

2023 UPDATE

UKRAINE



# COUNTRY REPORT

## Acknowledgements & Methodology

This is the first edition of the AIDA report on Ukraine. The report was written by CF Right to Protection, and was edited by ECRE.

The information in this report is up-to-date as of 31 December 2023, unless otherwise stated.

## The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is managed by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website [www.asylumineurope.org](http://www.asylumineurope.org). It covers 24 countries, including 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and 5 non-EU countries (Serbia, Switzerland, Türkiye, Ukraine and the United Kingdom). The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



This report is part of the Asylum Information Database (AIDA), funded by the European Union's Asylum, Migration and Integration Fund (AMIF) and ECRE. The contents of this report are the sole responsibility of ECRE and can in no way be taken to reflect the views of the European Commission.



# Table of Contents

Statistics.....	7
Overview of the legal framework .....	11
Asylum Procedure.....	18
<b>A. General .....</b>	<b>18</b>
1. Flow chart .....	18
2. Types of procedures .....	20
3. List of authorities that intervene in each stage of the procedure .....	20
4. Determining authority.....	20
5. Short overview of the asylum procedure .....	21
<b>B. Access to the procedure and registration .....</b>	<b>24</b>
1. Access to the territory and push backs.....	24
2. Registration of the asylum application .....	28
<b>C. Procedures.....</b>	<b>32</b>
1. Regular procedure .....	32
2. Dublin.....	40
3. Admissibility procedure.....	40
4. Border procedure (border and transit zones).....	40
5. Accelerated procedure.....	40
<b>D. Guarantees for vulnerable groups.....</b>	<b>41</b>
1. Identification.....	41
2. Special procedural guarantees .....	42
3. Use of medical reports .....	43
4. Legal representation of unaccompanied children .....	43
<b>E. Subsequent applications .....</b>	<b>44</b>
<b>F. The safe country concepts .....</b>	<b>45</b>
1. Safe country of origin.....	45
2. Safe third country.....	45
3. First country of asylum.....	46
<b>G. Information for asylum applicants and access to NGOs and UNHCR .....</b>	<b>46</b>

1.	Provision of information on the procedure .....	46
2.	Access to NGOs and UNHCR .....	47
<b>H.</b>	<b>Differential treatment of specific nationalities in the procedure .....</b>	<b>48</b>
	<b>Reception Conditions .....</b>	<b>49</b>
<b>A.</b>	<b>Access and forms of reception conditions .....</b>	<b>50</b>
1.	Criteria and restrictions to access reception conditions.....	50
2.	Forms and levels of material reception conditions.....	50
3.	Reduction or withdrawal of reception conditions .....	51
4.	Freedom of movement.....	52
<b>B.</b>	<b>Housing .....</b>	<b>53</b>
1.	Types of accommodation.....	53
2.	Conditions in reception facilities .....	53
<b>C.</b>	<b>Employment and education.....</b>	<b>55</b>
1.	Access to the labour market .....	55
2.	Access to education.....	56
<b>D.</b>	<b>Health care .....</b>	<b>57</b>
<b>E.</b>	<b>Special reception needs of vulnerable groups.....</b>	<b>58</b>
<b>F.</b>	<b>Information for asylum seekers and access to reception centres .....</b>	<b>59</b>
1.	Provision of information on reception .....	59
2.	Access to reception centres by third parties .....	59
<b>G.</b>	<b>Differential treatment of specific nationalities in reception .....</b>	<b>59</b>
	<b>Detention of Asylum Applicants .....</b>	<b>60</b>
<b>A.</b>	<b>General .....</b>	<b>60</b>
<b>B.</b>	<b>Legal framework of detention .....</b>	<b>61</b>
1.	Grounds for detention .....	61
2.	Alternatives to detention .....	62
3.	Detention of vulnerable applicants.....	63
4.	Duration of detention .....	63
<b>C.</b>	<b>Detention conditions .....</b>	<b>64</b>
1.	Place of detention .....	64
2.	Conditions in detention facilities .....	65

3.	Access to detention facilities.....	67
<b>D.</b>	<b>Procedural safeguards.....</b>	<b>68</b>
1.	Judicial review of the detention order .....	68
2.	Legal assistance for review of detention.....	69
<b>E.</b>	<b>Differential treatment of specific nationalities in detention .....</b>	<b>69</b>
	<b>Content of International Protection .....</b>	<b>70</b>
<b>A.</b>	<b>Status and residence .....</b>	<b>70</b>
1.	Residence permit.....	70
2.	Civil registration .....	71
3.	Long-term residence.....	72
4.	Naturalisation.....	72
5.	Cessation and review of protection status .....	73
6.	Withdrawal of protection status.....	74
<b>B.</b>	<b>Family reunification.....</b>	<b>75</b>
1.	Criteria and conditions .....	75
2.	Status and rights of family members .....	75
<b>C.</b>	<b>Movement and mobility.....</b>	<b>75</b>
1.	Freedom of movement.....	75
2.	Travel documents .....	76
<b>D.</b>	<b>Housing .....</b>	<b>77</b>
<b>E.</b>	<b>Employment and education.....</b>	<b>77</b>
1.	Access to the labour market .....	78
2.	Access to education.....	79
<b>F.</b>	<b>Social welfare.....</b>	<b>79</b>
<b>G.</b>	<b>Health care .....</b>	<b>80</b>

## Glossary & List of Abbreviations

<b>COI</b>	Country of Origin
<b>ECtHR</b>	European Court of Human Rights
<b>ENIC-NARIC Networks</b>	European Network of Information Centres and National Academic Recognition Information Centres in the European Union
<b>EU</b>	European Union
<b>EUAA</b>	European Union Agency for Asylum
<b>FLAC</b>	Free Legal Aid Centre
<b>HIAS</b>	Hebrew Immigrant Aid Society
<b>ID</b>	Identification document
<b>MCC</b>	Migrant Custody Centre
<b>MoI</b>	Minister of Interior of Ukraine
<b>MSID</b>	Asylum seeker certificate
<b>NEEKA</b>	International Foundation for Health and Environmental Protection “Region Karpat” NEEKA
<b>NGO</b>	Non-governmental organisation
<b>Parliament Commissioner</b>	Parliament Commissioner for Human Rights
<b>R2P</b>	“Right to Protection”, CF
<b>ROKADA</b>	“ROKADA”, CF
<b>RSD</b>	Refugee Status Determination
<b>SBGS</b>	State Border Guard Service of Ukraine
<b>SMS</b>	State Migration Service of Ukraine
<b>SSU</b>	Security Service of Ukraine
<b>TAC</b>	Temporary Accommodation Centre
<b>TIN</b>	Tax identification number, Ukrainian taxpayer card
<b>The Tenth of April</b>	Civil organisation “The Tenth of April”
<b>UNHCR</b>	United Nations High Commissioner for Refugees

## Statistics

### Overview of statistical practice

In Ukraine, the SMS publishes the following data regarding international protection: number of asylum applications for refugee status and status of a person in need of complementary protection; figures regarding the decisions of the SMS: granting the status, refusing, canceling, withdrawing). Number of issued and extended documents: MSID, refugee certificate, and certificate of a person in need of complementary protection. The number of female and male beneficiaries of international protection. The data is published in the format of a PDF file without the possibility to break it down or disaggregate it. The statistics are accessible on a quarterly and annual basis.

As detailed under [Regular procedure](#), the asylum procedure in Ukraine takes place in two stages, starting with a preliminary stage, at the end of which the authorities either reject the application or decide to proceed with further examination. Data on these two stages is presented in separate tables in the statistics below.

### Decisions at the preliminary stage of asylum applications: figures for 2023

Total decisions at the preliminary stage in 2023	Number of “negative” decisions at preliminary stage	Number of “positive” decisions at preliminary stage (decisions to send the case to further examination)
138	23	115

**Applications and granting of protection status at first instance, in the further examination procedure: figures for the year 2023 (1)**

	Applicants in 2023 (2)	Pending at end of year <sup>1</sup>	Total decisions in 2023 <sup>2</sup> (3)	Total rejections upon further examination	Refugee status	Subsidiary protection <sup>3</sup>
<b>Total</b>	130	838	265	212	8	45
Breakdown by 10 main countries of origin of the total numbers						
Russia	43	35	n/a	50	5	22
Belarus	12	12	n/a	4	1	7
Nigeria	7	10	n/a	6	n/a	n/a
Syria	6	7	n/a	4	n/a	9
Tajikistan	6	6	n/a	35	n/a	1
Afghanistan	n/a	6	n/a	77	n/a	n/a
Türkiye	4	4	n/a	4	n/a	n/a
Turkmenistan	4	3	n/a	n/a	1	n/a
Pakistan	n/a	4	n/a	n/a	n/a	n/a
Azerbaijan	2	2	n/a	5	n/a	n/a

Source: SMS statistics for 2023; SMS' responses to the R2P request for public information.

Note 1: statistics on applicants and pending concern people, including children and dependents. The rest of the columns concern number of decisions.

Note 2: "Applicants in year" refers to the total number of applicants, and not only to first-time applicants.

Note 3: Statistics on decisions cover the decisions taken throughout the year, regardless of whether they concern applications lodged that year or in previous years.

<sup>1</sup> Number of asylum certificates delivered (171) added to the number of extended asylum certificates (667).

<sup>2</sup> Breakdown: refugee status (8) + Subsidiary protection (45) + total rejection (212). Moreover, not included in this total, there were decision of loss (36) and withdrawal (6) of protection.

<sup>3</sup> Ukrainian legislation foresees a complementary protection status.



### Applications and granting of protection status at first instance, in the further examination procedure: rates for 2023

Please note that these rate calculations do not take into account the negative decisions made at the preliminary stage, as this does not correspond to the general approach to calculating such statistics. At the same time, these figures should be revised in the future to synchronize the statistics.

	Rejection rate	Overall protection rate	Refugee rate	Subsidiary protection rate
<b>Total</b>	80%	20%	3.01%	16.98%
Russia	n/a	n/a	12.1%	53.6%
Belarus	n/a	n/a	12.5%	87.5%
Nigeria	n/a	n/a	n/a	n/a
Syria	n/a	n/a	n/a	128.5%
Tajikistan	n/a	n/a	16.6%	16.6%
Afghanistan	n/a	n/a	n/a	n/a
Türkiye	n/a	n/a	n/a	n/a
Turkmenistan	n/a	n/a	n/a	n/a
Pakistan	n/a	n/a	n/a	n/a
Azerbaijan	n/a	n/a	n/a	n/a

Source of the percentages: SMS statistics for 2023; SMS' responds to the R2P request for public information.

Gender/age breakdown of the total number of applicants: 2023

	Men	Women
Number	85	45
Percentage	65%	35%

Source: SMS statistics for 2023; SMS’ responds to the R2P request for public information

Note: The gender breakdown (Men/Women) applies to all applicants, not only adults.

First instance and appeal decision rates: 2023

Data on appeals was not available for 2023.

	Adults	Children	
		Accompanied	Unaccompanied
Number	129	0	1
Percentage	99%	0	1%

## Overview of the legal framework

### Main legislative acts on asylum procedures, reception conditions, detention and content of international protection

Title (EN)	Original Title (UA)	Abbreviation	Web Link
Law of Ukraine on Refugees and Persons in Need of Complementary or Temporary Protection	Закон України про біженців та осіб, які потребують додаткового або тимчасового захисту	Law on Refugees	<a href="https://zakon.rada.gov.ua/laws/show/3671-17#Text">https://zakon.rada.gov.ua/laws/show/3671-17#Text</a>
Law of Ukraine on the Legal Status of Foreigners and Stateless Persons	Закон України про правовий статус іноземців та осіб без громадянства	Law on Foreigners	<a href="https://zakon.rada.gov.ua/laws/show/3773-17#n92">https://zakon.rada.gov.ua/laws/show/3773-17#n92</a>
Law of Ukraine on the Ukrainian Parliament Commissioner for Human Rights	Закон України про Уповноваженого Верховної Ради України з прав людини	Law on Parliament Commissioner	<a href="https://zakon.rada.gov.ua/laws/show/776/97-%D0%B2%D1%80#Text">https://zakon.rada.gov.ua/laws/show/776/97-%D0%B2%D1%80#Text</a>
Law of Ukraine on Free Legal Aid	Закон України про безоплатну правничу допомогу	Law on Free Legal Aid	<a href="https://zakon.rada.gov.ua/laws/show/3460-17#Text">https://zakon.rada.gov.ua/laws/show/3460-17#Text</a>
Law of Ukraine on Social Services	Закон України про соціальні послуги	Law on Social Services	<a href="https://zakon.rada.gov.ua/laws/show/2671-19#Text">https://zakon.rada.gov.ua/laws/show/2671-19#Text</a>
Law of Ukraine on Employment	Закон України про зайнятість населення	Law on Employment	<a href="https://zakon.rada.gov.ua/laws/show/5067-17#Text">https://zakon.rada.gov.ua/laws/show/5067-17#Text</a>
Law of Ukraine on Higher Education	Закон України про вищу освіту	Law on Higher Education	<a href="https://zakon.rada.gov.ua/laws/show/1556-18#Text">https://zakon.rada.gov.ua/laws/show/1556-18#Text</a>
Law of Ukraine on Professional (Vocational) Education	Закон України про професійну (професійно-технічну) освіту	Law on Vocational Education	<a href="https://zakon.rada.gov.ua/laws/show/103/98-%D0%B2%D1%80#Text">https://zakon.rada.gov.ua/laws/show/103/98-%D0%B2%D1%80#Text</a>
Law of Ukraine on Complete Secondary Education	Закон України про повну загальну середню освіту	Law on Complete Secondary Education	<a href="https://zakon.rada.gov.ua/laws/show/463-20#Text">https://zakon.rada.gov.ua/laws/show/463-20#Text</a>
Law of Ukraine on Principles of Ukrainian Healthcare Legislation	Закон України про основи законодавства України про охорону здоров'я	Law on Healthcare Legislation	<a href="https://zakon.rada.gov.ua/laws/show/2801-12#Text">https://zakon.rada.gov.ua/laws/show/2801-12#Text</a>
Law of Ukraine on State Financial Guarantees of Healthcare Services for the Population	Закон України про державні фінансові гарантії медичного обслуговування населення	Law on Financial Guarantees of Healthcare Services	<a href="https://zakon.rada.gov.ua/laws/show/2168-19#Text">https://zakon.rada.gov.ua/laws/show/2168-19#Text</a>

Code of Administrative Judicial Procedure of Ukraine	Кодекс адміністративного судочинства України	Code of Administrative Judicial Procedure	<a href="https://zakon.rada.gov.ua/laws/show/2747-15#Text">https://zakon.rada.gov.ua/laws/show/2747-15#Text</a>
Code of Administrative Offences of Ukraine	Кодекс України про адміністративні правопорушення	Code of Administrative Offences	<a href="https://zakon.rada.gov.ua/laws/show/80731-10#Text">https://zakon.rada.gov.ua/laws/show/80731-10#Text</a> ; <a href="https://zakon.rada.gov.ua/laws/show/80732-10#Text">https://zakon.rada.gov.ua/laws/show/80732-10#Text</a>
Code of Labour Laws of Ukraine	Кодекс законів про працю України	Labour Code	<a href="https://zakon.rada.gov.ua/laws/show/322-08#Text">https://zakon.rada.gov.ua/laws/show/322-08#Text</a>
Law of Ukraine on Border Control	Закон України про прикордонний контроль	Law on Border Control	<a href="https://zakon.rada.gov.ua/laws/show/1710-17#Text">https://zakon.rada.gov.ua/laws/show/1710-17#Text</a>
Law of Ukraine on Amendments to Certain Legislative Acts of Ukraine on Protection of the State Border of Ukraine	Закон України про внесення змін до деяких законодавчих актів України щодо захисту державного кордону України	Law on Amendments to Certain Legislative Acts on Protection of the State Border of Ukraine	<a href="https://zakon.rada.gov.ua/laws/show/2952-20#n207">https://zakon.rada.gov.ua/laws/show/2952-20#n207</a>
Law of Ukraine on Ukrainian Citizenship	Закон України про громадянство України	Law on Ukrainian Citizenship	<a href="https://zakon.rada.gov.ua/laws/show/2235-14#Text">https://zakon.rada.gov.ua/laws/show/2235-14#Text</a>
Law of Ukraine on Rehabilitation in the Healthcare Sector.	Закон України про реабілітацію у сфері охорони здоров'я	Law on Rehabilitation	<a href="https://zakon.rada.gov.ua/laws/show/1053-20#Text">https://zakon.rada.gov.ua/laws/show/1053-20#Text</a>

**Main implementing decrees, guidelines and regulations on asylum procedures, reception conditions, detention and content of international protection**

<b>Title (EN)</b>	<b>Original Title (UA)</b>	<b>Abbreviation</b>	<b>Web Link</b>
Regulation on the State Migration Service of Ukraine of 20 August 2014 No. 360	Положення про Державну міграційну службу України від 20.08.2014 № 360	Regulation on the SMS	<a href="https://zakon.rada.gov.ua/laws/show/360-2014-%D0%BF#Text">https://zakon.rada.gov.ua/laws/show/360-2014-%D0%BF#Text</a>
Rules for Consideration of Applications and Execution of Documents Necessary for Resolving the Issue of Recognition as a Refugee or a Person in Need of Complementary Protection, Loss and Withdrawal of Refugee Status and Complementary Protection and Cancellation of the Decision on Recognition of a Person as a Refugee or a Person in Need of Complementary protection of 07 September 2011 No. 649	Правила розгляду заяв та оформлення документів, необхідних для вирішення питання про визнання біженцем або особою, яка потребує додаткового захисту, втрату і позбавлення статусу біженця та додаткового захисту і скасування рішення про визнання особи біженцем або особою, яка потребує додаткового захисту від 07.09.2011 № 649	Rules for the Consideration of Asylum Applications	<a href="https://zakon.rada.gov.ua/laws/show/z1146-11#n124">https://zakon.rada.gov.ua/laws/show/z1146-11#n124</a>
Instruction on the Procedure for the Actions of Officials of the State Border Guard Service of Ukraine and Interaction with Territorial Bodies of the State Migration Service of Ukraine in the Course of Applying for Recognition as Refugees or Persons in Need of Complementary Protection by Foreigners or Stateless Persons of 10 August 2016 No.772	Інструкція про порядок дій посадових осіб Державної прикордонної служби України та взаємодії з територіальними органами Державної міграційної служби України під час звернення іноземців чи осіб без громадянства із заявами про визнання біженцями або особами, які потребують додаткового захисту від 10.08.2016 №772	SBGS Instruction	<a href="https://zakon.rada.gov.ua/laws/show/z1212-16#Text">https://zakon.rada.gov.ua/laws/show/z1212-16#Text</a>
Instruction on the Procedure for the Detention of Foreigners and Stateless Persons in Migrant Custody Centres for Foreigners and Stateless Persons Illegally Staying in Ukraine of 29 February 2016 No. 141	Інструкція про порядок утримання іноземців та осіб без громадянства в пунктах тимчасового перебування іноземців та осіб без громадянства, які незаконно перебувають в Україні від 29.02.2016 №141	Instruction on the Detention of Foreigners	<a href="https://zakon.rada.gov.ua/laws/show/z0748-16#Text">https://zakon.rada.gov.ua/laws/show/z0748-16#Text</a>

Regulations on Judicial Practice of Consideration of Disputes Concerning the Status of Refugee and of a Person in Need of Complementary or Temporary Protection, Forced Return and Forced Expulsion of a Foreigner or a Stateless Person from Ukraine and Disputes Related to Stay of Foreigners and Stateless Persons in Ukraine of 25 June 2009 No. 1	Постанова про судову практику розгляду спорів щодо статусу біженця та особи, яка потребує додаткового або тимчасового захисту, примусового повернення і примусового видворення іноземця чи особи без громадянства з України та спорів, пов'язаних із перебуванням іноземця та особи без громадянства в Україні від 25.06.2009 № 1	Regulations on Judicial Practice of Consideration of Disputes Concerning the Status of Refugee	<a href="https://zakon.rada.gov.ua/laws/show/v_001760-09#Text">https://zakon.rada.gov.ua/laws/show/v_001760-09#Text</a>
Procedure for Conducting an Examination to Establish the Age of a Child Left Without Parental Care and in Need of Social Protection of 23 October 2013 No. 903/1464/711	Порядок проведення обстеження для встановлення віку дитини, яка залишилась без піклування батьків та потребує соціального захисту від 23.10.2013 № 903/1464/711	Procedure of Age Assessment of Unaccompanied Children	<a href="https://zakon.rada.gov.ua/laws/show/z1935-13#Text">https://zakon.rada.gov.ua/laws/show/z1935-13#Text</a>
Procedure for Interaction between State and Local Self-Government Bodies in Identifying Children Separated from Their Families Who Are Not Citizens of Ukraine 16 November 2016 No. 832	Порядок взаємодії державних органів та органів місцевого самоврядування під час виявлення розлучених із сім'єю дітей, які не є громадянами України від 16.11.2016 № 832	Procedure of Interaction between State Bodies in Age Assessment of Unaccompanied Children	<a href="https://zakon.rada.gov.ua/laws/show/832-2016-%D0%BF#Text">https://zakon.rada.gov.ua/laws/show/832-2016-%D0%BF#Text</a>
Regulations on the Commission for Establishing the Age of a Child Left Without Parental Care and in Need of Social Protection of 23 October 2013 No. 903/1464/711	Положення про комісію для встановлення віку дитини, яка залишилась без батьківського піклування та потребує соціального захисту від 23.10.2013 № 903/1464/711	Regulations on the Commission for Age Assessment of of Unaccompanied Children	<a href="https://zakon.rada.gov.ua/laws/show/z1934-13#n17">https://zakon.rada.gov.ua/laws/show/z1934-13#n17</a>
Procedure for Conducting a Medical Examination of Persons in Respect of Whom a Decision to Execute Documents for Deciding on Recognition as a Refugee or a Person in Need of Complementary Protection, 04 March 2002, No. 82	Порядок про проведення медичного обстеження осіб, стосовно яких прийнято рішення про оформлення документів для вирішення питання щодо визнання біженцем або особою, яка потребує додаткового захисту від 04.03.2002 № 82	Procedure for Conducting a Medical Examination of Asylum Seekers	<a href="https://zakon.rada.gov.ua/laws/show/z0379-02#Text">https://zakon.rada.gov.ua/laws/show/z0379-02#Text</a>
Procedure for Provision of Medical Care to Foreigners and Stateless Persons Permanently Residing or Temporarily Staying on the Territory of Ukraine Who Applied for Recognition as Refugees or Persons in Need of Complementary Protection, in Respect of Whom a Decision was Made to Process	Порядок надання медичної допомоги іноземцям та особам без громадянства, які постійно проживають або тимчасово перебувають на території України, які звернулися із заявою про визнання біженцем або особою, яка потребує додаткового захисту, стосовно яких прийнято рішення про оформлення документів	Procedure for the provision of Medical Care to Foreigners	<a href="https://zakon.rada.gov.ua/laws/show/121-2014-%D0%BF#Text">https://zakon.rada.gov.ua/laws/show/121-2014-%D0%BF#Text</a>

Documents to Resolve the Issue of Recognition as Refugees or Persons in Need of Complementary Protection, and for Compensation of the Cost of Medical Services and Medicines Provided to Foreigners and Stateless Persons provided to Foreigners and Stateless Persons, 19 March 2014, No. 121	для вирішення питання щодо визнання біженцем або особою, яка потребує додаткового захисту, та яких визнано біженцями або особами, які потребують додаткового захисту, та компенсації вартості медичних послуг і лікарських засобів, наданих іноземцям та особам без громадянства, які тимчасово проживають або перебувають на території України від 19.03.2014 № 121		
Letter of the Ministry of Education and Science on Methodological Recommendations on the Peculiarities of Education of Refugee Children of 25 April 2014, No. 14.1/10-1183	Лист Міністерства освіти і науки про методичні рекомендації щодо особливостей навчання дітей-біженців від 25.04.2014 № 14.1/10-1183	Letter of the Ministry of Education on Education of Refugee Children	<a href="https://zakon.rada.gov.ua/rada/show/v1183749-14#Text">https://zakon.rada.gov.ua/rada/show/v1183749-14#Text</a>
Regulation of the Cabinet of Ministers of Ukraine on Certain Categories of Persons with Special Educational Needs of 14 November 2018 No. 952	Постанова Кабінету Міністрів України Про деякі категорії осіб з особливими освітніми потребами від 14 листопада 2018 № 952	Regulation on Persons with Special Educational Needs	<a href="https://zakon.rada.gov.ua/laws/show/952-2018-%D0%BF#Text">https://zakon.rada.gov.ua/laws/show/952-2018-%D0%BF#Text</a>
Procedure for Determining a Primary Care Physician dated 19 March 2018 No. 503	Порядок вибору лікаря, який надає первинну медичну допомогу від 19.03.2018 № 503	Procedure for Determining a Primary Care Physician	<a href="https://zakon.rada.gov.ua/laws/show/z0347-18">https://zakon.rada.gov.ua/laws/show/z0347-18</a>
Regulations on Temporary Accommodation Centres for Refugees dated 14 June 2018 No. 503	Положення про пункти тимчасового розміщення біженців від 14.06.2018 № 503	Regulations on Temporary Accommodation Centres for Refugees	<a href="https://zakon.rada.gov.ua/laws/show/z0788-18#Text">https://zakon.rada.gov.ua/laws/show/z0788-18#Text</a>
Procedure for Declaring and Registering a Place of Residence (Stay) dated 07 February 2022 No. 265.	Порядок декларування та реєстрації місця проживання (перебування) від 07.02.2022 № 265	Procedure for Declaring and Registering a Place of Residence	<a href="https://zakon.rada.gov.ua/laws/show/265-2022-%D0%BF#Text">https://zakon.rada.gov.ua/laws/show/265-2022-%D0%BF#Text</a>

