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The Protection Sector provides technical guidance and oversight to ensure effective, coherent and predictable interventions to support the Government of Poland in its efforts to respond to the protection needs of all asylum seekers and refugees, stateless persons and other persons of concern fleeing Ukraine, with due considerations for their age, gender and diversity<sup>1</sup>.

In this context, the Protection Sector wishes to stress that the application of the Temporary Protection Directive in Poland is unprecedented, and has guaranteed swift access to safety, documentation, and rights for over one million refugees from Ukraine.

The below set of recommendations are based on broad consultations with protection partners and feedback collected through interviews and focus group discussions conducted with refugees from Ukraine. The Protection Sector members stand ready to continue supporting the Government of Poland in the implementation of the Temporary Protection Directive, including through technical advice as well as operational contributions to enhance service delivery as needed.

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<sup>1</sup> [Document - Poland: Protection Sector Terms of Reference \(TORs\) \(unhcr.org\)](https://www.unhcr.org/poland-protection-sector-terms-of-reference-tors)

## 1. Sporadic returns, access to territory and withdrawal of status

- Given the fluid nature of the situation in Ukraine and the fact that most refugees from Ukraine have not yet made final decisions on their place of residence<sup>2</sup>, the Protection Sector recommends that the *Special Act on Assistance to Citizens of Ukraine in the context of the Armed Conflict in Ukraine* (Special Act), is amended to replace *withdrawal* of temporary protection status after 30 days of absence from Polish territory, with a *temporary suspension* of the status after 90 days of absence from Polish territory from the date of departure. This is without prejudice of the possibility to discontinue all associated financial benefits after 30 days.
- According to the European Commission's guidance, *persons enjoying temporary protection might need to go back to Ukraine for reasons other than voluntary return before temporary protection has ended (family visits, collecting papers or even to rescue their family members). Therefore, in the view of the Commission services, any short return to Ukraine should not be considered by Member States as a decision to return voluntarily, taken in full knowledge, within the meaning of article 21 of Directive 2001/55/EC, justifying to revoke residence permits and to cease to ensure the rights attached to temporary protection*<sup>3</sup>.
- The Protection Sector calls on the Government of Poland to ensure that border controls, including Schengen related, are conducted in a manner that recognizes the international protection needs of refugees, regardless of their place of origin, place of residence in Ukraine and in line with the current legislation in force.

## 2. Documentation

- The Protection Sector welcomes the introduction of a digital identity document that serves as a residence permit according to the Schengen Borders Code and allows persons enjoying temporary protection to access their document on their mobile devices via an application. The digital identity document has been instrumental in facilitating refugees' freedom of movement as it, along with a valid travel document, allows them to freely move in and out of the country.
- The Protection Sector wishes to stress that persons digitally excluded; namely minorities without access to the necessary technology, older persons, and persons with certain disabilities; may face challenges to access the digital identity document,

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<sup>2</sup> [Lives on Hold: Intentions and Perspectives of Refugees from Ukraine #2 \(September 2022\) - Poland | ReliefWeb](#)

<sup>3</sup> [https://home-affairs.ec.europa.eu/system/files/2022-07/Frequently%20asked%20questions%20received%20on%20the%20interpretation%20of%20the%20Temporary%20Protection%20Directive%20and%20Council%20Implementing%20Decision%202022-382\\_en.pdf](https://home-affairs.ec.europa.eu/system/files/2022-07/Frequently%20asked%20questions%20received%20on%20the%20interpretation%20of%20the%20Temporary%20Protection%20Directive%20and%20Council%20Implementing%20Decision%202022-382_en.pdf)

and therefore recommends that the possibility of issuance of paper based temporary protection certificates by the municipalities is considered for those categories.

### 3. Eligibility for temporary protection and effective remedy

- The Protection Sector recommends amendments to the Special Act and the *Act on Granting International Protection to Foreigners (Act on Protection)* so that an obligation to issue a decision on PESEL registration, and the possibility to effectively appeal negative decisions are provided for. This would be in line with the EU Temporary Protection Directive 2001/55/EC entitlement to redress, which should be granted to individuals who have been excluded from the benefit of temporary protection or family reunification.

### 4. Third country nationals in need of international protection

- The provision in the Special Act confers citizens from Ukraine and their spouses a generous access to social protection and public services, often on equal terms with Polish citizens, which shows extraordinary solidarity with refugees from Ukraine by the Government of Poland.
- The Protection Sector encourages that the Special Act is amended to include all categories covered by article 2 (1) of the *Council Implementing Decision 2022/382 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC*. This will allow for alignment of entitlements and available assistance to all persons granted temporary protection, including refugees and stateless persons previously residing in Ukraine, who currently have access to a more limited set of assistance and support upon their arrival in Poland.

### 5. Support for persons with disabilities

- Persons with disabilities face obstacles to have their disability status verified (including official translation of relevant certificates), and therefore experience delays on accessing support services which are essential for their well-being, particularly for those without family support. The competent authorities are therefore encouraged to introduce a fast-track mechanism to recognize Ukrainian certificates on disability, which would significantly fasten the access to necessary support services.
- The Protection Sector recommends that the authorities exercise flexibility on the requirements (i.e. accept non-official translations, copies of documentation proving disability) and procedural steps to confirm disability and encourages that persons are

actively referred to organizations providing specialized services when/if additional assistance is needed.

## 6. Access to health services, including mental health, for survivors of violence

- Survivors of violence require adequate and timely medical care, including any emergency services, which should be respectful of the patient's physical and mental health status. Timely, efficient, and accessible survivor centered medical (including emergency) care shall be made available for survivors of gender-based violence (GBV).
- The Protection Sector recognizes the need for specialized comprehensive support to GBV survivors including access to safe shelter mental and psychosocial support and legal assistance in line with international standards; and advocates for the implementation of standardized procedures for managing sexual violence and the provision of training for all actors involved in dealing with GBV survivors including police and other actors.

