



## Legal Challenges to the Protection of Labor Rights of Refugees in the Digital age

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Article	Abstract
<p><b>Keywords:</b> Employment; refugees; status; right to work; war.</p> <p><b>Article History</b> Received: May 31, 2023; Reviewed: Jun 1, 2023; Accepted: Aug 23, 2023; Published: Sep 7, 2023.</p>	<p><i>The relevance of the problem of protection of the rights of persons granted refugee status is due, in particular, to the fact that the increase in the number of refugees and related political, economic, and social problems confirms the need to reassess and rethink the legal status of this category of persons and to develop a new approach to the analysis and solution of the refugee problem at both international and regional levels. The situation in Ukraine also confirms the fact that not all states are ready to cooperate within the framework of international law and prevent human rights violations, which, in turn, can lead to an increase in the number of refugees. Therefore, the issue of protecting their rights does not lose relevance in scientific research. The purpose of the article is to study the general features of obtaining refugee status and the exercise of the right to work by such persons. The author analyzes the normative sources of international and national law on the relevant topics. In addition, the author examines the practical aspects of the exercise of the right to work by refugees, in particular the problems faced by such persons and suggests possible solutions to existing problems. The leading method used for the study is the formal legal method. Its application determined the feasibility and validity of the study. This method was used in the analysis of legal acts regulating the protection of labor rights of refugees, namely: acts of international law, legislation of the EU member states, Asian countries, as well as national law of Ukraine.</i></p>



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## INTRODUCTION

The history of the right to asylum has deep historical roots. It originated almost simultaneously with the emergence of law itself as a regulator of interpersonal and interstate relations. For a long time, this right existed in the form of customary law, but it was periodically reflected in certain legal acts of states. The right to asylum was enshrined in universal international legal acts in the twentieth century. This was influenced by several factors: an increase in the number and scale of armed conflicts; development of communication and logistics; political and ethnic persecution, etc. In the right to asylum, there are separate institutions, including forced migrants, refugees, and persons in need of complementary or temporary protection (Soroka, 2021).

The modern world is becoming more and more confrontational and conflictual, and the number of wars is increasing, which leads to a significant increase in migration flows. Thus, in some European countries, there were violent political processes that forced citizens of these countries to seek asylum and protection in other countries. The emergence of such an unprotected category of persons significantly affects the state of economic, cultural, and social development of society and requires special legal regulation. Thus, issues related to this phenomenon are constantly in the field of view of not only international humanitarian organizations but also governments of many countries, including the Ukrainian one. Governments usually guarantee basic human rights and physical security to their citizens. However, when civilians become refugees, this safety aspect disappears (Pavlova, 2014).

The key problem in protecting the rights of all refugees is that, on the one hand, international law has provided them with the right to seek asylum, and on the other hand, it has not provided states with the corresponding obligation to provide such asylum. Consequently, there is an imbalance between the rights of one subject and the obligations of another to ensure the realization of these rights. Currently, the realization of the right to asylum by persons in practice is ensured by acts of international law, as well as the activities of international organizations and specialized bodies within the UN. This is due to the fact that in the practice of international law, there is no obligation of states to grant asylum. However, at the same time, it can be stated that this situation is quite logical because each state protects its own economy and labor market.

Considering cybersecurity and protecting the privacy of refugees' data when they use digital platforms to find work and communicate with employers is an important part of protecting their rights (Jaelani, et. al, 2023). The process of Ukraine's integration into Europe, deepening of international cooperation in all spheres of human activity, including jurisprudence, and globalization processes that can be traced in the world, and, of course, that are primarily aimed at protecting human rights determine the actualization of scientific developments related to these phenomena. The existing internal problems, which create additional difficulties in ensuring the protection of refugees, require the improvement of domestic legislation on the legal status of refugees in order to comply with international standards and the modern content of migration relations. The intensification of migration processes among the world's

population along with positive trends has negative consequences: some people are forced to leave their countries due to civil wars, armed conflicts, economic or socio-political crises, discrimination on various grounds, seeking asylum outside the country of origin (Hrabar, 2008).