Resolution of the Plenum of the Supreme Administrative Court of Ukraine on Judicial Practice of Consideration of Disputes Concerning Refugee Status and a Person in Need of Complementary or Temporary Protection, Forced Return and Forced Expulsion of a Foreigner or Stateless Person from Ukraine and Disputes Related to the Stay of a Foreigner or Stateless Person in Ukraine of 25 June 2009 No. 1.	Постанова пленуму Вищого адміністративного суду України про судову практику розгляду спорів щодо статусу біженця та особи, яка потребує додаткового або тимчасового захисту, примусового повернення і примусового видворення іноземця чи особи без громадянства з України та спорів, пов'язаних із перебуванням іноземця та особи без громадянства в Україні від 25.06.2009 № 1	Resolution of the Plenum of the Supreme Administrative Court of Ukraine on Judicial Practice of Disputes Concerning Refugee Status	<a href="https://zakon.rada.gov.ua/laws/show/v_001760-09#Text">https://zakon.rada.gov.ua/laws/show/v_001760-09#Text</a>
Regulation on the Registration of Individuals in the State Register of Individuals-Taxpayers dated 29 September 2017 No. 822	Положення про реєстрацію фізичних осіб у Державному реєстрі фізичних осіб - платників податків від 29.09.2017 № 822	Regulation on the Registration of Individuals in the State Register of Individuals - Taxpayers	<a href="https://zakon.rada.gov.ua/laws/show/z1306-17#Text">https://zakon.rada.gov.ua/laws/show/z1306-17#Text</a>
Model Regulation on the Migrant Custody Centres for Foreigners and Stateless Persons Illegally Staying in Ukraine of 17 July 2003 No. 1110	Типове Положення про пункт тимчасового перебування іноземців та осіб без громадянства, які незаконно перебувають в Україні від 17.07.2003 № 1110	Model Regulation on the Migrant Custody Centres	<a href="https://zakon.rada.gov.ua/laws/show/1110-2003-%D0%BF#Text">https://zakon.rada.gov.ua/laws/show/1110-2003-%D0%BF#Text</a>
Regulations on the Refugee Certificate of 14 March 2012 No. 202	Положення про посвідчення біженця від 14.03.2012 № 202	Regulations on the Refugee Certificate	<a href="https://zakon.rada.gov.ua/laws/show/202-2012-%D0%BF">https://zakon.rada.gov.ua/laws/show/202-2012-%D0%BF</a>
Procedure for Registration, Issuance, Exchange, Transfer, Withdrawal, Return to the State, Invalidation and Destruction of Certificate of a Person in Need of Complimentary Protection of 21 July 2021 No. 756	Порядок оформлення, видачі, обміну, пересилання, вилучення, повернення державі, визнання недійсним та знищення посвідчення особи, яка потребує додаткового захисту від 21.07.2021 № 756	Procedure for Issuance of Certificate of a Person in Need of Complimentary Protection	<a href="https://zakon.rada.gov.ua/laws/show/756-2021-%D0%BF#Text">https://zakon.rada.gov.ua/laws/show/756-2021-%D0%BF#Text</a>
Regulations on the Refugee Travel Document of 14 March 2012 No. 203	Положення про проїзний документ біженця від 14.03.2012 № 203	Regulations on the Refugee Travel Document	<a href="https://zakon.rada.gov.ua/laws/show/203-2012-%D0%BF#Text">https://zakon.rada.gov.ua/laws/show/203-2012-%D0%BF#Text</a>

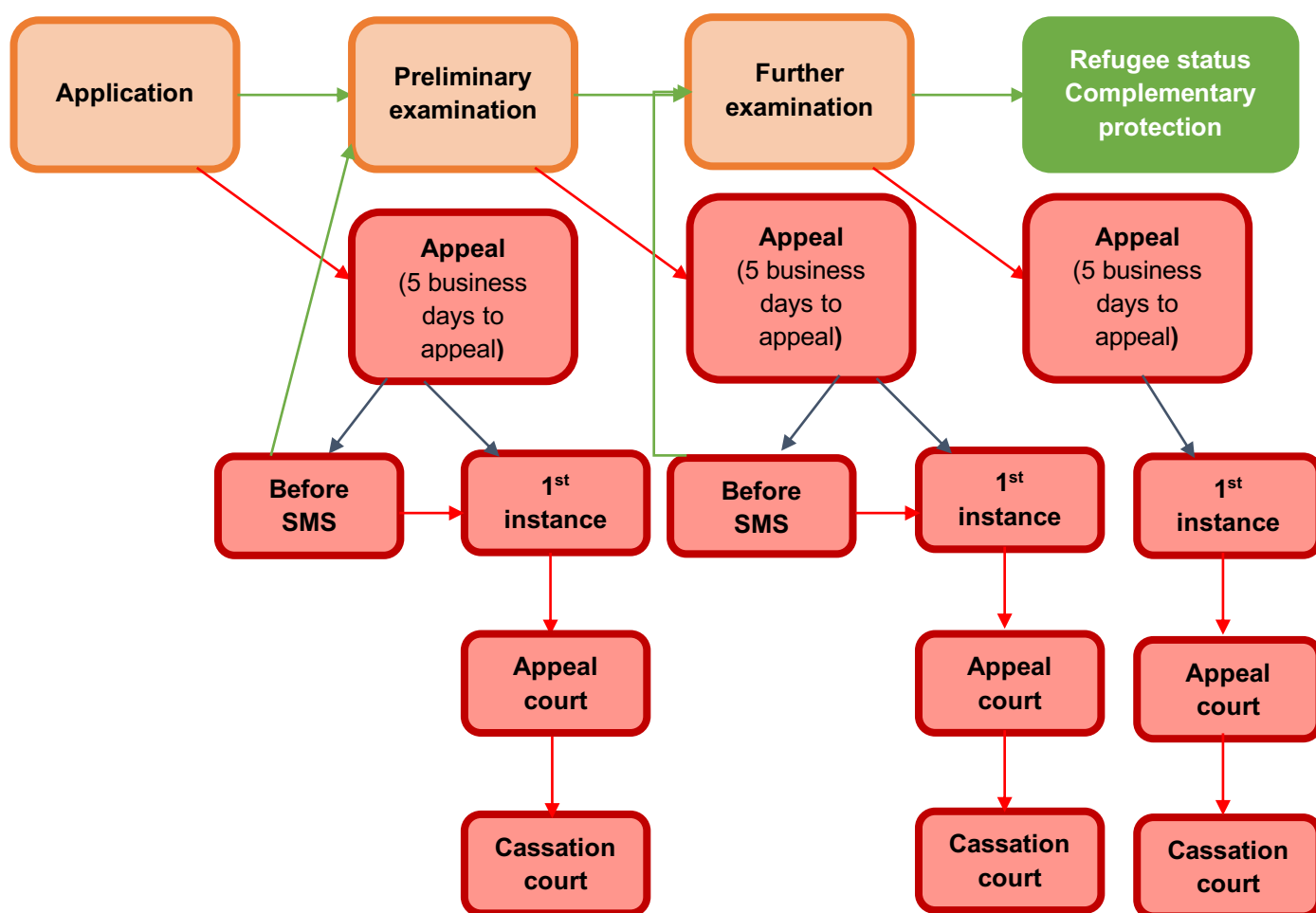


Regulations on Travel Document of a Person in Need of Complimentary Protection of 14 March 2012 No. 197	Положення про проїзний документ особи, якій надано додатковий захист від 14.03.2012 № 197	Regulations on Travel Document of a Person in Need of Complimentary Protection	<a href="https://zakon.rada.gov.ua/laws/show/197-2012-%D0%BF#Text">https://zakon.rada.gov.ua/laws/show/197-2012-%D0%BF#Text</a>
Procedure for Granting and Paying State Assistance to Families with Children of 27 December 2001 No. 1751	Порядок призначення і виплати державної допомоги сім'ям з дітьми від 27.12.2001 № 1751	Procedure for Granting and Paying State Assistance to Families with Children	<a href="https://zakon.rada.gov.ua/laws/show/1751-2001-%D0%BF#Text">https://zakon.rada.gov.ua/laws/show/1751-2001-%D0%BF#Text</a>

# Asylum Procedure

## A. General

### 1. Flow chart



### Introduction to the asylum context

For many years, Ukraine has served as both a transit and destination country for individuals escaping persecution and violence from other parts of the world.<sup>4</sup> In 2021, around 5,000 asylum seekers and refugees<sup>5</sup> were either seeking refuge in Ukraine or passing through on their way to the EU.<sup>6</sup> Of these, 2,382 were granted refugee status or complementary protection in Ukraine, while 2,719 were asylum seekers. Women and girls made up 54 percent of the refugees and asylum seekers in Ukraine. The prevailing country of origin was Afghanistan.<sup>7</sup>

<sup>4</sup> UNHCR, *Multi-Year, Multi-Partner Protection and Solutions Strategy for Ukraine, 2018 – 2022*, January 2018, available [here](#).

<sup>5</sup> UNHCR, the UN Refugee Agency, available [here](#).

<sup>6</sup> IOM, *Irregular Migrants in Ukraine Analytical Summary*, 13 April 2021, available [here](#).

<sup>7</sup> R2P, *The Study: Community organisations: resources for protecting refugees and asylum seekers in Ukraine*, 20 December 2023, available [here](#).

While refugees had several different routes to enter Ukraine, the primary pathways prior to 2022 included regular air travel and irregular crossings through the borders with Russia and Belarus.<sup>8</sup> Additionally, there have been reports of refugee movements via Odesa in southern Ukraine, with individuals traveling from Turkey across the Black Sea.<sup>9</sup>

On February 24, 2022, Russia's full-scale invasion of Ukraine triggered a humanitarian crisis, displacing millions of people, including asylum seekers and refugees who were already in the country. Many of them had to flee yet again. As of September 2023, 3,7 million people were internally displaced<sup>10</sup> and 6,5 million protection seekers from Ukraine were recorded globally by the end of 2023.<sup>11</sup>

In the first half of 2022, due to open frontiers with the EU and simplified border controls, 1,283 registered asylum seekers who were in contact with the UNHCR fled Ukraine seeking safety from the escalating conflict. However, the actual number may be higher as precise figures are unavailable. Additionally, an unknown number of irregular migrants also left the country during this period.<sup>12</sup> Migrant communities in Ukraine including asylum seekers, refugees, and persons in need of complementary protection lost an average of 70% of their members in 2022.<sup>13</sup>

In addition, over 28,350 civilian casualties have been verified as of October 2023, and this number is likely to be considerably higher.<sup>14</sup> Since the beginning of 2023, Russian attacks have continued to damage homes and energy facilities.<sup>15</sup> By 2023, with the frontline stabilised, Russia maintained control over nearly 18% of Ukrainian territory, which encompassed approximately 25,000 square miles of land seized since February 2022.<sup>16</sup>

In 2022 and 2023, only a few migrant groups experienced growth, notably those of citizens from the Russian Federation and Belarus.<sup>17</sup> In the context of war, the number of asylum seekers arrivals has decreased, but instead, the number of asylum seekers *sur place* has grown notably due to Russians and Belarusians who either condemned the Russian aggression and/or joined the Ukrainian Armed Forces.<sup>18</sup> Thus, the landscape of asylum seekers' and refugees' countries of origin has shifted, with Russia leading the list followed by Syria, Tajikistan, Belarus, and Afghanistan as of August 2023.<sup>19</sup>

In addition, some Belarusians and Russians have been subjected to legislative changes<sup>20</sup> that now pose an obstacle to extending residence permits that they have had for years. Asylum application is seen as the only opportunity to regularise their status in Ukraine. However, the SMS often rejects their applications, leaving them in legal limbo.

---

<sup>8</sup> R2P.

<sup>9</sup> ICMPD, Q&A: *How closed borders detour migrant routes*, 15 March 2016, available [here](#).

<sup>10</sup> OCHA, *Ukraine Humanitarian Response 2023: Situation Report*, 23 November 2023, available [here](#).

<sup>11</sup> UNHCR, *Ukraine Refugee Situation*, 31 December 2023, available [here](#).

<sup>12</sup> R2P & HIAS, *Asylum Seekers and Refugees in Ukraine Addressing Protection Risks During Wartime*, 05 April 2023, available [here](#).

<sup>13</sup> R2P, *The Study: Community organisations: resources for protecting refugees and asylum seekers in Ukraine*, 20 December 2023, available [here](#).

<sup>14</sup> OCHA, *Ukraine Humanitarian Response 2023: Situation Report*, 23 November 2023, available [here](#).

<sup>15</sup> OCHA, *Ukraine Humanitarian Response 2023: Situation Report*, 23 November 2023, available [here](#).

<sup>16</sup> David Lewis, 'The Quiet Transformation of Occupied Ukraine Away From the Frontlines, Russia Cements Its Conquest', *Foreign Affairs*, 18 January 2024, available [here](#).

<sup>17</sup> R2P, *The Study: Community organisations: resources for protecting refugees and asylum seekers in Ukraine*, 20 December 2023, available [here](#).

<sup>18</sup> R2P.

<sup>19</sup> The list is based on UNHCR data of asylum seekers and refugees benefiting from legal assistance from UNHCR. R2P, *The Study: Community organisations: resources for protecting refugees and asylum seekers in Ukraine*, 20 December 2023, available [here](#).

<sup>20</sup> Procedure for simplified issuance and exchange of temporary residence permits for citizens of the Republic of Belarus who are entrepreneurs, highly qualified specialists, in particular specialists in the field of information technology and innovation, whose urgent need is tangible for the economy of Ukraine, and who have applied in the prescribed manner to the territorial bodies/divisions of the State Migration Service for an immigration permit, and their family members dated 23 December 2020 No. 1303; ZMINA, *The Migration Service Should Allow Citizens of Belarus, Including Volunteers of the Armed Forces of Ukraine, to Legalise in Ukraine*, 09 August 2022, available in Ukrainian [here](#).

## 2. Types of procedures

### Indicators: Types of Procedures

#### 1. Which types of procedures exist in your country?

- |  |   |  |
|--|---|--|
| ❖ Regular procedure:                     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ▪ Prioritised examination: <sup>21</sup> | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ▪ Fast-track processing: <sup>22</sup>   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| ❖ Dublin procedure:                      | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| ❖ Admissibility procedure:               | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| ❖ Border procedure:                      | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| ❖ Accelerated procedure: <sup>23</sup>   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| ❖ Other:                                 | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |

#### 2. Are any of the procedures that are foreseen in the law, not being applied in practice?

- ☐ Yes ☒ No

## 3. List of authorities that intervene in each stage of the procedure

Stage of the procedure	Competent authority (EN)	Competent authority (insert)
Application <ul style="list-style-type: none"> <li>❖ At the border</li> <li>❖ On the territory</li> </ul>	<ul style="list-style-type: none"> <li>❖ State Border Guard Service</li> <li>❖ State Migration Service of Ukraine</li> </ul>	<ul style="list-style-type: none"> <li>❖ Державна прикордонна служба</li> <li>❖ Державна міграційна служба України</li> </ul>
Dublin	n/a	n/a
Refugee status determination	State Migration Service of Ukraine	Державна міграційна служба України
First appeal	<ul style="list-style-type: none"> <li>❖ State Migration Service of Ukraine</li> <li>❖ Administrative Court</li> </ul>	<ul style="list-style-type: none"> <li>❖ Державна міграційна служба України</li> <li>❖ Адміністративний суд</li> </ul>
Onward appeal	<ul style="list-style-type: none"> <li>❖ Appeal Administrative Court</li> <li>❖ The Supreme Court</li> </ul>	<ul style="list-style-type: none"> <li>❖ Апеляційний адміністративний суд</li> <li>❖ Верховний Суд</li> </ul>
Subsequent application	State Migration Service of Ukraine	Державна міграційна служба України

## 4. Determining authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
State Migration Service of Ukraine	4,912	Ministry of Internal Affairs	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Source:

- ❖ On approval of the Regulation on the State Migration Service of Ukraine, the official web portal of the Parliament of Ukraine, available in Ukrainian [here](#).
- ❖ Statistic information, State Migration Service of Ukraine, available in Ukrainian [here](#).

<sup>21</sup> For applications likely to be well-founded or made by vulnerable applicants.

<sup>22</sup> Accelerating the processing of specific caseloads as part of the regular procedure, without reducing procedural guarantees.

<sup>23</sup> Entailing lower procedural safeguards, whether labelled as “accelerated procedure” in national law or not.

The SMS was established in 2010 as a governmental institution coordinated by the Mol.<sup>24</sup> The SMS's competence in asylum is part of a broader set of tasks, including various migration policy aspects. The SMS is a central executive body that implements state policy in the areas of migration, including combating irregular migration, citizenship, registration of individuals, refugees, and other categories of migrants prescribed by law.<sup>25</sup> In 2023, the SMS annual budget was set at 4,305 billion UAH.<sup>26</sup> The total number of people responsible for making decisions on asylum applications is 53 persons.

Regarding its internal structure, the SMS has different departments and units dealing with various tasks assigned by the Regulation on the SMS. The structure also includes the headquarters based in Kyiv and the territorial bodies of the SMS.<sup>27</sup> A territorial body of the SMS is a primary authority responsible for accepting and making decisions on asylum applications.<sup>28</sup>

Overall, the SMS has 23 territorial bodies.<sup>29</sup> However, only 12 of them accept asylum applications. Thus, in case a person resides in a region where a territorial body of the SMS does not accept asylum applications they have to apply to the neighbouring region. One territorial body of the SMS which accepts applications covers 1-3 regions. It is worth noting that the legislation does not require specifying a fixed number of branches that accept applications. Thus, it is the SMS that has anchored this function to a limited number of branches.

Considering the status of Ukraine as a candidate for membership in the EU, in 2023 the SMS and EUAA have outlined the possible cooperation in awareness raising and workshops in the field of asylum. However, the SMS is not receiving any financial or legal support from EUAA.<sup>30</sup>

There is no separate unit/staff which would work on the quality assurances. However, the structure of the SMS and the flow of the asylum procedure inherently allow for regular quality checks through the review at the central SMS level of the draft assessments prepared by the regional MS asylum units.

Also, the UN Refugee Agency (UNHCR) has been present in Ukraine since 1994 and plays a crucial role in supporting the government's efforts to protect refugees and asylum seekers. Its mission includes advocacy for effective asylum systems, combating statelessness, ensuring protection for vulnerable individuals, and fostering local integration. The executive partners of the UNHCR as R2P, the Tenth of April, ROKADA, Neeka play a pivotal role in various types of assistance to asylum seekers and refugees.

## 5. Short overview of the asylum procedure

Ukraine became a State Party to the 1951 Convention and its 1967 Protocol without reservations on 10 January 2002. In addition, Ukraine has also become a State Party to nearly all relevant human rights conventions, which includes both International Covenants,<sup>31</sup> and the European Convention on Human Rights.

Back on 24 December 1993, the Ukrainian Parliament adopted the Law on Refugees which stayed in force until 31 July 2001. Further Law on Refugees remained in force from 21 June 2001 to 04 August 2011. On 08 July 2011, Ukraine adopted the Law on Refugees and Persons in Need of Complementary or Temporary Protection which has been amended several times and remains in force to this day.

---

<sup>24</sup> SMS, *General Information*, available in Ukrainian [here](#).

<sup>25</sup> Regulation on the State Migration Service of Ukraine.

<sup>26</sup> Ministry of Finance of Ukraine, *Budget for 2023*, available in Ukrainian [here](#).

<sup>27</sup> SMS, *Organisational structure*, available in Ukrainian [here](#).

<sup>28</sup> Section (II)(2.1) Rules for the Consideration of Applications.

<sup>29</sup> SMS, *Territorial Bodies of the SMS*, available in Ukrainian [here](#).

<sup>30</sup> Information provided by the SMS.

<sup>31</sup> International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights. UN Human Rights Treaty Bodies, 'Ratification Status for Ukraine', available [here](#).

The Law on Refugees offers two forms of protection: refugee status and the status of a person in need of complementary protection. The national temporary protection status has never been activated. Hence, no one so far has received temporary protection granted in Ukraine.

The notion given to the “refugee” aligns with the 1951 Convention and its 1967 Protocol, i.e., a person who owns a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.<sup>32</sup> While complementary protection status is conferred to a person who had to arrive in Ukraine due to a threat to their life and safety in a country of origin.<sup>33</sup>

The SMS is the principal executive agency responsible for the implementation of the migration and asylum policy.<sup>34</sup>

Overall, the Ukrainian legislation aligns with international standards, specifically with regard to the legislative regulation of the asylum procedure.<sup>35</sup> Ukrainian laws assure access to social services, medical care, housing, and labour for asylum seekers, refugees, and persons in need of complementary protection.<sup>36</sup>

The steps of the asylum procedure may be described as follows:

#### ❖ Making an application

In case of regular crossing the border, a person has five business days to make an application to a territorial body of the SMS. In Ukrainian legislation “making an application” is described as “an application for recognition as a refugee or a person in need of complementary protection”.<sup>37</sup>

In case of irregular crossing of the border, a person should without delay address a territorial body of the SMS for making an application.

In its 2009 resolution, the Plenum of the Supreme Administrative Court of Ukraine clarified that the term “without delay” must be understood as acting in good faith, at the earliest opportunity, i.e., without unreasonable delays.<sup>38</sup>

When crossing the border irregularly, a person may also address the SBGS with the intent to make an application. In such cases, a person should provide an explanation for the irregular border crossing into Ukraine. Following this, the SBGS shall hand over a person to the territorial body of the SMS within 24 hours.

When a person residing in Ukraine on a regular basis finds themselves in circumstances when they cannot return to the country of their origin, a person shall address a territorial body of the SMS for making an application, until the end of the period of regular stay in Ukraine.<sup>39</sup>

---

<sup>32</sup> Article 1(1)(1) Law on Refugees.

<sup>33</sup> Article 1(4,13)(1) Law on Refugees.

<sup>34</sup> SMS, *General Framework*, available [here](#).

<sup>35</sup> Coalition of Non-Governmental Organisations, *Interim report “State of observance of the rights of refugees, asylum seekers and stateless persons in Ukraine”*, 2020, available [here](#).

<sup>36</sup> Article 13, 15, Law on Refugees.

<sup>37</sup> Part II Law on Refugees.

<sup>38</sup> Plenum of the Supreme Administrative Court of Ukraine, *Resolution on Court Practice of Consideration of Disputes Concerning Refugee Status and a Person in Need of Complementary or Temporary Protection, Forced Return and Forced Expulsion of a Foreigner or Stateless Person from Ukraine and Disputes Related to the Stay of a Foreigner or Stateless Person in Ukraine* no.1, 25 June 2009, available in Ukrainian [here](#).

<sup>39</sup> Article 5(1-2, 5) Law on Refugees.

### ❖ **Registering and lodging the application**

A territorial body of the SMS shall decide on registering and lodging the application within the same business day on which the application was made.<sup>40</sup> Ukrainian law refers to this stage as “deciding on the acceptance of an application for recognition as a refugee or a person in need of complementary protection”.<sup>41</sup>

If the SMS registers and lodges the application, it issues the individual a certificate of asylum seeker (MSID, “*dovidka*”) which is valid for one month.<sup>42</sup> The SMS withdraws the national passport and/or identity documents from the applicant at this stage.<sup>43</sup>

The territorial body of the SMS may refuse to lodge the application in the following cases:

- ❖ a person is claiming to be another person;
- ❖ subsequent application when the circumstances of an applicant have not changed since the previous application.<sup>44</sup>

When the person appeals against the refusal to lodge the application and confirms the appeal, the territorial body of the SMS issues an MSID for three months. The appeal is confirmed by the copy of the complaint against the decision of the territorial body of the SMS with supporting documents of its sending or, in case of appeal in court, a copy of the statement of claim with a stamp of the court on its acceptance or a copy of the court decision to open proceedings or a duly executed court summons.<sup>45</sup>

### ❖ **First instance procedure**

The preliminary examination of the lodged application is performed by a territorial body of the SMS. At this stage, a territorial body of the SMS shall decide on the asylum application within 15 business days. In Ukrainian legislation, this stage is described as “preliminary consideration of applications”.<sup>46</sup>

During this stage, a territorial body of the SMS shall complete the following tasks:

- ❖ conduct an interview with the applicant;
- ❖ examine the information submitted by the applicant;
- ❖ draft a written conclusion regarding the decision of whether to proceed with further examination.

In case of a positive decision to proceed with the examination of the application, the term of MSID is extended for six months.<sup>47</sup>

The grounds for the rejection are the following:

- ❖ application is manifestly unfounded, i.e., the conditions set forth in Article 1 of Law on Refugee for refugee status or person in need of complementary protection are absent;
- ❖ in case of a false identity of an applicant;
- ❖ subsequent application when the circumstances of an applicant have not changed since the previous application.<sup>48</sup>

The further examination of the application after the preliminary examination stage should be carried out during two months. The duration of the examination can be extended for up to three months.<sup>49</sup> In Ukrainian

---

<sup>40</sup> Section II(2.2) Rules for the Consideration of Applications.

<sup>41</sup> Section II Rules for the Consideration of Applications.

<sup>42</sup> Section III(3.2) Rules for the Consideration of Applications.

<sup>43</sup> Section III(3.1) Rules for the Consideration of Applications.

<sup>44</sup> Article 5(6) Law on Refugees.

<sup>45</sup> Section II(2.5) Rules for the Consideration of Applications.

<sup>46</sup> Section IV Rules for the Consideration of Applications.

<sup>47</sup> Section IV(4.1-4.5) Rules for the Consideration of Applications.

<sup>48</sup> Article 8(6) Law on Refugees.

<sup>49</sup> Article 9(1) Law on Refugees.

legislation, this stage is referred to as the consideration of an application after the positive decision to proceed with the examination of the application was upheld.<sup>50</sup>

A territorial body of the SMS performs the following steps during the examination stage:

- ❖ conduct an interview with the applicant;
- ❖ send a request to the Security Service of Ukraine regarding the applicant;
- ❖ collect all documents concerning the application received in the course of the examination;
- ❖ draft a written conclusion in favour or with refusal in granting the status of refugee or person in need of complementary protection.<sup>51</sup>

The completed package of documents shall be sent to the SMS headquarters. The headquarters shall examine the received profile of the applicant within one month and decide on granting the relevant status. This time limit can be prolonged up to three months. The decision of the SMS shall be sent to a territorial body of the SMS. Within seven business days:

- ❖ In case of a favourable decision, a territorial body of the SMS shall issue a refugee certificate or a certificate of a person in need of complementary protection.
- ❖ In case of a negative decision, an SMS shall send to the applicant a written notice setting out the reasons for the refusal and explaining the procedure for appealing such a decision.<sup>52</sup>

#### ❖ Appeal procedure

Law on Refugees provides administrative review of asylum decisions before the SMS and judicial review (three instances) before the court in administrative proceedings. In case the territorial body of the SMS refuses to accept the application at the registering/lodging stage or if negative decision to proceed to further examination of an application is made, a person may appeal the decision either before the SMS or Administrative Court within five business days. Similarly, a refusal to grant the status of refugee or person in need of international protection can be appealed before the Administrative Court within the same timeframe.<sup>53</sup>

## B. Access to the procedure and registration

### 1. Access to the territory and push backs

#### Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? ☐ Yes ☒ No
2. Is there a border monitoring system in place? ☒ Yes ☐ No
3. Who is responsible for border monitoring? ☒ National authorities ☒ NGOs ☐ Other
4. How often is border monitoring carried out? ☐ Frequently ☒ Rarely ☐ Never

Foreigners enter and leave Ukraine through checkpoints on the state border based on a national passport and in the presence of a visa, unless another entry procedure is established by the legislation or international treaties of Ukraine.<sup>54</sup> Ukrainian legislation provides only three types of visas for foreigners: transit, short term, and long-term.<sup>55</sup>

Prior to 2022, potential asylum seekers were only granted access if they clearly articulated their intention to apply for asylum immediately, even if they entered Ukraine on another basis, such as an invitation from

<sup>50</sup> Section V Rules for the Consideration of Applications.

<sup>51</sup> Section V(5.1) Rules for the Consideration of Applications.

<sup>52</sup> Article 10(13) Law on Refugees.

<sup>53</sup> Articles 8, 10, 12 Law on Refugees.

<sup>54</sup> Article 9 Law on the Legal Status of Foreigners and Stateless Persons.

<sup>55</sup> MFA, *Visa to Ukraine*, 23 October 2019, available in Ukrainian [here](#).



friends, a student visa, or a tourist visa. According to the applicable legislation and instructions, the SBGS has a right to conduct a detailed interview when they suspect that the declared intention of the visit is not credible. During the process, they are obliged to provide an interpreter if needed.