## 7. Provision of accommodation and financial support for host families

- The Protection Sector welcomes the support that the Government of Poland has provided to families who have hosted refugees from Ukraine since the onset of the war, particularly given that over 30 % of refugees are estimated to be residing with host families.
- The extension of the financial support for families hosting vulnerable persons has been crucial to prevent evictions of those most at risk particularly given the risks associated with the upcoming winter. The implementation of expedited procedures for the confirmation of vulnerability and disbursement of the funds to the host families is strongly encouraged.
- The Protection Sector acknowledges the importance of ensuring that collective centers can accommodate potential new refugee arrivals. When/if transfers from collective centers take place, the authorities are encouraged to communicate the transfer to refugees accommodated well in advance, and identify suitable accommodation, particularly for persons with specific needs. The Protection Sector members stand ready to engage with all stakeholders to find sustainable solutions for those most at risk.
- The Protection Sector calls for a system of direct support (cash for rent) for persons whose accommodation is not provided by the State or host families. Such a system would greatly facilitate their integration, reduce transaction costs, and mitigate risks of exploitation.

## 8. Access to information, community engagement and accountability of aid providers

- A greater focus and more coherent efforts are needed on community-facing information, to ensure that marginalized groups have access to consistent and accurate information on their rights and responsibilities, as well as services and opportunities to support their self-reliance and resilience.
- The Protection Sector members encourage all actors providing information in various languages to coordinate their messages so that all new arrivals have access to accurate and reliable information on their rights and responsibilities in their preferred language, format and communication channels.
- The Protection Sector wishes to highlight the need for organizations to establish coordinated complaint and feedback mechanisms which shall inform and shape humanitarian response through interaction with refugees from Ukraine.

## 9. Effective access to the labor market

- The Protection Sector welcomes the fact that temporary protection holders are able to access employment in any profession without a work permit; and to take up and pursue economic activity on the territory of Poland under the same conditions as Polish citizens.
- It should however be noted that if the employer fails to notify the authorities, the work may be considered illegal. It is therefore recommended that employers are encouraged and monitored on their responsibility to register their employees. In addition, there shall be no negative consequences on the temporary protection holder for the failure to act of his/her employer over whom (s)he has no control.

## 10. Prevention of risks relating to exploitation

- The Protection Sector emphasizes the importance of effective reporting mechanisms to support the prevention of and response to exploitation and other protection risks. It recommends establishing contextualized reporting mechanisms that enable people to report safely and effectively through a trusted communication channel.
- The Protection Sector recommends establishing local mechanisms to screen, register and monitor the practices of volunteers, volunteer organizations, and private companies providing free services to refugees, including accommodation and onward transportation.

- Lack of adequate accommodation, dignified livelihoods, and a high cost of living put women and girls with temporary protection status at a higher risk of experiencing exploitation, including gender-based violence. In light of this, it is critical that information, specialist care, and safe spaces for survivors of gender-based violence be scaled up around Poland.
- The Protection Sector members stand ready to support with the design and implementation of standard operating procedures on protection from sexual exploitation and abuse (PSEA) in collective centers. All programs and services to support people with temporary protection status must include rigorous safeguarding protocols. This should include training for officials, volunteers and staff working with refugees on how to identify protection risks, and report instances of abuse.

## 11. Protection of children's rights

- The Protection Sector wishes to emphasize that unaccompanied and separated children displaced from Ukraine should be allowed entry into the territory, swiftly appointed a temporary guardian, and have access to suitable and safe accommodation, education as well as other services.
- National procedures on best interest determination shall be developed in coordination with all relevant actors; and shall guide all decisions made on behalf of the child, particularly when/if they have family members residing in Poland or other Member States with whom they could be reunified.
- The Protection Sector calls the government of Poland to prioritize efforts to reunify children with parents and/or family unless it is not in the child's best interests to do so as articulated in the UN Guidelines on Alternative Care. Where family members, particularly parents or previous legal or customary caregivers, siblings, and other close family members of refugee children without parental care remain in Ukraine, they should be provided with the possibility to apply for family reunification with the child in the country of asylum, and efforts should be made to facilitate their travel and entry into the country of asylum.
- The Protection Sector notes that children in need of alternative care should ideally be in an individualized family-based care situation which is in the best interest of the child per international guidance. The Protection Sector would like to recall *DG Home Unaccompanied and Separated Children fleeing from war in Ukraine – FAQs on Registration, Reception and Care*<sup>4</sup>, which states that creating parallel systems when establishing care arrangements for children from institutions transferred from the Ukraine should be avoided.

<sup>4</sup> [https://home-affairs.ec.europa.eu/system/files/2022-07/FAQs%20UAMs%20and%20separated%20children%20TPD\\_en\\_1.pdf](https://home-affairs.ec.europa.eu/system/files/2022-07/FAQs%20UAMs%20and%20separated%20children%20TPD_en_1.pdf)



- The Protection Sector wishes to underscore that given the volatile security situation in Ukraine, return of refugees from Ukraine shall not be encouraged. Should that be possible in the future, strict procedural safeguards should be put in place by national child protection system, including considerations of informed decision, participation of the child, individual best interest determination, safety and dignity of the return and best interest of the child should that option arise.

#### FOR MORE INFORMATION

Lorena Isla Rodriguez  
UNHCR  
[isla@unhcr.org](mailto:isla@unhcr.org)

Marta Górczyńska  
The Helsinki Foundation for Human Rights  
[marta.gorczyńska@hfhr.pl](mailto:marta.gorczyńska@hfhr.pl)