

NGO Statement on International Protection

Dear Chair, Ladies, and Gentlemen,

This statement was prepared through wide consultation and attempts to reflect a diversity of views among NGOs.

The International Community's response to the hostilities in Ukraine demonstrates how the international refugee protection regime can serve its purpose in times of crisis. For the most part, and with varying experiences, countries have kept their borders open to those fleeing conflict; unnecessary identity and security checks have been avoided; those fleeing warfare are not penalised for arriving without valid identity and travel documents; detention measures are not used; refugees are able to freely join family members in other countries; and communities and their leaders' welcome refugees with generosity and solidarity¹. The EU activation of the Temporary Protection Directive (TPD)² is a significant step towards a more humane protection regime and fairer responsibility-sharing among member states.

NGOs acknowledge the importance and commend UNHCR and Member States' attention to the war in Ukraine, but we know this response is unprecedented and not how international protection has always operated in Europe. For example, EU Member States' treatment of recently arriving nationals fleeing from other conflicts, like Afghanistan or Syria, varies considerably, as the European Union has been strengthening border controls and invested in policies of border externalisation to third countries in the Middle East and North Africa. This creates legal uncertainty and illustrates the deeply politicized – and often discriminatory – nature of providing refugee protection.

In recent years, European states have sought to forcibly deny entrance to asylum seekers from the Middle East and Africa who became caught in legal and political limbo as they attempted to enter the EU³, or build fences to close off major migrant routes⁴. Recent plans from the UK and Denmark to externalise the management of refugees by forcibly transferring asylum seekers to Rwanda risk

¹ Global Detention Project, 2022, The Ukraine Crisis Double Standards: Has Europe's Response to Refugees Changed?, accessed August 2022: <https://reliefweb.int/report/ukraine/ukraine-crisis-double-standards-has-europe-s-response-refugees-changed>

² Council of the EU, press release, 2022, Ukraine: Council unanimously introduces temporary protection for persons fleeing the war, accessed September 2022: <https://www.consilium.europa.eu/en/press/press-releases/2022/03/04/ukraine-council-introduces-temporary-protection-for-persons-fleeing-the-war/>

³ Médecins Sans Frontières, 2021, 8 things to know about the EU/Belarus border crisis, accessed September 2022: <https://reliefweb.int/report/belarus/8-things-know-about-eubelarus-border-crisis>

⁴ BBC, 2015, Hungary rushes to build border fence as migrants keep coming, accessed 2022: <https://www.bbc.co.uk/news/world-europe-33802453>

breaching the international *non-refoulement* principle⁵. Reported State practices of violent and informal summary returns (pushbacks) and detention have continued rising, as has the criminalisation of organisations and human rights defenders that bring such incidents under the public limelight, including at the EU's external borders, where they are often treated as working against national interests.

In the Americas, UNHCR predicts that by the end of 2022 over 20.6 million people, or around 18% of the total population, will be displaced. Mixed population movements have risen in both quantity and complexity over the past two years. The majority of them seek to reach Mexico and the US, facing serious threats to their safety along the routes, including of being deported and rejected at the borders. These acts exacerbate protection-related risks and create burden in local communities. NGOs welcomes the adoption of the Los Angeles Declaration on Migration and Protection⁶ at the June 9th Summit of the Americas, aiming to further cooperate to improve political, economic, and environmental conditions to prevent and respond to the current displacement crisis. The commitments by signatory countries are commendable, particularly bilateral agreements to provide protection and legal pathways to people on the move. However, we invite clear plans from signatories on how these commitments will be monitored and evaluated. Political will and long-term investments are needed to develop an integrated regional response. We urge UNHCR to call on signatories to invest in durable solutions that address the drivers of migration and adopt a needs-based approach to assist people at their place of origin, in transit, and at destination.