Based on various sources of information, R2P is aware that during such clarification interview, the applicant may not articulate their wish to apply for asylum while being denied access for other reasons. At the same time, if they express such wish only after the decision of the SBGS to deny access to the territory, the SBGS often consider such attempts as an abuse of the procedure and do not accept the asylum claim as credible ground, even if the applicant is originally from the refugee-producing country.<sup>56</sup>

The ECtHR case *O.M. and D.S. v. Ukraine* illustrates the example of serious difficulties asylum seekers faced when trying to access asylum procedures while at the Ukrainian border.<sup>57</sup> The SBGS removed the first applicant from Ukraine without duly examining her claim despite her articulated intention to make an asylum application supplying it with the explanation.<sup>58</sup> In addition, the lawyer, representatives of the UNHCR, and the Parliament Commissioner were not allowed to meet with the applicants.<sup>59</sup>

According to the statistical data, in 2023, the SBGS issued 491 refusals to allegedly irregular migrants and detained 2,055 irregular migrants for illegally crossing the border, breaching the rules of staying in the territory of Ukraine and other violations.<sup>60</sup>

However, after introducing the law 2952-IX in February 2023, which is discussed in Section “[Legal access to the territory](#)”, R2P is unaware of any cases of seeking asylum at the border.

### 1.1. Border monitoring

In 2017, the UNHCR with the support of the EU Delegation in Ukraine, approached the Mol with a request to establish a mechanism for independent monitoring of access to asylum procedures in international transit zones at airports. The Mol provided a detailed response, which, while not immediately agreeing to implement such monitoring in the restricted areas of Ukrainian airports, including Boryspil, pointed to the need for a preliminary analysis of existing good practices in EU Member States.<sup>61</sup>

Since March 2022, monitoring has been carried out by UNHCR and partner organisations at border crossing points.

The UNHCR jointly with partner NGOs, R2P, NEEKA and The Tenth of April has been conducting monitoring at 30 border crossing points between Ukraine and Poland, Slovakia, Hungary, Romania and Moldova. Monitors have been providing legal aid and social assistance for those crossing the borders including for third-country nationals. Also, in 2023 R2P was examining access to the basic needs (potable water, WCs, shelters, heating, etc) in the border crossing points.<sup>62</sup> People leaving Ukraine named the security situation the main reason for the movement. Monitors also reported that third-country nationals frequently face obstacles to leave the country.<sup>63</sup> Individuals from the Russian Federation, Belarus, Uzbekistan, and Azerbaijan faced significant challenges, as they require visas to enter Moldova and the EU. With border closures and limited air connections, they are unable to travel directly to their home countries. As a result, these individuals find themselves in limbo, unable to leave Ukraine or legally remain there.<sup>64</sup>

---

<sup>56</sup> R2P.

<sup>57</sup> ECtHR, *O.M. and D.S. v. Ukraine*, App. 18603/12, Judgment of 15 September 2022, available [here](#).

<sup>58</sup> ECtHR, *O.M. and D.S. v. Ukraine*, App. 18603/12, Judgment of 15 September 2022, available [here](#), para. 21-31, 95.

<sup>59</sup> ECtHR, *O.M. and D.S. v. Ukraine*, Application no. 18603/12, Judgment of 15 September 2022, available [here](#), para. 41.

<sup>60</sup> SBGS, *Results of Operational and Service Activities of the State Border Guard Service*, available [here](#).

<sup>61</sup> UNHCR.

<sup>62</sup> R2P, *Arrangement of International Border Crossing Points and Areas in front of them. Monitoring Study (September 2022 - February 2023)*, 04 August 2023, available in Ukrainian [here](#).

<sup>63</sup> UNHCR, *Border Monitorings*, September-December 2023, available [here](#).

<sup>64</sup> UNHCR, *International Border Crossing Points*, November 2023, available [here](#).

In addition, monitors emphasised that the closure of border crossing points, such as Mohyliv-Podilskyi and Bronnytsia, during air raid alerts has a severe impact on travellers, including families with children. They are forced to wait in long queues in harsh winter conditions until the points reopen, with no bomb shelters available for civilians at these locations.<sup>65</sup>

R2P monitors concluded that at the time of the monitoring, the international checkpoints and the areas in front of them were not adequately provided with the conditions necessary to meet the basic needs of people.<sup>66</sup>

In addition, the Parliament Commissioner has access to the places of passenger transit facilities at state border crossing points without prior notice of the time and purpose of the visit.<sup>67</sup>

## 1.2. Legal access to the territory

Due to the lack of possibility to directly submit an application for international protection at the Ukrainian embassy or consulate in their country, asylum seekers wishing to arrive in Ukraine to apply for international protection must possess a valid passport document and visa.<sup>68</sup> As humanitarian visas are not provided for in Ukrainian law, asylum seekers may obtain a visa to enter Ukraine for another purpose, such as tourism or business, and then approach Ukrainian migration authorities to apply for international protection. This approach may be driven by a desire to avoid prosecution by the Ukrainian authorities or the danger of an irregular border crossing.

### 1.2.1. Expressing the intention to seek asylum at the border

The Ukrainian legislation does not foresee the specific border procedure.

In case of irregular crossing of the border, a person may express the intent to apply for international protection to the SBGS.<sup>69</sup> A person shall fill in the written form indicating the grounds of the intent to apply for asylum and reasons for the irregular crossing of the border. Following this, the SBGS has 24 hours after receiving the explanation for the irregular crossing of the border to refer the asylum seeker to the SMS.<sup>70</sup>

According to the Law on Refugees in order to declare their intention to seek asylum, a person has to inform the official border guards of their intentions, but often foreigners do not speak the language well enough to communicate effectively. However, through its above-listed sources, R2P had information that such interpretation is not always ensured by the SBGS. For those applicants who manage to articulate their asylum claim and are admitted to the territory the interpretation is usually provided through the assistance of their relatives/friends in Ukraine, or civil society organisations.

To address this issue, in January 2022, the Government amended the legislative act regulating the cooperation of the SBGS and the SMS regarding asylum applications. This change aimed to prevent unsuccessful submissions at border-crossing points due to a lack of knowledge and understanding of the Ukrainian language.<sup>71</sup> In order to ensure the possibility to apply for protection by persons, who do not speak/understand Ukrainian, while being on the state border of Ukraine, the SBGS officers shall engage, including remotely, an interpreter from the informational resource “Registry of Interpreters”, managed by the SMS. Another person, who fluently speaks the Ukrainian language and the language which is

---

<sup>65</sup> UNHCR, *International Border Crossing Points*, December 2023, available [here](#).

<sup>66</sup> Ibid, e.g.19.

<sup>67</sup> Article 13(8) Law on the Parliament Commissioner.

<sup>68</sup> Article 9 Law on Foreigners.

<sup>69</sup> Article 5(2) Law on Refugees.

<sup>70</sup> Para. 4 SBGS Instruction.

<sup>71</sup> Committee of Ministers, *Communication from Ukraine concerning the case of Kebe and Others v. Ukraine*, 23 January 2023, available [here](#).

necessary for interpretation or written translation from Ukrainian to another language, also, can be engaged by the SBGS officer.<sup>72</sup>

The number of applications received through the SBGS by the SMS remains comparatively small. It should be also mentioned that statistical reports of SMS and SBGS do not match supposedly due to improperly linked databases and low quality of data communication. In addition, it is monitored that SBGS has limited capacity to identify persons with international protection needs, as well as other vulnerable persons, such as victims of trafficking, among the flow of migrants and to prevent their refoulement.

Throughout 2020 and 2021, the UNHCR continued to receive reports of asylum-seekers being refused access to the asylum process by the SBGS, leading to their return to their country of departure. For instance, on 23 December 2020, an asylum-seeker from Iraq, despite expressing his intent to seek asylum verbally and in writing in Arabic and English to the SBGS officers, was sent back to his departure country. Similarly, on 13 July 2021, an asylum-seeker from Tajikistan, upon informing the SBGS of his asylum intentions, was denied entry at Boryspil International Airport near Kyiv. Following a monitoring visit by the UNHCR partner and the representative of the Parliament Commissioner, the asylum-seeker was eventually permitted entry into Ukraine to apply for asylum.<sup>73</sup>

Persons from refugee-producing countries face obstacles when trying to entry to Ukraine in large numbers. This has been the case of, for example, Syrian nationals, of whom 181 were prohibited from entry in 2020, and 291 in 2019.<sup>74</sup>

In 2021, 441 foreigners applied to the SBGS officers with asylum applications, among them 357 citizens of Afghanistan who arrived in Ukraine on evacuation flights in August-September 2021.<sup>75</sup>

However, in 2022, the situation was changed drastically due to the full-scale invasion and further evolved in 2023 with the adoption of the Law no. 2952-IX.

In February 2023, the Parliament adopted the Law on Amendments to Certain Legislative Acts on Protection of the State Border no. 2952-IX which limits the right to apply for asylum at the border. In addition, the proposal grants the State Border Guard Service and the Security Service's discretionary powers to forcibly deport foreigners and stateless persons without a court order. In the stage of Draft Law, the 2952-IX was widely criticised by UNHCR<sup>76</sup> and the NGO sector.<sup>77</sup>

New legal amendments provide for the non-admission of third-country nationals to the territory of Ukraine and the Ukrainian asylum procedure in the following circumstances:

- ❖ when a person concerned has received an entry ban by an authorised body;
- ❖ when a person concerned has reached Ukraine from a country where their life and freedom are not in danger;
- ❖ when a person concerned irregularly attempts or crosses the border of Ukraine to a third country, while martial law is in force;
- ❖ when a person concerned is returned to Ukraine under a readmission agreement, while martial law is in force.<sup>78</sup>

---

<sup>72</sup> Section I(3) SBGS Instruction.

<sup>73</sup> Committee of Ministers, *Communication from an NGO (16/11/2021) in the case of Kebe and Others v. Ukraine (Application No. 12552/12) and reply from the authorities*, 23 November 2021, available [here](#).

<sup>74</sup> Committee of Ministers, *Communication from Ukraine concerning the case of Kebe and Others v. Ukraine*, 14 November 2018, available [here](#).

<sup>75</sup> Committee of Ministers, *Communication from Ukraine concerning the case of Kebe and Others v. Ukraine*, 23 January 2023, available [here](#).

<sup>76</sup> UNHCR, *UNHCR Comments on the Draft Law of Ukraine on Amendment of Certain Laws of Ukraine on the Protection of the State Border of Ukraine*, November 2022, available [here](#).

<sup>77</sup> Committee of Ministers, *Communication from Ukraine concerning the case of Kebe and Others v. Ukraine*, 23 January 2023, available [here](#).

<sup>78</sup> See legislation [here](#).

These new provisions do not include an assessment of individual circumstances, nor do they offer the possibility to appeal decisions denying access to the territory or the asylum procedure.<sup>79</sup>

The absence of an effective judicial remedy against decisions made by the SBGS to prohibit entry into the territory poses a significant gap. This gap is particularly concerning given the practical barriers encountered by asylum seekers attempting to access the asylum process in airport transit zones and ports. Despite the acknowledgement by the Government of Ukraine regarding the issue,<sup>80</sup> the lack of an effective appeal mechanism against entry denials remains unresolved. While there are provisions for appealing such decisions in domestic law, the lack of suspensive effect and inadequate guarantees for prompt examination hinder its effectiveness. The lack of access to a lawyer or interpreter in transit zones is a further serious obstacle to exercising a judicial remedy.<sup>81</sup>

According to State information, in 2022, 13 foreigners applied to the SBGS officers with asylum applications (including 8 – before 24 February 2022 and 5 – after 24 February 2022). Additionally, 6 foreigners applied while staying in the temporary detention facilities at the border in 2022 and one foreigner filed an asylum application with the SBGS officer during their stay in the temporary detention facilities in 2023. As of 2024, no one has applied for protection at the border-crossing points.<sup>82</sup>

Regarding resettlement, the UNHCR used to provide resettlement for a very small number of refugees in Ukraine. However, due to the decreasing number of slots globally, the UNHCR in Ukraine no longer receives a resettlement quota.<sup>83</sup>

## 2. Registration of the asylum application

### Indicators: Registration

1. Are specific time limits laid down in law for making an application? ☒ Yes ☐ No  
 ❖ If so, what is the time limit for making an application? 5 business days
2. Are specific time limits laid down in law for lodging an application? ☒ Yes ☐ No  
 ❖ If so, what is the time limit for lodging an application? 1 business day
3. Are making and lodging an application distinct stage in the law or in practice? ☒ Yes ☐ No
4. Is the authority with which the application is lodged also the authority responsible for its examination? ☒ Yes ☐ No
5. Can an application for international protection for international protection be lodged at embassies, consulates or other external representations? ☐ Yes ☒ No

The territorial body of the SMS is responsible for registering the asylum application. No other authority may decide on accepting the application at the first instance. Asylum applications at the external representation body of Ukraine are not foreseen.

It is worth mentioning *the S.A. v. Ukraine*<sup>84</sup> case before the ECtHR in the context of the SMS's exclusive authority to register asylum applications. In 2019, a Tajik citizen while detained at the pre-trial detention facility filled the asylum application form which was sent by the police department to the SMS. The SMS, without examining the asylum application on the merits, instructed the applicant to submit the application

<sup>79</sup> UNHCR, *UNHCR Comments on the Draft Law of Ukraine on Amendment of Certain Laws of Ukraine on the Protection of the State Border of Ukraine*, November 2022, available [here](#).

<sup>80</sup> Committee of Ministers, *Communication from Ukraine concerning the case of Kebe and Others v. Ukraine (Application No. 12552/12)*, *Nur Ahmed and Others v. Ukraine (Application No. 42779/12)* and *M.S. v. Slovakia and Ukraine (Application No. 17189/11)*, 2017, available [here](#).

<sup>81</sup> Committee of Ministers, *Communication from Ukraine concerning the case of Kebe and Others v. Ukraine*, 23 January 2023, available [here](#).

<sup>82</sup> Committee of Ministers, *1507th meeting (September 2024) (DH) – Action plan (02/07/2024) – Communication from Ukraine concerning the group of cases of Kebe and Others v. Ukraine*, 11 July 2024, DH-DD(2024)779, available [here](#).

<sup>83</sup> UNHCR, *Durable Solutions*, available [here](#).

<sup>84</sup> ECtHR, *S.A. v. Ukraine*, Application no. 7445/21, 24 February 2022.

in person or through the prison administration where the applicant was detained. The second attempt to submit the asylum application was never received by the SMS. Further, the General Prosecutor's Office of Ukraine decided to extradite the applicant to Tajikistan. The appeal against the extradition decision was refused by a final decision of the Kyiv Court of Appeal. The domestic courts ruled that the decision to extradite the applicant had been lawful, particularly based on information provided by the SMS indicating that the applicant had not lodged an asylum application.

Although the Court found a violation of the procedural limb of Article 3, the Government's position in the case reveals the strict interpretation of the mechanism of duly making and registering the asylum application.

### **Expressing the intention to seek asylum in a Migration Custody Centre**

If a person declares the intent to make an application to the MCC administration, the latest shall provide the information regarding the possibility of addressing the application to a territorial body of the SMS. In addition, the MCC administration notifies immediately of the intent to a territorial body of the SMS and the relevant authority body which placed a person to the MCC by means of electronic communication.

In case a person applies to the MCC administration for the delivery of an application for recognition as a refugee or a person in need of complementary protection for consideration by a territorial body of the SMS, the MCC administration shall send the application by recorded post to a territorial body of the SMS on the same day with simultaneous notification of this body by means of electronic communications. A copy of the notice of sending the application of a person and the e-mail shall be attached to the person's personal file.<sup>85</sup>

A territorial body of the SMS within the next business day shall inform MCC of accepting or refusing to lodge the application. A person shall stay in the MCC before the final decision on the application.

In 2023, as R2P reported, persons can freely submit the intent to apply for asylum to the Volyn MCC administration if they wish. However, all applicants receive a letter from the Volyn territorial body of the SMS with a refusal to accept the application, which brings them into legal limbo and puts them at risk of deportation.<sup>86</sup>

In a situation where the authorities initiate the expulsion of such a person, the making of an application for refugee status may be taken into account by the court but does not have an automatic suspensive effect. At the same time, the court practice on this issue is not uniform, since the making of an application does not mean its automatic acceptance and consideration. There is a case in the practice of the R2P when the expulsion took place under the above circumstances, despite proper legal assistance.

In 2022, 20 persons submitted asylum applications during their stay in MCC and 24 persons in 2023.<sup>87</sup>

### **Registration at the territorial body of the SMS**

In case of regular crossing the border, a person has five business days to make an application to the territorial body of the SMS.<sup>88</sup> In case of irregular crossing the border with an intent to be recognised as a refugee or person in need of complementary protection, a person is obliged to immediately address the territorial body of the SMS for making the asylum application.<sup>89</sup>

---

<sup>85</sup> Section III(13) Instruction on the Detention of Foreigners.

<sup>86</sup> R2P, *Internal report*, 2023.

<sup>87</sup> Committee of Ministers, *1507th meeting (September 2024) (DH) – Action plan (02/07/2024) – Communication from Ukraine concerning the group of cases of Kebe and Others v. Ukraine*, 11 July 2024, DH-DD(2024)779, available [here](#).

<sup>88</sup> Article 5(1) Law on Refugees.

<sup>89</sup> Article 5(2) Law on Refugees.



The territorial body of the SMS shall decide on registration and lodging of the application within the same business day on which the application was made.<sup>90</sup>

Ukrainian legislation does not distinguish the stage of registering and lodging. As soon as the intention to apply for asylum is registered, the procedure is completed and moved to the preliminary examination. During the registration stage the territorial body of the SMS:

- ❖ registers the application and submitted documents;
- ❖ acquaints the applicant or their legal representative with the procedure for making a decision on their application, their rights and obligations under their own signature;
- ❖ performs fingerprinting of the person;
- ❖ if necessary, refers the person for examination to establish their age;
- ❖ explains the procedure for applying for free legal aid;
- ❖ enters the received information into the centralised information system.<sup>91</sup>

The territorial body of the SMS issues an MSID, a document confirming that an asylum seeker has requested protection in Ukraine, upon the lodging of the asylum application which is valid for one month. MSID certifies the legality of a person's stay on the territory of Ukraine until their status is finally determined or until they leave Ukrainian territory.<sup>92</sup> However, MSID is not an ID document in terms of Ukrainian legislation. Considering that national passports and IDs are subject to withdrawal when lodging the application, the asylum seeker is deprived of any ID while his case is under examination. It restricts their access to medical and social services.

The territorial body of the SMS may refuse to register the application in the following cases:

- ❖ a person is claiming to be another person;
- ❖ if the applicant has previously been denied recognition as a refugee or a person in need of complementary protection.<sup>93</sup>

The list of conditions for refusal is exhaustive and the territorial body of the SMS cannot not invoke other reasons to reject the applications at this stage. Additionally, the territorial body of the SMS shall not examine the case on merits during the registration of the application.

However, there are cases when the territorial body of the SMS denied registering/lodging the application invoking the absence of the conditions provided for in Article 1(1,13) of the Law on Refugees, i.e., conditions required for refugees or persons in need of complementary protection. The Supreme Court emphasised that by denying registration for the mentioned reasons the SMS violated the procedure for reviewing a person's application, which led to erroneous and premature conclusions.<sup>94</sup>

When a person appeals the refusal to register and lodge the application within five working days and confirms the appeal, the SMS issues an MSID for three months.<sup>95</sup> The appeal is confirmed with a copy of the complaint against the decision of the territorial body of the SMS with supporting documents of its sending or, in case of appeal in court, a copy of the statement of claim with a stamp of the court on its acceptance or a copy of the court decision to open proceedings or a duly executed court summons.<sup>96</sup>

Asylum seekers face a number of hurdles when trying to apply for asylum in Ukraine.

First of all, failure to comply with the application deadline of five days even for valid reasons (such as illness, general illiteracy or lack of knowledge of the Ukrainian language and/or ignorance of the existence

---

<sup>90</sup> Section II(2.2) Rules for the Consideration of Applications.

<sup>91</sup> Article 7(12) Law on Refugees.

<sup>92</sup> Article 1(1)(3) Law on Refugees.

<sup>93</sup> Article 5(6) Law on Refugees.

<sup>94</sup> Supreme Court, case no. 815/1016/16, 26 February 2018, available in Ukrainian [here](#).

<sup>95</sup> Section II(2.5) Rules for the Consideration of Applications.

<sup>96</sup> Section II(2.5) Rules for the Consideration of Applications.

of an international protection procedure) may lead to a significant basis for denial of asylum by the SMS and the courts.<sup>97</sup>

Regarding the acceptance of the made application, prior to a full-scale invasion, the SMS had accepted the non-binding position of the Plenum of the Supreme Administrative Court of 25 June 2009 no. 1.<sup>98</sup> The Plenum pointed out that the legislation does not provide the sanctions for making a delayed application for refugee status. In such cases, persons may only be subject to a fine under the Code of Administrative Offences. Failure to accept an asylum application for consideration and the forced return or expulsion of an applicant would be contrary to the protection of fundamental rights under the 1951 Convention. Failure to comply with the deadline may not be a ground for refusal to accept an application for recognition as a refugee or a person in need of complementary protection, but can only be taken into account when considering the relevant application.

After 24 February 2022, the territorial body of the SMS began to invoke the non-respect of the time limit as grounds for rejecting the asylum application. In such cases, the SMS does not issue a written notice of refusal to accept the application but instead provides an oral denial, as the asylum legislation does not recognise failure to meet the deadline as a legal ground for refusal to accept it. The relevant court practice demonstrates that the courts recognise that the following actions of the SMS, namely non-acceptance of an application due to the missed deadline for applying are unlawful inaction and oblige the SMS to accept the application of the asylum seeker.<sup>99</sup> At the same time, there are judgements where the courts consider that the SMS has the right not to accept applications due to the violation of the deadline for filing the relevant application.<sup>100</sup>

Also, after the full-scale invasion, the SMS territorial bodies 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”.<sup>101</sup>

In addition, the SMS may refer to Article 9 of the Convention on Refugees of 1951 invoking national security considerations. In public comments on the Draft Law of Ukraine on Amendment of Certain Laws of Ukraine on the Protection of the State Border of Ukraine, UNHCR highlighted that the language of Article 9 does not support the idea that derogation in exceptional circumstances is permissible to the right to apply for international protection.<sup>102</sup>

Furthermore, asylum seekers are sometimes rejected without appropriate legal written notice by the SMS. However, a rejection to register the application should be given in written form<sup>103</sup>. Asylum seekers should submit applications and documents to a territorial body of the SMS personally.<sup>104</sup> Thus, in situations when a territorial body of the SMS verbally refuses applicants to register their documents, applicants have no evidence they visited a territorial body of the SMS and attempted to make an application.

If, on the date of application, the applicant is already in Ukraine without legal grounds, the SMS only accepts applications from such applicants after bringing them to administrative liability, which includes a fine, even if the applicants can explain why they could not apply during their legal stay.

---

<sup>97</sup> Coalition of Non-Governmental Organisations, *Interim report “State of observance of the rights of refugees, asylum seekers and stateless persons in Ukraine”*, 2020, available [here](#).

<sup>98</sup> Resolution of the Plenum of the Supreme Administrative Court of Ukraine on Judicial Practice of Disputes Concerning Refugee Status.

<sup>99</sup> Sixth Administrative Court of Appeal, case no. 320/13964/23, 23 April 2024, available in Ukrainian [here](#); Sixth Administrative Court of Appeal, case no. 320/13292/23, 29 March 2024, available in Ukrainian [here](#).

<sup>100</sup> Sixth Administrative Court of Appeal, case no. 320/12446/23, 19 December 2023, available in Ukrainian [here](#).

<sup>101</sup> R2P&HIAS, *Asylum Seekers and Refugees in Ukraine Addressing Protection Risks During Wartime*, 05 April 2023, available [here](#).

<sup>102</sup> UNHCR, *UNHCR Comments on the Draft Law of Ukraine on Amendment of Certain Laws of Ukraine on the Protection of the State Border of Ukraine*, November 2022, available [here](#).

<sup>103</sup> Section II(2.4) Rules for the Consideration of Applications.

<sup>104</sup> Article 7(1) Law on Refugees.

In 2022 R2P and HIAS conducted a survey among third-country nationals examining their obstacles in obtaining protection in Ukraine after the full-scale invasion. 17 % of the survey respondents reported being fined or detained for irregular stay or entry, or are at risk of deportation to the country they fled. Some respondents were fined when they contacted the SMS to apply for asylum, while others were blocked from obtaining their asylum seeker document (MSID).

Human rights organisations are trying to address the issue of the unacceptance of asylum applications through advocacy activities. Among them – regular communication with relevant authorities, public statements<sup>105</sup> and communication from NGOs with the Committee of Ministries regarding the execution of the *Kebe and Others v. Ukraine* case.<sup>106</sup>

In addition, asylum seekers resort to appealing the refusal of the territorial body of the SMS to accept the application to the court. In 2023, R2P noted<sup>107</sup> that courts of first and second instances in various regions of Ukraine were deciding on the interests of the asylum seekers in the lawsuits regarding the inaction of the territorial body of the SMS in accepting applications.<sup>108</sup>

If the refusal is appealed and a positive court decision is obtained, the SMS shall accept the application. In such cases, it may take 1-2 years from the moment the asylum seeker actually makes an application to the moment the application is duly accepted.<sup>109</sup>

## C. Procedures

### 1. Regular procedure

#### 1.1. General (scope, time limits)

##### Indicators: Regular Procedure: General

- |  |   |
|--|---|
| 1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance:         | 6 months  |
| 2. Are detailed reasons for the rejection at the first instance of an asylum application shared with the applicant in writing? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases at first instance as of end of 2023  | 838   |
| 4. Average length of the first instance procedure in 2023:   | 1-2 years   |

Two principal legislative acts establish the regular asylum procedure:

- ❖ The Law on Refugees of 8 July 2011.
- ❖ Rules for the Consideration of Applications of 7 September 2011 No. 649.

### Preliminary examination

When the asylum application is registered and lodged, the SMS within 15 business days shall examine the application and consider it for further examination.<sup>110</sup> This stage consists of an interview with the applicant, medical screening and preparation of a short assessment for further examination.<sup>111</sup>

<sup>105</sup> R2P, *The position of CSOs regarding the prevention of violation of the rights of refugees during the martial law in Ukraine*, 21 June 2023, available [here](#).

<sup>106</sup> Committee of Ministers, *Communication from NGOs (The European Council on Refugees and Exiles (ECRE), Charitable Fund "Right to Protection" (R2P) and CO "The Tenth of April" (TTA)) (31/08/2023) in the case of Kebe and Others v. Ukraine (Application No. 12552/12) and reply from the authorities (14/09/2023)*, 31 August 2023, available [here](#).

<sup>107</sup> R2P, *Internal report*, 2023.

<sup>108</sup> Kyiv District Administrative Court, case No. 320/13964/23, 19 June 2023, available in Ukrainian [here](#).

<sup>109</sup> R2P.

<sup>110</sup> Section IV(4.1) Rules for the Consideration of Applications.

<sup>111</sup> Section IV(4.1) Rules for the Consideration of Applications.



