



Introduction

CF «Right to Protection» (R2P) would like to submit the following information regarding access to public services by asylum seekers, refugees and persons in need of complementary protection in Ukraine. The mentioned category of the population is considered vulnerable and delivery of essential public services to them seems to be ineffective.

«Right to Protection», CF Introducing

R2P works to advance the common cause of all humanitarian actors in Ukraine: to ensure a safe and dignified life for all people living within Ukraine. Year after year the Right to Protection team assists thousands of people throughout Ukraine and protects the rights of internally displaced persons, refugees and stateless persons. In 2021, R2P provided legal aid to 1,553 refugees and asylum seekers inside Ukraine and supported their social and economic inclusion in Ukrainian society. In addition, the Fund advocates the respect of asylum seekers and refugees' rights by State authorities and shifting the migration policy of Ukraine.

Methodology

In 2023, R2P issued a study paper¹ addressing the protection risks of asylum seekers and refugees after the full-scale invasion. The R2P staff surveyed 168 asylum seekers, refugees and persons in need of complementary protection affected by the war to examine in depth the access to the international protection procedure, reception conditions and access to public services. In addition, R2P received written submissions from three of the foremost Ukrainian NGOs working with refugees, complementary protection beneficiaries, and asylum seekers on the challenges they had witnessed.

Thus, the submitted information to the call is based on the mentioned study paper and additional desk research.

Legislative Framework

In law, Ukraine complies with its international obligations to asylum seekers and refugees, whether through the enactment of refugee status determination procedures, or the extension of basic rights and services to these populations. Ukraine is a party to the 1951 Refugee Convention) and its 1967 Protocol and both 1966 International Covenants. In the following sub-chapters, we briefly outline the legislation provision related to the access to public services by asylum seekers and refugees.

¹ R2P & HIAS. Asylum Seekers and Refugees in Ukraine Addressing Protection Risks During Wartime.

<https://r2p.org.ua/asylum-seekers-and-refugees-in-ukraine-addressing-protection-risks-during-wartime/?lang=en>

Asylum Seekers²

The Law on Refugees foresees a limited number of accessible public services for asylum seekers. Most of the services available for Ukrainian citizens are not prescribed for asylum seekers.³ Limited number of legislative acts on public services include the mentioning of asylum seekers and their documents.

For instance, legislation on healthcare guarantees to asylum seekers the provision of medical services and medicines related to urgent medical care. However, asylum seekers are obliged to compensate the State for these charges.⁴

Moreover, Ukraine does not guarantee access to free medical primary aid for asylum seekers. The Procedure for Determining a Medical Professional who Provides Primary Medical Care specifies the list of documents necessary for signing the medical declaration giving access to free primary medical aid. Among them, there are refugee certificates and certificates of persons in need of complementary protection. However, asylum seekers with their certificates find themselves out of the scope of the Procedure.⁵

More progressive and those that consider the interests of asylum seekers on the issue of access to medical services are the proposals of the draft law 3387⁶, which is being considered by the legislative body of Ukraine, the Verkhovna Rada since 2021.

Refugees and Persons in Need of Complementary Protection

The Law on Refugees guarantees the equivalent to Ukrainian citizens' scope of rights to the recognized refugees and persons in need of complementary protection.⁷ This would include the right to social protection and health care.⁸ Indeed, the analyses of 13 legislative acts which regulate the granting of certain services specifically mention the refugees and persons in need of complementary protection as beneficiaries of a specific service. They covered the following types of services: unemployment benefits, reimbursement of expenses for housing and communal services, state assistance to families with children, payments of state social assistance to persons not entitled to a pension, state social assistance to persons with disabilities, state social assistance to low-income families, access to the medical aid, protection of the internally displaced persons.

Apparently, this number of regulations is not definitive.

² For this paper, asylum seekers are persons who have already applied for international protection in Ukraine and possess the specific asylum seeker document ("MSID").