In response to the increase in conflicts, national disasters, and climate emergencies – most recently in Pakistan and Yemen – States must share, rather than shift, the responsibility to save lives and guarantee the rights of forcibly displaced people, as enshrined in the 1951 Refugee Convention and to which all 193 UN Member States affirmed their commitment just six years ago in the 2016 New York Declaration.

NGOs call for the same level of solidarity, non-discrimination, equal protection, and political support shown in the response to Ukraine to all those escaping conflicts, violence, persecution, and human rights violations. We call for the respect and protection of humanitarian access and space, enabling all people in need to equally access effective and principled humanitarian assistance without discrimination.

International Protection and Conflict

NGOs continue to call for reinforcing the normative frameworks and institutional practices that already exist, especially of and by States, to guarantee the equal protection of all asylum seekers and all other forcibly displaced people seeking international protection and humanitarian assistance. NGOs urge UNHCR to act as a “strong, principled and persuasive advocate for the rights and needs of forcibly displaced people and of stateless persons” and call on Member States to afford newly arriving refugees

⁵ OHCHR, 2022, UN expert urges UK to halt transfer of asylum seekers to Rwanda, accessed September 2022: <https://www.ohchr.org/en/press-releases/2022/06/un-expert-urges-uk-halt-transfer-asylum-seekers-rwanda>

⁶ The White House, 2022, Los Angeles Declaration on Migration and Protection, accessed September 2022: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/10/los-angeles-declaration-on-migration-and-protection/#:~:text=Migration%20should%20be%20a%20voluntary,human%20rights%20and%20fundamental%20freedoms>

and asylum-seekers from all countries of origin in a similar manner to Ukrainians, and to proffer legal status appropriately with clear rights attached.

We also strongly condemn State practices of violent and informal summary returns (pushbacks) and the stigmatisation and criminalisation of human rights defenders who bring such violations under the public limelight. We call on governments to fully respect the fundamental principle of *non-refoulement*, and to abstain from actions and rhetoric that undermine the rule of law and democratic values.

With new humanitarian crises emerging, it is as critical as ever that States fully uphold their responsibilities, that individuals have the right to seek and enjoy asylum from all types of persecution, including in situations of mixed migration. The trend in high-income countries, like the UK and Denmark, to undermine international protection mechanisms by neglecting their obligations, transferring them to others, or cutting humanitarian assistance has led politicians in Low- or Middle-income countries to leverage the decline in support from the international community, as well as issues like the Covid-19 pandemic and the global economic crisis, to legitimise their own anti-refugee policies⁷. We call on Member States to facilitate equal access to claim asylum by relaxing visa restrictions and using emergency resettlement procedures for the most vulnerable. EU Member States and all other receiving governments must urgently kickstart resettlement efforts which have been stalled during the pandemic, as a new record of 2 million people are expected to be in need of resettlement globally next year.⁸

With funding for the world's humanitarian and displacement crises falling "far behind those of Ukraine"⁹, we also strongly urge UNHCR and Member States to increase humanitarian aid to conflict zones and host countries proportionately across regions. For example, as of August 2022, in Afghanistan 40 out of every 100 United States Dollars (USD) requested by the Humanitarian Country Team had been received and reported; that figure comes \$35 out of every \$100 in Ethiopia or \$33 out of every \$100 in Nigeria; meanwhile the situation in Colombia, a country hosting the third largest number of displaced people in the world, is the most underfunded: only \$25 out of every \$100 is fulfilled¹⁰.

We welcome the move by the UN Refugee Agency to tap into its Emergency Response Fund¹¹, but this is not enough, and not sustainable as 43 percent of the people served by the Refugee Agency live in just 12 nations, and in all 12 countries, its programs are running at less than 30 percent funding.¹² Donor countries should extend the same generosity to other peoples as they are showing to Ukrainians.

