

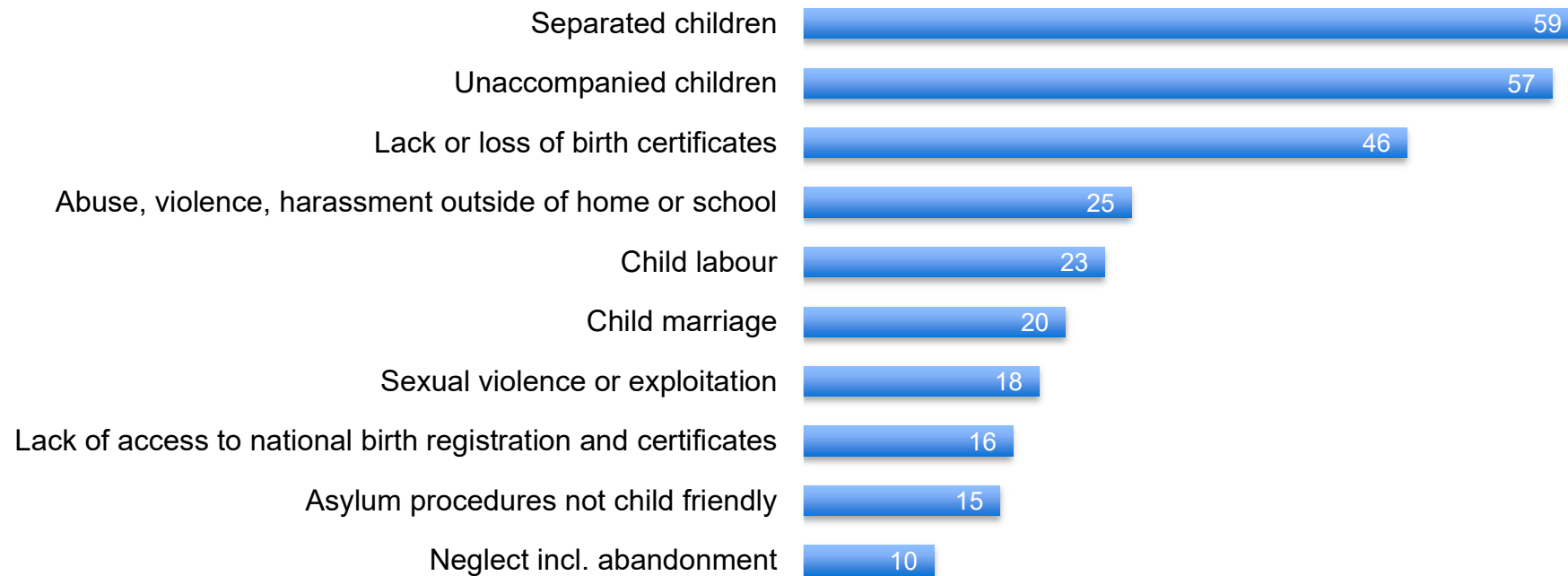
UNHCR standards regarding the protection of asylum-seekers and refugees with specific needs

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Key risks for refugee children globally

Top 10 CP risks



Protection principles for refugee children

- Refugee protection principles should be respected, including *non-refoulement*
- Children in asylum procedure and refugee children have specific protection needs and vulnerabilities, requiring specific safeguards
- Children may not be able to articulate their international protection needs
- UNHCR has a supervisory role in relation to the implementation of the 1951 Refugee Convention

What are the obligations of the country of asylum?

- The country of asylum has an obligation to provide all rights articulated under the Convention of the Rights of the Child to refugee children, without discrimination
- CRC Article 22: receive appropriate protection and humanitarian assistance in enjoyment of rights set forth in the convention and other human rights and humanitarian instruments
 - Access to national systems
 - Family-base care for unaccompanied children
 - Assess and determine the best interests of the child

Source of Information & Guidance

- UN General Assembly, Guidelines for the Alternative Care of Children (2010)
- UN Committee on the Rights of the Child, General Comment No. 14 (2013): On the right of the child to have his or her best interests taken as a primary consideration (2013)
- UN Committee on the Rights of the Child, General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin (2005)
- UNHCR 2021 Best Interests Procedure Guidelines: Assessing and Determining the Best Interests of the Child (2021)
- UNHCR Position on Returns to Ukraine (March, 2022)
- UNHCR Handbook on Voluntary Repatriation (1996, revised version forthcoming)
- Inter-agency Guiding Principles on Unaccompanied and Separated Children (2014)