The issue of refugee protection is relevant all over the world. According to 2021 data provided in the Global Trends Report 2020, which was published in 2022, there are 30.5 million refugees and asylum seekers in the world (Billing, 2021). The issue of refugees is systematic in the countries of Southeast Asia, making it interesting to analyze in the context of refugee protection. The Southeast Asian region faces significant flows of refugees and internally displaced persons due to political conflicts, ethnic tensions, internal violent conflict, civil wars, and natural disasters. There are 2172 refugees and 2430 asylum seekers in Ukraine (Global Trends Forced Displacement, 2020). It is worth noting that the presented global data show the situation at the beginning of 2021. We are sure that in 2022 the situation will change dramatically because as a result of the armed aggression of the Russian Federation in Ukraine, many citizens had to leave for foreign countries to protect themselves. The situation in the world as a result of Russia's full-scale invasion once again emphasizes the relevance and need to study the issue of refugee protection.

## **METHOD**

The leading method used for the study is the formal-legal method. Its application determined the feasibility and validity of the study (Gunawan et al., 2023; Mujib & Muchlas, 2023). This method was used in the analysis of legal acts regulating the protection of labor rights of refugees. In particular, the use of this method allowed the author to analyze international legal acts at a universal level on the protection of refugees' rights. In addition, the relevant method was applied to analyze the EU law on the protection of refugees in general and Ukrainians in particular. Also, the application of the formal legal method provided an opportunity to analyze the national legislation of the selected countries, namely: Estonia, Slovakia, and Ukraine.

Moreover, in the article, the author applied the methods of analysis and synthesis. Its application provided reliable results in many areas of research. First of all, this method was applied in the analysis of EU, South East Asia studies, and international law in the context of granting refugee status and temporary protection and highlighting the legal features of this status. Also, the method of analysis and synthesis was used by the author in the study of the peculiarities of the exercise of the right to work by refugees from Ukraine in Estonia and Slovakia. In addition, the application of the method of analysis and synthesis made it possible to analyze the practical situations and problems faced by refugees in Ukraine in the exercise of the right to work. Also, based on this method, the author identified ways to solve the problems that arise when refugees exercise the right to work in Ukraine.

The systematic method was mainly applied in the consideration of various problems faced by refugees in Ukraine in employment, in particular: xenophobia, stereotyped attitude towards foreigners, ignorance of legislation and legal framework;

low level of integration into society; lack of knowledge of the language, etc. It was noted that the states are obliged to ensure that refugees legally staying in their territory are able to exercise the right to work on an equal basis with foreign citizens. The method of induction and deduction is applied along with the systematic method. Based on numerous individual experiments, a general conclusion was formulated, which is reflected in the article. The methods of scientific induction and deduction are used mainly to establish empirical relationships between the properties of objects and phenomena considered in the work.

The comparative method was applied to analyze all the legal acts mentioned in the work, in particular, in order to understand how the studied acts comply with the requirements of universal international law. The author concludes that the national legislation of Estonia, Slovakia, and Ukraine on the protection of refugees and their right to work complies with the 1951 Convention and its Protocol. The relevant acts have been ratified by the States under review. Moreover, the author concludes that the legislation of the Union within its competence is in line with the developments of international law. The method of historical research was applied to study the formation of the right to asylum, its origin, and consolidation as a norm of international law of universal character. Also, this method was applied by the author to analyze the factors that led to the legal consolidation of the right to asylum.

## **RESULTS AND DISCUSSION**

### **Protection of refugee rights in international law**

For a better understanding of international refugee law, it is necessary to define 'refugee'. In accordance with the 1951 Convention relating to the Status of Refugees, a refugee is a person who is outside the borders of his or her native country owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of his or her country... (Convention relating to the Status of Refugees, 1951). Persons who participated in war crimes, including terrorist acts, and violated humanitarian law or human rights are categorically denied the protection guaranteed to refugees. The International Protocol Relating to the Status of Refugees of 1966 specifies the concept of refugee by time (Protocol relating to the Status of Refugees, 1966).

