



Photo: Ukrainian refugees waiting in a long queue (Armata Salvării România via Flickr, 01-03-2022)

# 'Ukrainians First': Uncovering the Racism against African, South Asian & Middle-Eastern Refugees from Ukraine



**Tags:** racism, discrimination, refugees, Ukraine, non-refoulement, humanrights, minorities

**Topic:** International Justice

17-05-2022

Myrthe Niemeijer

International Justice and Human Rights Researcher

Global Human Rights Defence

# Table of Contents

<b>Sr. No.</b>	<b>Topic</b>	<b>Page Number</b>
1.	<b>Introduction</b>	1
2.	<b>The International Legal Framework to Protect Persons Fleeing Ukraine</b>	2
3.	<b>Accounts of Racism and Discrimination Against Foreigners Fleeing Ukraine</b>	3
4.	<b>Racism and Ukraine's Obligations of Non-Discrimination</b>	5
5.	<b>Conclusion</b>	6
6.	<b>Notes</b>	7

## Introduction

The risks involved in fleeing armed conflict are amplified by discrimination and racism. Numerous reports have now brought to light the despicable treatment of nationals of Global-South countries as they attempted to flee Ukraine during the Russian invasion. African women were barred from trains as white women and children were given priority, Black and Asian refugees were violently pushed to the back of the queue by border guards, and shops in border towns were refusing to sell supplies to refugees other than Ukrainian nationals. This experience of minorities as they fled from Ukraine has demonstrated a 'pathology of racism' (Bajaj & Stanford, 2022; Dovi, 2022).

This article uncovers the racism experienced by nationals from Africa, South Asia and the Middle East in their attempts to flee the war in Ukraine. First, by recounting the international framework for the protection of refugees, States' obligations toward refugees will be explained. Second, relying on accounts reporting the racism in the refugee cycle, the article elaborates how racism is preventing States from delivering the appropriate protection to refugees.

# The International Legal Framework to Protect Persons Fleeing Ukraine

## Human rights obligations

Human rights obligations incumbent on States are crucial for the protection of refugees. Specifically, the obligations under the European Convention on Human Rights ('ECHR') are binding on Ukraine and its neighbouring States (Poland, Slovakia, Hungary, Romania etc.). Relevant obligations include the right to life under Article 2 of the ECHR, the prohibition of torture under Article 3 of the ECHR, the right to liberty and security under Article 5 of the ECHR and the right to respect for private and family life under Article 8 of the ECHR. Moreover, discrimination in the enjoyment of these rights and freedoms is prohibited under Article 14 of the ECHR. Equal protections are afforded by the International Covenant on Civil and Political Rights ('ICCPR') under Articles 6, 7, 9, 12 and 17.

## Non-refoulement and the 1951 Geneva Convention

The primary instrument for the international protection of refugees is the 1951 Geneva Convention Relating to the Status of Refugees. The well-known core principle of this convention is non-refoulement. As a principle contained in international human rights law, refugee law, international humanitarian law and customary international law, non-refoulement thus constitutes a fundamental element in the protection of refugees. As clarified by the United Nations High Commissioner for Human Rights ('OHCHR'), non-refoulement “prohibits States from transferring or removing individuals from their jurisdiction or effective control when there are substantial grounds for believing that the person would be at risk of irreparable harm upon return, including persecution, torture, ill-treatment or other serious human rights violations” (OHCHR, n.d., para. 2). [1]

The principle of non-refoulement is further expressly included in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as well as the International Convention for the Protection of All Persons from Enforced Disappearance. Regionally, non-refoulement is reiterated by the Inter-American Convention on the Prevention of Torture, the American Convention on Human Rights and the Charter of Fundamental Rights of the European Union. Although the principle of non-refoulement is not explicitly included in the ECHR or ICCPR, it would entail an indirect violation of the right to life or prohibition of torture (OHCHR, n.d.).

## Entry requirements

In addition to human rights obligations, entry requirements of countries surrounding Ukraine are another important consideration in addressing racism against foreigners fleeing Ukraine. Without the war, Africans, Moroccans and Indians from Ukraine would need to apply for visas to enter the Schengen countries (such as Hungary), in accordance with the Schengen Borders Code. Due to the war, however, there is no visa requirement for anyone entering these countries from Ukraine. As such, all those fleeing Ukraine should be allowed entry into neighbouring countries (Hinry, 2022). Moreover, there should always be respect for the non-derogable human right to life and the prohibition of torture.

## Accounts of Racism and Discrimination Against Foreigners Fleeing Ukraine

As reports have demonstrated, numerous minority groups are facing discrimination and racism as they attempt to flee the armed conflict in Ukraine. The racism and discrimination toward third-country nationals fleeing Ukraine was also condemned by UNHCR chief Filippo Grandi (United Nations Migrants and Refugees, 2022).