The assessment must refer to the information relating to the applicant's country of origin, including the titles of the information reports, years and institutions that prepared it, a link to the web addresses, and its correspondence with the statement and information obtained during the interview with the applicant. This conclusion should include references to accurate, up-to-date information from multiple sources.<sup>112</sup>

At this stage, the SMS respects the terms, and by the established deadline either rejects the application, or decides to proceed with further examination, consequently prolonging the MSID.<sup>113</sup>

Grounds for rejection at the preliminary stage are the following:

- ❖ application is manifestly unfounded, i.e., the conditions set forth in Article 1 of Law on Refugee for refugee status or person in need of complementary protection are absent;
- ❖ in case a false identity of an applicant;
- ❖ subsequent application when the circumstances of an applicant have not changed since previous the application.<sup>114</sup>

The first ground is much broader than the concept of “manifestly unfounded” in EU asylum practice, or according to UNHCR's standards. The logic is circular: asylum-seekers have to prove that they need international protection to have an opportunity to present their case in full.<sup>115</sup>

### Further examination

If SMS decides on the processing of the documents to determine the issue of recognition as a refugee or a person in need of complementary protection, the MSID is extended for six months.<sup>116</sup>

The further examination of the application passed through preliminary examination is performed also by a territorial body of the SMS. The examination of the application should be carried out within two months. The duration of the examination can be extended by up to three months by the head of a territorial body of the SMS upon a substantiated submission of the employee considering the application.<sup>117</sup>

This stage also comprises of an interview, verification of the applicant by the State Service of Security and drafting of an assessment on recognition or refusal of recognition as a refugee or a person in need of complementary protection.<sup>118</sup>

The assessment must refer as well as during the preliminary stage to the information relating to the applicant's country of origin, including the titles of the information reports, years and institutions that prepared it, a link to the web addresses, and its correspondence with the statement and information obtained during the interview with the applicant. This conclusion should include references to accurate, up-to-date information from multiple sources.<sup>119</sup>

However, it was reported that SMS staff members, when preparing assessments for decision-making, use Wikipedia, travel companies' websites and web resources, that were repeatedly exposed to the spread of fake information.<sup>120</sup>

After the assessment, a territorial body of the SMS shall send a conclusion regarding the application and package of the documents to the SMS headquarters.

---

<sup>112</sup> Section IV(4.1) Rules for the Consideration of Applications.

<sup>113</sup> R2P.

<sup>114</sup> Article 8(6) Law on Refugees.

<sup>115</sup> R2P.

<sup>116</sup> Section IV(4.5) Rules for the Consideration of Applications.

<sup>117</sup> Article 9(1) Law on Refugees

<sup>118</sup> Section V(5.1) Rules for the Consideration of Applications.

<sup>119</sup> Section V(5.1) Rules for the Consideration of Applications.

<sup>120</sup> Coalition of Non-Governmental Organisations, *Interim report “State of observance of the rights of refugees, asylum seekers and stateless persons in Ukraine”*, 2020, available [here](#), e.g. 29.

The SMS headquarters shall examine the received profile of the applicant within one month and decide on granting the relevant status. This time limit can be prolonged up to three months.<sup>121</sup>

In the course of implementing these measures, the SMS headquarters has the right to:

- ❖ demand submission of additional information from the territorial body of the SMS, which considered the application during previous stages;
- ❖ submit relevant requests to the Ministry of Foreign Affairs of Ukraine, the Ministry of Internal Affairs, the Security Service of Ukraine, other state authorities, local self-government bodies and citizens' associations in case of doubt;
- ❖ return the case for re-examination to the territorial body of the SMS.<sup>122</sup>

A person cannot be recognised as a refugee or a person in need of complementary protection in the following cases:

- ❖ if they committed a crime against peace, a war crime or a crime against humanity and humanity as defined in international law;
- ❖ if they committed a non-political crime outside Ukraine before arriving in Ukraine in order to be recognised as a refugee or a person in need of complementary protection if such an act is classified as a grave or especially grave crime under the Criminal Code of Ukraine;
- ❖ a person guilty of committing acts contrary to the purpose and principles of the United Nations;
- ❖ in respect of whom it has been established that the conditions set forth in Article 1 of Law on Refugee for refugee status or person in need of complementary protection;
- ❖ who, prior to arrival in Ukraine, was recognised in another country as a refugee or a person in need of complementary protection;
- ❖ who, prior to arriving in Ukraine with the intention of being recognised as a refugee or a person in need of complementary protection, resided in a third safe country.<sup>123</sup>

In case of disagreement with the assessment of the territorial body of the SMS that considered the certain asylum case, the SMS headquarters drafts its own written conclusion on recognition or refusal of recognition as a refugee or a person in need of complementary protection.<sup>124</sup> SMS has to perform this task within the established time limit, i.e., one month with a possible extension to three months.

Upon receipt of the decision of the SMS on recognition as a refugee or a person in need of complementary protection, an authorised official of the territorial body of the SMS within seven working days issues a refugee certificate or a certificate of a person in need of complementary protection to each person who has reached the age of sixteen.<sup>125</sup>

On average, the application for asylum is considered for 12 to 24 months from the moment the application is lodged until the decision is taken by the SMS. However, the practice throughout Ukraine is not uniform, for instance in Odesa, the local SMS territorial body in general respects the established terms.<sup>126</sup>

R2P indicated the case, where the final decision in the first instance was taken in less than six months. The application concerned the family member of an already recognised refugee in Ukraine.<sup>127</sup>

In case of a negative decision and further appeals to the national administrative courts, the procedure can last for years.<sup>128</sup> The UNHCR reports that some cases may last for up to five years.<sup>129</sup>

In 2021, 39 foreigners appealed to the Parliament Commissioner about violations of their right to seek asylum due to lengthy consideration of submitted documents or unjustified refusals by the SMS to accept

---

<sup>121</sup> Section VI(6.5) Rules for the Consideration of Applications.

<sup>122</sup> Section VI(6.2) Rules for the Consideration of Applications.

<sup>123</sup> Article 6 Law on Refugee.

<sup>124</sup> Section VI(6.4) Rules for the Consideration of Applications.

<sup>125</sup> Section VI(6.8) Rules for the Consideration of Applications.

<sup>126</sup> R2P.

<sup>127</sup> R2P.

<sup>128</sup> R2P.

<sup>129</sup> UNHCR *Refugees and Asylum-Seekers. Thematic update. Ukraine*, March 2021, available [here](#).

applications. For instance, in September 2021, a citizen of the Republic of Tajikistan, approached the Parliament Commissioner regarding the violation of her right to be recognised as a refugee or a person in need of complementary protection due to the long, over two years, consideration of her application for such status. After the intervention of the Parliament Commissioner, this person was duly documented by the territorial body of the SMS with MSID.<sup>130</sup>

## 1.2. Prioritised examination and fast-track processing

Prioritised examination takes place in case of making an application by the legal representative in the interest of an unaccompanied child. In this case, the territorial body of the SMS shall lodge an application and proceed directly to the examination omitting the preliminary examination stage.<sup>131</sup> A defence counsel, a psychologist and a pedagogue shall be involved in the procedure for recognising a child as a refugee or a person in need of complementary protection.<sup>132</sup>

## 1.3. Personal interview

### Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum applicant in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No
  - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☐ Frequently ☒ Rarely ☐ Never
4. Can the asylum applicant request the interviewer and the interpreter to be of a specific gender? ☐ Yes ☒ No
  - ❖ If so, is this applied in practice, for interviews?

Ukrainian legislation foresees a personal interview with an asylum seeker during the preliminary examination stage after the lodging of the application and during the further examination of the asylum application.<sup>133</sup> There are no grounds for omitting the personal interview.

Article 8 of the Law on Refugees set forth the obligation to interview within 15 days after the lodging of the application during the preliminary examination.

Personal interviews are conducted by a competent official of a territorial body of the SMS.<sup>134</sup>

The Ukrainian legislation foresees the possibility of delivering the interpretation during the personal interview through video conferencing. If an applicant is in detention, the interview may be conducted via video conferencing. In addition, there could be a case, where an appropriate interpreter for a specific language is not available in Ukraine. Prior to the interview, the authorised official of the territorial body of the SMS warns the interpreter of the need to comply with the conditions of confidentiality, which is documented by a receipt for non-disclosure of information contained in the applicant's personal file.<sup>135</sup>

The interview with an unaccompanied child is conducted in the presence of their legal representative, who has submitted an application on behalf of the child, as well as a psychologist and an educator.<sup>136</sup>

<sup>130</sup> Parliament Commissioner, *Annual Report on The State of Observance and Protection of Human and Civil Rights and Freedoms in Ukraine*, 2021, available in Ukrainian [here](#), e.g. 93.

<sup>131</sup> Article 8(1) Law on Refugees.

<sup>132</sup> Section IV(4.2) Rules for the Consideration of Applications.

<sup>133</sup> Section IV(4.1), Section V(5.1) Rules for the Consideration of Applications.

<sup>134</sup> Section IV( 4.1) Rules for the Consideration of Applications.

<sup>135</sup> Section IV( 4.1) Rules for the Consideration of Applications.

<sup>136</sup> Article 9(3) Law on Refugee.

The results of the interview are documented in the relevant interview protocol with the person who has applied for recognition as a refugee or a person in need of complementary protection, signed by this person or their legal representative, interpreter, lawyer, psychologist, or educator in case of their presence at the interview.<sup>137</sup>

### 1.3.1. Interpretation

The SMS should ensure the interpretation during the interview.<sup>138</sup> In Ukraine, persons entered in the Register of Translators (maintained by the SMS) may translate for SMS purposes. However, the register only includes translators with fluency in common languages, so those with rare languages (Tigrinya, Somali, Urdu, Bengali, Swahili, etc.) are often asked to provide their translator and cover the costs.<sup>139</sup>

In 2019, the UNHCR conducted interviews and focus-group discussions to reveal among others the needs of asylum seekers. Regarding the issues with interpretation during the RSD, some asylum seekers emphasised that although the SMS had never demanded that they pay money for services, they had received such demands from their compatriots who provided translation services at the SMS. During the discussion, which was attended by SMS representatives, asylum seekers directly addressed this issue to the SMS and asked them to compile a certified list of interpreters who would not charge asylum seekers. Participants in the UNHCR survey also explained that they are not ready to file formal complaints in such cases because they are afraid of the consequences.<sup>140</sup>

The representative of the Volyn body of the SMS also emphasised the low quality of the translation which complicates the work of government agencies and could undermine their decisions.<sup>141</sup>

The Supreme Court's practice confirms the crucial necessity of the interpretation during the asylum procedure and the obligation of the SMS to ensure the translator during the interview as the decision of the migration service must be made on the basis of information obtained during the interview. The Supreme Court confirms the conclusions of the court of appeal that the migration authority violated the applicant's right to an interpreter as the decision to refuse recognition as a refugee or a person in need of complementary protection was made based on information obtained during the interview with a person in the absence of an Arabic interpreter.<sup>142</sup>

### 1.3.2. Recording and report

The results of the interview are documented in the interview protocol with the person who has applied for refugee status or a person in need of complementary protection, which is signed by this person or his/her legal representative.<sup>143</sup> An asylum seeker also indicates in writing below the interview record that they have read the written statement and that it is accurate. In case a person disagrees or finds information that was not accurate at a later stage they can mention it in the court when appealing a negative decision.

---

<sup>137</sup> Section IV(4.1) Rules for the Consideration of Applications.

<sup>138</sup> Article 8(3) Law on Refugees.

<sup>139</sup> Coalition of Non-Governmental Organisations, *Interim report "State of observance of the rights of refugees, asylum seekers and stateless persons in Ukraine"*, 2020, available [here](#).

<sup>140</sup> UNHCR, *Ukraine 2019 Joint Needs Assessment*, 2019, available in Ukrainian [here](#).

<sup>141</sup> Hromadskyi Prostir, *Access to Justice for Refugees in the Context of COVID-19 in the Spotlight of the Public and Professionals*, 20 November 2021, available in Ukrainian [here](#).

<sup>142</sup> Supreme Court, *case no. 818/168/16*, 23 May 2018, available in Ukrainian [here](#).

<sup>143</sup> Section V( 5.1) Rules for the Consideration of Applications.

## 1.4. Appeal

### Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?

<ul style="list-style-type: none"><li>❖ If yes, is it</li><li>❖ If yes, is it automatically suspensive</li></ul>	<table border="0"><tr><td><input checked="" type="checkbox"/> Yes</td><td><input type="checkbox"/> No</td></tr><tr><td><input checked="" type="checkbox"/> Judicial</td><td><input type="checkbox"/> Administrative</td></tr><tr><td><input checked="" type="checkbox"/> Yes</td><td><input type="checkbox"/> Some grounds <input type="checkbox"/> No</td></tr></table>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Some grounds <input type="checkbox"/> No
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No						
<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative						
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Some grounds <input type="checkbox"/> No						
2. Average processing time for the appeal body to make a decision: 2-8 months

### 1.4.1. First appeal

Ukrainian Refugee Law provides for both administrative and judicial review (three instances) of asylum decisions.

Any person has the right to file a lawsuit with an administrative court if they believe that a decision, action or inaction of a public authority has violated their rights, freedoms or legitimate interests and to request their protection. Foreigners, stateless persons and foreign legal entities enjoy the same right to judicial protection as Ukrainian citizens.<sup>144</sup>

Judicial review is conducted by the system of administrative courts:

- ❖ 1st instance: District administrative courts which are located in all regions of Ukraine.
- ❖ 2nd instance: Appellate administrative court. They cover several regions; currently there are 8 Appellate administrative courts.<sup>145</sup>
- ❖ 3rd instance: Administrative court of cassation of the Supreme Court (it was created to replace the former Higher Administrative Court). The latter was closed down as of 15 December 2017.<sup>146</sup>

The decision to refuse to lodge an application may be appealed within five working days from the date of receipt of the notification of refusal either to the SMS or to the court.

If the application is rejected at the preliminary examination stage, the applicant is issued with a short notification of rejection in Ukrainian with the reference to relevant articles of the Law on Refugees and an explanation about the right to appeal within 5 business days either to the central SMS or to the circuit administrative court. If the person appeals and brings the confirmation of appeal, they are issued with the MISD for three months.

In case a person was refused to grant refugee status or the status of a person in need of complementary protection, they have 5 business days to appeal the decision to the court. The SMS shall extend the MSID and keep the national ID of an applicant. A person who has received a notice of refusal to be recognised as a refugee or a person in need of complementary protection and has not exercised the right to appeal against it must leave the territory of Ukraine within the established time limit unless there are other legal grounds for staying in Ukraine.<sup>147</sup>

If a person exercises the right to appeal, the authorised official of the territorial body of the SMS shall keep the applicant's identity documents and other documents provided by the applicant until a decision on the appeal is made.

If the person does not exercise the right to appeal within five business days from the date of their written notification of the decision to refuse to process documents for resolving the issue of recognition as a

<sup>144</sup> Article 5(1,7) Code of Administrative Judicial Procedure.

<sup>145</sup> Decree of the President of Ukraine on Liquidation of Administrative Courts of Appeal and Establishment of Administrative Courts of Appeal in Appellate Districts.

<sup>146</sup> Resolution of the Plenum of the Supreme Court on Setting the Day of the Supreme Court's Work on 30 November 2017 No. 2.

<sup>147</sup> Article 10 Law on Refugees.

refugee or a person in need of complementary protection, the SMS withdraws the MSID and returns the documents to the person.<sup>148</sup>

The approximate time for a court's judgment is two to eight months in the court of the first instance. However, some cases have been pending in the court of first instance for a much longer period, for example, there is a case filed in 2017 and there has been no judgement yet. The term for examination in the appellate instance court is two to four months, while a cassation procedure in the former High Administrative Court could take up to two years. Throughout this time, the applicant is considered as being in the asylum procedure and has legal grounds to stay in Ukraine. Asylum seekers are released from the obligation to pay court fees.<sup>149</sup>

The legislation establishes a term for appealing a negative decision of five working days from the date of receipt of the notification of the decision issued by the SMS. At the same time, the legislation does not provide that the applicant is handed a decision on refusal of refugee status. That is, the applicant must appeal a negative decision without having either the text of the decision or the grounds for such a decision. In addition, five working days is too short a period to receive a copy of the decision in response to a request to the SMS.

There are also cases where the actual date of receipt of the notification of a negative decision is much after the date of the decision itself. As a result, the courts return the lawsuits on the grounds that a significant period of time has passed since the date of the negative decision, despite the fact that the asylum seeker actually became aware of it only on the date of receipt of the notification.<sup>150</sup>

In most cases, courts consider this category of cases without a court hearing based on written evidence exclusively.<sup>151</sup> In case a person would like to request a court hearing of the case, they may file a motion with the court which is usually satisfied.

In Ukraine, there is a website of the judiciary,<sup>152</sup> where the applicant's first name, last name and patronymic can be found by the case number of the asylum seeker who is appealing against a negative decision of the SMS. The Unified State Register of Court Decisions<sup>153</sup> also publishes the full text of the decision with reference to the specific circumstances of the asylum seeker's case. This raises serious concerns regarding data protection, as information about the asylum application exceeds confidentiality requirements.

The law provides for the possibility of participation via video conference. However, in most cases, it is necessary to substantiate the objective impossibility of coming directly to the court, the significant distance between the place of residence/stay and the location of the court is an example. Asylum seekers can participate in a videoconference only from another court building. However, for example, a representative of an asylum seeker who is a lawyer or the SMS can participate in the VCS mode from their laptop, as these persons and bodies can be registered on the state e-court portal. However, the overwhelming majority of asylum seekers are deprived of the opportunity to register on this portal.<sup>154</sup>

#### 1.4.2. Onward appeal

Appeals are submitted against the negative decisions of the relevant lower court. The decision of the cassation court is final. Following the decision of the cassation court it is considered that asylum seekers

---

<sup>148</sup> Section IV(4.8) Rules for the Consideration of Applications.

<sup>149</sup> R2P.

<sup>150</sup> R2P, Kharkiv District Administrative Court, *case no. 520/20506/23*, 14 August 2023, available in Ukrainian [here](#), Kyiv District Administrative Court, *case no. 320/6453/23*, 4 September 2023, available in Ukrainian [here](#).

<sup>151</sup> R2P, Kyiv District Administrative Court, *case no. 320/11704/23*, 17 April 2023, available in Ukrainian [here](#); Kyiv District Administrative Court, *case no. 320/5572/24*, 26 February 2024, available in Ukrainian [here](#).

<sup>152</sup> Judiciary of Ukraine, *the Status of Proceedings*, available in Ukrainian [here](#).

<sup>153</sup> Unified State Register of Court Decisions, available in Ukrainian [here](#).

<sup>154</sup> R2P.



have exhausted Ukrainian asylum procedures. However, the asylum seeker has a right to reapply for asylum again if they claim that there are new circumstances in the case.<sup>155</sup>

In addition, as Ukraine is a member of the Council of Europe, asylum seekers can apply to the ECtHR in case of alleged violations of the rights outlined in the ECHR. Applications regarding asylum cases were among the most frequent in Ukraine, which indicated the existence of a large amount of ECHR violations and required structural reforms in the international protection domain.<sup>156</sup>

### 1.5. Legal assistance

#### Indicators: Regular Procedure: Legal Assistance

1. Do asylum applicants have access to free legal assistance at first instance in practice?  
☒ Yes      ☐ With difficulty      ☐ No  
❖ Does free legal assistance cover:  
☐ Representation in interview  
☒ Legal advice
2. Do asylum applicants have access to free legal assistance on appeal against a negative decision in practice?  
☒ Yes      ☐ With difficulty      ☐ No  
❖ Does free legal assistance cover  
☒ Representation in courts  
☒ Legal advice

The Law on Free Legal Aid defines the scope of the right to free legal aid and the beneficiaries of this right. In short, the legislation grants all persons under the jurisdiction of Ukraine the right to free primary legal aid which shall include asylum seekers at the early stage of their application.<sup>157</sup>

The scope of the free primary legal aid encompasses the following types of legal services:

- ❖ provision of legal information;
- ❖ providing consultations and explanations on legal issues;
- ❖ drafting applications, complaints and other documents of a legal nature (except for procedural documents);
- ❖ assisting in ensuring a person's access to secondary legal aid and mediation.<sup>158</sup>

From the moment of the registration and lodging of the application till the final decision on the application, asylum seekers are granted free secondary legal aid, which includes:

- ❖ representation of the interests of persons entitled to secondary legal aid in courts, other state bodies, local self-government bodies and before other persons;
- ❖ drafting procedural documents.<sup>159</sup>

In practice, only a minority of the lawyers from the FLACs possess the required specialised skills to assist asylum-seekers. While building the capacity of the FLACs through training, UNHCR continues providing free legal assistance to asylum-seekers through a network of national NGO partners who are funded and work with UNHCR.<sup>160</sup>

Furthermore, only asylum seekers granted the MSID, *i.e.*, those who have their application lodged have the right to free secondary legal aid. Meaning in case of rejection to lodge an application by a territorial body of the SMS, the asylum seeker is unable to seek legal representation before public authorities and courts. Thus, it creates difficulties to appeal such a decision of a territorial body of the SMS.

<sup>155</sup> R2P.

<sup>156</sup> Mykola Gnatovskyy and Yulia Ioffe, 'Twenty Years of the ECHR in Ukraine', *EJIL: Talk!*, 18 September 2018, available [here](#).

<sup>157</sup> Article 8 Law on Free Legal Aid.

<sup>158</sup> Article 7(2) Law on Free Legal Aid.

<sup>159</sup> Article 13(2)(2,3), Article 14(1)(10) Law on Free Legal Aid.

<sup>160</sup> UNHCR, 2023.

Moreover, the ten-business day period for assessing eligibility for free legal aid by the Centre of Free Legal Aid poses challenges when appealing decisions of a territorial body of the SMS within a shorter time frame of five business days, thereby impeding access to timely and qualified legal assistance.<sup>161</sup>

In 2022, the centres issued 156 orders for free secondary legal aid to asylum seekers; in 2023 – 30 orders; and in the first quarter of 2024 – 1 order.<sup>162</sup> There is no information on how many requests for free legal aid were denied.

Finally, asylum seekers have access to free primary and secondary legal aid at all stages of asylum-proceedings offered by NGOs, who work with asylum issues. This includes the executive partners of the UNHCR as R2P, The Tenth of April, ROKADA, NEEKA, etc.

## 2. Dublin

Since Ukraine is not an EU Member State nor an associated country, considerations regarding the applicability of the Dublin procedure do not apply.

## 3. Admissibility procedure

In Ukraine, there is no separate admissibility procedure as after lodging the application the territorial body of the SMS examines the application on its merits in parallel to the admissibility. This stage is described in the Section “Regular Procedure: General”.

## 4. Border procedure (border and transit zones)

### 4.1. General (scope, time limits)

#### Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum applicants to the competent authorities? ☒ Yes ☐ No
2. Where is the border procedure mostly carried out? ☐ Air border ☒ Land border ☐ Sea border
3. Can an application made at the border be examined in substance during a border procedure? ☐ Yes ☒ No
4. Is there a maximum time limit for a first-instance decision laid down in the law? ☐ Yes ☒ No  
❖ If yes, what is the maximum time limit?
5. Is the asylum applicant considered to have entered the national territory during the border procedure? ☒ Yes ☐ No

In case a person expresses the willingness to apply for asylum at the border, the SBGS refers a person to the territorial body of the SMS. This procedure was described in detail in the Section “Legal access to the territory”.

## 5. Accelerated procedure

Ukrainian legislation does not foresee an accelerated procedure. Cases in which the SMS, at the stage of lodging the application, examined in practice the case on partial admissibility and merits by invoking the absence of the conditions provided in Article 1(1,13) of the Law on Refugees were recognised by the Supreme Court as a violation of the asylum procedure. The court confirmed the findings of the courts of

<sup>161</sup> Coalition of Non-Governmental Organisations, *Interim report “State of observance of the rights of refugees, asylum seekers and stateless persons in Ukraine”*, 2020, available [here](#).

<sup>162</sup> Committee of Ministers, *1507th meeting (September 2024) (DH) – Action plan (02/07/2024) – Communication from Ukraine concerning the group of cases of Kebe and Others v. Ukraine*, 11 July 2024, DH-DD(2024)779, available [here](#).



lower instances that the territorial body of the SMS had violated the procedure for considering the plaintiff's application, and therefore made erroneous and premature conclusions. When considering the application, the territorial body of the SMS had no grounds for refusing to process the documents.<sup>163</sup>

## D. Guarantees for vulnerable groups

### 1. Identification

#### Indicators: Special Procedural Guarantees

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum applicants? ☐ Yes ☐ For certain categories ☒ No
  - ❖ If for certain categories, specify which: n/a
2. Does the law provide for an identification mechanism for unaccompanied children? ☒ Yes ☐ No

#### 1.1. Screening of vulnerability

The Law on Social Services defines vulnerable groups of the population as individuals/families who are at the highest risk of falling into hardship due to the impact of adverse external and/or internal factors. According to the Law, hardship is circumstances that adversely affect the life, health and development of a person, and the functioning of the family, which the person/family cannot overcome on their own.

Asylum seekers, refugees and persons in need of complementary protection are considered to be a vulnerable group of the population and/or found themselves in hardship.<sup>164</sup>

In Ukraine, there are no trained specialists and no reception system in place to identify vulnerable persons at the initial stage, immediately upon arrival in the country with the exception of identification of UAM.

#### 1.2. Age assessment of unaccompanied children

Age assessment procedures are foreseen and regulated by the Procedure of Age Assessment of Unaccompanied Children.

If the authorised official of the territorial body of the SMS has reasonable doubts about the declared age of the person, the relevant referral for examination to establish the age is issued. A person referred for an examination to establish their age along with their legal representative is informed about the reasons for the examination and the consequences of refusal to undergo it. If the person refuses to undergo the examination for the purpose of establishing the age, a corresponding note is made on the application and in the applicant's personal file.<sup>165</sup>

The age assessment of a child shall be based on the principles of respect for the rights of the child and ensuring his or her legitimate interests by officials; non-discrimination; confidentiality; respect for the rights of the child appealing to the conclusion of the Commission's for establishing the age of a child left without parental care and in need of social protection, and security of processes.

The procedure for establishing the child's age consists of three stages:

- ❖ studying and analysing available information about the child, information about the country of his/her origin, in case the child, separated from his/her family, is not a citizen of Ukraine and who or whose legal representative has applied to the competent authorities of Ukraine for recognition as a refugee or a person in need of complementary or temporary protection;
- ❖ psychological assessment of age;

<sup>163</sup> Supreme Court, case no. 815/1016/16, 26 February 2018, available in Ukrainian [here](#).

<sup>164</sup> Article (1)(3, 15), Article 5 Law on Social Services.

<sup>165</sup> Section III(3.1)(d) Rules for the Consideration of Applications.

- ❖ physiological assessment of age.<sup>166</sup>

During the physiological examination, the following criteria shall be checked:

- ❖ the timing of the eruption of milk teeth and their replacement with permanent teeth (dental maturity);
- ❖ anthropometric data (physical maturity);
- ❖ signs of puberty (sexual maturity);
- ❖ if necessary, the number of islets and ossification nuclei is determined by X-ray (skeletal maturity).<sup>167</sup>

The refusal of a person or their legal representative to undergo an examination to establish their age is the basis for considering the materials of the personal file of this person as an adult.<sup>168</sup>

If an unaccompanied child declares an intention to be recognised as a refugee or a person in need of complementary protection in Ukraine, the authorised official of the territorial body of the SMS shall immediately apply to the guardianship authority with a written request to provide such a person with a legal representative, who shall be appointed without delay.