International refugee law aims to ensure the humane treatment of the most vulnerable groups of people. Therefore, it is closely related to international human rights law, which aims to preserve the dignity and well-being of every human being. The share of human-centered norms in international law is steadily increasing. The basis of these norms is the principle of respect for human rights and fundamental freedoms, which implies their general significance: 1) extension of rights and fundamental freedoms to all people without any discrimination; 2) involvement of all states in appropriate actions to ensure these rights; 3) ensuring fundamental rights and

freedoms both in normal life situations and in states of emergency or during armed conflicts (Kotlyar, 2014).

The rights of refugees can be divided into the following groups: specific rights of refugees arising from the institution of international protection; rights that refugees enjoy on an equal footing with citizens of the country of asylum; rights that refugees enjoy on an equal footing with other foreign citizens who are legally present in the country of residence (Cherkes, 2002). One of the fundamental human rights enshrined in Article 14 of the Universal Declaration of Human Rights, 1948 is the right to asylum (Universal Declaration of Human Rights, 1948). However, staying in the territory of a foreign country requires acquiring a formal status that allows either to stay legally in the country or to move legally to a third country. Thus, asylum seekers need to have their status determined based on a fair and objective procedure and to obtain documents (including travel documents) valid both in the host country and in other countries.

The principles of the international legal status of refugees are, of course, the guiding ideas; they are fundamental principles that determine the essence and content of the legal status of this group of participants in relations under international law, limit the behavior of states to observe and respect the rights of refugees, perform the formative functions of the human rights system, and regulate the competence of the state in applying the norms on refugees. It is important that through the procedure of implementation of international law into domestic law, the international legal principles of refugee status move to the level of the principles of law of a particular state but do not lose their international legal quality (Chuyenko, 2018). We emphasize that granting asylum is the exclusive prerogative of the state and is a political issue. Adopted by the UN General Assembly on December 14, 1967, the Declaration on Territorial Asylum in paragraph 3 of Article 1 states: the assessment of the grounds for granting asylum rests with the granting State (Declaration on Territorial Asylum, 1967).

It should be emphasized that, as noted earlier, refugees have the full range of rights that belong to every human being, i.e., natural rights. Based on this, it can be argued that refugees should be allowed to exercise the human right to work. This is confirmed by Article 17 of the 1951 Convention, which states that the receiving states must provide refugees lawfully residing in their territory with the opportunity to exercise their right to work, through employment. At the same time, states are obliged to provide refugees with favorable conditions for such work on the same terms and conditions as those applicable to foreign workers. In addition, according to Article 18 of the Convention, refugees also have the right, on equal terms with foreigners, to carry out independent work in the territory of the host state in agricultural, industrial, commercial, and craft industries. They should also be provided with the right to establish industrial and trade companies on equal terms with foreign citizens. It is also worth noting the provisions of Article 19 of the 1951 Convention, which grants such

persons the right to engage in free professions (Convention relating to the Status of Refugees, 1951).

Unlike Europe, the Asian continent does not currently have its own regional human rights protection system. The Asia-Pacific Declaration on the Rights of Individuals and Peoples (1988), which was adopted on February 15, 1988 in Delhi (India) is the official international document, which can identify the contours of the Asian approach to the protection of human rights. The Declaration enshrines the following rights: the right to life (no one should encroach on one's life, all individuals, peoples and states are obliged to respect the right of all to life, regardless of the race, sex, religion, nationality, level of development); the right to peace and security in one's inner circle, the state, in the world (preservation of peace and security is the duty of every individual, every nation, every state); the right to a decent life, regardless of the race, nationality, religion, gender, level of development; the right to live in a favorable environment (preserving the proper state of the environment is the duty of every individual, nation and state); the right to development (every individual can participate in economic, social, cultural and political development that ensures all human rights and fundamental freedoms, and has the right to promote such development and enjoy its benefits); the right to be free from violence and fear (Levchenko et al., 2021).

