



COUNTRY OPERATIONS PLAN

Country: Ukraine

Planning Year: 2004

UKRAINE

Executive Summary

Ukraine, previously part of the Union of Soviet Socialist Republics, proclaimed independence in August 1991. It is situated in Eastern Europe, bordered by Poland, Slovakia, Hungary, Romania and Moldova to the West, by Belarus to the north and by the Russian Federation to the North-East and East. To the South lies the Black Sea and the Sea of Azov. 603,700 square kilometres large, Ukraine is the second-largest country in Europe after the Russian Federation. It is divided into 24 regions (*oblasts*), one Autonomous Republic (Crimea) and two metropolitan areas (Kyiv and Sevastopol). Some 78% of its population of approximately 49 million characterise themselves as ethnic Ukrainians, 17% as ethnic Russians, the remainder as belonging to smaller ethnic communities. Ukraine successfully avoided the inter-ethnic violence that occurred in other Soviet Union successor states, while managing a complex migration phenomenon, whereby it received and granted citizenship to approximately 1.4 million returnees, primarily ethnic Ukrainians from other countries of the former Soviet Union.

UNHCR established its presence in Ukraine in 1994-95 to assist the government to support the reintegration of Formerly Deported Persons (FDPs). By the beginning of 2003, 270,000 FDPs (mainly ethnic Tatars) had returned to Crimea. Unforeseen pressures on its resources led the office to accelerate hand-over of reintegration programmes to development agencies, phase-out of capacity building support to local authorities and closing the UNHCR Field Office in Simferopol to take effect already in the autumn 2001. UNHCR support to the reintegration of FDPs in Crimea has since been limited to securing legal aid and assistance for naturalisation at a much reduced level.

During 2004, the office plans to continue to extend limited support to an NGO in Crimea to provide legal services to assist the residual (some 2000) and newly returning (around 3200/year) FDP caseloads in obtaining legal status and/or citizenship. According to Government sources a total 89,000 persons in Ukraine may be stateless or threatened with statelessness. In addition to the a/m FDPs in Crimea this also comprises some 5,000 "war refugees" from Abkhazia (Georgia). Further activities planned under *Theme Two, reducing statelessness*, of this COP are the following: Seeking cooperation of the Council of Europe, OSCE, EU and NGOs, UNHCR will continue lobby the Government to accede to the 1954 and 1967 UN Conventions on Statelessness. BO Kyiv will provide legal and technical advice as well as very limited material support to GO and NGO partners (it is also working with in the asylum field) to strengthen their know-how and capacity to implement the Citizenship and Immigration Laws. The office, together with partners, plans to encourage authorities to collect and update information on the number of stateless persons and to commission a research to obtain more information on the scope and nature of statelessness in Ukraine.

Over the last years, strongly supported by UNHCR, Ukraine has developed a legislative framework, institutions and structures towards *strengthening asylum*. Between 1996, when it started implementing a first Refugee Law, and the summer of 2001, when implementation of this law ceased, the Regional Migration Services (RMS) of all 27 regions processed the claims of 10,191 asylum-seekers, of which they

granted 5,174 (i.e. 50.7%) refugee status. Of these recognised refugees, 2,966 continued to be registered as residing in Ukraine at the beginning of 2003. 53% of them originate from Afghanistan, 30% from countries of the former Soviet Union, 11% from Africa and 5% from the Middle East. Many had been in Ukraine already for several years before filing asylum claims, including a number of *sur place* claims. Refugee communities concentrate in urban centres spread out in all the country with the biggest groups in Kyiv City and region, Odessa, Kharkiv, Lviv and Poltava.

The year 2001 brought a number of further changes, first and foremost through **legislative improvements**, including the adoption of a new Refugee Law and a new Citizenship Law. In January 2002, after many years of UNHCR lobbying, Ukraine acceded to the 1951 Refugee Convention and its 1967 Protocol without reservation.