A lawyer, a psychologist and a pedagogue are involved in the procedure for recognising an unaccompanied child as a refugee or a person in need of complementary protection.<sup>169</sup> A legal representative of an unaccompanied child shall participate in every stage of the asylum procedure relating to this child.<sup>170</sup>

The Commission's decision may be appealed.<sup>171</sup> Such an appeal may be filed to the higher authority or official or the court in case of the absence of such authority or if a person disagrees with the decision made on that appeal. An appeal in the interests of an unaccompanied child shall be filed by their legal representative.<sup>172</sup>

## 2. Special procedural guarantees

### Indicators: Special Procedural Guarantees

- Are there special procedural arrangements/guarantees for vulnerable people?
 

☐ Yes ☒ For certain categories ☐ No

  - ❖ If for certain categories, specify which: Unaccompanied minors

### 2.1. Adequate support during the interview

When reviewing an application for recognition as a refugee or a person in need of complementary protection for an unaccompanied child, the interview is conducted with both the child and their legal representative. The interview with the unaccompanied child must take place in the presence of the legal representative who submitted the application on behalf of the child, as well as a psychologist and a pedagogue.<sup>173</sup> The participation of a defence counsel is mandatory throughout the procedure of reviewing the child's application for refugee status or complementary protection. Additionally, the involvement of a defence counsel is obligatory during the consideration of any appeal regarding an unaccompanied child.<sup>174</sup>

<sup>166</sup> Section I(2) Procedure of Age Assessment of Unaccompanied Children.

<sup>167</sup> Section III(1) Procedure of Age Assessment of Unaccompanied Children.

<sup>168</sup> Section III(3.1)(d) Rules for the Consideration of Applications.

<sup>169</sup> Section II(2.3) Rules for the Consideration of Applications.

<sup>170</sup> Para. 13(5) Procedure of Interaction between State Bodies in Age Assessment of Unaccompanied Children.

<sup>171</sup> Section II(8) Regulations on the Commission for Age Assessment of Unaccompanied Children.

<sup>172</sup> Article 16 Law on Citizens' Appeal.

<sup>173</sup> Article 9 (3-4) Law on Refugees.

<sup>174</sup> Article 12(7) Law on Refugees.

### 3. Use of medical reports

#### Indicators: Use of medical reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm? ☐ Yes ☐ In some cases ☒ No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements? ☐ Yes ☒ No

The law set forth that after the preliminary examination, the territorial body of the SMS shall refer the applicant to a medical examination.<sup>175</sup> Medical examination of a person is carried out by specialist doctors: general practitioner, paediatrician (for children), obstetrician-gynaecologist (for women). If necessary, the specialist doctors have the right to involve doctors of other specialities.<sup>176</sup> Medical examinations are carried out free of charge at the expense of budgetary funds provided for in the state and local budgets.<sup>177</sup> The conclusion of the medical examination is necessary for being placed in TAC.

The legislation does not foresee the algorithm when a medical report is taken into account for support of the applicant's statements. In theory, an applicant can add a medical report to corroborate their asylum claim. However, legislation set forth a limited number of obligatory medical procedures which could not reflect the full applicant's state of health. For instance, the Procedure for Conducting a Medical Examination foresees the examination of a physician, or gynaecologist for women and a list of medical tests.<sup>178</sup>

In practice, the full medical examination would likely be covered by an asylum seeker if they intend to have one or/and initiated by a motion to the court if an asylum case is considered by the one for a reason.

### 4. Legal representation of unaccompanied children

#### Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children? ☒ Yes ☐ No

Ukrainian legislation foresees the appointment of a legal representative to an unaccompanied child. The appointment of a legal representative does not differ depending on the procedure.<sup>179</sup> The legislation establishes the following list of institutions and persons who might be appointed as a legal representative: foster parents, foster carers, administration of a healthcare facility, and educational or other children's institutions.<sup>180</sup> Considering the relatively low number of arriving unaccompanied children, the sufficiency of legal representatives should not be an issue.

A legal representative shall be appointed by the guardianship authority without delay.<sup>181</sup> In case an unaccompanied child crosses the border and claims the intention to be recognised as a refugee or person in need of complementary protection, the SBGS should immediately notify the SMS and the guardianship authority.<sup>182</sup>

Representative to an unaccompanied child upon receipt of a communication about the identification of an unaccompanied minor immediately proceeds to the place of identification of such a child.<sup>183</sup>

<sup>175</sup> Section V(5.1) Rules for the Consideration of Applications.

<sup>176</sup> Procedure for Conducting a Medical Examination of Asylum Seekers.

<sup>177</sup> Procedure for the Provision of Medical Care to Foreigners.

<sup>178</sup> Para 3 Procedure for Conducting a Medical Examination of Persons in Respect of Whom a Decision has been Made to Execute Documents for Deciding on Recognition as a Refugee or a Person in Need of Complementary Protection

<sup>179</sup> Section II(2.3) Rules for the Consideration of Applications.

<sup>180</sup> Article 1(6) Law on Refugee.

<sup>181</sup> Section II(2.3.1) Rules for the Consideration of Applications.

<sup>182</sup> Section II(2.3.1) Rules for the Consideration of Applications.

<sup>183</sup> Para.13(1) Procedure of Interaction between State Bodies in Age Assessment of Unaccompanied Children.

Ukrainian laws specify two options in the case of legal representative:

- ❖ the guardianship authority appoints a representative of an unaccompanied minor as a servant of the Service for Children;
- ❖ a foster carer, head of a healthcare, educational or other children's institution to which an unaccompanied child is temporarily placed.<sup>184</sup>

Ukrainian legislation set forth the following duties of a legal representative of an unaccompanied minor:

- ❖ making an application in the interest of an unaccompanied child;
- ❖ participate in all proceedings held by the SMS during the consideration of the application;
- ❖ represent child before public authorities and courts;
- ❖ appeal in the interest of a child.<sup>185</sup>

In the 2024 Communication of Ukraine to the Committee of Ministries, the Government assured that in the course of the asylum procedure, the unaccompanied minors were ensured all the rights in accordance with the law, the SMS took measures to identify parents or other legal representatives of the minors, the participation of a legal representative and lawyer was ensured.<sup>186</sup>

## E. Subsequent applications

### Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? ☐ Yes ☒ No

The legislation foresees that a person who has been denied the processing of documents for recognition as a refugee or a person in need of complementary protection may reapply if the new circumstances established by law arise.<sup>187</sup> The respectful circumstances listed in the definitions of "refugee" and "person in need of complementary protection" are provided in the Law on Refugees.<sup>188</sup>

The Supreme Court indicated that the concept of "new circumstances" may be applied only if the applicant, in the course of the previous procedure, was unable to substantiate the facts specified in Article 1(1,13) of the Law on Refugees through no fault of his own.<sup>189</sup>

The law does not lay down any time limits for lodging a subsequent application or any limitations on how many times a person can lodge a subsequent application. The subsequent application under Ukrainian legislation does not differ from the regular procedure as described in [Regular procedure](#). The person follows the same rules and timeframes and has access to legal assistance and the right to appeal.

<sup>184</sup> Para.12 Procedure of Interaction between State Bodies in Age Assessment of Unaccompanied Children.

<sup>185</sup> Para.13(1-11) Procedure of Interaction between State Bodies in Age Assessment of Unaccompanied Children.  
<sup>186</sup> Committee of Ministers, 1507th meeting (September 2024) (DH) – Action plan (02/07/2024) – Communication from Ukraine concerning the group of cases of Kebe and Others v. Ukraine, 11 July 2024, DH-DD(2024)779, available [here](#).

<sup>187</sup> Article 17 Law on Refugees.

<sup>188</sup> Article 1(1,13) Law on Refugees.

<sup>189</sup> Supreme Court, case no. 820/5430/17, 15 March 2019, available in Ukrainian [here](#).

## F. The safe country concepts

### Indicators: Safe Country Concepts

1. Does national legislation allow for the use of the “safe country of origin” concept? ☐ Yes ☒ No
  - ❖ Is there a national list of safe countries of origin? ☐ Yes ☐ No
  - ❖ Is the safe country of origin concept used in practice? ☐ Yes ☐ No
2. Does national legislation allow for the use of the “safe third country” concept? ☒ Yes ☐ No
  - ❖ Is the safe third-country concept used in practice? ☒ Yes ☐ No
3. Does national legislation allow for the use of the “first country of asylum” concept? ☒ Yes ☐ No

### 1. Safe country of origin

The concept of a 'safe country of origin' does not exist in Ukrainian law, meaning it is not used as a criterion in the country's asylum procedures.

### 2. Safe third country

The Refugee Law defines a safe third country as a country in which the person resided before arriving in Ukraine, except in cases of transit through the territory of such a country, and could apply for recognition as a refugee or a person in need of complementary protection. Further, the law sets the list of criteria for the safe third country:

- ❖ adheres to international human rights standards in the field of asylum;
- ❖ adheres to the international principles of refugee protection as set out in the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees;
- ❖ has national asylum and refugee legislation and its relevant state authorities determine refugee status and grant asylum;
- ❖ provides the person with effective protection against refoulement and the opportunity to apply for and enjoy asylum;
- ❖ agrees to accept the person and provide them with access to the procedure for determining refugee status or granting subsidiary protection.<sup>190</sup>

Article 6 of the Law on Refugee states that a person who, prior to arriving in Ukraine with the intention of being recognised as a refugee or a person in need of complementary protection, resided in a third safe country cannot be recognised as a refugee or a person in need of complementary protection. This provision does not apply to children separated from their families, as well as to persons who were born or permanently resided in Ukraine, and their descendants.

The courts often cite the incorrect application of the “safe third country” concept by the SMS, which led to illegal refusal in granting of the protection<sup>191</sup>. Despite the Law providing a clear definition of “safe third country”, the Supreme Court also indicates the incorrect using of it by the lower courts. Thus, its resolution of 08 July 2019 points out that the lower court did not consider the short term of staying in the third country and the fact that the applicant was under the full control of the transporter and, as a result, had no access to the migration service.<sup>192</sup>

<sup>190</sup> Article 1(22) Law on Refugees.

<sup>191</sup> Supreme Court, R2P, *Review of the Supreme Court's Practice in Disputes Concerning the Recognition of Persons as Refugees or Persons in Need of Complementary Protection (for the period from 2018 to 2021)*, 2021.

<sup>192</sup> Supreme Court, case no. 826/6841/16, 18 July 2019, available in Ukrainian [here](#).

### 3. First country of asylum

If a person was recognised as a refugee or a person in need of complementary protection in another country before arriving in Ukraine, this is a ground for refusal of refugee status.<sup>193</sup> However, they cannot be extradited or forcibly returned to countries where their life or freedom is threatened.<sup>194</sup>

There is no assessment procedure for whether the person can effectively benefit from the protection of that country.

## G. Information for asylum applicants and access to NGOs and UNHCR

### 1. Provision of information on the procedure

#### Indicators: Information on the Procedure

1. Is sufficient information provided to asylum applicants on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No

❖ Is tailored information provided to unaccompanied children? ☒ Yes ☐ No

The Rules of the Consideration of the Applications oblige the territorial body of the SMS to inform the applicant or his/her legal representative, under their signature, of the procedure for deciding on their applications, and the rights and obligations of the person during the lodging of the application. This information must be provided in a language understood by the applicant or his/her legal representative.<sup>195</sup> In case an applicant is an unaccompanied child, the legal representative is responsible for receiving the information and conveying it to the child.

In addition, the UNHCR and its partner NGOs provide tailored legal and social assistance to refugees and asylum-seekers in different regions during each stage of the procedure. In most cases, assistance is provided orally during the meetings with the beneficiaries. NGOs assist in the preparation of the asylum application, including through the translation of the relevant documents and country of origin information research; draft appeals against SMS rejections and represent applicants in the courts; provide legal advice on accessing relevant state services, legal and social rights by asylum-seekers and persons granted protection.<sup>196</sup>

In addition, UNHCR and NGOs deliver informational materials designed to address the needs of refugees. Such information could be brought in physical copies or electronic materials on NGOs' websites and social media. For instance, R2P has set up the Telegram channel for refugees after the full-scale invasion.

#### 1.1. Information at the border

The SBGS Instruction stipulates that in the case of an application for protection by a foreigner or stateless person who has valid documents for entry and stay in Ukraine, the authorised SBGS staff member, having received information about the application, explains to the asylum seeker the procedure for applying for protection in accordance with the legislation of Ukraine, if necessary, involves an interpreter, and provides information on the location and contact details of the nearest territorial body of the SMS, where the asylum seeker can apply for protection in a written form.<sup>197</sup>

According to the legislation, in case of the irregular crossing of the border, the authorised SBGS staff member also explains to the asylum seeker the procedure for applying for protection and provides an opportunity for the asylum seeker to submit a written application for protection, either in person or with

<sup>193</sup> Article 6 Law on Refugees.

<sup>194</sup> Article 31 Law on Refugees.

<sup>195</sup> Section III(3.1) Rules for the Consideration of Applications.

<sup>196</sup> UNCHR, *Refugees and asylum seekers*, available in Ukrainian [here](#).

<sup>197</sup> Section II(2)(1) SBGS Instruction.

the assistance of a legal representative.<sup>198</sup> In practice, asylum seekers may experience disregard for their applications, a lack of information about the protection system in Ukraine in a language they understand, and the failure to provide an interpreter.

In case the border was crossed by the unaccompanied child, the authorised SBGS staff member, taking into account the child's age and individual characteristics, explains to the child the procedure for applying for protection per the legislation of Ukraine and involves an interpreter if necessary.<sup>199</sup>

## 2. Access to NGOs and UNHCR

### Indicators: Access to NGOs and UNHCR

1. Do asylum applicants located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
2. Do asylum applicants in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☒ Yes ☐ With difficulty ☐ No
3. Do asylum applicants accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice? ☒ Yes ☐ With difficulty ☐ No

From 2018 to 2019, UNHCR and SBGS collaborated to set up 30 boards at the Border Control Posts along the Russian Federation and Belarus borders, along with 24 stands equipped with informational leaflets at international airports in Ukraine. These boards provide concise information in English and Russian regarding asylum procedures and caution against using fake passports, along with contact information for SBGS, SMS, and UNHCR hotlines. The accompanying leaflets elaborate on asylum and appeals processes in Arabic, English, Farsi, and Russian.<sup>200</sup>

According to information relevant prior to 2022, access to the transit zone in airports had to be requested by UNHCR and/or its partners to the Administration of the SBGS for each case when UNHCR and its partners have indications that individuals have expressed their intention to apply for asylum from those zones.

In the report of 2018, UNHCR noted that already in 2017 access deteriorated, as UNHCR has recorded more than 40 instances when such access was rejected. It should be mentioned that this concerned mostly those individuals, who could not continue flights to the EU due to the lack of Schengen visas or due to the possession of forged passports identified by the air companies. These individuals became stranded at Kyiv Boryspil Airport and were subsequently returned due to carrier sanctions.

In 2017, UNHCR Kyiv NGO partner got access only to 6 persons who wanted to claim asylum but were rejected access to the territory and were at risk of deportation.<sup>201</sup>

Since the 24 February 2022, the information regarding access of the NGOs to the potential asylum seekers at the border is absent.

<sup>198</sup> Section II(2)(2) SBGS Instruction.

<sup>199</sup> Section II(2)(3) SBGS Instruction.

<sup>200</sup> Committee of Ministers, *Communication from Ukraine concerning the case of Kebe and Others v. Ukraine*, 23 January 2023, DH-DD(2023)95, available [here](#).

<sup>201</sup> UNHCR.



## H. Differential treatment of specific nationalities in the procedure

### Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☐ Yes ☒ No  
❖ If yes, specify which: n/a
2. Are applications from specific nationalities considered manifestly unfounded?<sup>202</sup> ☐ Yes ☒ No  
❖ If yes, specify which: n/a

Following the full-scale invasion, humanitarian organisations reported limited access to asylum for the citizens of Belarus and Russia, who faced barriers to renewing residency in Ukraine and risked deportation.<sup>203</sup>

---

<sup>202</sup> Whether under the “safe country of origin” concept or otherwise.

<sup>203</sup> US Department of State, *2023 Country Report on Human Rights Practices: Ukraine*, 12 April 2024, available [here](#).



## Reception Conditions

### Short overview of the reception system

Asylum seekers are eligible for very limited reception conditions at every stage of their application. An asylum-seeker can apply for accommodation in one of the three State accommodation centres for asylum seekers, refugees and persons in need of complementary protection named Temporary Accommodation Centres (TAC). Control over the activities of the centre is exercised by the structural units of the SMS.<sup>204</sup> Asylum seekers are eligible to be settled at TAC only if their application passes the preliminary examination stage. The SMS is not obliged to accommodate persons to TAC and may refuse. The Centre may refuse to accommodate an asylum seeker under the following grounds:

- ❖ in the absence of free places;
- ❖ in the absence of MSID or if the MSID of application for protection in Ukraine has expired;
- ❖ in the absence of a copy of the certificate with information about the person who has undergone a medical examination;
- ❖ in case of detection of infectious diseases and diseases incompatible with cohabitation;
- ❖ in case of complications of the sanitary and epidemiological situation at the point.

R2P had a case when an asylum seeker with two wives was refused to be accommodated because of his plural marriage.

The stay in the TAC is not limited by the legislation. Asylum seekers as well as beneficiaries of international protection with valid documents can prolong their stay in TAC every six months.<sup>205</sup> TAC residents are provided with a food package on a regular basis. The three existing TACs in Ukraine offer reception spaces for 421 persons in total which do not cover the existing needs for housing. Moreover, after the full-scale invasion, TACs have also been used to accommodate internally displaced persons.

In addition, asylum seekers are allowed to stay with relatives, in a hotel, renting a flat with their own means.<sup>206</sup>

No other living subsidies are made available to asylum-seekers by the state during the course of the whole asylum procedure. Asylum-seekers not accommodated in a TAC are not provided with any assistance by the State and the national social protection system. Humanitarian organisations like UNHCR and its NGO partners therefore provide cash and in-kind assistance to cover the most basic needs, though these programs are often insufficient.<sup>207</sup>

---

<sup>204</sup> Section I(6) Regulations on Temporary Accommodation Centres for Refugees.

<sup>205</sup> Part III(17) Regulations on Temporary Accommodation Centres for Refugees.

<sup>206</sup> Article 13(1) Law on Refugees.

<sup>207</sup> UNCHR, *Refugees and asylum seekers*, available in Ukrainian [here](#).

## A. Access and forms of reception conditions

### 1. Criteria and restrictions to access reception conditions

#### Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law allow access to material reception conditions for asylum applicants in the following stages of the asylum procedure?

❖ Regular procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Dublin procedure	N/A		
❖ Admissibility procedure	N/A		
❖ Border procedure	N/A		
❖ Accelerated procedure	N/A		
❖ First appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Onward appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Subsequent application	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
2. Is there a requirement in the law that only asylum applicants who lack resources are entitled to material reception conditions?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
------------------------------	--

In terms of reception conditions, asylum applicants are eligible for any only if placed in the TAC from the moment of the decision to process documents for preliminary examination, or when recognised as a refugee or a person in need of complementary protection. There are no requirements to reimburse the accommodation or declare the financial resources prescribed by legislation. Considering this, the detailed information about reception conditions is described below under [Forms and levels of material reception conditions](#), as well as [Reduction or withdrawal of reception conditions](#), and [Housing](#).

### 2. Forms and levels of material reception conditions

#### Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to asylum applicants as of 31 December 2023 (in original currency and in €): € 0

Asylum applicants whose application was moved by the territorial body of the SMS to the preliminary examination stage has access to the following reception conditions:

- ❖ temporary employment, training, and medical care in accordance with the procedure established by the legislation of Ukraine;
- ❖ accommodation with relatives, in a hotel, renting a dwelling or using accommodation provided in a temporary accommodation centre for refugees;
- ❖ free legal aid in accordance with the established procedure.

The listed set of reception conditions remains the same throughout the whole asylum procedure. There is no requirement in the law that only asylum seekers who lack resources are entitled to reception conditions, nor is there a specific moment in the asylum process when an asylum seeker must declare any financial resources they might have. Additionally, asylum seekers are not required to contribute to the cost of reception.

One of the concerns is the lack of immediate access to the reception conditions upon making an application, as until the application is lodged, asylum seekers do not have the MSID which confirms their legal stay in Ukraine. Taking into account the instances of ungrounded refusal of the SMS to accept asylum applications, persons willing to make an application are deprived of reception and state services, leaving them extremely vulnerable.

In addition, asylum seekers not residing in TAC are deprived of material assistance, such as food, clothes, and hygiene kits. Participants in the 2019 UNHCR survey as well as the R2P-HIAS 2022 report emphasise

problems in getting an MSID recognised by governmental institutions, as well as poor access to social or medical services, the labour market, and housing.<sup>208</sup>

In the absence of any state assistance for refugees and asylum seekers, UNHCR provides assistance to asylum seekers in the form of cash assistance, business and training grants, and courses in Ukrainian languages. For instance, during the initial months of 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 scope of UNHCR assistance fluctuates annually or semi-annually. In addition, UNHCR and its partners, such as ROKADA, continue to offer additional forms of support. These include educational grants for school supplies, clothing, or funds for laptops and tablets, as well as in-kind assistance like food and hygiene kits, and coverage for medical services and medication. In general, the assistance provided covers the basic needs of beneficiaries.

### 3. Reduction or withdrawal of reception conditions

#### Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?  
☒ Yes ☐ No
2. Does the law provide for the possibility to withdraw material reception conditions?  
☒ Yes ☐ No

Persons housed in the centre may lose the right to use the accommodation provided to them in the centre in the following cases:

- ❖ a person has refused to stay in TAC;
- ❖ a person was granted or purchased another residential facility;
- ❖ a territorial body of SMS has notified the TAC administration regarding the non-extension of the person's stay at the facility; termination or suspension of consideration of the asylum application; refusal to further consideration of the application on merits; refusal in granting the status of refugee or person in need of complementary protection;
- ❖ in case of committing a crime;
- ❖ a person systematically breaks the rules of staying in TAC;
- ❖ a person's right to live in a TAC has not been renewed.

The most common reasons for pausing or ceasing the right to live in TAC may be the expiration of refugees' documents, the unsuccessful asylum application, the refusal to grant protection status, etc.

A person who is accommodated in the Centre and in respect of whom a decision has been made to withdraw the right to use the accommodation is obliged to return all items and objects provided for temporary use to the responsible employee of the Centre within five working days and move out of the Centre.

The deprivation of the right to use the accommodation may be appealed to the SMS, as well as to the court.<sup>209</sup> In case of a successful appeal, the right to live in TAC should be restored. Free legal aid for court motions might be provided for asylum seekers considering their vulnerability (See Section 1.5 Legal assistance).

<sup>208</sup> UNHCR, *Ukraine 2019 Joint Needs Assessment*, 2019, available in Ukrainian [here](#); R2P&HIAS, *Asylum Seekers and Refugees in Ukraine Addressing Protection Risks During Wartime*, 05 April 2023, available [here](#).

<sup>209</sup> Section III (50,53,57) Regulations on Temporary Accommodation Centres for Refugees.

#### 4. Freedom of movement

##### Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country?  
☐ Yes ☒ No
2. Does the law provide for restrictions on freedom of movement? ☒ Yes ☐ No

Asylum seekers upon receiving an MSID may register their place of residence in Ukraine.<sup>210</sup> There are usually no problems with registering or declaring a place of residence or staying in one's own housing or in a TAC. At the same time, it is difficult to register or declare a place of residence or stay in rented housing owned by another person in case an asylum seeker has an intent to do so, as such registration requires the consent of the owner.<sup>211</sup> Asylum seekers often register their place of residence or stay at the centres for homeless persons as in the case of residing in the private apartment, landlords often are reluctant to register a tenant.<sup>212</sup>

Asylum seekers are obliged to notify the SMS of their travels outside the administrative-territorial unit of Ukraine in which they reside.<sup>213</sup> In practice, asylum seekers have not faced particular problems regarding providing or failing to provide such notification.

The issue of travelling around Ukraine has mostly been raised after the full-scale invasion. In the R2P-HIAS survey conducted in 2022, 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.<sup>214</sup>

Also, asylum seekers are obliged to notify the administration of the TAC in advance of their absence at the centre for more than three days. In addition, asylum seekers are not allowed to be absent from the centre for more than fifteen days without notifying the centre administration.<sup>215</sup> If a person leaves their TAC without permission and is absent for more than three days without notifying the administration of the TAC, their right to use the living space and receive food supplies is suspended. The administration must immediately report the person's disappearance to the local police. The suspended rights can be reinstated if the individual returns and if the authorised stay period has not expired, provided there are available spaces and they have not repeatedly violated the rules. They must renew their documentation before regaining access to the TAC if their documentation has expired.<sup>216</sup>

<sup>210</sup> Para. 5 Procedure for Declaring and Registering a Place of Residence.

<sup>211</sup> Information from the The Tenth of April, 14 May 2024.

<sup>212</sup> Information from the ROKADA, 01 May 2024.

<sup>213</sup> Article 13 Law on Refugees.

<sup>214</sup> R2P & HIAS, *Asylum Seekers and Refugees in Ukraine Addressing Protection Risks During Wartime*, 05 April 2023, available [here](#).

<sup>215</sup> Part III(37) Regulations on Temporary Accommodation Centres for Refugees.

<sup>216</sup> Part III (45-49) Regulations on Temporary Accommodation Centres for Refugees.

## B. Housing

### 1. Types of accommodation

#### Indicators: Types of Accommodation

1. Number of reception centres: 3
2. Total number of places in the reception system: 421
3. Total number of places in private accommodation: None<sup>217</sup>
4. Type of accommodation most frequently used in a regular procedure:  
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☒ Other
5. Type of accommodation most frequently used in an accelerated procedure: N/A<sup>218</sup>  
☐ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other

#### Capacity and occupancy of the asylum reception system: 2023

Centre	Capacity	Occupancy at end of 2023
Temporary accommodation centre for refugees in Zakarpattia region	120	
State institution "Temporary accommodation centre for refugees in Odesa"	200	
Temporary accommodation centre for refugees in Yahotyn, Kyiv region	101	
<b>Total</b>	<b>421</b>	<b>7<sup>219</sup></b>

Source: SMS statistics for 2023; SMS' responds to the R2P request for public information.

### 2. Conditions in reception facilities

#### Indicators: Conditions in Reception Facilities

1. Are there instances of asylum applicants not having access to reception accommodation because of a shortage of places? ☒ Yes ☐ No
2. What is the average length of stay of asylum applicants in the reception centres?  
from 6 month to an unidentified period
3. Are unaccompanied children ever accommodated with adults in practice? ☒ Yes ☐ No
4. Are single women and men accommodated separately? ☒ Yes ☐ No

TAC is a place for temporary accommodation of asylum seekers in respect of whom a decision has been made to process documents for preliminary examination, or who have been recognised as a refugee or a person in need of complementary protection. No other types of accommodation, such as hotels, private houses/flats, or emergency shelters, are provided for asylum seekers.

The TAC is managed by a director who is appointed and dismissed by an order of the Head of the SMS, with the approval of the head of the regional state administration.<sup>220</sup> The activities of the TAC are

<sup>217</sup> Ukraine does not ensure private accommodation and asylum seekers cover private housing by their own cost..

<sup>218</sup> It is not applicable due to the lack of accelerated procedure in Ukrainian law.