### “Ukrainians first” to board trains

Various news outlets have reported the racist treatment faced by students from Africa, India and Morocco (Reuters, 2022; Dias & Patidar, 2022; Ibrahim, 2022). More than 18,000 students from India were studying in Ukraine when the Russian invasion occurred. ABC News provided accounts of numerous Indian medical students in Kharkiv and Sumy who were forced to wait for days or flee to different stations in their attempts to board a train (Dias & Patidar, 2022). Similar accounts of prioritisation of white people were provided by students in Ukraine from Cameroon and Nigeria (Howard, Johnson & Ah-Sen, 2022).

### “Ukrainians first” at the border

In addition to the issues at train stations, Indian international students also reportedly faced issues at the Romanian and Polish borders. ABC News referred to video footage where Indian students were denied access to Romania at the border as well as a video by a humanitarian worker interviewing Indian students after they were turned away by Polish authorities. The authenticity and accuracy of this information are disputed as Polish authorities denounced the content as “misinformation” (Dias & Patidar, 2022).

However, other news outlets such as Al Jazeera have published similar accounts. Moroccan students studying at the Ukrainian University of Dnipro discussed their experiences of discrimination by Ukrainian officials with Al Jazeera reporters; from being ordered off the bus they had paid for, to walking 40 kilometres to the border and waiting in endless queues (Ibrahim, 2022). They said that the prioritisation of Ukrainian nationals was related to an “unofficial daily quota” from the border States on the number of refugees allowed entry from Ukraine. Whereas Arabs, Africans and South Asians were often made to wait five days and were sent to the back of queues, Ukrainians would proceed within minutes or hours (Ibrahim, 2022). Others stated that at the Polish border with western Ukraine they experienced a policy of one foreigner allowed through for every 10 Ukrainians. African students for both euronews and CNN recounted experiences akin to those reported by Al Jazeera. Foreigners were told to get off the bus and walk, while it continued with only Ukrainian nationals on board (Busari, Princewill, Nasinde, & Tawfeeq, 2022).



Photo: Ukrainian Refugees Exiting a Bus (Armata Salvării România vis Flickr, 28-02-2022)

### Inter-state prioritisation of Ukrainian nationals

The “Ukrainians first” attitude goes beyond Ukraine itself. Howard, Johnson and Ah-Sen (2022) state that Ukrainian refugees are treated differently by other States as well. For instance, whereas Canada repeatedly made commitments to take in refugees from Afghanistan, it has accepted 8,815 Afghans since August 2021, as opposed to 9,000 Ukrainians since January 2022 (Boudjikianian, 2022). Further, Sarah Bourial - founder of Collectif Maroc Ukraine helping Moroccans stranded in Ukraine- told National Geographic that many foreigners were either denied exit from Ukraine or denied entry into Poland as they tried to flee (Hinry, 2022).

Notably, although experiences of racism have been reported as a shock, scholars in publications such as the conversation and euronews are 'not surprised' and point to underlying racism that has systematically been present in the West (Dovi, 2022; Howard, Johnson & Ah-Sen, 2022). Accordingly, this 'racist logic' is what resulted in the prioritisation of Ukrainian nationals over others, both within Ukraine and by States taking up refugees.

## Racism and Ukraine's Obligations of Non-Discrimination

The International Convention on the Elimination of all Forms of Racial Discrimination ('the Convention') entered into force for Ukraine on 7 March 1969 (OHCHR, 2022). As such, under Article 2 of the Convention, Ukraine is obliged to refrain from racial discrimination and ensure that “all public authorities and public institutions, national and local, shall act in conformity with this obligation” (1969, Article 2). Further, they should bring discrimination by any persons or groups to an end. Supplementary to Article 2, several rights guaranteed under Article 5 of the Convention are applicable to the situation in Ukraine. Specifically, the equal guarantee of the right to security under Article 5(b), the civil right to leave any country under Article 5(d)(ii), and the right of access to any place or service intended for use by the general public (such as transport) under Article 5(f). Yet, the above accounts of discrimination appear inconsistent with these obligations.

Moreover, the European Court of Human Rights has recognised in several cases that racism in the form of differential treatment due to race could, “in certain circumstances, of itself amount to 'degrading treatment' within the meaning of Article 3 [ECHR]” (East African Asians (British Protected persons) v. the UK, 1987, p.20) or, constitute “a specialised form of attack on human dignity” following Article 3 ECHR (Dixneuf, 2002, p. 4). More broadly, racism is among the systemic causes of inhuman or degrading treatment and similar types of violence (Dixneuf, 2002). As such, it should be noted that the minorities fleeing Ukraine that are victims of racial discrimination, can thereby also be victims of degrading treatment.



## Conclusion

While States are under clear obligations not to subject persons to inhuman or degrading treatment, respect non-refoulement, as well as safeguard all other fundamental human rights of refugees, it has become apparent that these obligations are not respected with regard to all refugees. Minorities including African, South Asian and Middle-Eastern nationals are experiencing (systemic) racism and discrimination in their journeys out of Ukraine. This not only violates the above-mentioned rights and obligations but also compounds the risks for these refugees, who are already one of the most vulnerable groups globally. Therefore, it is imperative to shed light on the racism and urge both home countries and host countries to support all persons fleeing from Ukraine equally.