Thus, we can state that the acts of international law in general enshrine the right to work and guarantee the need for its observance in relation to refugees. Given the fact that refugees have always existed in world history and now these processes have not decreased, countries cannot be indifferent to the issue of ensuring their rights. They should have appropriate programs and develop effective means of regulating the protection of the labor rights of such persons. The obligations of states under international treaties, according to provisions of national legal acts, are to provide for equal access to a set of fundamental rights to all refugees who are legally staying in the territory of the host state.

### **Protection of refugee rights in Southeast Asia**

The problem of refugees in Southeast Asia is systematic and acute. The Southeast Asian region faces significant flows of refugees and internally displaced persons due to political conflicts, ethnic tensions, internal violent conflict, civil wars, and natural disasters. This poses serious challenges to the countries of the region regarding the reception, protection, and integration of refugees (Sornarajah, 2009).

The number of refugees in the ASEAN is not significant compared to the global refugee population. All the ASEAN countries are parties to three main human rights treaties, namely: the Convention on the Elimination of Discrimination against Women, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities. The ASEAN Human Rights Declaration (2012) affirms "the right to seek and receive asylum in another state in accordance with the law of that state and the international treaty in force". This offers a vague possibility of realization

of refugees' rights without enforcement of obligations and practicality. Without the recognition and the appropriate legal status in the country, the persons concerned are subject to exploitation, deportation, repatriation, and punishment, as well as very limited access to work, health services, education, and personal safety in accordance with the national system.

To date, Cambodia, the Philippines, and Timor-Leste are the only countries in Southeast Asia that have adopted the 1951 UN Convention and the 1967 Protocol related to the status of refugees. The 1951 Convention and the 1967 Protocol oblige the United Nations High Commissioner for Refugees (UNHCR) to coordinate three long-term solutions for refugees as follows: local integration in the host country, voluntary return to the refugee's country of origin, or permanent cross-border resettlement in a third country, such as the United States. The agreements prohibit signatories from forcibly returning refugees to the countries they fled, according to the principle of customary international law known as non-refoulement. Signatories must also guarantee rights such as access to primary education, paid work, and housing.

Instead of adopting this international framework, individual Southeast Asian countries have slowly developed their own refugee policies, often in response to emergencies. However, states that did not approve the Convention have not completely avoided the principle of non-refoulement. Although most Southeast Asian countries avoid binding international legal obligations on refugees, in practice they respect some basic principles of international law.

In August 2017, a conflict between Myanmar's military forces and Rohingya armed groups led to a violent escalation that caused a large wave of refugees. The Rohingya case refers to the Rohingya ethnic group, which makes up the majority of the population of Rakhine district in Myanmar. The Rohingya people are a recognized Muslim minority that has been oppressed and discriminated against for decades. Thousands of Rohingya people crossed the border of Bangladesh seeking asylum and protection. This massive flow of refugees created a humanitarian crisis in Bangladesh, where the government and international humanitarian organizations tried to provide vital services and assistance to refugees.

The Rohingya case received considerable international attention, condemning violence and human rights violations, including ethnic cleansing and violence by the Myanmar military system. The UN and other international organizations demanded effective measures to protect the Rohingya, attracting political pressure on the Myanmar government. Despite international pressure, the Rohingya rights situation remains unsatisfactory. Many Rohingya refugees remain in Bangladesh, where they are still threatened by insecurity and instability. The restoration of rights and the return of refugees to their homeland are complex tasks that require consideration of political, legal, and humanitarian aspects in the protection of the rights of the Rohingya.

International law has played a great role in the development of the Asian region. However, given the specific features of the region, Asian states "should have a sufficiently strong supreme authority in order to contribute to the protection of their interests and not to comply with the orders of organizations led by the leading countries (Britchenko & Cherniavska, 2019). One of the basic tenets of Western ideas about the democratic structure of society, which proclaims the priority of individual human rights, is not shared by many Asian states. The Asian problems concerning development and ethnic issues differ from the European ones.