⁷ NGO Statement on International Protection delivered at UNHCR 72nd Executive Committee, 2021, accessed August 2022: https://www.icvanetwork.org/uploads/2021/11/72nd_ExCom_Oct_2021_NGO_Statement_Protection_WRITTEN.pdf

⁸ UNHCR Projected Global Resettlement Needs 2023, accessed 27 September 2022. <https://www.unhcr.org/62b18e714>

⁹ New York Times, 2022, U.N. Faces Record Humanitarian Aid Shortfall — but Not for Ukrainians, accessed August 2022: <https://www.nytimes.com/2022/08/22/world/middleeast/humanitarian-aid-gap-un.html>

¹⁰ Washington Post, 2022, Venezuela's refugee crisis similar to Ukraine's in scale, but not aid, accessed September 2022: <https://www.washingtonpost.com/world/2022/09/04/venezuela-refugee-crisis-ukraine-syria/>

¹¹ New York Times, 2022, U.N. Faces Record Humanitarian Aid Shortfall — but Not for Ukrainians, accessed August 2022: <https://www.nytimes.com/2022/08/22/world/middleeast/humanitarian-aid-gap-un.html>

¹² Ibid

Snapshot: The Syria crisis and host communities

Regarding the Syria crisis, NGOs commend the tremendous efforts of the neighbouring countries hosting Syrian refugees. But we are also dismayed by reports of unlawful detention, abuse, and lack of adequate food, shelter, and medical care for refugees in some host communities, disproportionately affecting women and girls. For example, while recognising that Lebanon has been generously hosting large numbers of refugees for decades, NGOs are concerned about a wide range of issues concerning Lebanon's asylum policies and practices, forced evictions, discrimination and widespread abuse pushing refugees to desperate measures, including returns to unsafe places in Syria.

Lebanon has one of the world's highest numbers of refugees per capita and currently hosts approximately 1.5 million Syrians¹³. Political actors have repeatedly politicised the presence of refugees. In the current economic crisis that the country is facing, at a time when Lebanese society is under extreme pressure, refugees are too often being scapegoated for all the country's problems. For instance, the number of raids in the tented settlements or mobile checkpoints has increased from June to July this year. In July 2022, the Lebanese government proposed a plan that would entail sending back 15,000 Syrian refugees every month, under the claim that Syria is now safe. Other countries in the region have also leveraged similar pressures. As a recent report demonstrates, however, Syrian authorities continue to randomly target, arrest and torture returning refugees: even those who had a security clearance to return¹⁴. Non-government-controlled areas also remain unsafe after 12 years of conflict and indiscriminate attacks. Just a few weeks ago, the northern area of Idlib has been again targeted resulting in the death of 8 civilians. Within the framework of the 1951 Convention/1967 Protocol, the principle of *non-refoulement* constitutes an essential and non-derogable component of international refugee protection¹⁵. Similarly, the UN General Assembly has rightly called upon States "to respect the fundamental principle of *non-refoulement*, which is not subject to derogation."¹⁶

There is overwhelming evidence and research showing that many Syrians do not want to return to Syria, with safety concerns, lack of livelihoods opportunities, housing, and basic services cited as key factors influencing return decision-making.¹⁷ Children too do not think they will be able to return in the next 5 years¹⁸. There is also evidence that Syrian refugees who returned to Syria between 2017 and 2021 from Lebanon faced grave human rights abuses, including arbitrary detention, torture, kidnappings, extrajudicial killings, enforced disappearances and sexual violence¹⁹. The central importance of the obligation not to return a refugee to a risk of persecution is reflected in Article 42(1) of the 1951 Convention and Article VII(1) of the 1967 Protocol, which list Article 33 as one of the provisions of the

¹³ UNHCR, accessed July 2022: <https://www.unhcr.org/uk/lebanon.html>

¹⁴ Human Rights Watch, October 2021, Syrian Refugee Returns from Lebanon, and Jordan, accessed July 2022: <https://www.hrw.org/report/2021/10/20/our-lives-are-death/syrian-refugee-returns-lebanon-and-jordan>

¹⁵ UNHCR, Advisory Opinion on the Extraterritorial Application of *Non-Refoulement* Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, accessed August 2022: <https://www.unhcr.org/uk/4d9486929.pdf>

