

"On Refugees and Persons in Need of Subsidiary Protection or Asylum"

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The Law determines the procedure for regulating social relations in the sphere of granting the status of a refugee, a person in need of subsidiary protection, or person in need of asylum; the loss or withdrawal of such status; and for establishing the legal status of refugees, persons in need of subsidiary protections and persons granted asylum in Ukraine.

According to Article 1 of the Law, a refugee is a person who is not a citizen of Ukraine, is outside of the country of their citizenship owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, citizenship (allegiance), membership of a particular social group, or political opinion, and is unable to or, owing to such fear, unwilling to avail themselves of the protection of that country, or, being a stateless person outside of the country of their previous permanent residence, cannot or does not wish to return to such country due to the above apprehension. A person in need of subsidiary protection is a person who is not a refugee according to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees, and this Law, but requires protection due to being forced to arrive in Ukraine or remain in Ukraine because of the threat to their life, security or liberty in their country of origin caused by fear of the death penalty exercised against them, or of the sentence of death, torture, inhumane or degrading treatment or punishment. Persons in need of asylum are foreigners and stateless persons permanently residing in a country that shares a border with Ukraine, which are forced to seek protection in Ukraine en masse, due to external aggression, foreign occupation, civil war, conflicts on the grounds of ethnicity, natural or man-made emergencies, or other events that disrupt public order in a certain part or entire territory of their country of origin.

A refugee or a person in need of subsidiary protection or a person granted asylum, cannot be deported or refouled to a country in which their life or liberty is threatened for reasons of race, religion, nationality, citizenship (allegiance), membership of a particular social group, or political opinion, as well as for other reasons recognized by international agreements or international organizations that Ukraine is a member of as those that cannot be returned to the country of origin. A refugee or a person in need of subsidiary protection or a person granted asylum cannot be deported or refouled to a country where they may be subjected to torture and other cruel, inhumane or degrading treatment or punishment, or to a country from which they can be deported or refouled to countries in which their life or liberty is threatened for reasons of race, religion, nationality, citizenship (allegiance), membership of a particular social group, or political opinion, as well as for other reasons recognized by international agreements or international organizations that Ukraine is a member of as those that cannot be returned to the country of origin (Article 3 of the Law).

The procedure of applying for the status of a refugee or a person in need of subsidiary protection is established by Article 5 of the Law.

According to Article 6 of the Law, the following cannot be granted the status of a refugee or a person in need of subsidiary protection:

- persons who have committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments;
- persons who have committed a non-political crime outside of Ukraine prior to their arrival to Ukraine with the purpose of being granted the status of a refugee or a person in need of

subsidiary protection, if such crime is classified as grave and especially grave, according to the Criminal Code of Ukraine;

- persons who have been guilty of acts contrary to the purposes and principles of the United Nations;
- persons not satisfying the criteria to be classified as "refugee" and "person in need of subsidiary protection" as defined above;
- persons who have been granted the status of a refugee or a person in need of subsidiary protection in a third country prior to their arrival to Ukraine;
- persons who have been residing in a third, safe, country prior to their arrival to Ukraine with the purpose of being granted the status of a refugee or a person in need of subsidiary protection.

Article 7 of the Law envisages the procedure for processing documents required to resolve the issue of granting the status of a refugee or a person in need of subsidiary protection.

The migration service body that accepted the application of a foreigner or a stateless person to be granted the status of a refugee or a person in need of subsidiary protection, issues the applicant a certificate confirming their application for protection in Ukraine, and registers the applicant. Within fifteen working days of registering the application, the migration service body interviews the applicant, reviews the data stated in the application and other documents, requests additional information and reaches a decision to process documents required to resolve the issue of granting the status of a refugee or a person in need of subsidiary protection, or to deny processing documents required to resolve the above issue (Article 8 of the Law).

According to Article 9 of the Law, the application to be granted the status of a refugee or a person in need of subsidiary protection is reviewed by migration service bodies in the Autonomous Republic of Crimea, the regions, and the cities of Kyiv and Sevastopol within two months of the decision to process the documents required to resolve the issue of granting the status of a refugee or a person in need of subsidiary protection. This time can be extended by the head of the migration service body based on a motivated request of the employee reviewing the application, but only insofar that the total term of review does not exceed three months.