It should be noted that some countries in the Southeast Asian region, such as Thailand and the Philippines, have already taken measures to improve the refugee protection system, including the conclusion of international agreements and cooperation with international organizations such as the UNHCR (Ostapenko et al., 2021). The United Nations plays an important role in promoting refugee rights in Southeast Asia. Thus, the UNHCR is working with Governments in the region to provide international protection for refugees and assist in their registration and recognition of refugee status.

### **Right to work for refugees in the EU**

First, it should be noted that in general, any foreigners in the EU belong to third-country nationals, and their rights, including employment issues, are regulated by EU secondary legislation. EU legal acts contain quite detailed regulation of the legal status of refugees. The factors that contributed to this development of legislation on this issue were not only measures to ensure comprehensive human rights, but also a significant aggravation of migration problems in recent years in many European countries (Sivash, 2019).

Among the acts regulating the rights of refugees, it is advisable to highlight: Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), 2013; Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, 2001; Directive 2003/86/EC of September 22 of the European Parliament and the Council on the right to family unity, 2003; Directive 2011/95/EC from December 13, 2011 of the European Parliament and of the Council on the qualification standards and status of third-country nationals and stateless persons as recipients of international protection, the uniform status of refugees or persons entitled to subsidiary protection, as well as the content of the protection granted (new edition), 2011; Directive of the European Parliament and the Council No. 2013/32/EC of June 29, 2013 on general procedures for granting and revoking international protection (new edition), 2013; Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for



granting and withdrawing refugee status, 2005; Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), 2013 and other.

Particular attention should be paid to Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, 2005. This Directive establishes a minimum framework for the procedure for granting refugee status in the EU. The Directive also states that its provisions are written in accordance with respect for fundamental human rights in accordance with the EU Charter of Fundamental Rights; therefore, it respects the right to work for refugees (Directive 2013/33/EU, 2013).

An important step in the regulation of immigration policy is the Agreement signed in late 1990 in Dublin by twelve EU countries. The Convention determined the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities (Dublin Convention). It was the first international agreement that gives refugees certain guarantees that their application should be considered by the authorities of the state to which they apply. For refugees who entered the EU territory illegally, the country of initial entry is competent. This rule does not apply if the refugee was previously in another EU state and applied for asylum there.

The Convention notes that each EU country retains the right on humanitarian grounds to grant a refugee's application. The Convention also regulates the rules of consideration and processing of applications for protection. Refugees get the opportunity to independently determine the desired country of asylum throughout the Community (Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, 1990).

A significant legislative array in the field of protection and ensuring the rights of refugees in the EU is explained not only by the desire to ensure the rights of refugees but also by the increase in migration problems in recent years. As a result of recent events in Ukraine, the number of refugees in the EU has increased again. At the same time, the requirements of the EU security system come into conflict with the considerations of human rights and assistance, which requires institutional regulation of mutual responsibilities of the parties to international relations to regulate refugee migration aimed at creating mechanisms to control their migration movements (Sivash, 2019).

In general, the EU migration policy is differentiated and consists in the implementation of a number of Directives, as well as bilateral and multilateral regulations to ensure the free or preferential movement of natural persons across state borders and their employment in the EU, as well as the settlement of refugee issues

(Ievdokimov & Shymanska, 2017). In the EU as a whole, refugees face some difficulties in finding employment. For example, when a person applies for the relevant status, he or she has the obligation to prove all the facts and allegations that he or she provides in this application. That is, the burden of proof is on the applicant. However, as we understand, most often a person applying for refugee status arrives in the host country without any documents. Therefore, as a rule, such persons cannot provide supporting documents. When a person has all the necessary confirmations – it is rather an exception. Thus, it can be quite difficult for a person applying for refugee status to obtain it.

However, at the same time, it should be noted that often the decision to grant refugee status is made by an authorized person on the basis of general knowledge of the situation in the country from which the applicant arrived. That is, the fact of proving is largely due to the fact that the decision-maker is familiar with the objective situation in the applicant's country of origin, is aware of the relevant well-known issues, and directs the applicant to provide the necessary information, and thus the facts alleged were confirmed and substantiated (Kukhtyk & Derkachenko, 2018).

