”, both valid and expired), some were asylum seekers without this document, and some held refugee or complementary protection status in Ukraine. Of the 300 respondents who are the subject of this report, 184 held temporary protection and 116 persons were either asylum seekers, refugees, or undocumented.

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 39 items, which included multiple choice questions and six open-ended questions. R2P conducted interviews using the questionnaire via Telegram, WhatsApp, Viber, Facebook, email, and phone. Many of the survey participants were former beneficiaries of R2P. Others were referred by refugee community leaders, UNHCR, or NGOs such as The Tenth of April. To ensure broad geographical coverage and the maximum number of referrals possible, HIAS and R2P reached out to 25 NGOs, alliances, and community groups across Europe.

R2P requested written submissions from three Ukrainian NGOs working with refugees, complementary protection beneficiaries, and asylum seekers on the challenges they had witnessed NUASR facing in Ukraine and the EU. These NGOs were selected because of their extensive experience as implementing partners of UNHCR, providing social and legal services to refugees and asylum seekers prior to the crisis.

Additionally, extensive research was undertaken to analyse the laws and policies of the EU and the Member States. Policy notes, briefs, reports, and research published by international organisations, European institutions, and NGOs, as well as academic literature, were reviewed. Information requests were made to Ukrainian authorities in order to include the most recent statistics.

ANNEX 2: PROFILE OF RESPONDENTS IN THE EU+ COUNTRIES

Of the 300 individuals surveyed in the EU, the majority were men aged 18 to 45. More than 47% had children, and most identified as Muslim.

| Countries of origin: respondents in the EU | Member States of residence: respondents in the EU |
|---|--|
| Syria 25% Afghanistan 22% Russia 13% Tajikistan 7% Somalia, Iraq, DRC (4% each) | Germany 59% Netherlands 12% France 5% Sweden 4% Belgium 3% |
| Status held by respondents in the EU+ | Ukrainian status held by respondents in the EU+ |
| 61% are now holding temporary protection in the EU 1% are now recognised refugees in the EU 23% are now registered as asylum seekers 12% remain undocumented | 57% were asylum seekers in Ukraine 34% held complementary protection in Ukraine 8% were holding refugee status in Ukraine 3% were undocumented in Ukraine |

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

ENDNOTES




- 1 UNHCR, <https://www.unhcr.org/refugee-statistics/download/?url=j6Hp9Y>
- 2 The stateless population, estimated to number between 36,000 and 100,000 people, is likely to also comprise people in need of protection. See UNHCR, <https://www.unhcr.org/ukraine.html> and European Network on Statelessness (ENS), Briefing: Stateless people and people at risk of statelessness forcibly displaced from Ukraine, 10 March 2022.
- 3 UNHCR, <https://data.unhcr.org/en/situations/ukraine>. UNHCR, <https://www.unhcr.org/ua/en/internally-displaced-persons>
- 4 Ibid.
- 5 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, ST/6846/2022/INIT OJ L 71, 4.3.2022. (hereinafter Council Implementing Decision (EU) 2022/382 of 4 March 2022).
- 6 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, OJ L 212, 7.8.2001. (hereinafter TPD)
- 7 Supra 3.
- 8 Chapter III of the TPD.
- 9 Supra 1.
- 10 For more information on the methodology, see Annex 1.
- 11 See Chapter II of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast) OJ L 180, 29.6.2013; M. Ineli-Ciger, Temporary Protection in Law and Practice (Brill 2017) Ch. 5.
- 12 NUASR who do not fall within the scope of the TPD (and who thus cannot enjoy temporary protection) nonetheless have the right to apply for international protection in the EU. For such persons, access to asylum and procedural safeguards is regulated by the Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) OJ L 180, 29.6.2013
- 13 Article 2 of the Council Implementing Decision (EU) 2022/382 of 4 March 2022.
- 14 Ibid, Article 2.
- 15 Asylum seekers holding a permanent residence in Ukraine are quite rare in practice.
- 16 ECRE, Information Sheet – Measures in response to the arrival of displaced people fleeing the war in Ukraine, November 2022, <https://ecre.org/wp-content/uploads/2022/12/ECRE-Update-November-2022-Implementation-of-the-TPD.pdf>, p. 73; EU Fundamental Rights Agency (FRA), National legislation implementing the EU Temporary Protection Directive in selected EU Member States (October 2022 update), <https://fra.europa.eu/en/publication/2022/national-legislation-implementing-eu-temporary-protection-directive-selected-eu-0>
- 17 FRA, National legislation implementing the EU Temporary Protection Directive in selected EU Member States (October 2022 update); supra 16 ECRE, p. 43.
- 18 Supra 16 ECRE, p. 20.
- 19 Ibid, p.18.
- 20 Supra 17 FRA.
- 21 EUAA, Analysis of Measures to Provide Protection to Displaced Persons from Ukraine (2022), <https://euaa.europa.eu/publications/analysis-measures-provide-protection-displaced-persons-ukraine-situational-report>, p. 4.
- 22 Supra 17 FRA.
- 23 For a similar conclusion, see ENS, Briefing 3: Protection gap for stateless refugees from Ukraine, 23 June 2022.
- 24 UNHCR, The Implementation of the Temporary Protection Directive: Six Month On, October 2022, p.11.
- 25 Waiting times for the issuance of the relevant documents range from 24 hours to 2 weeks (2022, July 6). EUAA, Analysis of Measures to Provide Protection to Displaced Persons from Ukraine, supra, p. 14.