¹⁶ Ibid

¹⁷ UNHCR, 2021, Syrian Refugees' Perceptions & Intentions on Return to Syria, accessed July 2022: <https://data.unhcr.org/en/documents/details/85739>

¹⁸ World Vision International, 2021, Too High A Price to Pay: The Cost of Conflict for Syria's Children, accessed September 2022: <https://www.wvi.org/emergencies/syria-crisis-response/syria10/cost-conflict-syrias-children>

¹⁹ Human Rights Watch, 2021, Our lives are like death: Syrian Refugee Returns from Lebanon and Jordan, accessed July 2022: <https://www.hrw.org/report/2021/10/20/our-lives-are-death/syrian-refugee-returns-lebanon-and-jordan>

1951 Convention to which no reservations are permitted²⁰. We strongly encourage UNHCR to urge all Governments to uphold the principle of *non-refoulement*.

We advocate for a needs-based, age, gender, and diversity sensitive protection and solutions strategy to best support refugees at the current time. UNHCR and Member States should use a combination of political dialogue, humanitarian diplomacy, technical assistance, and financing to incentivize the governments in the region to provide a more enabling legal and policy environment for refugees and to address the root causes of humanitarian crises. UNHCR, in consultation and cooperation with host and donor governments, should prioritise efforts to ensure that governments do not resort to measures such as push-backs or forced roundups of refugees to address security and other concerns, and forcefully condemn such actions if they do occur. Member States should provide funding to assist host governments and continue funding long-term protracted refugee situations, while at the same time helping to find durable solutions, including providing support for voluntary repatriation and local integration, as well as making available third-country solution opportunities.

Snapshot: Afghanistan

One year after the Taliban takeover in Afghanistan, the situation remains fragile across the country. With the economy on the brink of collapse, largely due to the freezing of development aid by donors and crippling economic sanctions imposed by the United States and other Western countries, humanitarian indicators are now on a sharp downwards trajectory. The protection environment for women and girls, minority ethnic groups, and former government employees and ex-Western Embassies staff, also remains especially concerning.

In light of the ongoing humanitarian and protection crisis in Afghanistan, the displacement situation of Afghans will only worsen, both within Afghanistan and across borders, with increasing numbers of Afghans expected to seek refuge in neighbouring Iran and Pakistan. Both countries are collectively host to over 6 million Afghans of varying status. Undocumented and unregistered Afghans are especially at risk of deportation, despite UNHCR's non-return advisory for Afghanistan.

We call on UNHCR and host states to preserve the asylum and protection space for Afghan refugees and maintain the current non-return advisory notice for as long as necessary while conditions for return remain uncondusive in Afghanistan. We also call on Host Governments, to follow the current advice and refrain from deporting/returning Afghans to Afghanistan. In addition, in line with the non-return advisory, any further discussions on the Solutions Strategy for Afghan Refugees and its Support Platform should focus on supporting host countries and on resettlement opportunities for the most vulnerable Afghans, rather than on promoting returns to areas of origin in Afghanistan.

International protection in contexts of climate change and disasters

In 2020 alone, extreme weather events triggered 30 million new internal displacements and climate change will make these events more frequent and intense in the future. In East Africa for example, the

²⁰ Ibid

drought in Somalia²¹, parts of Kenya and North Eastern Uganda including refugee hosting areas, but also the floods in Eastern Uganda, Ethiopia, Sudan and South Sudan are adding to the food insecurity in the region. This will most likely increase competition for the little available resources among refugees and host communities. The Global Compact on Refugees (GCR) references the need to reduce disaster risks, including through preparedness measures that take into account global, regional, and national early warning and early action mechanisms, evidence-based forecasting of future movements, and the inclusion of refugees in disaster risk reduction strategies. In support of commitments related to climate change, disasters, and environmental degradation under the GCR, last year UNHCR published its first ever Strategic Framework for Climate Action²², prioritizing preventive measures and solutions that take climate and environmental risks into account. Referring to pillar 1 in UNHCR's Strategic Framework, UNHCR should use its legal protection expertise and experience to support stakeholders when policies and frameworks are developed at national, regional, and global levels to enhance the protection of people displaced or at risk of displacement in the context of climate change and disasters.