Returning to the acts of secondary legislation of the EU, it should be emphasized that in general, the Union in its legal acts outlines the general aspects and directions of protection of the rights of refugees, including drawing attention to the fact that such persons need to realize the possibility of employment. However, it should be noted that the issue of peculiarities of employment is not within the competence of the EU, and, therefore, the peculiarities of refugees' work in each member state are quite different. Further, the author of this article proposes to consider the peculiarities of the employment of refugees in some selected Member States on the example of refugees from Ukraine.

### **Right to work for refugees in Southeast Asia**

The protection of the labor rights of refugees in the countries of Southeast Asia is one of the important problems faced by these regions. Refugees seeking asylum in these countries are usually vulnerable and often face violations of their labor rights. In addition, in countries that have not signed the UN refugee agreements, unequal rights protection can undermine the well-being of refugees. For example, refugees are prohibited from seeking legal employment to supplement their meager funds, pushing them into an illegal work environment where they are vulnerable to exploitation. According to the 2021 State Department report on human trafficking in Malaysia, traffickers force refugee children to beg, take advantage of travel debts to involve young men and women from Southeast Asia into forced labor, and "lure Rohingya women and girls from refugee camps in Bangladesh" to make them commercial sex workers (Chen, 2021).

International treaties and commitments are not the universal remedy for improving the refugees' welfare. Among the three Southeast Asian countries that

signed the UNHCR agreements, the Philippines was the most willing to temporarily accept Afghan and Rohingya refugees. However, the Philippines hosts only a small portion of the region's refugees, being a potential consequence of its geographic location on the eastern edge of maritime Southeast Asia.

### **Legal regulation of refugee protection in some EU member states and its implementation on the example of Ukrainian citizens**

To date, many Ukrainian citizens have been granted protection in the EU Member States. Therefore, we propose to consider the peculiarities of protection and exercise of labor rights by refugees in the territory of selected Member States on the example of Ukrainian citizens. Two countries were selected for the analysis: Estonia and Slovakia. When choosing the countries for analysis, the author was guided by the number of Ukrainian refugees in this country, the level of support for Ukraine, as well as the number of studies on this or that country.

First of all, let us consider Estonia. As of August 10, Estonia has received a total of 50,347 war refugees from Ukraine, according to data published by the Social Insurance Board (SKA: Estonia has received more than 50,000 refugees from Ukraine, 2022). The Aliens Act, 2009 is the basis of Estonian legislation for the protection of aliens (Riigikogu passes bill easing the entry of Ukrainian refugees into the labor market, 2022). Pursuant to Article 10 of this Act, an alien staying in Estonia shall be guaranteed rights and freedoms equal to the rights and freedoms of Estonian citizens, unless otherwise provided by the Constitution, this Act, another legal act, or a treaty binding upon Estonia. The state guarantees the full range of rights provided by international legal norms and practices. According to Article 8 of the Aliens Act, employment in the meaning of Estonian legislation is a contractual activity or activity for the benefit of another person for which a material reward or profit is provided. Pursuant to Article 104, an alien legally residing temporarily in Estonia has the right to employment if he or she is duly registered or if such a right is provided for by a law or treaty ratified by the Riigikogu (Aliens Act, 2009).

On March 9, 2022, a decree of the Government of the Republic entered into force, according to which citizens of Ukraine and their family members who arrived in Estonia because of the war can apply for temporary protection. The application for temporary protection is not obligatory. Submitting an application for temporary protection is not a mandatory condition for Ukrainian citizens to have the right to stay in Estonia. Temporary protection is a one-year residence permit that grants Ukrainian citizens and their family members the same rights as Estonian residents. That is, Ukrainian citizens who receive appropriate protection will be able to enjoy equal rights with Estonian residents, including the right to work (Ukraina kodanikele Eestisse saabumiseks ja ajutiseks viibimiseks seadusliku aluse andmise kohta, 2022).