<sup>219</sup> Upon NGO information, these 7 people resided in TACs in Yahotyn and Zakarpattia regions. The exact placement in those two centres is unknown

<sup>220</sup> Part VI(1) Regulations on Temporary Accommodation Centres for Refugees.

supervised by the structural units of the State Migration Service.<sup>221</sup> The operation of the TAC is funded by the state.

To be placed in TAC, an asylum seeker shall be referred by the territorial body of the SMS. Also, a person has to complete a medical examination.<sup>222</sup> Thus, there is no immediate access to the State habitation upon making an asylum application.

The period of temporary placement in the TAC is up to six months but may be extended unlimitedly for no more than six months each time.<sup>223</sup>

Legislation set forth the list of living conditions which should be provided in TAC. Persons placed in the centre are accommodated separately by gender and, if necessary, by religious beliefs, ethnic origin and other differences. Families of persons accommodated in the centre are accommodated in separate rooms. The centre is equipped with rooms for training with the children of persons placed in the centre, playgrounds and playrooms, a library, common areas equipped with TVs, classrooms with computer equipment, sports grounds, as well as rooms to meet the religious needs of persons placed in the centre. Persons placed in the TAC are provided with food. TAC is also equipped with cooking facilities.<sup>224</sup>

In addition, a healthcare point shall be set up at the centre. In case of illness, the medical staff provide an asylum seeker with the necessary treatment. If necessary, the patient is isolated and an emergency medical team is called to transport the patient to a healthcare facility.

A healthcare facility is provided following the Procedure for Providing Medical Assistance to Foreigners, which means that after the medical assistance an asylum seeker shall compensate the hospital for the treatment provided to him.<sup>225</sup>

TACs are visited by human rights and humanitarian NGOs which provide material assistance, activities and workshops for adults and children, and psychological support.<sup>226</sup> The frequency of the visits depends on NGOs' programmes and financing.

In 2018-2019, the Ukrainian Red Cross Society systematically visited Zakarpattia TAC, during which 803 migrants were interviewed and provided with services to restore and maintain contact with their families in their countries of origin. 650 migrants, mostly from Vietnam, India, Bangladesh, Mongolia and Sri Lanka took advantage of the opportunity to call their families. In addition, the Red Cross provide inhabitants of the MCC with hygiene items, clothes, and toys for children.<sup>227</sup>

In December 2022, the representatives of the Parliament Commissioner paid a monitoring visit to Zakarpattia TAC and checked the condition of the centre. The Parliament Commissioner provides a description of the centre premises and describes the living arrangements inside. The TAC consists of a complex of buildings and has a fenced-off surrounding area. The TAC is located in a two-storey building, which is divided into zones for separate accommodation for single men, single women and families. Each zone is equipped with a sanitary unit, kitchen and dining room. There are separate rooms for leisure activities, and a computer room equipped with three computers with Internet access for studying and communicating with relatives. Children's and sports playgrounds are equipped.

The Parliament Commissioner noted the presence of the information regarding COVID-19 in Ukrainian, English and Arabic.

---

<sup>221</sup> Part I(6) Regulations on Temporary Accommodation Centres for Refugees.

<sup>222</sup> Part III(4-5) Regulations on Temporary Accommodation Centres for Refugees.

<sup>223</sup> Part III(17) Regulations on Temporary Accommodation Centres for Refugees.

<sup>224</sup> Part III(22, 27-28, 39, 42) Regulations on Temporary Accommodation Centres for Refugees.

<sup>225</sup> Part IV(1) Regulations on Temporary Accommodation Centres for Refugees.

<sup>226</sup> SMS, *A Holiday for Children was Arranged at the TAC*, 18 June 2021, available in Ukrainian [here](#).

<sup>227</sup> Ukrainian Red Cross Society, *Tracing Service Helps Migrants in Transcarpathia*, 20 February 2019, available in Ukrainian [here](#).

There is a warehouse in a separate room where groceries such as cereals, juices, and canned food are stored and distributed at the request of residents. The refugees living in the TAC are responsible for their meals by self-catering. The kitchen and separate rooms are equipped with refrigerators and gas stoves, and there is sufficient kitchen equipment.

All persons who are accommodated in the TACs have the opportunity to receive primary medical care. The TAC has a medical worker on staff and a family doctor.<sup>228</sup>

Furthermore, on 09 January 2023, the Parliament Commissioner monitored the living conditions in Yahotyn TAC. The report emphasised that TAC provides essential services for residents such as kitchen access, laundry rooms, and internet. Refugees receive initial medical screenings, healthcare, and schooling opportunities for children. The building is equipped with ramps for people with disabilities. Social support is coordinated with NGOs. However, the centre lacks personal hygiene products for residents.<sup>229</sup>

## C. Employment and education

### 1. Access to the labour market

Indicators: Access to the Labour Market	
1. Does the law allow for access to the labour market for asylum applicants? ❖ If yes, when do asylum applicants have access the labour market?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No upon receiving an MSID
2. Does the law allow access to employment only following a labour market test?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3. Does the law only allow asylum applicants to work in specific sectors? ❖ If yes, specify which sectors:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4. Does the law limit asylum applicants' employment to a maximum working time? ❖ If yes, specify the number of days per year	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No N/A
5. Are there restrictions to accessing employment in practice?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

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. In September 2022, the Parliament changed the law to suspend this rule.

Thus, the present algorithm for hiring an asylum seeker is the following:

Asylum seekers in Ukraine have the right to be employed in Ukraine with a work permit for foreigners and stateless persons, which is issued to the employer.<sup>230</sup> The permit is issued by the territorial body of the Employment Centres within seven business days and is free of charge.<sup>231</sup> The permit is issued for the period of validity of the MSID, but not more than one year. The permit may be extended if the MSID is renewed. In 2023, Employment Centres issued four such work permits.

One of the obstacles for asylum seekers to be employed is the absence of TIN as a person needs to possess ID for its issuance. An asylum seeker can obtain a verified by the SMS copy of their ID, kept in

<sup>228</sup> Parliament Commissioner, *Monitoring of the Temporary Accommodation Centre for Refugees in the Transcarpathian region "Latorytsia"*, 05 December 2022, available in Ukrainian [here](#).

<sup>229</sup> Parliament Commissioner, *Monitoring of the Temporary Accommodation Centre for Refugees in Yahotyn, Kyiv region*, 09 January 2023, available in Ukrainian [here](#).

<sup>230</sup> Article 24 Law on Employment.

<sup>231</sup> Diia, *Work Permission for Foreigners and Stateless Persons*, available in Ukrainian [here](#).



the SMS and receive a TIN based on this copy. In case of the absence of any ID or verified copy, the TIN cannot be issued.<sup>232</sup>

The issuance and extension of work permits for citizens of the Russian Federation, the Republic of Belarus, as well as other states recognised as posing a threat to Ukraine, is carried out in coordination with the regional bodies of the Security Service of Ukraine.<sup>233</sup> This requirement was added after the full-scale invasion of Russia. Employers often are not willing to hire Russians and Belarusians because of this provision.<sup>234</sup>

## 2. Access to education

### Indicators: Access to Education

- |  |   |
|--|---|
| 1. Does the law provide for access to education for asylum-seeking children? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Are children able to access education in practice?                        | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

Ukrainian legislation guarantees the right to education for asylum seekers.<sup>235</sup> Complete secondary education is obligatory in Ukraine.<sup>236</sup> NGOs do not report specific problems with the admission of asylum seekers' children to schools.

The problem may arise with language barriers and support in the studying process due to cultural, language, and curriculum differences. Minor asylum seekers are not included in the list of persons with special educational needs as the term "children with special educational needs" is used in a narrower sense of inclusive education and covers children with mental and physical disorders and children with disabilities.<sup>237</sup>

In addition, minor asylum seekers are facing hurdles to be enrolled on kindergartens because of the requirement of having a medical examination conclusion.<sup>238</sup> Considering the limited access to health care, often parents could not obtain the necessary documents or vaccinations for children.<sup>239</sup>

Regarding passing the final examination necessary for further admission to higher education (external independent evaluation), persons who are receiving (have received) complete general secondary education in a language that does not belong to the Slavic language group are among the persons who need reasonable adjustment to take an external independent evaluation.<sup>240</sup>

However, in practice, they faced the refusal to grant such benefits. NGOs reported that in 2019, asylum seekers who studied in Iran, Iraq, and Yemen, applied to the Ukrainian Centre for Educational Quality Assessment with a request to apply for special conditions, but they were denied registration. The Ministry of Education, in response to the request, noted that persons with special educational needs must provide documents on obtaining education in the non-Slavic language in general secondary education institutions of Ukraine.<sup>241</sup>

<sup>232</sup> Section III(1)(3) Regulation on the Registration of Individuals in the State Register of Individuals-Taxpayers.

<sup>233</sup> Article 24 Law on Employment.

<sup>234</sup> R2P.

<sup>235</sup> Article 13 Law on Refugees.

<sup>236</sup> Article 2 Law on Complete Secondary Education.

<sup>237</sup> Coalition of Non-Governmental Organisations, *Interim report "State of observance of the rights of refugees, asylum seekers and stateless persons in Ukraine"*, 2020, available [here](#).

<sup>238</sup> Ministry of Education and Science, *Enrolment in a Kindergarten*, available in Ukrainian [here](#).

<sup>239</sup> R2P.

<sup>240</sup> Regulation on Certain Categories of Persons with Special Educational Needs.

<sup>241</sup> Coalition of Non-Governmental Organisations, *Interim report "State of observance of the rights of refugees, asylum seekers and stateless persons in Ukraine"*, 2020, available [here](#).



Asylum seekers have the right to be enrolled in Ukrainian vocational<sup>242</sup> and higher<sup>243</sup> education institutions. Asylum seekers are not eligible for State scholarships or special conditions for participation in the competitive selection process for admission to professional pre-university and higher education.<sup>244</sup>

Due to quarantine, the country used to close schools and universities, leading to disrupted learning and loss of vital social interaction for children and young people. Digital technologies helped during this crisis, with Ukraine setting up an effective online schooling system to maintain education. However, vulnerable groups, including asylum-seeking and refugee children, often lacked access to computers or the internet, hindering their participation in remote learning. Online schooling was not always an option for these children, either due to the lack of equipment and stable internet connection or the inability to follow a foreign language curriculum without a teacher or parental support.<sup>245</sup>

The full-scale invasion has further exacerbated the already challenging situation for Ukrainian children. UNICEF reported that the war has severely impacted the education of 5.3 million children. Many schools have been damaged or destroyed, and only about 25% of schools can offer in-person learning. Power outages and infrastructure damage hinder access to both physical and online education. The disruption also affects children's social development and mental well-being, as schools play a critical role in offering emotional support.<sup>246</sup>

Ukraine has not established state courses in the Ukrainian language for asylum seekers or beneficiaries of international protection or courses in Ukrainian culture, or administrative systems. This need is covered by UNHCR, NGOs and by refugee communities themselves.<sup>247</sup> In addition, ROKADA has designed an online Ukrainian language course for refugees, and R2P has been conducting Ukrainian-speaking clubs online for Russian-speaking beneficiaries.

## D. Health care

### Indicators: Health Care

1. Is access to emergency healthcare for asylum applicants guaranteed in national legislation?  
☒ Yes ☐ No
2. Do asylum applicants have adequate access to health care in practice?  
☐ Yes ☒ Limited ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum applicants available in practice?  
☐ Yes ☐ Limited ☒ No
4. If material conditions are reduced or withdrawn, are asylum applicants still given access to health care?  
☒ Yes ☐ Limited ☐ No

The Refugee Law of Ukraine guarantees the right to medical assistance for asylum seekers. Prior to medical reform, asylum seekers had access to free emergency medical aid. However, new amendments suspended this provision.<sup>248</sup> Currently, access to health care for asylum seekers remains extremely limited. The State ensures coverage for asylum seekers of necessary medical services and medicines related to emergency medical care. Asylum seekers are required to reimburse the State the full cost of the medical services and medicines provided.<sup>249</sup>

Regarding other health care services, asylum seekers are required to pay as any other foreigners. For most of them, this is not affordable. There is also concern regarding chronic diseases which demand

<sup>242</sup> Article 5 Law on Vocational Education.

<sup>243</sup> Article 4 Law on Higher Education.

<sup>244</sup> WikiLegalAid, *Preferential Categories of Applicants*, available in Ukrainian [here](#).

<sup>245</sup> United Nations Ukraine, *Assessment of the socio-economic impact of COVID-19 in Ukraine*, 02 December 2020, available [here](#), e.g. 39.

<sup>246</sup> UNICEF, *War has hampered education for 5.3 Million children in Ukraine, warns UNICEF*, 24 January 2023, available [here](#).

<sup>247</sup> UNHCR, *Ukraine 2019 Joint Needs Assessment*, 2019, available in Ukrainian [here](#).

<sup>248</sup> Article 11 Law on Principles of Ukrainian Healthcare Legislation; Article 4(2) Law on State Financial Guarantees of Healthcare Services for the Population.

<sup>249</sup> Article 4 Law of Ukraine on State Financial Guarantees of Medical Care for the Population.

constant care, such as diabetes. The asylum procedure can take many years and these people cannot receive any disability benefits from the state. The UNHCR also described a case, when an asylum seeker's appointed medical operation was cancelled by the hospital because of the lack of identity documents.<sup>250</sup>

Asylum seekers are unable to sign the medical declaration giving access to free primary medical aid as the MSID is not mentioned in the list of necessary documents for signing a such declaration.<sup>251</sup>

In addition, in the 2020 UN report "Assessment of the socio-economic impact of COVID-19 in Ukraine", asylum seekers were recognised as one of the most vulnerable groups in Ukraine at the time of COVID-19 because of low access to medical assistance, language barrier, low income and have little or no access to personal protection equipment and cannot apply social distancing measures when residing in TAC. They are at higher risk of infection as a result.<sup>252</sup>

## E. Special reception needs of vulnerable groups

### Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?

☐ Yes

☒ No

There is no definition and procedural guarantees for applicants with specific needs. In the legal instructions regulating the process of accommodation in the TACs, some reference is made to the prioritization of vulnerable persons in the process of accommodation (families with children, single women, and elderly persons). The legislation foresees that rooms for persons with disabilities accommodated in the TACs, as well as residential buildings and other premises used by them, are equipped according to the needs of persons.

The involvement of the psychologist during the RSD process to support very vulnerable applicants (SGBV survivors, for instance) is resolved on an *ad hoc* basis through the assistance of the UNHCR social partner NGOs.

Asylum seekers may benefit from certain social services which are targeted at preventing difficult life circumstances such as disability, childbirth, illness etc. The obstacles to receiving certain social services may arise if an asylum seeker cannot obtain the TIN. Quite often, asylum seekers are unable to obtain the TIN due to the absence of an ID or the expiration of such a document. Accordingly, asylum seekers without an ID, consequently without TIN could not have access to certain social services in Ukraine.

Among the range of social services asylum seekers have stable access to assistance related to childbirth. TIN is not required among the documents submitted to receive this assistance.<sup>253</sup>

In other cases, asylum seekers have received state social assistance with the aid of UNHCR executive partners.<sup>254</sup> For instance, ROKADA reported that they experienced precedents in issuing assistance due to low income for asylum seekers, although they explained that the authorities accepted MSID as an identity document.<sup>255</sup> The Tenth of April also assisted with burial arrangements, as the governmental support is not available to asylum seekers. In case asylum seeker needs support in applying for social services, relevant NGOs may assist with translation and legal information.

<sup>250</sup> UNHCR, *Ukraine 2019 Joint Needs Assessment*, 2019, available in Ukrainian [here](#).

<sup>251</sup> Part II(6) Procedure for Determining a Primary Care Physician.

<sup>252</sup> United Nations Ukraine, *Assessment of the socio-economic impact of COVID-19 in Ukraine*, 02 December 2020, available [here](#), e.g. 28, 38-39.

<sup>253</sup> Para.11, Procedure for Granting and Paying State Assistance to Families with Children.

<sup>254</sup> Testimony of the ROKADA dated 01 May 2024, testimony of the Tenth of April dated 14 May 2024.

<sup>255</sup> Testimony of the ROKADA dated 01 May 2024.

## F. Information for asylum seekers and access to reception centres

### 1. Provision of information on reception

According to the Regulation on TAC, there should be information boards placed in accessible locations. These boards contain materials such as the facility's rules of residence, internal regulations approved by the facility's director, and information regarding the rights and obligations of the residents. They also provide contact details for helplines, the facility's administration, territorial bodies of the SMS, courts, the prosecutor's office, the Parliament Commissioner, and the UNHCR. This information is displayed in the state language and in languages understood by the residents.<sup>256</sup>

Access to the information might be monitored by the Parliament Commissioner during their visits to TAC. For instance, during a monitoring visit to the Yahotyn TAC, the Parliament Commissioner noted the presence of stands with information in the Ukrainian language and in a language understood by asylum seekers.<sup>257</sup>

Also, NGOs provide the asylum seekers with necessary information via various sources.

### 2. Access to reception centres by third parties

#### Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?  
☒ Yes ☐ With limitations ☐ No

TAC administration provides access for family members and other visitors of an accommodated person upon written notification of the guest.<sup>258</sup>

Also, the Parliament Commissioner and their representatives are allowed to enter all the premises of the facility at any time. The results of the monitoring visits are communicated to the TAC administration, as well there is public information regarding the conditions in the TAC, which were mentioned under [Housing – Conditions in reception facilities](#).<sup>259</sup>

Representatives of international, non-governmental and human rights organisations, and mass media may visit the centre on the basis of an official permission of the SMS or the director of the centre upon their written request. Visits by representatives of state, international, civic and human rights organisations, and the media to persons held in the facility may be carried out daily during the day in a specially designated room in the facility.<sup>260</sup>

## G. Differential treatment of specific nationalities in reception

There are no reported cases where specific nationalities are systematically discriminated against or treated preferentially in the area of reception regarding accommodation or labour market access. The issuance and extension of work permits for citizens of the Russian Federation and the Republic of Belarus are being coordinated by the Security Service of Ukraine due to national security concerns.

<sup>256</sup> Part III (29) Regulations on Temporary Accommodation Centres for Refugees.

<sup>257</sup> Parliament Commissioner, *Monitoring of the Temporary Accommodation Centre for Refugees in Yahotyn, Kyiv region*, 09 January 2023, available in Ukrainian [here](#).

<sup>258</sup> Part V(2) Regulations on Temporary Accommodation Centres for Refugees.

<sup>259</sup> Part V(1) Regulations on Temporary Accommodation Centres for Refugees.

<sup>260</sup> Part V(2) Regulations on Temporary Accommodation Centres for Refugees.

## Detention of Asylum Applicants

### A. General

#### Indicators: General Information on Detention

1. Total number of asylum applicants detained in 2023:	292
2. Number of asylum applicants in detention at the end of 2023:	
3. Number of detention centres:	3
4. Total capacity of detention centres:	566

As of 2023, there were three functioning detention centres for foreigners and stateless persons irregularly staying in Ukraine:

- ❖ Mykolaiv Migrant Custody Centre, brought into operation on 20 April 2018, with a capacity of 138 people at a time.
- ❖ Chernihiv Migrant Custody Centre, brought into operation on 18 July 2008, with a capacity of 236 people at a time.
- ❖ Volyn (Zhuravychi) Migrant Custody Centre, brought into operation on 12 September 2008, with a capacity of 192 people at a time.<sup>261</sup>

During 2023, 292 persons were placed in the MCCs. In comparison, 335 foreigners were placed in 2022.<sup>262</sup> 362 persons stayed throughout 2023. In 2022, 597 persons stayed in MCCs.<sup>263</sup> 115 persons were released in 2023 and 330 in 2022.<sup>264</sup>

In 2022, due to the full-scale invasion of the territory of Ukraine by Russian troops and the outbreak of hostilities, only Zhuravychi MCC remained fully operational.<sup>265</sup> The Parliament Commissioner informed that there were no foreigners in the Chernihiv MCC at least for July 2022.<sup>266</sup> In addition, the SMS reported that as a result of the shelling of the Chernihiv MCC on 30 March 2022, the dormitory and the dining room of the MCC were damaged.<sup>267</sup> In May 2024, the operation of the MCC in Chernihiv was resumed.<sup>268</sup>

According to the R2P, by the end of 2023, 55 foreigners of which - 49 men and 6 women (51 foreigners in 2022)<sup>269</sup> were held in the Zhuravychi MCC. Most of the people held in the Zhuravychi MCC are Russian citizens. A lot of detainees are foreigners, who have lived in Ukraine for many years. Often, some of these individuals are ethnic Ukrainians.<sup>270</sup>

MCCs primarily house undocumented asylum seekers. These include individuals who applied to the migration service but were not issued with documentation, those unaware of or not seeing the necessity for the procedure due to long-term irregular residence in Ukraine, and others who lost their legal grounds to stay (e.g., many Russian citizens in Ukraine who cannot return due to safety concerns).

The registration/acceptance of the applications/interviews are conducted through the weekly visits of the staff of regional asylum units to the premises of MCC. Separate rooms for the meetings with the applicants are available. The interpretation should be arranged by the SMS office; however, translation services are mostly provided by compatriot detainees.<sup>271</sup>

<sup>261</sup> SMS, *Migrant Custody Centre*, available in Ukrainian [here](#).

<sup>262</sup> SMS, *Statistics*, 2023, available in Ukrainian [here](#).

<sup>263</sup> SMS, *Statistics*, 2023, available in Ukrainian [here](#).

<sup>264</sup> SMS *Statistics* 2023, available in Ukrainian [here](#).

<sup>265</sup> R2P, *Internal report*, 2022.

<sup>266</sup> Parliament Commissioner, *Monitoring of the Chernihiv Migrant Custody Centre*, 08 July 2022, available in Ukrainian [here](#).

<sup>267</sup> SMS, *As a Result of Russian Invasion of Ukraine, the SMS units suffered losses and destruction in excess of €11 million*, 25 May 2022, available in Ukrainian [here](#).

<sup>268</sup> Committee of Ministers, *1507th meeting (September 2024) (DH) – Action plan (02/07/2024) – Communication from Ukraine concerning the group of cases of Kebe and Others v. Ukraine*, 11 July 2024, DH-DD(2024)779, available [here](#).

<sup>269</sup> R2P, *Internal report*, 2022.

<sup>270</sup> R2P, *Internal report*, 2022; R2P, *Internal report*, 2023.

<sup>271</sup> UNHCR, 2018

In practice, access to asylum procedures from these detention facilities is complicated due to problems with access to sufficient information on asylum procedures and free legal assistance, and limited visits of the local SMS office to the MCC, in particular after February 2022.<sup>272</sup>

## B. Legal framework of detention

### 1. Grounds for detention

#### Indicators: Grounds for Detention

1. In practice, are most asylum applicants detained
 

❖ on the territory:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ at the border:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
2. Are asylum applicants detained during a regular procedure in practice?
 

<input type="checkbox"/> Frequently	<input checked="" type="checkbox"/> Rarely	<input type="checkbox"/> Never
-------------------------------------	--	--------------------------------
3. Are asylum applicants detained during a Dublin procedure in practice?  
N/A

Under the Regulation on Migrant Custody Centres for Foreigners and Stateless Persons illegally staying in Ukraine, an MCC is a state institution designed for the temporary detention of foreigners and stateless persons:

- ❖ with respect to whom a court has made a decision on forced expulsion from Ukraine;
- ❖ with respect to whom a court has made a decision on detention for the purpose of identification and ensuring forced expulsion from Ukraine;
- ❖ detained by the SMS, its territorial bodies and subdivisions for the periods and in the manner prescribed by law;
- ❖ detained by a court decision until the application for recognition as a refugee or a person in need of complementary protection in Ukraine or a stateless person is completed.<sup>273</sup>

The detention for the purpose of identification can be carried out in case a person does not have identification documents and cannot provide evidence to the court of the regular stay in Ukraine.<sup>274</sup>

In practice, immigration detention occurs most frequently when persons are detained without passports and/or visas for entry into the EU while attempting to cross the state border outside the designated border-crossing points.

In case a person in an irregular situation or pending return applies for asylum and the SMS lodged the application, the term for detention can be prolonged up to 18 months.<sup>275</sup>

According to the Regulation on Migrant Custody Centres a foreigner shall be released by the MCC administration upon the following grounds:

- ❖ upon a court's vacated judgment of detention or forced expulsion;
- ❖ in case the court does not prolong the term of arrest;
- ❖ expiration of the limit period of stay;
- ❖ recognition of a person as a refugee or person in need of complementary protection;
- ❖ establishing the status of a victim of human trafficking.

<sup>272</sup> UNHCR, 2023.

<sup>273</sup> Para. 1 Model Regulation on the Migrant Custody Centres.

<sup>274</sup> Article 4(6) Law on the Legal Status of Foreigners; Supreme Court, case No. 359/5975/17, 13 February 2019, available in Ukrainian [here](#).

<sup>275</sup> Article 289(11) Code of Administrative Judicial Procedure.

## 2. Alternatives to detention

### Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?
- ☒ Reporting duties
  - ☐ Surrendering documents
  - ☒ Financial guarantee
  - ☐ Residence restrictions
  - ☐ Other
2. Are alternatives to detention used in practice? ☒ Yes ☐ No

Pursuant to Article 289 of the Code of Administrative Judicial Procedure, limited alternatives to detention are provided by legislation, namely surety or bail. Compared to EU practice, these alternatives are clearly insufficient. Also, unlike EU legislation, Ukrainian legislation does not provide the priority of choosing a less coercive measure of influence on a person ahead of detention.

When applying alternative measures, the court shall explain in writing to the foreigner or stateless person the obligations imposed on them:

- ❖ to report to the designated official at a frequency established by the court;
- ❖ not to leave the settlement in which the foreigner or stateless person temporarily resides without the permission of the designated official;
- ❖ immediately notify the designated official of any change of residence.<sup>276</sup>

A surety may be provided by an enterprise, institution or organisation and consists in the provision by authorised persons of the certain entity, whom the court considers to be particularly trustworthy, of a written undertaking that they oblige to ensure that the foreigner fulfils the obligations imposed on them, and undertake to bring them to the court or body that filed the claim.<sup>277</sup>

The posting of bail means that a foreigner, stateless person or other individual or legal entity deposits certain funds. The amount of the bail is determined by the court, taking into account the property and family status of the foreigner, within the range of fifty to one hundred units of minimum subsistence level for able-bodied persons (around €3,000 to 6,000)<sup>278</sup>, and is posted within five business days from the date of the court's decision to post the bail.

The alternatives for detention are not used that frequently, nevertheless, courts order surety of bail to foreigners. For instance, in 2018, Mukachevo City District Court ordered bail in the amount ₴176,200 (around €4,000) to an asylum seeker from Tajikistan.<sup>279</sup> Further, in case No. 932/11362/23, the Babushkinskyi District Court of Dnipropetrovsk granted the request to release a Moroccan citizen from detention and placed him under the personal guarantee of the "European Medical University" LLC.<sup>280</sup>

<sup>276</sup> Article 289(4) Code of Administrative Judicial Procedure.

<sup>277</sup> Article 289(5) Code of Administrative Judicial Procedure.

<sup>278</sup> On 1 January 2023, the subsistence minimum for able-bodied persons was ₴2,684 (around €60).

<sup>279</sup> Mukachevo City District Court, case no. 303/6985/18, 19 November 2018, available in Ukrainian [here](#).