## Notes:

[1] The full document on non-refoulement by the OHCHR is available here: <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf>

Sources and further reading:

Bajaj, S. S., & Stanford, F. C. (2022). The Ukrainian refugee crisis and the pathology of racism. *BMJ* 376:0661. [10.1136/bmj.o661](https://doi.org/10.1136/bmj.o661)

Boudjikianian R. (2022, March 18). Multiple refugee crises across globe put pressure on Canada's immigration system. *CBC News*. Retrieved on 15 May 2022, from <https://www.cbc.ca/news/politics/multiple-refugee-crises-across-globe-put-pressure-on-canada-s-immigration-system-1.6389238>

Busari, S., Princewill, N., Nasinde, S., & Tawfeeq M. (2022, March 4). Foreign students fleeing Ukraine say they face segregation, racism at border. *CNN*. Retrieved on 15 May 2022, from <https://www.cnn.com/2022/02/28/europe/students-allege-racism-ukraine-cmd-intl/index.html>

Dias, A., & Patidar, S. (2022, March 16). As Russia's troops advanced in Ukraine, Indian students say racism kept them trapped in war zone. *ABC News*. Retrieved on 15 May 2022, from <https://www.abc.net.au/news/2022-03-16/indian-students-trapped-in-ukraine-amid-accusations-of-racism/100910370>

Dixneuf, C. (2002). Racial discrimination and violence against foreigners and asylum seekers in Switzerland. *World Organisation Against Torture*. [https://www.humanrights.ch/cms/upload/pdf/020919\\_omct.pdf](https://www.humanrights.ch/cms/upload/pdf/020919_omct.pdf)

Dovi, V. (2022, April 1). The treatment Africans are facing in Ukraine is despicable, but why are we surprised?. *Euronews*. Retrieved on 12 May 2022, from <https://www.euronews.com/2022/04/01/the-treatment-africans-are-facin-in-ukraine-is-despicable-but-why-are-we-surprised>

East African Asians (British Protected Persons) V. The United Kingdom, 4715/70, 4783/71, 4827/71. *European Court of Human Rights - Commission (Plenary)(1978)*.

Hinry, M. (2022, March 16). Fleeing war, facing racism: Refugees from Ukraine meet challenges at Europe's borders. *National Geographic*. <https://www.nationalgeographic.co.uk/history-and-civilisation/2022/03/fleeing-war-facing-racism-refugees-from-ukraine-meet-challenges-at-europes-borders>

Howard, P. S. S., Johnson, B. C. Y., & Ah-Sen, K. (2022, March 22). Ukraine refugee crisis exposes racism and contradictions in the definition of human. *The Conversation*. Retrieved on 12 May 2022, from <https://theconversation.com/ukraine-refugee-crisis-exposes-racism-and-contradictions-in-the-definition-of-human-179150>

Ibrahim, A. (2022, March 5) 'There's Poland, now walk': Arab students' ordeal out of Ukraine. *Al Jazeera*. Retrieved on 15 May 2022, from <https://www.aljazeera.com/news/2022/3/5/thats-poland-now-walk-arab-students-plight-out-of-ukraine>

OHCHR. (n.d.). The principle of non-refoulement under international human rights law. <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf>

OHCHR. (2022). STATUS OF RATIFICATION INTERACTIVE DASHBOARD: International Convention on the Elimination of All Forms of Racial Discrimination. Retrieved on 20 May 2022, from <https://indicators.ohchr.org/>

OPEN Rotterdam. (2022, March 15). Rotterdammers zamelen spullen in voor Afrikaanse gemeenschap in Oekraïne | SAMENLEVING [Video]. YouTube. <https://www.youtube.com/watch?v=DEg6jhenKZ4>

United Nations General Assembly. (January 4, 1969). The International Convention on the Elimination of all Forms of Racial Discrimination. <https://www.refworld.org/docid/3ae6b3940.html>

United Nations Migrants and Refugees. (2022, March 21). UNHCR chief condemns 'discrimination, violence and racism' against some fleeing Ukraine. United Nations News. Retrieved on 8 May 2022, from <https://news.un.org/en/story/2022/03/1114282>



Global Human Rights Defence (GHRD) permits any entity to use this publication only on the condition that they give credit to GHRD and its work.



Like and Support GHRD on all social media



@globalhumanrightsdefence



@ghrtv\_worldnews



@Global Human Rights Defence



@GhrtvN



@Global Human Rights Defence



@GHRTV World News

Donate online

<https://tikkie.me/pay/StichtingGI/q7U797fD5TVKtA8Vx4nieG>



For daily news, regularly visit [www.ghrtv.org](http://www.ghrtv.org)