We welcome the issuing of flash appeals for humanitarian assistance by the UN, most recently for Pakistan on Tuesday 29 August. We also urge for protection needs linked to climate change to be systematically addressed in the Humanitarian Response Plans. Climate change is already driving and impacting displacement across the world and, according to the latest Intergovernmental Panel on Climate Change (IPCC) report, without significant efforts to reduce greenhouse gas emissions and scale up adaptation measures the number of people forced to leave their areas of residence is likely to increase in the coming years²³. UNHCR should strengthen and detail ways for UNHCR's 'Legal Considerations' paper²⁴ to be operationalized, including through developing guidance for refugee status determination officers and other relevant adjudicators.²⁵

Eradicating Statelessness in times of crisis

Statelessness is both a cause and a consequence of forced displacement. There are estimated to be over 10 million stateless persons worldwide who typically find themselves marginalised and denied access to their basic human rights.²⁶ The Global Compact on Refugees²⁷ recognises the importance of building resilience, solidarity, and solutions as well as benchmarking progress to address statelessness. However, there remains a need to more effectively mainstream and integrate priorities to protect stateless people and prevent statelessness through increased programming and resource allocation – including in line

²¹ UN News, 2022, 'Catastrophic' drought displaces one million in Somalia, world asked to 'step up' support, accessed September 2022: <https://news.un.org/en/story/2022/08/1124472>

²² UNHCR, 2021, Strategic Framework for Climate Action, accessed September 2022: <https://www.unhcr.org/604a26d84.pdf>

²³ IPCC, 2022, Climate Change 2022: Impacts, Adaptation and Vulnerability, accessed September 2022:

https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_FullReport.pdf

²⁴ UNHCR, *Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters*, 1 October 2020, accessed October 2022: <https://www.refworld.org/docid/5f75f2734.html>

²⁵ Recommendations from the 2022 UNHCR Consultations with NGOs, accessed October 2022:

<https://www.unhcr.org/633d93444> (especially Recommendation No 20).

²⁶ UNHCR, Ending Statelessness, accessed September 2022: <https://www.unhcr.org/uk/ending-statelessness.html>

²⁷ UNHCR, 2018, Global Compact on Refugees, accessed September 2022: <https://www.unhcr.org/5c658aed4>

with recommendations from the recent external evaluation of UNHCR's statelessness work.²⁸ NGOs welcome the planned launch of a new Global Alliance to Eradicate Statelessness as a vehicle to galvanise necessary action. It will also be vital that statelessness is properly mainstreamed as a key crosscutting and intersectional issue across the agenda of the next Global Refugee Forum, the timing of which will provide a pivotal push for the final phase of the #Ibelong campaign which seeks to eradicate statelessness by 2024.²⁹

Conclusion

To conclude, as the international community are rightly responding to the crisis in Ukraine, NGOs call on UNHCR to ensure that resources are not diverted from the millions of people in other countries across the world with enormous unmet and under-funded humanitarian needs.

Despite entrenched discriminatory precedents, it is worth looking ahead at this moment of reckoning. The solidarity shown to the people of Ukraine can help reshape and refocus political efforts towards increased responsibility-sharing among member states, in the EU and beyond.

²⁸ Evaluation of UNHCR-led Initiatives to End Statelessness, ES/2021/03, May 2021, accessed October 2022: <https://www.unhcr.org/research/evalreports/60f18fcd4/evaluation-unhcr-led-initiatives-end-statelessness.html>

²⁹ UNHCR, Global Alliance to End Statelessness, accessed September 2022: <https://www.unhcr.org/ibelong/the-new-global-alliance-to-end-statelessness/>