Although the 2001 Refugee Law included significant improvements over its predecessor, it also opened serious **new protection gaps**. Firstly, it stipulated another administrative reform, whereby the central body in charge of asylum and migration had to be re-created and re-staffed (for the seventh time in eight years) - now as State Committee for Nationalities and Migration (SCNM) directly under the Council of Ministers, with new supervisory functions over the Regional Migration Services (RMS). As a result all RSD, including the registration of new asylum seekers was suspended for one whole year, from the summer of 2001 to the second half of 2002.

Yet another reform is needed for a new unified State body dealing with asylum and migration issues. UNHCR supports such a move, as does part of the State authorities, but the reform is still being debated.

Secondly, the 2001 Refugee Law introduced strict application terms, whereby in order to be admitted into RSD procedures, asylum claims must be submitted within three working days of illegal entry or five working days of legal entry of Ukrainian territory. As a result of these developments, between the summer of 2001 and the beginning of 2003, less than 7% of overall asylum applicants gained due access to asylum procedures, and only 0.08% of them (2 persons) were granted refugee status. An estimated over 2,000 asylum seekers, were thus denied access to procedures, but left in legal limbo, vulnerable to treatment like 'illegal migrants', including apprehension, detention, administrative penalties and even *refoulement* by law enforcement authorities.

Over the last few years, Ukraine has also become a country of transit for tens of thousands of migrants on their way to Western Europe causing an additional challenge for Ukraine to combat illegal migration while providing asylum to refugees as per its international obligations. Ukraine has reacted by augmenting border control and apprehension capacities, first in its western regions and more recently also at its northern and eastern borders to Belarus and the Russian Federation. Insufficient awareness of Border Guards (BG) and law-enforcement authorities as well as lacking mechanisms regarding hand-over to RMS further restricted access to asylum procedures and international protection. Part of the **mixed migration flows** that transits the country, an increasing number also of persons in need of international protection are therefore being detained, some for many months, together with other undocumented foreigners in BG or MOI facilities. Detention conditions are usually bad and facilities overcrowded, also because of perennial resource and other problems that prevent an effective expulsion or return of persons not in need of international protection as well as an effective identification and release of those requesting international protection into the responsibility of the RMS.

With EU enlargement in 2004, Ukraine is to directly border it in the east. Against this background, UNHCR's current planning figure of an average 1,200 new asylum seekers / year in 2004 may easily prove conservative. At the same time, asylum applications will continue to comprise a much higher number of new arrivals as compared to the past *sur place* claims, creating severe new demands for yet non-existing reception and integration capacities.

Problems of access to international protection are aggravated by yet insufficient **reception facilities**. Unless detained, many asylum seekers are homeless during RSD procedures. Currently only one open temporary accommodation centre (TAC) exists, in Odessa, providing fifty places. In order to address this question, BO Kyiv identified an urgent need to initially establish at least some 350 additional TAC places plus additional support to SCNM and RMS in four adjoined RSD hubs. **Being addressed in a separate project implemented for EC/TACIS starting in 2003 and continuing in 2004, these additional activities are not being covered in this COP.**

Though some progress in the **development of governmental and civil society capacities** in the asylum field has been achieved over the last few years - faced with a/m all too frequent administrative "reforms" and an overall still difficult socio-economic situation - both remain far from self-sustainable. BO Kyiv, however, remains confident that its strategies of diversifying the international donors base for this sector, its stringent prioritising of sustainable investments as well as a slow improvement of the overall still very difficult economic situation of the country, that should help in increasing governmental and civil society resources, is to reduce the asylum systems' dependency on direct UNHCR support in the long term.