- 26 Supra 23.
- 27 Article 9 of the TPD requires Member States to provide persons enjoying temporary protection with a document, in a language likely to be understood by them, in which the provisions relating to temporary protection and which are relevant to them are clearly set out.
- 28 All asylum seekers should be able to access information on asylum procedures, their international protection application, the procedure for registration, and their rights during this process.
- 29 Supra 21, p. 11.
- 30 European Commission, Communication from the Commission on Operational guidelines for the implementation of Council implementing Decision 2022/382 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 2022/C 126 I/01, 21 March 2022.
- 31 Supra 23.
- 32 Written submission by NGO1 dated 13 October 2022.
- 33 Written submission by NGO1 dated 13 October 2022; Written submission by NGO2 dated 13 October 2022.
- 34 The forthcoming HIAS-R2P report Protection Risks facing Non-Ukrainian Asylum Seekers and Refugees affected by the war in Ukraine finds that, of 168 respondents surveyed inside Ukraine, 66% said they could not leave the territory of Ukraine.
- 35 Written submission by NGO3 dated 13 October 2022.
- 36 See forthcoming HIAS-R2P report Protection Risks facing Non-Ukrainian Asylum Seekers and Refugees affected by the war in Ukraine.
- 37 Written submission by the NGO3 dated 13 October 2022.
- 38 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, 5 April 2017.
- 39 Ibid, Article 14.
- 40 Ministry of Foreign Affairs of Ukraine answer to the request for public information, 05/05/2022, N0417
- 41 Save the Children, Putting Children First: Priorities for the European Union's response to the conflict in Ukraine, September 2022, https://resourcecentre.savethechildren.net/pdf/Putting_children_first_Policy_paper.pdf/
- 42 Supra 21, p. 12.
- 43 Cf. OECD, Housing support for Ukrainian refugees in receiving countries, 27 July 2022, <https://www.oecd.org/ukraine-hub/policy-responses/housing-support-for-ukrainian-refugees-in-receiving-countries-9c2b4404/>
- 44 Supra 41.
- 45 Ibid.
- 46 UNHCR's intentions survey covered 43 countries across Europe and beyond between August and September 2022, with over 4,800 surveys completed. UNHCR, September 2022, <https://data.unhcr.org/en/documents/details/95767>
- 47 UNHCR, Regional Protection Profiling, <https://app.powerbi.com/view?r=eyJrIjojMWU3NjkzYmEtNDYzMC00M2EyLTkwMjctMGJwZTA0MTQwMjU5IiwidCI6ImU1YzM3OTgxLTk2NjQ0NDZlNjY1NDNkMmFmODBiZSIsImMiOiJh9&pageName=ReportSectionb9333061a0a2e93930ea>
- 48 Supra 5.
- 49 Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) OJ L 180, 29.6.2013.
- 50 S. Carrera, M. Ineli Ciger, L. Vosyliute, L. Brumat, 'The EU Grants Temporary Protection For People Fleeing War in Ukraine: Time To Rethink Unequal Solidarity in EU Asylum Policy' (2022), https://www.ceps.eu/wp-content/uploads/2022/03/CEPS-PI2022-09_ASILE_EU-grants-temporary-protection-for-people-fleeing-war-in-Ukraine-1.pdf, p. 28.



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