

2 - The Rights and Legal Status of Refugees: Some basic facts and terms

Aim: To provide some basic information about the rights and legal status of different categories of migrants including refugees and important issues to consider when working with them.

Introduction

'Asylum procedures' are usually complicated and unfamiliar to refugees and they may wish to ask your advice on these matters. However, you probably do not have the necessary legal expertise so you should not attempt to answer such questions. Instead, you should direct refugees to authorized institutions (NGOs, official authorities, specialists) where they will be able to get reliable information. If such resources are not available locally the directories on this website (available in four languages) may help by offering useful guidance.

Relevant authorities and institutions

The relevant bodies to contact for information include:

- a. Local or regional branches of immigration authorities.
- b. Public institutions appointed to manage the centre/facility.
- c. International organisations involved in managing a refugee camp:
 - [UNHCR](#) – The UN Refugee Agency (see their website for contacts in the country where you are working).
 - [IOM](#) - International Organization for Migration (see their website for the office in the country where you are working).
 - International NGOs working in this field, such as [Médecins sans Frontières](#).
 - The European Council on Refugees and Exiles (ECRE), a European network of 90 NGOs focusing on refugees in 38 European countries. The [ECRE website](#) provides a list (by country) of these organizations.
 - The European Legal Network on Asylum (ELENA) is part of the ECRE network and provides contact details of [lawyers in various countries](#) .
 - National humanitarian organisations, such as the [Red Cross](#).
 - Local NGOs which have specialised staff with legal backgrounds.

The Council of Europe is an intergovernmental organisation of 47 member states. Once they have been ratified by relevant member states, Council of Europe conventions become binding. In relation to migrants and refugees, the significant actions of the Council of Europe are mainly at a political level and include conventions, recommendations of the Committee of Ministers to member states, and resolutions, as well as regular debates and reports by its Parliamentary Assembly.

Brief Explanations of UN and European terms and procedures relating to refugees is provided below.

Refugee

According to the UN Refugee Convention, also known as the Geneva Convention, of 1951, the term "refugee" shall apply "to any person who: (...) owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country (...)."

For the UNHCR, refugees and asylum seekers constitute a distinct group of people, because they have left their home in response to serious threats to life and liberty. UNHCR warns against confusing refugees with other groups of migrants who have moved from one country to another for economic or social reasons, while refugees are forced to flee to save their lives or preserve their freedom.

(Source: [UNHCR's contribution to the Global Forum on Migration and Development](#), Brussels, 9-11 July 2007)

Asylum seeker

An asylum seeker is someone who, by making an application for asylum, asks another country (not the country of origin) to provide protection against persecution. Seeking asylum is regulated by international agreements, such as the Geneva Convention or the Dublin III Regulation, as well as by national law.

Subsidiary protection

According to the 1951 Convention, UNHCR defines a refugee as a person with a well-founded fear of persecution on grounds of race, religion, nationality, membership of a social group or political opinion. This definition has evolved, and serious threats to life, physical integrity or freedom resulting from generalised violence or events seriously disturbing public order are now valid reasons for international protection under UNHCR mandate.

(Source: i) [UNHCR Statement on Subsidiary Protection 2008](#) ii) [UN High Commissioner - Doc EC/55/SC/CRP, June 2005](#))

Dublin III – international protection

Formerly called the Dublin Convention, this is an international treaty agreed in 1997, which was replaced by the Dublin II Regulation in 2003 and in its third form as Dublin III Regulation in 2013. Parties to the Regulation are all the states of the European Union as well as Norway, Iceland, Switzerland and Liechtenstein. The Dublin III Regulation establishes criteria and mechanisms for determining which Member State is responsible for examining an application for international protection (within the EU).

Source: [European Parliament / Council Regulation \(EU\) 604/2013, June 2013](#):

Asylum procedure

Each country interprets the relevant international legislation in a specific way to define its own asylum procedures, i.e. the procedures used to assess asylum requests and to grant or deny a person the status of refugee or alternative form of protection. Over several years efforts have been made at the level of the European Union to establish common standards of safeguards and guarantees to ensure a fair and efficient asylum procedure so that decisions may be made efficiently and fairly, and so that all Member States apply common and coherent high quality standards when examining applications. Asylum procedures vary from one country to another, sometimes even by region within a country. For this reason, refugees should be advised by legal experts only. Details are available on the [website of the European Asylum Support Office](#),

an EU agency established to support Member States and to contribute to defining common EU asylum procedures.

A review of asylum procedures is available [here](#).

Migrant

The International Organisation for Migration (IOM) defines a migrant as any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of the person's legal status, whether the movement is voluntary or involuntary, what the causes for the movement are, or what the length of the stay is.

Migrants leave their country of origin for different reasons, which may include extreme poverty and very poor living conditions. While the reception of asylum seekers is determined by international treaties, the reception of other categories of migrants is determined by each state.

The Council of Europe, in particular with regard to its work to support the linguistic integration of adult migrants (LIAM programme), uses the term 'migrant' to refer to all those who have migrated, including asylum seekers, those who have obtained refugees status or a similar type of protection, as well as to so-called 'economic migrants'.

Sources: [the IOM's Glossary on Migration](#).

The rights of migrants and refugees

The rights that people have vary significantly according to their legal status. Obtaining refugee status is usually an individual process and can take several months or longer, depending on the country and the specific situation of the asylum seeker. While refugee status comes with a wide range of rights and often includes additional support measures (including language courses), registered asylum seekers or people who have not yet submitted their asylum application may be subject to restrictions including:

- Being confined within the limits of a reception centre.
- Not being able to travel outside the municipality or the region.
- Not being allowed to work.

However, regardless of the legal status, everybody is entitled to basic rights such as accommodation, food, healthcare and education for children.

Issues to consider

These lists highlight some points which you should consider and which need clarification when working as a volunteer with a particular group of refugees. It may be a good idea to find out about the legislation, rules and regulations being applied in your local context. This does not mean that breaching the restrictions noted above is necessarily illegal. However, it is important you to know what the refugees in your area are permitted to do.

Reflection activity

1. What do you think you should consider before you begin volunteering? Make a note of these points.
2. Go through the list on the next page and indicate which items you already know about and which you should clarify before you begin volunteering (see also Tool 10 [What is involved in providing language support for refugees?](#)).

A reflection on some general points relevant to volunteers working with refugees	This is not relevant for me (v)	I have already found out about this (v)	I need to find out more about this before I do anything (X)
Am I permitted to give refugees a lift in my car?			
Can I allow refugees to stay in a private house or flat?			
Is it permitted to offer paid or unpaid jobs to refugees?			
Can we go together on trips, and if so what happens if there is a problem? (e.g. in case of accidents, problems like travelling without a valid ticket, ...)?			
Can I collect money for/with refugees, for example organising charity events involving money?			
Can I cook with refugees or organise food on a larger scale for a public event or party?			
What happens if I give advice to refugees? What is my liability for the consequences of incorrect legal, medical or other information?			
Am I obliged to inform authorities about certain things? If so, what?			
If I feel unsure about anything who can I ask for advice or support?			
Are there set times at which the refugees must return to their accommodation?			
Are there set times for meals at the accommodation?			
Are there any rules about where or how far refugees may go outside the reception centre?			
Are the refugees able to use public transport?			