The adoption of the EU Directive on International Protection of Ukrainians Fleeing War 2022 has been approved by the Government of Estonia: The relevant

decision will enter into force on 9 March 2022. This means that starting from March 9, 2022, persons who were forced to leave Ukraine on or after February 24, 2022, will be able to apply for a temporary residence permit under the international protection program, which will initially be granted for one year. Persons who receive such a temporary residence permit will have equal rights with Estonian citizens in the labor market. The Police and Border Guard Service notes that such a permit can be granted in one day, and the process of issuing an identity card can take up to 30 days (Proposal for a council implementing decision establishing the existence of a mass influx of displaced persons from Ukraine as referred to in Article 5 of Council Directive 2001/55/EC of 20 July 2001, and having the effect of introducing temporary protection, 2022). Moreover, even if Ukrainian citizens do not have the appropriate visa, they can still work in Estonia, provided that the employer registers their short-term employment with the Police and Border Guard Board.

Thus, we can note that Estonia has created very loyal conditions for Ukrainian refugees to arrive and stay on its territory, even for those citizens who have exhausted the period of stay in the country allowed by law. In addition, the Estonian authorities ensure the right of Ukrainian forced migrants to work on an equal footing with their own citizens. As for the legislation of Slovakia, let us note that in 1993 Slovakia ratified the 1951 Convention and its 1967 Protocol. The main body of national legislation regulating refugee rights and status is codified in the Refugee Act of 1996. Therefore, this state has undertaken to comply with all requirements and guarantee the rights provided by these international acts. All Ukrainians without exception can travel to Slovakia even without a biometric passport. Persons without a valid passport are advised to have other documents (e.g. identity card, driver's license, residence permit in Ukraine, birth certificates of children, etc.) A person with a valid foreign biometric passport can stay in Slovakia for 90 days. To legally stay in the country after this period, it is necessary to apply for temporary protection or refugee status.

Due to the events in Ukraine, Slovakia on 16 March 2022 Slovakia adopted Lex Ukrajina, a complex package of laws including the Act on Asylum, 2002 (Act No. 480 of 20 June 2002 on Asylum and Amendment of Some Acts, 2002) and the Act on residence of foreigners, aimed at facilitating the integration of those fleeing the Russian invasion of Ukraine (Residence of foreigners on the territory of the Slovak Republic, 2011). The legislative package covers residence and temporary protection, access to the labor market, education, transportation, accommodation, social protection, and healthcare. The issue of employment is also included in the new collection of laws. It entitles refugees from Ukraine and their family members to start looking for a job after applying for temporary protection or refugee status.

Immediately after receiving the appropriate status, such persons can look for work. Ukrainian citizens who have been granted the appropriate status do not need to obtain additional work permits, which are usually required from third-country

nationals to work in Slovakia. The new law also shortens the time frame for recognizing the medical qualifications of newly arrived Ukrainians and states, so they will not have to report their criminal record: instead, a written statement of incorruptibility will suffice. On April 5, 2022, the President of the Slovak Republic signed an additional amendment to the Asylum Act, which gives asylum seekers access to the labor market within 6 months (instead of the original 9) from the start of the asylum procedure.

It should be noted that most vacancies for Ukrainian refugees require knowledge of the language. However, often among the vacancies you can find marks "for Ukrainians", where knowledge of Slovak is not required. Persons enjoying temporary protection can be employed without additional permits. The only exception to the employment of Ukrainian citizens is for civil servants. For highly qualified persons, it is possible to get a job without obtaining temporary protection but if they can confirm the appropriate classification. Such persons will also have to obtain a work permit. Thus, Slovakia has also created all conditions for Ukrainian forced migrants to protect and exercise the right to work in accordance with the requirements of international law.

