

# UNHCR POSITION ON VOLUNTARY RETURN TO UKRAINE

June 2023

## Introduction

1. Since the escalation of the international armed conflict in February 2022, millions have been displaced both outside and within Ukraine. It is well established that situations of armed conflict can give rise to refugee claims;<sup>1</sup> UNHCR accordingly considers that the vast majority of persons displaced from Ukraine are likely to be in need of international protection. The implementation of Temporary Protection in the European Union and similar legal schemes elsewhere has enabled millions of refugees from Ukraine to access protection and rights in host countries in record time.
2. UNHCR's overall assessment of the context in Ukraine is one of prevailing war, uncertainty, insecurity and a high level of continuing humanitarian needs among the millions of internally displaced persons (IDPs) and people living in areas directly impacted by the ongoing war. It is estimated by the 2023 [Humanitarian Response Plan](#) that some 17.6 million persons, particularly in the eastern part of the country, are in need of humanitarian assistance.
3. For the vast majority of Ukrainians, returning home remains a deeply held wish. The most recent intentions survey conducted by UNHCR highlights that 76 per cent of refugees from Ukraine want to return home one day; however, only 14 per cent of them plan to do so in the coming months. Safety and security concerns in areas of origin are the main impediments to return at the current time, cited by 90 per cent of respondents to UNHCR's survey. Access to and availability of basic services—including electricity, water and healthcare, work opportunities and adequate housing—were also cited as key concerns by 90 per cent of respondents, all of which have been hugely impacted by the war.<sup>2</sup>
4. In March 2022, UNHCR published a [Position on Returns to Ukraine](#), calling on States not to forcibly return nationals and former habitual residents of Ukraine, including those who have had their asylum claims rejected. In view of the ongoing international armed conflict in the country, UNHCR reiterates that this Position remains valid. UNHCR continues to call on all actors to respond to the needs of the displaced and ensure their safety and protection until they can return home, voluntarily and in safety and dignity, or other durable solutions have been found.
5. UNHCR considers voluntary return of refugees and forced return as processes of fundamentally different characters, engaging different responsibilities on the parts of the various actors involved. The present position recalls the nature of voluntary return as a fundamental right and articulates its implications in the specific context of return to Ukraine with the necessary safeguards to be considered. This position does not reflect UNHCR's views on the return of children without parental care, for whom additional considerations apply.

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<sup>1</sup> UNHCR, [Guidelines on International Protection No. 12: Claims for refugee status related to situations of armed conflict and violence under Article 1A\(2\) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees and the regional refugee definitions](#) (December 2016).

<sup>2</sup> UNHCR, *Lives on Hold: Intentions and Perspectives of Refugees from Ukraine #4* (forthcoming).

## Voluntary return as a fundamental human right

6. Many refugees have engaged in short term visits to Ukraine since their arrival in host countries, primarily to visit family members, retrieve documents, check on property and the overall situation.<sup>3</sup> UNHCR's systematic border monitoring and other data sources identify increased mobility among the refugee population in the form of steady cross-border movements, which include temporary stays and also more sustained visits in Ukraine, as well as durable return.
7. As in other refugee situations, the ability to return home for short periods, including to maintain links with family and community and check on the prevailing situation, can help pave the way for more durable returns in the future once conditions permit. Given the ongoing war and general volatility of the current situation, UNHCR does not consider that visits to Ukraine undermine the overall assessment that the vast majority of persons displaced from Ukraine are likely to have international protection needs.
8. Early recovery efforts are underway in certain areas of Ukraine. The importance of creating conditions for durable and sustainable returns cannot be overstated. This will require work in close partnership with the Ukrainian authorities, focusing on demining, repair of houses, reconstruction of damaged and destroyed social and civilian infrastructure and investment in the local economy and jobs as soon as possible with the support of the international community. The [second Rapid Damage and Needs Assessment](#), a joint undertaking of the Government of Ukraine, the World Bank, the European Union and the United Nations, estimated the direct costs of damage at some \$135 billion and the reconstruction and recovery needs at \$411 billion, as of February 2023.
9. Returning to one's own country is a fundamental right. Although UNHCR is not promoting returns to Ukraine at the current time due to the ongoing international armed conflict, this does not preclude some refugees from taking personal decisions to return. UNHCR's longstanding approach has been to respect the decisions of refugees regarding return, provided they are well-informed and fully voluntary. Decisions regarding return or continued stay in countries of asylum are both complex and reflective of individual experiences of forced displacement: high levels of family separation, trauma, gender-based violence (including conflict-related sexual violence), economic well-being, ongoing family separation and security risks have all emerged as factors in individual decision making.
10. As discussions on return to Ukraine gather momentum at the international level, it is important to ensure that these conversations are centered around the perspectives, intentions, and needs of refugees—the vast majority of whom are women and children—and applicable international law principles. Any decisions to return must be well-informed and fully voluntary—and made without inducements for premature return, including restrictions on refugees' ability to access legal status, documentation, national social protection systems and other rights and assistance in host countries.
11. Recognizing that refugees are best placed to evaluate risks and make decisions on issues that directly concern them, including return, UNHCR is prepared to facilitate returns for persons who may need assistance in returning due to vulnerability on a case-by-case basis. Such returns must be fully informed, voluntary, and carried out in conditions of safety and dignity.