³ Про біженців та осіб, які потребують додаткового або тимчасового захисту. (n.d.). Офіційний Вебпортал Парламенту України. <https://zakon.rada.gov.ua/laws/show/3671-17#Text>

⁴ Про затвердження Порядку встановлення цін (тарифів) на екстрену медичну допомогу, що надається іноземним громадянам державними та комунальними закладами охорони здоров'я України. (n.d.). Офіційний Вебпортал Парламенту України. <https://zakon.rada.gov.ua/laws/show/z0009-98#Text>

⁵ The procedure for determining a medic who provides primary medical care from 19/03/2018 №503, part II, para. 6

⁶ Проект Закону про надання захисту іноземцям та особам без громадянства (n.d.). https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68661

⁷ Article 14 of the Law 3671-VI, <https://zakon.rada.gov.ua/laws/show/3671-17#Text>

⁸ Articles 46, 49

Access to Public Services

It's important to note that in theory, recognized refugees are entitled to essential services by virtue of legislation. Nevertheless, the current state of affairs and access to these services have not been thoroughly examined. In the subsequent section, R2P will clarify practical access issues and discuss both the challenges and accomplishments.

At the outset, we would like to provide some outcomes of the survey which concerns access to public services. Refugees, persons in need of complementary protection and asylum seekers reported problems in getting their documents recognised by governmental institutions, as well as poor access to social or medical services, the labour market, and housing. Partner NGO found that refugees or complementary protection holders who are internally displaced often cannot receive humanitarian aid as they lack the required documents.

50% of the respondents said their documents were insufficient for accessing their basic needs. Another 30% said they were only partially sufficient. In addition, 82% are not provided with food or cash assistance. Only 10% are supplied with food packages. Only 13% receive full medical assistance. 11% have access only to urgent medical aid, and 10% only receive prescribed medication for free. In the upcoming sub-chapters, we present some underlying factors contributing to the present challenges.

Limited Access to International Protection

Applying for international protection in Ukraine is extremely difficult, especially since the full-scale invasion. The State Migration Service of Ukraine continues to use martial law to justify having ceased registering or processing applications.⁹ In addition, the persons who succeeded in applying for asylum protection may face a long waiting period for a final decision on their case. Even prior to the current invasion, most asylum seekers wait for a decision on their applications for months, some of them for more than five years.¹⁰ Limited access to asylum processes, coupled with protracted delays, leads to the inability to access crucial social services.

Documents Issue

One of the factors behind poor access to subsistence and healthcare is likely to be a lack of documents, and the failure of authorities to recognise specific asylum seeker and protection documents. Even those granted the asylum seeker document ("MSID") have minimal access to any services which require their identification. The MSID serves as proof that an asylum seeker is staying legally in Ukraine but is not a recognised form of ID.

⁹ 1475th meeting (September 2023) (DH) - Rule 9.2 - 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 Kebe and Others v. Ukraine (Application No. 12552/12) and reply from the authorities (14/09/2023) [anglais uniquement]
[https://hudoc.exec.coe.int/#{%22execidentifier%22:\[%22DH-DD\(2023\)1114revE%22\]}](https://hudoc.exec.coe.int/#{%22execidentifier%22:[%22DH-DD(2023)1114revE%22]})

¹⁰ UNHCR. (2021, March). Refugees and Asylum-Seekers. Thematic update.Ukraine.
https://www.unhcr.org/ua/wp-content/uploads/sites/38/2021/03/2021-03-UNHCR-UKRAINE-Refugee-and-Asylum-Seekers-Update_FINAL-1.pdf.

Considering the relatively low number of individuals with refugee or complementary protection status in Ukraine, these individuals have reported that public service providers fail to recognize or are unaware of their documents.

Digitalization of Public Services

Ukraine is undergoing for development and proliferation of access to digital public services. In the governmental "Diia" application, individuals can possess identification, passports, birth certificates, driver's licenses, and more. The documents within the app hold equivalent legal validity to their physical counterparts. The application may be used for payment of fines for traffic violations; payment of debts under enforcement proceedings; the ability to share copies of digital documents; and checking the authenticity of another person's digital documents.¹¹

With regard to refugees and persons in need of complementary protection, despite their certificates serving as identification documents, none of their certificates or travel documents can be integrated into the "Diia" application. The relevant state authorities appear hesitant to develop the essential legal framework for the inclusion of refugee documents in the "Diia" application.

Nevertheless, there exists a government web portal called "Diia" as well where individuals can access public services online. As an example, there is an option to utilise an electronic government portal to access services pertaining to pensions, subsidies, granting unemployment status, and other benefits and services. For authorization, a person can use the "Diia" application, electronic signature, or be a bank customer connected to the "Diia" system.

¹¹ Запитання. (n.d.). <https://diia.gov.ua/faq/13>