

# BRIEFING: Update on access to protection for stateless refugees from Ukraine



European  
Network on  
Statelessness

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This second advocacy briefing in our [series](#) on statelessness and the Ukraine crisis provides updated information and recommendations on access to protection for stateless refugees from Ukraine, including under the EU Temporary Protection Directive (TPD). The latest information from our members and partners suggests that urgent action is needed to ensure that stateless refugees and those at risk of statelessness from Ukraine have equal access to protection in the EU (under the Temporary Protection Directive) and in other European countries.

The briefing covers:

1. Reminder: who is affected by statelessness in Ukraine
2. Update: barriers to protection in Europe (including under the TPD)
3. Recommendations: ensuring access to protection for stateless refugees from Ukraine

## 1. Reminder: who is affected by statelessness in Ukraine?

Most people affected by statelessness residing in Ukraine are stateless 'in their own country' and - due to their statelessness - are unable to prove their links to Ukraine or any other country through documentation.

Estimates for the size of the stateless population vary significantly. In 2021, UNHCR reported **35,875** people who were stateless or had 'undetermined nationality', only **6,047** of whom were recorded as *legally* residing in Ukraine. **Many tens of thousands more are thought to be at risk of statelessness** including 10-20% of the Roma population and 55% of children born in non-government-controlled areas (NGCA) and Crimea since 2014. According to the World Bank, **999,000** people over 15 years-old reside in Ukraine without a national ID card. Although not all will be stateless, most will be unable to prove their Ukrainian citizenship through documentation and may be at increased risk of statelessness.

[Ukraine introduced](#) a statelessness determination procedure in 2021 to determine who is stateless on its territory and grant them protection. By the end of 2021, only **55 people** had been granted a *temporary residence permit* through this procedure; and more than 800 had applied and been documented with a *certificate of application* confirming legal stay.

Populations affected by statelessness in Ukraine include:

- **Romani people** who lack civil documentation to acquire/confirm their Ukrainian nationality
- **Former citizens of the USSR** who were unable to acquire Ukrainian nationality in 1991 and have remained stateless due to lack of access to legal aid and other factors
- **People from non-Government-controlled areas and Crimea** and those internally displaced who have been unable to obtain/renew personal documents since 2014
- **Asylum-seekers, refugees, and migrants** (and their children) residing in Ukraine who were stateless prior to leaving their countries of origin or have since become stateless due to displacement, discrimination, State succession, or deprivation of nationality

## 2. Update: barriers to protection in Europe (including under the TPD)

Latest information from ENS members and partners in Ukraine and neighbouring countries suggests that stateless people and those at risk of statelessness fleeing Ukraine are facing barriers to protection due to their lack of nationality, documentation, and/or residence status.

### *Barriers in Ukraine*

There have been [reports](#) of racial discrimination, antigypsyism, and differential treatment on the Ukrainian side of the border. Between 16-18 April, the Ukrainian State Border Guard temporarily implemented a [policy](#) of permitting only Ukrainians with biometric identity documents to exit Ukraine (with some exceptions for persons fleeing active hostilities or persons with disabilities). The [policy was amended](#) on the evening of 18 April to permit all those with national identity documents from all parts of Ukraine to exit the territory. This is likely to prevent many stateless persons and persons at risk of statelessness leaving Ukraine.

ENS members in Ukraine [report](#) significant barriers for stateless people and those without documents to register for support as Internally Displaced Persons, difficulties crossing internal checkpoints, and fear amongst those without documentary proof of their links to Ukraine that they will not be able to return to the country even if they are able to leave.

### *Entry to neighbouring countries*

Hungary, Slovakia, Poland, Romania, and Moldova have stated that they admit everyone fleeing the war in Ukraine, including stateless people, those at risk of statelessness and/or undocumented people. However, inconsistent practices and instances of discrimination [have been reported](#) at different border crossings. Those without Ukrainian (biometric) passports may face barriers to accessing the territory or be subject to additional 'secondary screening' procedures, including in detention-like conditions in some cases.

### *Access to protection*

EU Member States are not currently required to extend temporary protection to most stateless people and those at risk of statelessness living in Ukraine. People without documentary proof of their nationality, international protection, or a residence permit in Ukraine face significant barriers to accessing protection.

The EU Temporary Protection Directive grants immediate protection only to Ukrainian nationals and those who held international protection or 'equivalent national protection' in Ukraine prior to 24 February 2022 (and their family members). Stateless people who can prove they held a *permanent* residence permit in Ukraine before 24 February, and 'cannot safely return to their country or region of origin', are also entitled to protection, but Member States can choose whether to apply the TPD or 'adequate protection under national law'. Member States *may* extend protection to others, including stateless persons who were 'residing legally' in Ukraine.

Our [country briefing series](#) provides more detailed information on the routes to protection available to stateless people and those at risk of statelessness fleeing Ukraine in different countries. Most European countries have not extended temporary protection (or other protection schemes for Ukrainian refugees) to stateless people from Ukraine. If able to flee, most stateless people will have to resort to asylum, humanitarian protection, or statelessness status procedures (if available). These procedures are lengthy, subject to stringent evidentiary requirements that are difficult for stateless people to meet, and do not provide immediate protection. Applying for these procedures may also prevent onward movement and/or return to Ukraine, meaning some are reluctant to apply.

### 3. Recommendations: how to ensure access to protection for stateless refugees from Ukraine

#### The European Commission should:

- Require EU Member States to implement the Temporary Protection Directive in an inclusive way in line with international and EU law principles of non-discrimination and upholding the rights of stateless persons
- Amend the [Operational guidelines for the implementation of the Temporary Protection Directive](#) to:
  - Explain who is affected by statelessness in Ukraine and their legal status, urging Member States to consider this when assessing links to Ukraine
  - Clarify that 'equivalent national protection' [under Article 2\(1\)\(b\) of the Council Decision](#) includes protection as a stateless person under the UN Convention Relating to the Status of Stateless Persons 1954
  - Encourage Member States to extend temporary protection to all stateless/persons at risk of statelessness fleeing Ukraine who are unable to return for the same reasons as other Ukrainians, and who, by definition, do not have any (other) country to which to return
  - Introduce flexibility in the requirement to prove prior residence in Ukraine through documentary evidence, recognising the inherent difficulty in proving statelessness, and the [documentation challenges](#) faced by stateless persons
  - Require information about statelessness to be reported in the EU Migration Preparedness & Crisis Blueprint

#### EU Member States should:

- Extend temporary protection to all stateless persons and persons at risk of statelessness fleeing Ukraine, 'using their margin of appreciation in the most humanitarian way' under the [Operational guidelines](#), and so upholding their international law obligations (*inter alia* under the 1954 Convention Relating to the Status of Stateless Persons, 1951 Geneva Convention, 1989 Convention on the Rights of the Child, and 1961 Convention on the Reduction of Statelessness)

#### All European States should:

- Determine who is stateless on their territory and grant them the protection enshrined in the 1954 Convention, including through early identification of (initial indications of) statelessness and referral to appropriate procedures to determine statelessness
- Guarantee every child's right to birth registration, legal identity, and a nationality to prevent future cases of statelessness arising because of the conflict and facilitate access to child-rights-based procedures for the determination and/or acquisition of nationality
- Remove barriers to protection under national mechanisms for Ukrainian refugees for all stateless persons and persons at risk of statelessness from Ukraine and facilitate both their freedom of movement and right to return to Ukraine

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The [European Network on Statelessness \(ENS\)](#) is a civil society alliance of over 170 organisations and individuals working to address statelessness in 41 European countries.