In the short and medium term, however, much UNHCR support to assist Ukraine to bring its legislative asylum framework in line with international standards, to revise and effectively implement the Refugee Law continues to be required. BO Kyiv will need to provide increased technical and legal advice as well as capacity building support especially to the SCNM and RMS, as well as other authorities that play a pivotal role in allowing due access to and enjoyment of international protection (such as BG, law enforcement authorities, prosecutors, judges, etc). This support to governmental agencies will have to be balanced with the need to maintain independent civil society activities in the legal representation of asylum seekers, monitoring of administrative performance, intervention overall capacity building and awareness raising. Support to a UNHCR-created network of legal assistance NGOs covering fourteen regions of Ukraine where significant numbers of persons requesting international protection are being apprehended, asylum claims and refugees concentrate will be reviewed and if need be further strengthened.

To address ongoing problems of securing international protection to persons requiring it, BO Kyiv will need to provide **core protection functions** directly. Until authorities would close the above-mentioned new protection gaps, increased human resource investments of BO Kyiv are needed to undertake core RSD and resettlement tasks that cannot be delegated to IPs. Increased direct implementation resources are also needed to effectively address Ukraine's critical post-accession needs, to encourage it to progress in harmonising its national legal framework and implementation with Convention and other applicable international standards. Only such additional resources would free other staff to continue effectively undertaking activities important to support the mid-term development of an asylum system. These include

co-operation with and training of law-enforcement and BG officials to ensure access to RSD and prevent *refoulement*, monitoring and assisting the quality of RSD and other tasks in support of the SCNM's and RMS' implementation of Article 35 of the Convention.

Local **integration** perspectives for recognised refugees remain hampered by legal, as well as social and economical factors. This is reflected in the fact that 2,210 of the a/m 5,176 refugees recognised by Ukrainian authorities no longer reside in the country. It may be assumed that a majority of them have left Ukraine westwards, seeking better economic opportunities. If local integration already proved very difficult for the older *sur place* caseload, it will be even harder to achieve for the increasing number of new arrivals.

In 2002, first refugees acquired Ukrainian citizenship. Further BO Kyiv support to an effective implementation of the new refugee and citizenship legislation will prove imperative to improving local integration perspectives, including through naturalisation. A comprehensive analysis of the legal framework in Ukraine, furthermore, revealed a need to harmonise almost 50 national laws in order to secure refugees enjoyment of the social and economic rights and services Ukraine committed to grant them, when acceding to the Convention. Also the dire social and economic environment continues to severely hamper local integration as a durable solution. For instance due to high unemployment in Ukraine, refugees continue to have difficulty to find jobs although their qualifications are generally high.

In order to increase opportunities for local integration, BO Kyiv will continue to support the Government to formulate a comprehensive national plan for the integration of refugees in Ukraine. A continuing application of a community development approach, which involves increasingly well-organised refugee communities in project planning, implementation and evaluation are to guide UNHCR investments in facilitating local integration. While some time-limited support will continue to be provided to the most needy individuals to secure their effective access to food, shelter, medical aid and education, the focus of assistance activities will continue to move to self-reliance programmes, particularly vocational training and job-placement. UNHCR will advocate for the refugees to have increased access to existing micro-credit schemes.

Both reception and integration of persons of concern to UNHCR continue to rely on public understanding and support. The office and its partners have been alarmed by first attempts of utilising and fostering racism and xenophobia in political discourse. In close cooperation with partners, BO Kyiv will continue to carry out **public information** and awareness raising campaign to combat negative perceptions about refugees and asylum seekers in a context of mixed migration flows and to promote positive message about tolerance and refugees positive contribution to the society. The training, coaching and motivating of opinion-leaders and media professionals to objectively present and report the problems of asylum seekers and refugees will be strengthened.

Though local integration is to remain the appropriate durable solution for most refugees in Ukraine, BO Kyiv will continue to identify the need for and support other durable solutions including **voluntary repatriation** and resettlement. Interest in VolRep continues to increase rapidly. During 2001, 26 persons benefited from UNHCR support to their VolRep, during 2002, 34 persons. During the first quarter of 2003 alone, 32 persons are pending or departed on VolRep (including 66% to

Afghanistan). BO Kyiv plans to continue to strengthen its cooperation with authorities, NGOs, IOM and refugee communities to secure access to VolRep information, application procedures and safe and dignified return to country of origin. This operations plan thus foresees BO Kyiv to facilitate the Volrep of 120 refugees including 70 to Afghanistan during 2004.