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<sup>3</sup> 39% of respondents in UNHCR's most recent intentions survey reported that a member of their household had made at least one short-term visit to their area of origin since displacement (UNHCR, Lives on Hold: Intentions and Perspectives of Refugees from Ukraine #4 (forthcoming)).

## Safeguards and key considerations in relation to voluntary return to Ukraine

12. Many refugees continue to have valid concerns for their safety and security in Ukraine, their ability to return to their homes and to reintegrate sustainably. Their continuing access to international protection is therefore paramount. Whilst conditions in Ukraine preclude large-scale returns in conditions of safety and dignity, UNHCR considers that Temporary Protection remains an important tool of international protection for those displaced outside the country.
13. Given the ongoing need for international protection amongst refugees from Ukraine, UNHCR underscores the importance of ensuring that refugees, including stateless people, are fully included in national systems and fully able to access rights in host countries. The full socio-economic inclusion of refugees enables them to contribute to host societies and further develop their human capital while in exile, which will eventually benefit Ukraine's reconstruction and recovery upon return. Equally important, in light of the high number of separated children and those previously in institutional care in Ukraine, is the inclusion of children in schools and in national child protection systems in refugee-hosting countries in order to ensure their continued protection and care prior to the identification of durable solutions. UNHCR emphasizes that any return of children to Ukraine must be guided by the principle of the best interests of the child.
14. As discussions are now underway regarding the future of temporary protection arrangements in European host States and an eventual transition to alternative stay arrangements, regional institutions and host States have an opportunity to create a flexible policy framework that respects well-informed and voluntary decisions to return and offers assurances that international protection can be re-accessed if the security situation worsens or if returns prove unsustainable in a fluid context characterized by considerable unknowns and risks.
15. At the point at which temporary protection and other similar legal schemes come to an end, there may be groups and individuals who are unable to return to Ukraine and who remain in need of international protection. This may be particularly true for persons who lack identify documentation or proof of nationality, such as stateless people and those with undetermined nationality. Individuals displaced from Ukraine should be allowed to apply for asylum at any time in line with their rights under EU and international law.
16. UNHCR urges host States to maintain a flexible approach to short-term visits to Ukraine, which can help facilitate fully informed decisions on longer term return. Options could include temporary suspension of legal status and access to free public transport on either side of the border to facilitate return and prolonged 'go and see' visits.
17. UNHCR recommends that an individual's legal status and associated rights in a host country are not affected by a visit to Ukraine lasting less than three months. UNHCR additionally recommends that in the event of longer-term travel to Ukraine, hosting countries temporarily de-activate temporary protection and other legal status rather than withdrawing legal status or de-registering individuals, in order to avoid administrative burdens and facilitate renewed access to protection if required.
18. In order to stabilise refugees from Ukraine within efforts to include them in host country national systems and avoid disparities in access to rights and protection, UNHCR continues to call for an inclusive approach and coherence amongst EU Member States regarding the interpretation and application of the Temporary Protection Directive, including with regards to stateless people and people with undetermined nationality. In addition, UNHCR strongly recommends a coordinated and harmonised response amongst hosting states at the point at which the application of Temporary Protection comes to an end, in line with international principles of

cooperation and responsibility-sharing.

19. UNHCR will continue to monitor, with partners, self-organized refugee returns to Ukraine, to better determine drivers and enabling factors which influence return decisions in a fluid context.
20. Refugees should be provided with access to objective and up-to-date information on the potential impact of return on their legal status and access to rights and assistance in host countries, their potential access to assistance in intended areas of return, returnee counselling and verification of the voluntary character of return.
21. UNHCR notes ongoing efforts by some States and other actors to facilitate returns of those who express a wish to travel back to Ukraine. In the current context, UNHCR strongly recommends that where material assistance is provided, it is made available in areas of return in Ukraine rather than at the point of departure. Initiatives supporting refugee returnees in Ukraine must be needs-based and fully coherent and integrated with the assistance and protection efforts for the wider population in need of humanitarian assistance—including IDPs, IDP returnees, host and war-affected communities. All actors are encouraged to support area-based approaches to early recovery and durable solutions in areas of return, in line with the UN Framework for Durable Solutions and the Government's National Recovery Plan. Individual entitlements, such as accessing support to repair or rebuild damaged homes, need to be based on established eligibility criteria under the interagency humanitarian response or in accordance with national assistance and compensation frameworks.
22. UNHCR considers it inappropriate to promote or incentivize returns to Ukraine in the current context, given the ongoing international armed conflict and consequent hostilities. As such, UNHCR cautions that assistance and facilitation programmes must also be based on careful analysis so as not actively to promote, or be seen to promote, returns of refugees or create social tensions through inequities in levels and forms of assistance provided to people with similar needs.
23. Premature return, induced by negative push factors, could have an adverse impact on refugees' ability to take free and voluntary decisions and potentially undermine the sustainability of returns. UNHCR therefore reiterates its calls to the international community to ensure that refugees continue to be able to access protection and rights in host countries, with a specific focus on vulnerable groups. The swift identification of refugees with specific needs—including women who have been subjected to gender-based violence, persons with disabilities, older persons at risk, persons with serious medical conditions and other vulnerable persons including minority groups and persons at risk of statelessness—and systematic referral to specialized services and support is key to ensuring their protection in host States. For the vast majority of refugees unable to return home at this time, their meaningful inclusion in host countries must remain a priority activity for all.

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