WOMEN & GIRLS

- UNHCR Handbook for the Protection of Women and Girls, January 2008
- Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees, 7 May 2002

Heightened Protection Risks for Women and Girls in the Ukraine Context

- Risk of Physical/Sexual/Psychological and other forms of Violence (Intimate Partner Violence, Sexual Harassment, CRSV, and other)
- Risk of Trafficking for purposes of sexual exploitation/labour exploitation
- Risk of Sexual Exploitation and Abuse by service providers (including volunteers and others)
- Risk of secondary harm resulting from lack of access to relevant life-saving response services



Factors contributing to increased risks

- Border crossing points where registration is limited, where there is little control of documents
- Lack of sufficient vetting of actors and volunteers assisting in the response (including transport and accommodation)
- Loss of financial assets/ assistance/safe accommodation as the situation protracts
- Lack of sufficient information on rights and services
- Lack of access to adequate/safe employment, specialized health care, and education for certain groups
- Lack of long-term sustainable solutions- including legal status, employment, accommodation, etc.

Opportunities to enhance the protection space for Refugee women and children and other vulnerable groups

- Taking **proactive mitigation measures** to counter risks of exploitation, trafficking and abuse, this can include for example, initiatives to secure income/increase access to suitable and safe employment/cash assistance for persons at risk;
- Strengthening **vetting, registration** and ensuring **regular oversight** of volunteers and organizations offering transportation and accommodation to displaced persons;
- Systematic state oversight of accommodation, collective centres, institutions and other types of shelters and ensure mitigation through implementation of minimum standards and protocols;
- Working with the community on information sharing and awareness raising. This includes providing Refugees and Survivors with **information on their rights and available services** through multiple channels and formats that are accessible to the most vulnerable;

Opportunities to enhance the protection space for Refugee women and children and other vulnerable groups

- **Scaling up** of and ensuring **safe access to specialized services** for Trafficking and GBV Survivors, including language accessible hotlines, specialized psycho-social support, SRH and access to lifesaving treatments including CMR and treatment for sexually transmitted diseases, legal support and other.
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- Referral pathways to these services must also be **strengthened** and **information** on access **clarified**. **Fees** associated with access to care should be **subsidized**, where possible.
- Continue to **enhance** the **capacity of frontline staff** working with asylum seekers and refugees to identify persons with specific needs and persons at risk, and conduct safe referrals to relevant services.

Opportunities to enhance the protection space for Refugee women and children and other vulnerable groups

- Work together with relevant and specialized partners to **institutionalize a gender sensitive and survivor centered approach** across relevant agencies, service providers, and institutions;
- Ensuring an effective **two way communication mechanism** exists for Refugees to be consulted on initiatives made on their behalf, as well as safe and effective channels for them to be able to raise concerns or provide feedback in regards barriers to access and protection risks.
- Continue close cooperation and coordination with all parties involved to ensure most effective and harmonized response.

Good Practice Examples

- **Protection through Risk Mitigation**

- In Bosnia and Herzegovina, UNHCR conducts monthly **site profiling in Temporary Reception Centers**, together with State authorities and other partners, using 85 standards and markers, many of which stem from UNHCR guidelines and policies, including on AGD. [Safety Audit Tools/Checklist and Protocols]
- Similarly, in **Italy**, UNHCR/UNICEF are working with the Italian **Civil Protection** entity delegated to coordinate the Ukraine situation emergency response to help develop a toolkit and a **practical guideline on risk mitigation with tools** that can be used in their programming .

Good Practice Examples from the Region

- **Identification and referral of persons with specific needs:**
 - In **Spain**, UNCR supported the establishment of a border procedure at Barajas airport (Madrid) to reinforce the detection of potential victims of trafficking and persons at risk, their referral to specialized NGOs for support and the coordination among different actors.
 - In **Greece**, authorities were supported to implement a system of identification and referral for persons with specific needs at the point of reception and arrival through the **secondment of two staff (one male and one female) from the welfare services**. Women at risk are now prioritized within the registration process, for relocation and to access safer accommodation and services.