As a result of the aforementioned new protection gaps and other problems in securing protection and solutions in Ukraine, several hundred refugees would need to be assessed and, if found eligible, processed for **resettlement**. In order for BO Kyiv to fulfil this core protection function, its human resources will need to be increased as proposed in this document.

There is a high level of **co-ordination** among the UN agencies and other organisations in Ukraine. BO Kyiv continues to closely co-operate with UNDP, IOM and the EU in complementing their support to border control measures. Together with WHO, UNFPA, UNAIDS and UNICEF, UNHCR will address issues of common concern such as the provision of primary health care, prevention and treatment of Tuberculosis, reproductive health (focusing on prevention of HIV/AIDS, STDs) and the implementation of the Convention on the Rights of the Child. BO Kyiv will continue to develop and strengthen co-operation with organisations interested in asylum and refugee issues including the CoE, OSCE, and ECRE. It will also continue to increase the awareness and interest of other potential donors in supporting activities in the area of refugee protection and asylum development.

BO Kyiv, in close co-operation with partners, will intensify its efforts to draw the attention of the international community and potential donors to critical gaps in migration management, which directly affect the functioning of the asylum system, though they lie beyond UNHCR's core mandate duties and resource possibilities. These include the return of rejected cases as well as the humanitarian needs of detained 'illegal migrants'.

All the countries neighbouring Ukraine have achieved varying progress in developing asylum systems. In 2004, BO Kyiv intends to continue to involve official and civil society counterparts into sub-regional processes. A number of conferences involving the countries of the sub-region and supported by UNHCR, IOM, the Swedish Migration Board and the EU were organised since 2001 where the participants agreed on the need for co-ordinated efforts to address cross border challenges in the migration and asylum areas. In 2003, a Cross-Border Co-operation Process Secretariat will be established. Based in Ukraine and covering Ukraine, Moldova and Belarus, the Secretariat will facilitate information sharing on migration and asylum management, harmonisation of best practices, safe third country concept and readmission agreements and practices related to reception and treatment of aliens including asylum seekers. Within different frameworks, the Branch Office will facilitate the participation of governmental counterpart to various sub-regional exchanges organised by UNHCR or other donors. It is intended that BO Kyiv will take increasing responsibilities in developing a comprehensive and co-ordinated **regional approach** to enhance partnership in a common effort to manage forced and irregular migration between the a/m sub-regional countries and the enlarged EU as well as to harmonise asylum development approaches. In order to assume this new functions, the COP foresees the upgrade from a Branch Office to a Regional Office.