<sup>280</sup> Committee of Ministers, 1507th meeting (September 2024) (DH) – Action plan (02/07/2024) – Communication from Ukraine concerning the group of cases of Kebe and Others v. Ukraine, 11 July 2024, DH-DD(2024)779, available [here](#).



### 3. Detention of vulnerable applicants

#### Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?  
☐ Frequently ☒ Rarely ☐ Never
- ❖ If frequently or rarely, are they only detained in border/transit zones? ☐ Yes ☒ No
2. Are asylum-seeking children in families detained in practice?  
☐ Frequently ☒ Rarely ☐ Never

Pursuant to the Regulation on Migrant Custody Centres unaccompanied children are not subject to placement MCC but are sent to a children's shelter of the Children's Service.<sup>281</sup> Other categories are not mentioned in the Regulation. Also, in the Code of Administrative Procedure, there are no restrictions or specific categories which could not be detained.

NGOs and the Parliamentary Commissioner's office rarely report cases of the detention of unaccompanied children, as such instances are infrequent. A relevant case was mentioned only in 2018, where monitors found two Bangladeshi unaccompanied minors in Chernihiv MCC, who had been on the territory of the detention facility for almost six months, but during this time they had not received a legal representative to protect their interests in the Ukrainian state authorities.<sup>282</sup> However, such cases are not common in practice. In the Communication from Ukraine concerning the group of cases of *Kebe and Others v. Ukraine* to the Council of Europe, the Government confirmed that in 2022-2024 unaccompanied minors from foreign nations have not been placed at the MCC.<sup>283</sup>

### 4. Duration of detention

#### Indicators: Duration of Detention

1. What is the maximum detention period set in the law (incl. extensions): 18 months
2. In practice, how long in average are asylum applicants detained? n/a<sup>284</sup>

The maximum term for detention may constitute 18 months in practice (initial detention for 6 months with the extension possibility for the following 12 months), and the periodic court review of detention shall be conducted every 6 months. A claim for an extension of the detention period shall be filed no later than five days before its expiry every six months in accordance with the requirements of part twelve of Article 289(12) of the Code of Administrative Judicial Procedure.<sup>285</sup>

However, human rights organisations have raised concerns regarding a significant risk of arbitrary detention.<sup>286</sup> The disproportionate and ungrounded practice of detention is carried out.

The European Court of Human Rights has repeatedly found Ukraine's detention of migrants to violate Article 5 of the European Convention on Human Rights.<sup>287</sup>

For instance, in 2021 the ECtHR held that there was a violation of Article 5 of the Convention, namely protection against arbitrary detention in the case *Shoygo v. Ukraine*. The applicant submitted that his detention had been unlawful because the authorities had to be aware that the applicant did not have

<sup>281</sup> Para. 6 Model Regulation on the Migrant Custody Centres.

<sup>282</sup> Cheline, *Rights of Minor Migrants from Bangladesh are Grossly Violated in Chernihiv Region – Parliament Commissioner*, 09 January 2018, available in Ukrainian [here](#).

<sup>283</sup> Committee of Ministers, *1507th meeting (September 2024) (DH) – Action plan (02/07/2024) – Communication from Ukraine concerning the group of cases of Kebe and Others v. Ukraine*, 11 July 2024, DH-DD(2024)779, available [here](#).

<sup>284</sup> Based on the figures published by the State which are mentioned below in the section [Detention – Procedural Safeguards](#), it is impossible to say exactly how long in average are asylum seekers detained.

<sup>285</sup> Para. 5 Model Regulation on the Migrant Custody Centres.

<sup>286</sup> R2P&HIAS, *Asylum Seekers and Refugees in Ukraine Addressing Protection Risks During Wartime*, 05 April 2023, available [here](#).

<sup>287</sup> ECtHR, *Nur and Others v. Ukraine*, Application no. 77647/11, Judgement of 16 July 2020, available [here](#); ECtHR, *Turdikhojaev v. Ukraine*, Application no. 72510/12, Judgment of 18 March 2021, available [here](#).

identification documents, that they would be unable to expel him because his detention was unnecessary and the possibility of using less restrictive measures was not examined and because the authorities had not pursued his expulsion with requisite diligence.<sup>288</sup>

One of the situations is currently being considered by the ECtHR in the case *Vukolov v. Ukraine*, an application for violation of Articles 5, and 8 of the Convention was filed at the end of 2020. The man was detained in October 2019, placed in MCC on 7 November 2019, and released on 7 November 2020. The Moldovan Embassy responded in November 2019 that the man's passport was not documented, and there was no information about his citizenship. After March 2020, the migration service made no efforts to identify and expel the man to his country of origin, in particular, due to quarantine restrictions.<sup>289</sup>

## C. Detention conditions

### 1. Place of detention

#### Indicators: Place of Detention

1. Does the law allow for asylum applicants to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? ☐ Yes ☒ No
2. If so, are asylum applicants ever detained in practice in prisons for the purpose of the asylum procedure? ☐ Yes ☐ No

Detention capacity and occupancy in 2023		
Detention centre	Capacity	Occupancy during 2023
Mykolaiv Migrant Custody Centre for foreigners and stateless persons illegally staying in Ukraine	138	
Chernihiv Migrant Custody Centre for foreigners and stateless persons illegally staying in Ukraine	236	
Volyn Migrant Custody Centre for foreigners and stateless persons illegally staying in Ukraine	192	
Total	566	362

Source: SMS website: <https://dmsu.gov.ua/pro-dms/struktura-ta-kontakti/punkti-timchasovogo-perebuvannya-inozemcziv-ta-osib-bez-gromadyanstva.html>

There are no official detention facilities in airports; however, there are temporary detention facilities (MTT) managed by the SBGS.

<sup>288</sup> ECtHR, *Shoygo v. Ukraine*, Application no. 29662/12, 30 September 2020.

<sup>289</sup> ECtHR practice. Ukrainian Aspect, *Will the ECtHR Help Change the Attitude of Officials towards Stateless Persons as Second-Class Citizens?*, 21 January 2022<sup>6</sup> available in Ukrainian [here](#).



In the territory of Ukraine, third-country nationals, among them asylum seekers, are detained in specialised facilities – Migrant Custody Centres – which are State bodies.<sup>290</sup> The temporary stay facility is managed by the SMS.<sup>291</sup>

## 2. Conditions in detention facilities

### Indicators: Conditions in Detention Facilities

- |   |   |                             |
|---|---|-----------------------------|
| 1. Do detainees have access to health care in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it limited to emergency health care?       | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

According to Ukrainian legislation, the MCC should have separate accommodations for men and women, with specific living quarters for pregnant women, parents with children, and families. The facility should include a medical centre with an isolator, as well as a kitchen, dining room, and laundry facility. Storage space for personal belongings, sports facilities, and the ability for detainees to move freely within the facility are also required. Detainees should be allowed to wear their own clothes, send and receive letters and parcels, and perform religious ceremonies. They should also have access to meetings with human rights defenders, lawyers, representatives of diplomatic missions or consular institutions, and international and human rights organisations. These provisions aim to ensure the well-being, privacy, and rights of individuals held in the MCC.

Journalist reportage of 2021 describes the living conditions in Zhuravychi MCC as satisfying. Everyone has access to high-speed internet. There are sports and children's playgrounds on-site. Residents can order groceries from the shop if they can pay for them. The kitchen staff of MCC take into account the cultural and religious traditions of detainees' meals, so, for example, they do not cook pork, only chicken and beef.<sup>292</sup>

On 4 April 2022, Human Rights Watch reported that third-country nationals were trapped in Zhuravychi MCC, Volyn oblast, after being detained for irregularly trying to cross the border into Poland before the Russian invasion.<sup>293</sup> 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.<sup>294</sup>

In 2022, R2P and HIAS conducted a survey to identify the protection risks of the asylum seekers and refugees in Ukraine. Respondents staying in MCC reported poor living conditions and said they were denied the opportunity to apply for asylum.<sup>295</sup>

In September 2022, the SMS responded to R2P's request for information on the measures taken by the government, highlighting safety measures taken in the detention centres, as well as the provision of food supplies and medical aid.<sup>296</sup>

In July 2023, the representatives of the Parliament Commissioner accompanied by UNHCR accomplished monitoring visits to the Volyn MCC. The monitors reported that detention conditions in the centre in general are satisfying.

Foreigners and stateless persons are provided with appropriate conditions for walking in the open air. There are sports grounds on the territory of the MCC for active recreation. During outdoor walks, men are

<sup>290</sup> Para. 1 Model Regulation on the Migrant Custody Centres.

<sup>291</sup> Para. 3 Model Regulation on the Migrant Custody Centres.

<sup>292</sup> Volyn, *Illegal Immigrants in Volyn Live Better Than Many Ukrainians*, 04 September 2021, available in Ukrainian [here](#).

<sup>293</sup> Human Rights Watch, *Migrants, Asylum Seekers Locked Up in Ukraine*, 04 April 2022, available [here](#).

<sup>294</sup> Global Detention Project, *Ukraine Immigration Detention Profile*, 15 December 2022, available [here](#).

<sup>295</sup> R2P&HIAS, *Asylum Seekers and Refugees in Ukraine Addressing Protection Risks During Wartime*, 05 April 2023, available [here](#).

<sup>296</sup> SMS response to the R2P request for public information, 30 September 2022, No. 3-OP-241-22.

separated from women and parents with children. Parents with children can spend their free time on the equipped playgrounds. Foreigners and stateless persons have meals prepared by staff cooks in the MCC dining room, where they are provided with food in accordance with their cultural and religious practices and traditions. The food is distributed by a staff member of the canteen. Persons placed in the MCC have access to religious literature and religious objects of their faith.

However, the Parliamentary Commissioner emphasised that detainees are not provided with food on their way to and back to the court hearings. In such cases, foreigners stay without food for the whole day. In some rare cases, officials of the territorial bodies of the SMS of Ukraine purchase food for accompanying persons at their own expense.

As a result of appeals from persons held in the MCC, the administration of the institution was recommended to take measures to improve access to writing stationery in order to exercise their right to appeal.<sup>297</sup>

Regarding access to education, children are very rarely placed in MCC, and if they are, teachers are expected to visit them and provide training.

In 2023, the Parliament Commissioner reported the tendency of SMS to detain foreigners within the premises of the territorial bodies of the SMS. It was found that the territorial branches of the SMS do not have facilities for the temporary detention of migrants. Foreign nationals are held for long periods of time in premises not equipped for long-term detention, namely in the offices of employees, while decisions are being made on their expulsion. For example, in the Main Department of the SMS in the Lviv region, there were cases of foreign nationals being detained for more than 13 hours, in the SMS in the Khmelnytskyi region – more than 15 hours, in the SMS in the Ternopil region – more than 8 hours.

As there are no special places for temporary detention of detained foreigners in the territorial bodies of the SMS, SMS officials have to take foreigners to MCCs as soon as possible, mostly at night, which are located at a great distance from the territorial bodies. However, it is not defined how long a foreigner could stay in a territorial office of the SMS, nor the procedure for providing them with food before being placed in MCC.

Accompanying foreigners to court premises, medical institutions and temporary detention facilities by separate territorial units is carried out by vehicles that are not intended for the transportation of detainees.<sup>298</sup>

## 2.1. Health care and special needs in detention

As provided above, asylum seekers have limited access to health care. The emergency medical assistance delivered to the asylum seekers by the State should be reimbursed by the asylum seeker. However, NGOs emphasised that requests for reimbursements are rare and usually medical facilities will not charge the person for urgent medical assistance.

The State Migration Service of Ukraine issued a number of instructions to carry out preventive and anti-epidemic measures to prevent the spread of COVID-19 in the migrant accommodation centres (MCC) as well as in temporary accommodation centres (TAC) for refugees and health care centres operating there:

- ❖ Instruction of the State Migration Service of Ukraine on Counteracting the Spread of SARS of 11 March 2020 No. D/37/1-20 requested the institutions to implement anti-epidemic measures to combat COVID-19;

---

<sup>297</sup> Parliament Commissioner, *Monitoring visit to the Volyn Migrant Custody Centre, State Migration Service of Ukraine*, 25 July 2023, available in Ukrainian [here](#); Parliament Commissioner, *Report on the Results of the Visit to the Volyn Migrant Custody Centre of the State Migration Service of Ukraine*, 06 July 2023, available in Ukrainian [here](#).

<sup>298</sup> Parliament Commissioner, *Special report of the Ukrainian Parliament Commissioner for Human Rights "On the State of Affairs with Regard to the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Ukraine*, 2023, available in Ukrainian [here](#), e.g. 63-64.

- ❖ Instruction of the State Migration Service of Ukraine on Additional Measures to Prevent the Entry of Acute Respiratory Disease of 13 March 2020 No. D/38/1-20.

In the course of monitoring visits to MCC, the representatives of the Parliament Commissioner recorded human rights violations. It was found that there is no control over how the staff and persons in centres use personal protective equipment. Due to the lack of non-contact thermometers, no temperature screening is performed for the staff of institutions or persons in custody.

Most of the MCC visited do not have a clear special procedure for the disposal of used medical devices, including personal protective equipment (medical masks and gloves), which creates a risk of infection with COVID-19 for both persons in custody and staff and visitors.

The monitoring visits identified that in most SMS institutions, persons in custody are not provided with a sufficient number of personal protective equipment.<sup>299</sup>

In addition, in 2021, the Parliament Commissioner for Human Rights attended the MCC in the Volyn region and found out that vaccinations against COVID-19 for foreigners and stateless persons have not been carried out in this institution. As a result of the Parliament Commissioner's response, the necessary vaccinations were organised for the detainees in the Volyn MCC.<sup>300</sup>

In 2023, the Parliament Commissioner reported a request from a Moroccan citizen detained in MCC to provide him with dental care. The foreigner reported a lack of funds to pay for medical care, thus the management of the MCC addressed the NGO "The Tenth of April" and the International Organisation for Migration in Ukraine to resolve the issue of payment for dental services. As a result, the foreigner was taken to a private dental clinic where he underwent treatment. The costs of the treatment were reimbursed to the private dentist by the International Organisation for Migration.<sup>301</sup>

### 3. Access to detention facilities

#### Indicators: Access to Detention Facilities

##### 1. Is access to detention centres allowed to

- |                   |   |                                  |                             |
|-------------------|---|----------------------------------|-----------------------------|
| ❖ Lawyers:        | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ NGOs:           | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ UNHCR:          | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ Family members: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |

Detained persons in MCC are regularly visited by NGO representatives. For instance, in 2023, the R2P legal team has been carrying out visits to the Zhuravichi MCC twice a month which came along with legal assistance.<sup>302</sup>

In addition, the Parliament Commissioner has access to the places of detention, including the MCC. They are able to visit such places without prior notice of the time and purpose of the visit.<sup>303</sup>

<sup>299</sup> Parliament Commissioner, *Observance of Human Rights and Freedoms in Places where People are Deprived of their Liberty during the Emergency Related to the Spread of an Acute Respiratory Disease COVID-19 Caused by Coronavirus SARS-COV-2*, 2021, available [here](#), e.g. 39-41.

<sup>300</sup> Parliament Commissioner, *Annual Report on The State of Observance and Protection of Human and Civil Rights and Freedoms in Ukraine*, 2021, available in Ukrainian [here](#), e.g. 94.

<sup>301</sup> Parliament Commissioner, *Following the Parliament Commissioner's Response, the Right of a Foreigner to Medical Assistance and Treatment in Migrant Custody Centre was Restored*, 20 December 2023, available in Ukrainian [here](#).

<sup>302</sup> R2P, 2023.

<sup>303</sup> Article 13(8) Law on Parliament Commissioner.

## D. Procedural safeguards

### 1. Judicial review of the detention order

#### Indicators: Judicial Review of Detention

1. Is there an automatic review of the lawfulness of detention? ☒ Yes ☐ No
2. If yes, at what interval is the detention order reviewed? 6 months

The process of the review of the detention is initiated by the authority at whose request the foreigner was detained, *i.e.*, SMS, SBGS, SSU. The relevant authority shall file an administrative claim for the extension of the detention period no later than five days before its expiry every six months. The claim shall specify the actions or measures taken by the authority to identify a foreigner, to enforce a decision on forced expulsion or readmission, or to consider an application for recognition as a refugee or a person in need of complementary protection in Ukraine. The conditions under which it is impossible to identify a foreigner and ensure their forced expulsion or readmission are:

- ❖ lack of cooperation from the foreigner during the procedure of his/her identification;
- ❖ failure to receive information from the country of the foreigner's citizenship or documents required for identification.

Thus, detention may be imposed for a period of up to six months, although shorter terms, such as three months, may also be ordered by the court. In practice, the maximum six-month period is typically applied. This term may be extended twice by court order, though the extensions are not necessarily for the full six months. Prior to the expiration of the detention period, the authority responsible for initiating the detention submits a formal request for an extension, should additional detention time be required.<sup>304</sup>

Consideration of the mentioned issues is carried out by the court with the mandatory participation of the parties and legal representatives in cases prescribed by law, including through videoconferencing. Administrative cases shall be considered by the court on the day of filing the relevant statement of claim.<sup>305</sup> Article 289 of the Code of Administrative Judicial Procedure sets forth that the appeal to the decision of the first instance court regarding the placement of a person to MCC should be filed within 10 days after the proclamation of the respective decision. The appellate court shall consider the case within ten days after the expiry of the time limit for appeal, with notice to the parties to the case.<sup>306</sup>

The court practice of the Kiverts District Court of the Volyn Region shows that almost none of the cases regarding the detention of foreigners in MCC were processed with a qualified interpreter. There have been instances when defendants detained in the Volyn MCC participated in the hearings did not understand the language of the proceedings, and were not provided with an interpreter. There have been cases when the applicant provided translation of the language of the proceedings by one interpreter into English, and by another interpreter from English into a language understood by the foreign defendant. However, no reliable information was provided to the court that the second interpreter was translating into the language understood by the defendant, which may cast doubt on the validity of any decision in the administrative case.<sup>307</sup>

In the Communication from Ukraine concerning the group of cases of *Kebe and Others v. Ukraine* to the Council of Europe, Ukraine provided the following statistics on the number of people detained in the MCC and the length of their detention after the full-scale invasion:

In February 2022, 313 individuals were detained in the MCC, including 255 for up to 6 months, 29 for more than 6 months, 9 for more than 9 months, 6 for more than 12 months, and 14 for more than 15 months. In December 2022, 93 individuals were detained in the MCC, including 72 for up to 6 months, 18

<sup>304</sup> R2P.

<sup>305</sup> Article 289(12-15) Code of Administrative Judicial Procedure.

<sup>306</sup> Article 289(16-17) Code of Administrative Judicial Procedure.

<sup>307</sup> Analysis provided by the Head of the Kiverts District Court of Volyn Region.

for more than 6 months, 0 for more than 9 months, 2 for more than 12 months, and 1 for more than 15 months.

In December 2023, 159 individuals were detained in the MCC, including 111 for up to 6 months, 24 for more than 6 months, 10 for more than 9 months, 8 for more than 12 months, and 6 for more than 15 months. In April 2024, 122 individuals were detained in the MCC, including 82 for up to 6 months, 16 for more than 6 months, 14 for more than 9 months, 8 for more than 12 months and 2 for more than 15 months.<sup>308</sup>

2. Legal assistance for review of detention

**Indicators: Legal Assistance for Review of Detention**

1. Does the law provide for access to free legal assistance for the review of detention?  
☒ Yes ☐ No

2. Do asylum applicants have effective access to free legal assistance in practice?  
☒ Yes ☐ No

Persons who are subject to administrative detention or arrest, including foreigners and stateless persons, have the right to all types of legal services mentioned in Article 14(2) of the Law on Free Legal Aid.

As mentioned before, the UNHCR partners (R2P, The Tenth of April) regularly pay visits to the MCC and provide detainees with free legal aid, including legal assistance for the review of detention.

However, in 2023, the Parliament Commissioner reported<sup>309</sup> the facts of abuse by officials of the territorial bodies of the State Migration Service of Ukraine, violating the rights of detainees to legal aid in Volyn MCC. During confidential interviews with foreigners and stateless persons, numerous complaints were received that the persons were not informed of their right and possibility to receive free secondary legal aid in accordance with the Law on Free Legal Aid, as they did not understand the content of the administrative detention protocol, not being proficient in Ukrainian.

Thus, the Parliament Commissioner described the case of a Russian Federation citizen, who was not informed of his right to receive free secondary legal aid, as confirmed by a protocol on administrative detention. Moreover, the officials of the SMS seized his phone and did not allow him to call his lawyer.

Another case concerns the Bangladeshi citizen who was not informed of his right and eligibility for free secondary legal aid, as he did not speak Ukrainian and did not understand the content of the protocol on administrative offences. He signed the protocol in the places indicated by the officials of the Central Interregional Department of the SMS. Ultimately, he was provided with the services of a lawyer only after his placement in the temporary detention facility.

E. Differential treatment of specific nationalities in detention

There is no evidence that specific nationalities are more susceptible to detention. The perception of certain nationalities being more frequently detained may stem from their larger representation in numbers. Additionally, nationality does not appear to significantly affect the length of detention.

<sup>308</sup> Committee of Ministers, 1507th meeting (September 2024) (DH) – Action plan (02/07/2024) – Communication from Ukraine concerning the group of cases of Kebe and Others v. Ukraine, 11 July 2024, DH-DD(2024)779, available [here](#).

<sup>309</sup> Parliament Commissioner, Report on the results of the visit to the Volyn temporary stay centre for foreigners and stateless persons illegally staying in Ukraine of the State Migration Service of Ukraine, 06 July 2023, available in Ukrainian [here](#).

## Content of International Protection

On 22 August 2012, Ukraine adopted a comprehensive Integration Plan for Refugees, designed until 2020.<sup>310</sup> The Plan foresaw various measures for refugees' integration, integral support in studying Ukrainian, employment, provision of medical care and housing etc.

The action plan for 2018-2021, aimed at implementing the State Migration Policy Strategy for the period until 2025 targets refugees as part of a wider migration group but also sets a couple of tasks dedicated specifically to international protection and complimentary protection beneficiaries. The SMS, the Ministry of Social Policy, the Ministry of Education and Science and the Ministry of Foreign Affairs are assigned to enhance cooperation with ethnic minor communities in the integration process and involve them in the development of legislation in integration and immigration.<sup>311</sup>

Firstly, the integration policy of migrants lacks involvement from local self-governing bodies and regional authorities. The integration policies of foreigners have only been developed in Vinnytsia and Sumy.

Moreover, adopted documents had limited impact thus far due to insufficient support from the Government, inadequate funding and multiple competing priorities.

In 2021, MIEUX+ (an EU initiative offering expertise on migration management) presented an assessment of Ukraine's capacity to integrate refugees and people in need of complementary protection. The visit laid the groundwork for the National Integration Action Plan for 2022-2025. The EU experts highlighted Ukraine's efforts to align its policies with European standards.<sup>312</sup> The action plan for integrating refugees has been in progress since 2021, but work has been delayed due to the war.<sup>313</sup>

### A. Status and residence

#### 1. Residence permit

##### Indicators: Residence Permit

- |  |         |
|--|---------|
| 1. What is the duration of residence permits granted to beneficiaries of protection? |         |
| ❖ Refugee status   | 5 years |
| ❖ Subsidiary protection  | 5 years |

A refugee certificate or a certificate of a person in need of complementary protection is issued for a period of five years.<sup>314</sup> The certificate is issued to a foreigner by the territorial body of the SMS on the basis of the decision of the headquarters of the SMS to recognise a foreigner or stateless person as a refugee in Ukraine or a person in need of complementary protection within seven business days.<sup>315</sup>

Persons who are recognised as refugees are considered to be permanently residing in Ukraine from the date of the decision to recognise them as refugees.<sup>316</sup> Persons who are recognised as persons in need of complementary protection are considered to be legally residing in Ukraine for an indefinite period of time.<sup>317</sup> There is a legal conflict between the Law on Refugees and the Law on Foreigners regarding the

<sup>310</sup> Action Plan for the Integration of Refugees and Persons in Need of Complementary Protection into Ukrainian Society for the Period up to 2020 of 22 August 2012, no. 605-p.

<sup>311</sup> Action Plan for 2018-2021 to Implement the Strategy of State Migration Policy of Ukraine for the Period up to 2025 of 29 August 2018 no. 602-p.

<sup>312</sup> SMS, *MIEUX+ Experts Provide Preliminary Assessment of Ukraine's Potential and Needs in the Field of Integration of Refugees and Persons in Need of Complementary Protection*, 22 November 2021, available in Ukrainian [here](#).

<sup>313</sup> European Commission, *COMMISSION STAFF WORKING DOCUMENT Ukraine 2023 Report*, 8 August 2023, available [here](#), e.g. 67.

<sup>314</sup> Article 10(11) Law on Refugees.

<sup>315</sup> Section VI(6.8) Rules for the Consideration of Applications.

<sup>316</sup> Article 14(2) Law on Refugees.

<sup>317</sup> Article 14(3) Law on Refugees.



status of persons in need of complementary protection. While both laws guarantee legal residence, one views it as indefinite, while the other ties it to temporary.<sup>318</sup> Although these individuals receive the same social benefits as refugees, the contradiction complicates access to rights, particularly in obtaining Ukrainian citizenship for themselves and their children.

For issuance of a refugee certificate or certificate of a person in need of complementary protection in case of expiration of the previous one, a foreigner or stateless person personally applies in advance to the territorial body of the SMS of Ukraine at the place of residence and submits the documents required to extend the certificate.<sup>319</sup> When re-registering a refugee or a person in need of complementary protection, the validity of the refugee or person in need of a complementary protection certificate is extended.<sup>320</sup> The certificate is replaced within 15 working days.<sup>321</sup> The status of the beneficiaries may be withdrawn at this stage, however, R2P does not report any such cases.

After the full-scale invasion in 2022, those beneficiaries who fled from Ukraine do not have the possibility to issue or extend their certificates and travel documents, abroad.

In some cases, refugees or persons in need of complementary protection could not obtain a certificate for return to Ukraine<sup>322</sup> on a diplomatic mission abroad. Ukrainian missions noted that they 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.<sup>323</sup>

For instance, a citizen of the Syrian Arab Republic, recognised in Ukraine as a person in need of complementary protection, left Ukraine in April 2022 on the basis of a certificate of a person in need of complementary protection to accompany his elderly father. In May 2022, he was denied entry to Ukraine with the same document. The Ukrainian embassy in Germany informed him that he could not be issued a return permit because it was only available to Ukrainian citizens. Therefore, he does not have a proper document to cross the state border of Ukraine.<sup>324</sup>

## 2. Civil registration

Persons who are recognised as refugees or persons in need of complementary protection enjoy the same rights and freedoms and have the same obligations as citizens of Ukraine, except in cases established by the Constitution and laws of Ukraine.<sup>325</sup> The procedure of civil registration of birth/marriage of beneficiaries of international protection is the same as for Ukrainian citizens.

Parents are obliged to register the birth of a child immediately, but not later than one month from the date of birth, with the civil registry office. Registration of a child's birth is certified by a birth certificate. The service is free of charge and takes one day.

---

<sup>318</sup> Article 4(3) Law on Foreigners.

<sup>319</sup> Diia, *Extension of the Refugee Certificate*, available in Ukrainian [here](#); Diia, *Extension of the Validity of a Certificate of a Person in Need of Complimentary Protection*, available in Ukrainian [here](#); Article 10 (8) Law on Refugees.

<sup>320</sup> Article 10(11) Law on Refugees.