Good Practice Examples from the Region

- **Vetting of private transport providers:**
- In **Romania**, all buses/minibuses operating at the border are required to register with the Directorate of Emergencies. In addition, spot checks of private vehicles at the border are conducted by local police, who conduct a short interview and record the driver's information and car registration number.
- **Access to employment:**
- In **Malta**, a partnership with Teatru Salesjan (community theatre group) and JRS, UNHCR organized a series of workshops for women in the reception centers designed to strengthen their access to employment , specifically through raising their awareness of the cultural and social context in Malta.

Good Practice Examples from the Region

- **Safe Online Browsing- Community based monitoring of Social Media**
- **In Hungary, UNHCR is partnering with a refugee-led organization in** tackling the misuse of social media platforms by ill-intentioned individuals and criminal networks to recruit vulnerable Ukrainian refugee users seeking assistance. The aim is to enhance the safety of refugee users of the digital space by a) bolstering refugees' capacity and skills to self-protect when online and to detect and flag malicious content, and b) strengthening safeguards adopted by online platforms when moderating posts and vetting content.

Trafficking

- [Guidelines on International Protection No. 7: The Application of Article 1 A\(2\) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked](#), 7 April 2006

10-Point Plan of Action for Refugee Protection and Mixed Migration

- Protection sensitive entry and border management systems
- Adequate reception mechanisms
- Adequate mechanisms for the profiling and referral of persons
 - In the post arrival phase, but also possibility at any stage.
 - Climate of trust, transparency and confidence
 - Unconditional assistance and support of victims of trafficking

Principle of non-refoulement

- Some victims of trafficking may be in need of international protection
- The principle of non-refoulement – Art. 33 of the 1951 Convention – forms part of state obligations
- Article 3 ECHR and Article 4 of the EU Charter prohibit complement the protection mechanisms available under international refugee law
- The Directive on trafficking is in accordance with this principle (Recital 10)

Identifying victims of trafficking that may be in need of international protection

- **Requirement of the EU Directive**
- Refugees may become victims of trafficking or be at risk of trafficking when resorting to smugglers
- UN Trafficking Protocol and CoE Trafficking Convention : Victims of trafficking should have the right to seek asylum
- In some countries, access to recovery and reflection period still conditional on the withdrawal of the asylum application
- Challenges in linking asylum systems to national referral systems still existing
- EU Directive standard of proof: “reasonable ground identification”

Return of Asylum Seekers that may also be VOTs under Dublin

- The presumption of safety underlying the Dublin system is not sufficient when considering the return of a victim of trafficking
- A risk assessment may be necessary, which should also include an assessment of the National Referral Mechanisms
- Otherwise, risk that third country nationals of THB find themselves trafficked from one EU Member State to another.

Way forward...

- Enhance dialogue on the sharing of best practices, greater mutual legal assistance, more joint cooperation across borders, as well as national strategies and plan of action to address people smuggling and human trafficking at regional and international levels
- Increase international cooperation and burden-sharing
- Provide information to VOTs in a language that they understand and in a gender sensitive manner.
- Devise clearer operational guidelines for border guard and immigration officials that can help translate legal responsibilities into practice on issues of identification

UNHCR key documents related to sexual orientation and gender identity

- [Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees](#), 23 October 2012
- [Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees](#), 7 May 2002
- [Guidelines on International Protection No. 2: "Membership of a Particular Social Group" Within the Context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees](#), 7 May 2002

See also

- [2021 Global Roundtable on Protection and Solutions for LGBTIQ+ People in Forced Displacement - Summary Conclusions](#) June 2021
- [LGBTIQ+ Persons in Forced Displacement and Statelessness: Protection and Solutions – Discussion Paper](#), June 2021

UNHCR Handbook

- *on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, April 2019,
- [Manual sobre Procedimientos y Criterios para Determinar la Condición de Refugiado y Directrices sobre Protección Internacional. Reedición, febrero de 2019 \(refworld.org\)](#)

SELECTED UNHCR interventions before the ECTHR

- *in M.I. v. Switzerland* (No. 56390/21), October 2022:
<https://www.refworld.org/docid/63e3c7e64.html>.
- *in Abdi Ali Mahamud v. the Netherlands* (No 64534/19), 8 April 2021:
<https://www.refworld.org/docid/608146684.html>
- *in M.B. v. Spain* (No. 15109/15), 15 January 2016:
<https://www.refworld.org/docid/56a22d9b4.html>

Muchas Gracias