(b) Overview

Main Programme Goals and Principal Objectives

Theme #1: STRENGTHENING ASYLUM	
Goal One: <i>Persons in need of international protection have access to the territory of Ukraine</i>	
Principal Objectives	Related Outputs
<ul style="list-style-type: none">Measures to combat irregular migration and smuggling include adequate safeguards against direct or indirect <i>refoulement</i>	<ul style="list-style-type: none">National legislation (including readmission agreements) incorporates safeguards against <i>refoulement</i>Understanding and application of refugee protection norms by Border Guards and MoI is enhancedNon <i>refoulement</i> (including at the borders and detention facilities) monitored by NGOs
<ul style="list-style-type: none">Comprehensive migration policies are developed and implemented	<ul style="list-style-type: none">Partner organisations and potential donors are being made aware of vital gaps in migration management, which impact on the asylum system.
Goal Two: <i>Asylum seekers have access to fair, efficient and effective asylum procedures and are treated in accordance with international standards</i>	
<ul style="list-style-type: none">Asylum-seekers have access to procedures in which their claims are heard fairly and promptly	<ul style="list-style-type: none">Obstacles to due access to procedures in the Refugee Law are removedPerformance and know-how of central (SCNM) and regional (MS) asylum authorities is supported to improveAccess to asylum procedures monitored by NGOs, information on reception of asylum seekers disseminated and access to legal aid and representation provided by NGOs
<ul style="list-style-type: none">Asylum-seekers are treated in accordance with international standards	<ul style="list-style-type: none">Obstacles to registration and other rights of asylum seekers are removed through amended and duly implemented legislative frameworkAsylum seekers have access to legal and social counselling and assistanceMost vulnerable asylum seekers have access to material assistance to meet their urgent basic needs
<ul style="list-style-type: none">Asylum-relevant institutions develop to become effective and eventually independent of external support	<ul style="list-style-type: none">Non-UNHCR sources of financial and other support are being identified. NGOs and authorities are encouraged and supported to contact these sources
Goal Three: <i>Refugees rights are respected and effective durable solutions are found for them</i>	
<ul style="list-style-type: none">Refugee rights are respected	<ul style="list-style-type: none">Harmonisation of national laws in line

	<p>with the Convention and other applicable standards is strongly supported</p> <ul style="list-style-type: none"> • Attention of MoI, courts, employment and other authorities to increasingly respect refugee rights is supported to increase • Basic urgent assistance is extended to refugees whose assistance needs can not be adequately met by the national system while refugees have increased effective access to national services • Effective counselling, assistance and intervention by NGOs is supported to be operational
<ul style="list-style-type: none"> • Refugees have real possibilities to integrate 	<ul style="list-style-type: none"> • Government supported to assume increasing responsibilities in facilitating the local integration of the refugees • Self-reliance of refugees facilitated through access to vocational training, job placement and language training • Refugee specific protection needs are increasingly understood by the public at large
<ul style="list-style-type: none"> • Refugees have real opportunities for voluntary repatriation 	<ul style="list-style-type: none"> • Authorities and NGOs provide refugees with due access to Volrep information, application and transportation
<ul style="list-style-type: none"> • Eligible refugees have access to resettlement 	<ul style="list-style-type: none"> • UNHCR BO Kyiv obtains the resources to identify and process refugees that require resettlement to ensure their protection, health and family unity
<p>Goal Four: <i>Public opinion is receptive and supportive of the protection and solution needs of refugees</i></p>	
<ul style="list-style-type: none"> • Xenophobic trends diminish in favour of increased tolerance, and the public at large understands the relevance of refugee protection, and the difference between economic migrants and refugees 	<ul style="list-style-type: none"> • Improved quality of reports and information regarding the asylum seekers and refugees through training, regular working contact and sharing of information with the media and opinion makers. • Increased understanding of general public of protection needs of the asylum seekers and refugees through interviews, refugee stories, and participation in various forums and raising awareness events including joint events with other organisations.

Theme #2: REDUCING STATELESSNESS	
Main Goal: <i>Statelessness will decrease in Ukraine. Stateless persons will enjoy, at a minimum, a status consonant with 1954 Convention Standards</i>	
Principal Objectives	Related Outputs
<ul style="list-style-type: none"> • Legal frameworks to address statelessness are established in line with international standards 	<ul style="list-style-type: none"> • Parliamentarians and authorities are coached to support accession-preparations re the UN Statelessness Conventions • Negotiations for bilateral agreements on simplified citizenship procedures are supported
<ul style="list-style-type: none"> • Situations of statelessness are actively identified 	<ul style="list-style-type: none"> • The collection and analysis of comprehensive estimates on number and profile of stateless persons is supported
<ul style="list-style-type: none"> • Stateless People acquire citizenship and appropriate solutions 	<ul style="list-style-type: none"> • Capacity and know-how of Presidential administration, MOI, and other authorities to improve Citizenship and Immigration Laws implementation and address statelessness threats are supported to grow. • Counselling and assistance provided by NGOs is strengthened