The decision on the application to be granted the status of a refugee or a person in need of subsidiary protection is made by the specially authorized central body of executive power in the issues of migration within one month of receiving the personal file of the applicant and the written statement of the migration service body that reviewed the application. The decision term can be extended by the head of the specially authorized central body of executive power in the issues of migration, but only insofar that the total term of review does not exceed three months. Based on the results of comprehensive analysis and evaluation of all documents and materials that may constitute proof of conditions for granting the status of a refugee or a person in need of subsidiary protection, the specially authorized central body of executive power in the issues of migration reaches a decision to grant the status of a refugee or a person in need of subsidiary protection, or to refuse granting the status of a refugee or a person in need of subsidiary protection. A foreigner or a stateless person are granted the status of a refugee or a person in need of subsidiary protection in Ukraine and considered permanent residents of Ukraine from the moment of the decision to grant them refugee status, or on a legal indefinite stay on the territory of Ukraine (Article 10 of the Law).

According to Article 11 of the Law, the refugee status and subsidiary protection are lost in case the person:

- once again voluntarily availed themselves of the protection of their country of citizenship (allegiance);

- attained citizenship of Ukraine, or voluntarily attained their previous citizenship, or attained citizenship of a third country and have availed themselves of the protection of that country;
- voluntarily returned to the country they have left or out of which they have remained due to well-founded fear of being persecuted;
- being a stateless citizen, can return to the previous country of their permanent residence because the circumstances due to which they have been granted the status of a refugee or a person in need of subsidiary protection, have ceased to exist;
- received asylum or permanent residence permit in a third country;
- cannot refuse to avail themselves of the protection of their country of citizenship because the circumstances due to which they have been granted the status of a refugee or a person in need of subsidiary protection, have ceased to exist.

The rights and obligations of refugees and persons in need of subsidiary protection are envisaged by Chapter III of the Law. In particular, Article 14 of the Law envisages that persons who have been granted the status of a refugee or a person in need of subsidiary protection exercise the same rights and liberties and are bound by the same obligations as the citizens of Ukraine, except for cases established by the Constitution and the Laws of Ukraine, as well as international agreements declared binding by the Verkhovna Rada of Ukraine. Persons who have been granted refugee status in Ukraine are considered to be permanent residents of Ukraine from the day of the decision to grant them refugee status. Persons who have been granted the status of a person in need of subsidiary protection are considered to be staying on the territory of Ukraine indefinitely on legal grounds.

Chapter IV of the Law is dedicated to asylum.

In case of mass arrival of people to the territory of Ukraine from a country that shares a border with Ukraine, due to external aggression, foreign occupation, civil war, conflicts on the grounds of ethnicity, natural or man-made emergencies, or other events that disrupt public order in a certain part or entire territory of their country of origin, the Cabinet of Ministers of Ukraine, by recommendation of the specially authorized central body of executive power in the issues of migration, passes a resolution to grant asylum to such arrivals. The issue of receiving people in need of asylum, determining places for their accommodation, the procedure of their registration and ensuring their livelihood, and the financing, are regulated by the Cabinet of Ministers of Ukraine. Asylum is granted to people by the Cabinet of Ministers of Ukraine until the cessation of circumstances in their country of origin that have forced them to arrive to the territory of Ukraine, but for a term that does not exceed one year. The duration of asylum can be extended, but for a term that does not exceed one year. A migration service body issues each person of age that is part of the people who have been granted asylum with an identity certificate of a person who has been granted asylum in Ukraine (Article 18 of the Law).

According to Article 19 of the Law, persons who have been granted asylum are foreigners or stateless persons that legally stay on the territory of Ukraine for the duration of the circumstances that have led to the granting of asylum.

The rights and obligations of persons granted asylum are established by Articles 20 and 21 of the Law.

According to Article 24 of the Law, asylum ceases in the following cases:

- persons can return to their country of origin due to the cessation of circumstances that have led to the granting of asylum;
- persons move to reside in a third country.

The decision to cease asylum is made by the Cabinet of Ministers of Ukraine.

The authority of the bodies of executive power that take part in resolving issues related to refugees and persons in need of subsidiary protection or asylum are established by Chapter V of the Law.

The Law also invalidates the Law of Ukraine "On Refugees" N 2557-III of June 21, 2001.