<sup>321</sup> para. 10 Regulations on the Refugee Certificate.

<sup>322</sup> A certificate of return to Ukraine is an identity document that confirms the citizenship of Ukraine, gives the right to enter Ukraine, and is issued by foreign diplomatic missions of Ukraine. The certificate may also be issued to persons who are recognised in Ukraine as refugees or persons in need of complementary protection in case of loss or theft of identity documents issued in Ukraine and entitling them to leave Ukraine and enter Ukraine while abroad, if such documents have expired or are found to be invalid for other reasons (para. 1, 16 Resolution on Approval of the Sample Form, Technical Description and Procedure for Issuing and Issuing a Certificate of Return to Ukraine of 5 April 2017 No. 285).

<sup>323</sup> R2P&HIAS, *Asylum Seekers and Refugees in Ukraine Addressing Protection Risks During Wartime*, 05 April 2023, available [here](#).

<sup>324</sup> More examples could be found here: R2P, *Note on the Conditions of Crossing the State Border of Ukraine by Refugees and Stateless Persons*, 05 December 2022, available in Ukrainian [here](#).

<sup>325</sup> Article 14(1) Law on Refugees.

However, UNHCR partner organisations reported that refugee families may have problems obtaining birth certificates for their children.<sup>326</sup> This issue arises, as refugees frequently arrive without birth certificates for their children born abroad. Refugee families often struggle to obtain birth certificates for their children because Ukrainian law requires specific medical documents proving birth, which refugees may not have.<sup>327</sup> Without these documents, they are forced to go through the courts, making the process more difficult.

In the case of marriage, a woman and a man who wish to register a marriage submit a written application in person to the civil registry office of their choice.

A refugee certificate or a certificate of a person in need of complementary protection must be provided to receive the mentioned services.

### 3. Long-term residence

Indicators: Long-Term Residence	
1. Number of long-term residence permits issued to beneficiaries in 2023:	n/a

In Ukraine, there is no provision for long-term resident status for foreigners. After the expiration of refugee or complementary protection certificates, individuals must renew these documents.

### 4. Naturalisation

Indicators: Naturalisation	
1. What is the minimum residence period for obtaining citizenship?	
❖ Refugee status	3 years
❖ Subsidiary protection	n/a
2. Number of citizenship grants to beneficiaries in 2023:	0

Refugees may apply for naturalization following three years of residency in Ukraine, which is not the case for persons granted complementary protection, who have no right to naturalization, which significantly hampers their integration.

Persons in need of complementary protection status are frustrated by the lack of opportunities for naturalisation. This affects their ability to plan, establish and maintain relationships in Ukraine and obtain stable employment. Many of them have lived in Ukraine for many years but feel insecure regarding the extension of their residence permit.<sup>328</sup>

A refugee may be admitted to Ukrainian citizenship upon their application. The conditions for admission to Ukrainian citizenship are as follows:

- ❖ recognition of and respect for the Constitution of Ukraine and the laws of Ukraine, which is certified by the person in the application for admission to citizenship of Ukraine submitted in accordance with the established procedure;
- ❖ knowledge of the fundamentals of the Constitution of Ukraine and the history of Ukraine;
- ❖ a declaration of renunciation of foreign citizenship of a person recognised as a refugee;
- ❖ continuous legal residence in Ukraine for the last three years;
- ❖ proficiency in the state language in accordance with the level determined by the National Commission on State Language Standards.

The date of acquisition of Ukrainian citizenship shall be the date of the relevant Decree of the President of Ukraine.<sup>329</sup>

<sup>326</sup> Testimony of the NEEKA dated 10 May 2024.  
<sup>327</sup> Part. III (2) Rules of State Registration of Civil Status Acts in Ukraine.  
<sup>328</sup> UNHCR, *Ukraine 2019 Joint Needs Assessment*, 2019, available in Ukrainian [here](#).  
<sup>329</sup> Article 9 Law on Ukrainian Citizenship.



The precise number of international protection beneficiaries who obtained Ukrainian citizenship is unknown. Since 2019, there have been three Decrees signed by the President of Ukraine regarding the granting of Ukrainian citizenship to 28 foreigners.<sup>330</sup> Additionally, the SMS noted that none of the persons with refugee status obtained Ukrainian citizenship in 2023.<sup>331</sup>

## 5. Cessation and review of protection status

### Indicators: Cessation

1. Is a personal interview of the beneficiary in most cases conducted in practice in the cessation procedure? ☒ Yes ☐ No
2. Does the law provide for an appeal against the first-instance decision in the cessation procedure? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☒ Yes ☐ With difficulty ☐ No

The Law on Refugees foresees the following grounds for the cessation of refugee status and complementary protection. If a person:

- ❖ has voluntarily re-claimed the protection of the country of citizenship
- ❖ has acquired Ukrainian citizenship or voluntarily acquired the citizenship they had previously, or has acquired the citizenship of another state and enjoys its protection;
- ❖ has voluntarily returned to the country they left or were outside of due to a well-founded fear of persecution;
- ❖ being a stateless person may return to the country of their previous permanent residence, since the circumstances under which they were recognised as a refugee or a person in need of complementary protection no longer exist. This provision does not apply to a refugee or a person in need of complementary protection if they can provide sufficient justification arising from previous persecution for their refusal to return to the country of previous permanent residence.
- ❖ has been granted asylum or a permanent residence permit in another country;
- ❖ may not refuse to use the protection of the country of his/her citizenship, since the circumstances under which the person was recognised as a refugee or in need of complementary protection no longer exist. This provision does not apply to a refugee or a person in need of complementary protection if they can provide sufficient justification, arising from previous persecution, for their refusal to enjoy the protection of the country of their nationality. <sup>332</sup>

The decision to withdraw the status is taken by the headquarters of the SMS by submission of the territorial body of the SMS.<sup>333</sup>

Grounds for submitting to the territorial body of the SMS the loss of refugee status and complementary protection:

- ❖ a personal application of a refugee or a person in need of complementary protection on the loss of refugee status or complementary protection;
- ❖ a motion from the Security Service of Ukraine or other state authority on the loss of refugee status or complementary protection is received by the territorial body of the SMS;
- ❖ a request of the Security Service of Ukraine or other state authority to deprive a person of refugee status or complementary protection is received by the territorial body of the SMS.<sup>334</sup>

<sup>330</sup> President of Ukraine, *Decree no. 526/2019*, 18 July 2019, available in Ukrainian [here](#); President of Ukraine, *Decree no. 466/2019*, 27 June 2019, available in Ukrainian [here](#); President of Ukraine, *Decree no. 329/2019*, 28 May 2019, available in Ukrainian [here](#).

<sup>331</sup> SMS's respond to the R2P's request on public information.

<sup>332</sup> Article 11(1-3) Law on Refugees.

<sup>333</sup> Section VII(7.1) Rules for the Consideration of Applications.

<sup>334</sup> Section VII(7.2) Rules for the Consideration of Applications.

When the territorial body of the SMS receives the relevant information, the legislation demands to complete the following steps:

- ❖ registers the relevant documents in the application register and verifies them by collecting additional information in accordance with the established procedure;
- ❖ informs the person who has been granted refugee status or a person in need of complementary protection in writing about the existence of grounds for the cessation of their refugee status or complementary protection (unless the person concerned has filed an application for the existence of grounds for the loss of their refugee status or complementary protection). At the same time, the person is informed that during the consideration of the relevant materials, the refugee or person granted complementary protection has the right to participate in the consideration by providing appropriate explanations (oral or written) and providing materials that may be of significant importance;
- ❖ prepares a submission on the cessation of refugee status or subsidiary protection. The period for preparing the application cannot exceed two months from the date of receipt of the documents.<sup>335</sup>

The completed personal file of a refugee or a person in need of complementary protection is sent to the headquarters of the SMS.

When considering an application to a territorial body of the SMS on the cessation of refugee status or complementary protection, the headquarter of the SMS has the right to:

- ❖ demand submission of additional information from the territorial body of the SMS that made the submission;
- ❖ to submit relevant requests to the Ministry of Foreign Affairs of Ukraine, the Ministry of Internal Affairs of Ukraine, the Security Service of Ukraine, other state authorities, local self-government bodies and citizens' associations in case of doubts about the accuracy of the information contained in the application and the need to establish the authenticity and validity of documents.<sup>336</sup>

Based on the results of a comprehensive examination and assessment of the documents and materials attached to the personal file received with the application, the SMS makes one of the following decisions:

- ❖ on the cessation of refugee status or complementary protection;
- ❖ on the absence of grounds for the cessation of refugee status or complementary protection.<sup>337</sup>

The decision of the SMS can be appealed in five business days.<sup>338</sup>

## 6. Withdrawal of protection status

### Indicators: Withdrawal

1. Is a personal interview of the beneficiary in most cases conducted in practice in the withdrawal procedure? ☒ Yes ☐ No
2. Does the law provide for an appeal against the withdrawal decision? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☒ Yes ☐ With difficulty ☐ No

According to the Law on Refugees, a person is revoked of refugee status or complementary protection if they are engaged in activities that pose a threat to national security, public order, or the health of the population of Ukraine.<sup>339</sup>

Moreover, the decision to recognise a person as a refugee or a person in need of complementary protection is withdrawn if the person has provided false information or presented false documents that

<sup>335</sup> Section VII(7.4) Rules for the Consideration of Applications.

<sup>336</sup> Section VII(7.6) Rules for the Consideration of Applications.

<sup>337</sup> Section VII(7.7) Rules for the Consideration of Applications.

<sup>338</sup> Article 11(18) Law on Refugees.

<sup>339</sup> Article 11(5) Law on Refugees.

became the basis for recognising the person as a refugee or a person in need of complementary protection.<sup>340</sup>

The procedure of withdrawal is similar to the cessation procedure. The decision of the SMS can be also appealed in five business days.

The decision of the SMS to cease the refugee status can be successfully appealed. For instance, in case no. 807/250/16 of the Zakarpattia District Administrative Court ruled that the decision of the SMS to deprive persons of complementary protection because of their alleged threat to national security was unlawful.<sup>341</sup> The Court emphasised that the defendant failed to examine and take into account all the facts of the existence of a real risk of violation of Article 3 of the Convention, in particular the protection of the plaintiff's rights in the event of her return to her country of origin.

## B. Family reunification

### 1. Criteria and conditions

#### Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification?  
☐ Yes ☒ No  
❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application?  
☐ Yes ☒ No  
❖ If yes, what is the time limit?
3. Does the law set a minimum income requirement? ☐ Yes ☒ No

### 2. Status and rights of family members

Ukrainian legislation does not foresee the family reunification process *per se*. However, according to Article 4 of the Law on Refugees, Ukraine promotes the preservation of the unity of refugee families and persons in need of complementary protection. Family members of a person recognised as a refugee in Ukraine or a person in need of complementary protection have the right to enter the territory of Ukraine for family reunification and to be recognised as refugees or persons who need complementary protection.<sup>342</sup> Aside from Article 4, there is no procedure for the family reunification of the refugee family members. Members should apply for international protection following the regular procedure.

Nuclear family members first have to enter Ukraine on general immigration grounds before they can apply for a protection status based on the family unity principle. As there is no special family reunification visa to join persons granted protection in Ukraine (a document confirming that the applicant is a family member of a person granted protection in Ukraine is only one of the general list of documents required to apply for a long-term visa), family members often cannot meet the requirements for the necessary regular entry visa.

## C. Movement and mobility

### 1. Freedom of movement

Recognised refugees and persons in need of complementary protection in Ukraine enjoy free movement and choice of place of residence. Both refugees and beneficiaries of complementary protection must

<sup>340</sup> Article 11(4-5) Law on Refugees.

<sup>341</sup> Zakarpattia District Administrative Court, case no. 807/250/16, 19 March 2018, available in Ukrainian [here](#).

<sup>342</sup> Article 4 Law on Refugee.

inform the SMS about any change of address in Ukraine within 30 days.<sup>343</sup> The Code of Administrative Offences sets forth a fine in case of failure to comply with the registration requirement (around €40-80).<sup>344</sup>

## 2. Travel documents

Travel documents can be issued to the beneficiaries of international protection and persons in need of complementary protection upon request. A travel document of a refugee (a person in need of complementary protection) is a document that certifies the identity of its holder and gives him/her the right to leave and enter Ukraine. The document is issued by the territorial body of the SMS at the place of residence of a person who has reached the age of sixteen.

The grounds for receiving a travel document are:

- ❖ a decision to grant refugee status (complementary protection) to a person in Ukraine;
- ❖ possession of a refugee certificate (complementary protection certificate).

The administrative fee for issuing a travel document is around €10. The term for issuing a travel document is 15 working days.<sup>345</sup> The document is issued for the period of validity of the refugee (complementary protection) certificate.<sup>346</sup>

A travel document is issued to provide international protection beneficiaries with a document for travelling which can be used instead of a national passport. It shall neither prejudice nor affect the nationality of the holders.<sup>347</sup>

In 2023, SMS issued 65 travel documents for refugee status beneficiaries and 107 travel documents for persons in need of complementary protection.

In practice, even before the war there were long waiting times for documents to be issued. During wartime, considering the interruption of the territorial bodies of the SMS work due to the hostilities and electricity interruption, there could be delays in travel document issuance, however, the demand for them remains high as well as a need for their quicker processing.<sup>348</sup>

Travel documents of beneficiaries of international protection issued in Ukraine are recognised by the majority of the EU Member States and Schengen Associated States. The up-to-date information on the recognition of travel documents may be found on the official website of the Council of the EU and the European Council.<sup>349</sup>

---

<sup>343</sup> Article 5(5) Law on the Provision of Public (Electronic Public) Services for Declaration and Registration of Residence in Ukraine.

<sup>344</sup> Article 203 The Code of Administrative Offences.

<sup>345</sup> Diia, *Issuance and Exchange of a Refugee Travel Document*, available in Ukrainian [here](#); Diia, *Issuance and Exchange of a Travel Document for a Person Granted Complementary Protection*, available in Ukrainian [here](#).

<sup>346</sup> Para. 16 Regulations on the Refugee Travel Document; para. 16, Regulations on the Travel Document of a Person in Need of Complementary Protection.

<sup>347</sup> R2P, *International and equivalent national protection in Ukraine: features of documents and freedom of movement*, available [here](#).

<sup>348</sup> R2P & HIAS, *Asylum Seekers and Refugees in Ukraine Addressing Protection Risks During Wartime*, 05 April 2023, available [here](#).

<sup>349</sup> European Council, Council of the EU, *Recognised travel documents*, available [here](#).

## D. Housing

### Indicators: Housing

- |   |           |
|---|-----------|
| 1. For how long are beneficiaries entitled to stay in reception centres?        | unlimited |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2023: | 7         |

Beneficiaries of international protection in Ukraine have the right to freely choose their place of residence and housing.<sup>350</sup> Foreigners and stateless persons may acquire real estate in Ukraine as their ownership. Refugees exercise this right if they have the ability.<sup>351</sup>

Foreigners and stateless persons legally residing on the territory of Ukraine and living in residential premises are entitled to receive a housing subsidy.<sup>352</sup> This category includes both asylum seekers, as MSID certifies the legality of a person's stay in Ukraine and refugees. In order to receive a housing subsidy, foreigners must submit, in particular, an ID or a refugee certificate or other document confirming the legality of the foreigner's stay in Ukraine.

However, in Ukraine, beneficiaries of international protection are not eligible for any support in obtaining housing. Social housing which is free of charge is provided only to citizens of Ukraine, refugees and asylum seekers are not entitled to such housing.<sup>353</sup>

The NGO "Tenth of April" reported that their beneficiary was able to access social housing once, but explained that this was only possible due to her own perseverance.

In addition, since 2021, Ukraine has been operating the YeHousing programme, which provides an opportunity to receive preferential mortgage loans in hryvnia for the purchase of housing at 3% and 7% per annum. The programme is only available to Ukrainian citizens, which means that refugees and asylum seekers are not able to access such loans.

## E. Employment and education

The outdated Plan of measures for the integration of refugees and persons in need of complementary protection into Ukrainian society adopted on August 22, 2012, and intended to run until 2020, outlined the set of measures to enhance the integration and inclusion of the beneficiaries of international protection and beneficiaries of complementary protection. The plan determined various steps and targets to achieve for public authorities at national and local levels.

Among the measures, the Plan indicated the elaboration of educational programs for preparatory classes as well as classes in the Ukrainian language, history, and culture and encouraging the employment of the refugees.

In addition, the Strategy of the State Migration Policy of Ukraine to 2025 adopted on 12 July 2017 stresses the integration needs of asylum seekers and beneficiaries of international protection, and beneficiaries of complementary protection.

The target which addressed refugees points out the necessity of elaboration of tailored integration plans and programs.

<sup>350</sup> Article 15 Law on Refugees.

<sup>351</sup> Testimony of the ROKADA of 01 May 2024, testimony of the NGO "Tenth of April" of 14 May 2024, Testimony of the NEEKA of 10 May 2024.

<sup>352</sup> Para. 4 Regulation on Simplification of the Procedure for Providing Subsidies to the Population for Reimbursement of Expenses for Housing and Utility Services, Purchase of Liquefied Gas, Solid and Liquid Heating Fuel of 21 October 1995 No. 848.

<sup>353</sup> Article 2 Law on the Social Housing Fund.

## 1. Access to the labour market

Law on Refugees guarantees asylum seekers, refugees and persons in need of complementary protection the right to education and employment.<sup>354</sup> Refugees and persons in need of complementary protection have the right to employment on the grounds and in accordance with the procedure established for Ukrainian citizens.<sup>355</sup>

Refugees and persons in need of complementary protection cannot hold elected positions in central and local authorities, civil service positions, as well as positions related to the possession of information constituting a state secret. For example, foreigners cannot hold the following positions: civil servants, judges, customs officers, police officers, personnel of the Security Service of Ukraine, prosecutors, notaries, etc.<sup>356</sup>

Refugees and persons in need of complementary protection can be employed without special permission which is necessary for asylum seekers.<sup>357</sup>

In order to be employed and to conclude an employment contract, asylum seekers and refugees must provide an identity document, employment record book (if any) or information on employment from the register of insured persons of the State Register of Compulsory State Social Insurance and, in cases provided for by law, an educational document, as well as other documents that can confirm professional qualifications.<sup>358</sup> If educational documents are required for employment (e.g., in the medical and pharmaceutical industries), all foreign educational documents must be nostrified.

In the case of insufficient information, the procedure for the recognition of foreign educational qualifications of refugees and persons in need of complementary or temporary protection may include specially organised exams, testing, and interviews, the results of which are taken into account by the competent recognition authority when making a decision.

Ukraine has ratified the Lisbon Convention on the Recognition of Qualifications in Higher Education in the European Region (1997) and is a member of the ENIC-NARIC network, a network of cooperation between national information centres for the academic recognition of qualifications in 55 countries. The State Enterprise “Information and Image Centre” is responsible for the nostrification of foreign educational documents.

Overall, NGOs providing assistance to the beneficiaries of international protection do not report obstacles with diploma nostrification of refugees.

Despite the legally established access to the labour market refugees and persons in need of complementary protection report facing discrimination during the hiring process.<sup>359</sup>

In addition to employment, the beneficiaries of international protection in Ukraine can be self-employed and run small businesses. To do this, it is enough to have a TIN and a valid passport document.

In order to register as a self-employed person, it is necessary to fill out and submit an application, which can be submitted both in paper and electronic form. The application must include personal data, the types of activities the entrepreneur plans to carry out, and contact information.<sup>360</sup>

---

<sup>354</sup> Article 13, 15 Law on Refugees.

<sup>355</sup> Article 3(4) Law on Employment.

<sup>356</sup> Article 19 the Law on Civil Services; Article 69(1) Law on the Judicial System and Status of Judges; Article 570 Customs Code of Ukraine; Article 17 o Law on the National Police; Article 19 Law on the Security Service of Ukraine; Article 27 of the Law on the Public Prosecutor’s Office; Article 3 Law on Notaries.

<sup>357</sup> Article 42(6)(2) Law on Employment.

<sup>358</sup> Article 24 Labour Code of Ukraine.

<sup>359</sup> R2P & HIAS, *Asylum Seekers and Refugees in Ukraine Addressing Protection Risks During Wartime*, 05 April 2023, available [here](#).

<sup>360</sup> Diia, *Registration of an Individual Entrepreneur*, available in Ukrainian [here](#).



The main obstacle for asylum seekers and refugees to register as a self-employed person is the absence of a passport or its expired validity.

UNHCR and its partners aim to facilitate local integration of refugees by providing grants for self-employment, assistance with skill training, and assistance with job search and collaboration with the Employment Centres.<sup>361</sup>

In the R2P questionnaire among asylum seekers and beneficiaries of international protection in Ukraine, 84% of respondents noted that they work informally. The reasons for that can be employers' reluctance to hire foreigners, low level of integration, and lack of knowledge of the Ukrainian labour market. Thus, refugees are more likely to be exposed to unscrupulous employers and forced to work informally. Among those employed, 57% provide jobs in two sectors: wholesale and retail trade, repair of cars and motorcycles, and short-term accommodation and catering.<sup>362</sup>

## 2. Access to education

The current state of affairs with access to education for the beneficiaries of international protection has the same modalities as one of the asylum seekers described under [Reception condition – Access to education](#). The main difference lies in greater access to medical care, which allows people to obtain necessary vaccinations and documents for enrolling children in kindergartens.

In addition, in 2014, the Ministry of Education issued Methodical recommendations regarding the peculiarities of the education of refugee children.<sup>363</sup> The document foresees guidance for the subscription of children of refugees to schools and consists of a set of recommendations that aim to assist with the integration of the children and foster tolerance within the group. However, the public schools do not have specialised programs or assistance in studying Ukrainian as a foreign language for children refugees.<sup>364</sup> In the case of higher education, refugees and persons in need of complementary protection have the right to receive higher education on an equal basis with citizens of Ukraine, including at the expense of the state or local budget.<sup>365</sup> There is no special scholarships available for beneficiaries of complementary protection.

## F. Social welfare

As noted previously, persons who are recognised as refugees or persons in need of complementary protection enjoy the same rights and freedoms and have the same obligations as citizens of Ukraine.<sup>366</sup> However, as mentioned previously, refugees are those who live “permanently” in the territory and thus have access to the social services offered by the State, which includes but are not limited to the right to pension,<sup>367</sup> disability payments<sup>368</sup> child care benefits,<sup>369</sup> etc.<sup>370</sup> In the case of persons in need of complementary protection, in most events, they would have access to certain social services if the legislation specifically mentioned them among the recipients of certain services. For instance, persons in need of complementary protection are mentioned in the Law on State Assistance to Families with Children,<sup>371</sup> Procedure for Granting a One-time Assistance “Baby Box” at the Birth of a Child,<sup>372</sup> Procedure

---

<sup>361</sup> UNCHR, *Local Integration*, available [here](#).

<sup>362</sup> R2P, *Key Aspects of Employment of Refugees, Persons in Need of Complementary Protection and Asylum Seekers in Ukraine*, 10 October 2018, available in Ukrainian [here](#), e.g. 11, 16, 28.

<sup>363</sup> Letter of the Ministry of Education on Education of Refugee Children.

<sup>364</sup> UNHCR, *Ukraine as a country of asylum. Observations on the situation of asylum-seekers and refugees in Ukraine*, July 2013, available [here](#).

<sup>365</sup> Article 4, Law on Higher Education.

<sup>366</sup> Article 14(1) Law on Refugees.

<sup>367</sup> Article 1 Law on Pensions.

<sup>368</sup> Article 2 Law on State Social Assistance to Persons not Entitled to a Pension and Persons with Disabilities.

<sup>369</sup> Article 1 Law on State Assistance to Families with Children.

<sup>370</sup> Para. 25 Regulation on the Organisation of Social Services Provision of 1 June 2020 No. 587

<sup>371</sup> Article 1 Law on State Assistance to Families with Children.

<sup>372</sup> Para 4, Procedure for Granting a One-time In-kind Assistance “Baby Box” at the Birth of a Child.



for Granting and Paying State Social Assistance to Persons with Disabilities from Childhood and Children with Disabilities, etc.<sup>373</sup> This list is not complete and does not mean that persons in need of complementary protection are excluded from other social services. However, they may face obstacles when trying to obtain service where they are not specifically mentioned.

In addition, this access is limited by low awareness of the Ukrainian service providers of these categories of people and their rights, bureaucratic obstacles, and language barriers.<sup>374</sup>

Social Services Classifier foresees two tailored social services for recognised refugees, social integration and reintegration, but complementary protection beneficiaries are not mentioned in the document.<sup>375</sup> However, there is no information on how these services are applied in practice and regarding the feedback from beneficiaries.

## G. Health care

Access to health care for beneficiaries of international protection is guaranteed in Ukrainian legislation. Under Ukrainian legislation, refugees and persons in need of complementary protection can conclude the medical declaration with a physician.<sup>376</sup> NGOs report that there are no obstacles in signing medical declarations with beneficiaries of international protection.

As part of the medical guarantee program, the state guarantees persons recognised as refugees or persons in need of complementary protection full payment for medical services and medicines related to the provision of such services at the expense of the State Budget of Ukraine including 1) emergency medical care; 2) primary medical care; 3) specialised medical care; 4) palliative care; 5) rehabilitation in the field of healthcare; 6) medical care for children under 16 years of age; 7) medical care in connection with pregnancy and childbirth.<sup>377</sup>

In 2020, the Parliament adopted the Law on Rehabilitation which foresees the possibility of recovery, including psychological support for traumatised persons.<sup>378</sup> The legislations cover people with disabilities or people who cannot perform in the usual manner due to their state of health or aging. The Law on Rehabilitation does not mention victims of torture but inherently foresees all spectrum of recovery services for them. To receive State rehabilitation assistance a person shall address to the physician with whom they concluded the medical declaration.

In its research dedicated to the rehabilitation of victims of torture for 2021, the Council of Europe emphasised that there is no cohesive regulatory framework for the support of torture victims. Responsibilities are unclear, with no designated authorities, and assistance is fragmented. Victims lack local support, post-discharge care, and a rehabilitation monitoring system. The national rehabilitation system relies primarily on NGOs, which operate inconsistently and depend on grants.<sup>379</sup>

However, some refugees complain about language barriers in communicating with doctors, as well as discriminatory practices used by some doctors that make them wait in line longer than other patients. Also, some beneficiaries expressed low awareness of how they can access healthcare services.<sup>380</sup>

---

<sup>373</sup> Para. 2 Procedure for Granting and Paying State Social Assistance to Persons with Disabilities from Childhood and Children with Disabilities.

<sup>374</sup> United Nations Ukraine, *Assessment of the socio-economic impact of COVID-19 in Ukraine*, 02 December 2020, available [here](#), e.g.38-39.

<sup>375</sup> Para 23 Social Services Classifier.

<sup>376</sup> part II(6) Procedure for Determining a Medic who Provides Primary Medical Care from 19 March 2018, No. 503

<sup>377</sup> Article 4(1) Law on State Financial Guarantees of Healthcare Services for the Population.

<sup>378</sup> Law on Rehabilitation.

<sup>379</sup> Council of Europe, *The Mechanism of Rehabilitation of Torture Victims in Ukraine*, 2021, 2019, available in Ukrainian [here](#).

<sup>380</sup> UNHCR, *Ukraine 2019 Joint Needs Assessment*, 2019, available in Ukrainian [here](#).