In the digital age, the protection of refugees' labor rights faces new challenges that require adapting legal frameworks to modern realities (Hidayah & Anggraeny, 2023). With the spread of the gig economy and digital platforms, new forms of labor have emerged, such as freelancing and temporary work (Izzati & Sesunan, 2022). These new patterns of employment can lead to unstable working conditions, insufficient social protection, and violations of the labor rights of refugees. In the digital age, there is a risk for refugees to fall into digital unemployment because it may be more difficult for them to use the Internet and find work online (Zubaedi, et. al., 2020). Digital platforms can be saturated with stereotypes and discrimination. Refugees may face reduced chances of finding work through such platforms due to their refugee status or language barriers. Digital technologies can create easier access to illegal forms of employment. Refugees can be vulnerable to the offers of illegal jobs with low pay and no rights protection. Refugees can be victims of cyber fraud or identity theft in electronic employment systems.

Ensuring cybersecurity and protecting privacy has become an important task for protecting refugees' rights. Not all refugees have access to technology, as this may depend on their economic situation or the infrastructure of their place of residence. Without access to digital tools, they may find it difficult to find work and ensure their economic well-being. Addressing these legal challenges requires comprehensive approaches and cooperation between government agencies, international organizations, the public sector, and digital platforms. This includes the development and improvement of legislation aimed at protecting the rights of refugees, increasing access to education and training in digital skills, as well as providing mechanisms for

monitoring and overseeing the observance of the rights of workers in the digital environment.

Some countries throughout the world have already developed training programs that help migrants and refugees improve their digital skills. In the digital age, new challenges arise related to digital unemployment, inequality of access to online resources, and the use of digital platforms for employment. Therefore, legal reform should take these aspects into account and ensure the protection of refugee rights in the digital economy. Of great importance in the context of the research topic are the scientific sources to which the author referred in the process of writing the article. First of all, it is worth paying attention to the work of Ukrainian researcher N. Hrabar. The author in her monograph analyzes the main legal acts that regulate the peculiarities of granting refugee status in Ukraine. She pays special attention to the procedural issues of obtaining refugee status and institutional support for obtaining such status. In addition, the author pays attention to the development of the concept of *refugees* in international law and Ukrainian legislation. In her work, she studied the current legal framework for the legal regulation of refugee status and determined the competence of the subjects of management in this area. In addition, she formulated proposals to improve the efficiency of the procedure for granting refugee status and provided her own proposals for amendments and additions to the laws and regulations governing the administrative and legal status of refugees (Hrabar, 2008).

In the context of the study of the observance of refugee rights in the EU, the author of the article finds the conclusions of O. Sivash interesting. In her work, this researcher analyzed the classification of the principles of the international legal status of refugees and divided them into two groups: general and special principles. The author examined the statistics on refugees in the EU, in particular the main problems faced by asylum seekers in the EU. She stressed that some Member States are not ready for the incoming number of refugees and noted the main reasons why the number of migrants is growing. Among such reasons, she highlighted the increasing military and political instability, human rights violations, etc. In addition, in her article O. Sivash notes the need to equate the legislative approaches that regulate the granting of refugee status (Sivash, 2019).

Despite the existence of scientific works on the employment of refugees, the problem is still relevant. For example, many Ukrainian refugees in Europe as a result of Russia's military aggression once again confirmed the relevance of the study of the relevant topic. However, it should be noted that there are persons in Ukraine who have the appropriate status and should also be able to exercise their right to work. At the same time, in Ukraine, they also face a number of problems that can complicate the employment process. Therefore, we consider it appropriate to consider the legislation of Ukraine on the employment of refugees, the problems they face, as well as possible ways to solve them.

First of all, it should be noted that Ukraine also follows the norms of international law on the protection of refugees' rights. Thus, in 2002 it acceded to the 1951 UN Convention and the 1967 Protocol on the basis of the Law of Ukraine No. 2942-III "On Accession of Ukraine to the Convention Relating to the Status of Refugees and the Protocol Relating to the Status of Refugees" (Law of Ukraine No. 2942-III "On Accession of Ukraine to the Convention Relating to the Status of Refugees and the Protocol Relating to the Status of Refugees", 2002).

First of all, I would like to draw attention to the Constitution of Ukraine, 1996. Article 21 of the Basic Law of our state guarantees that all people are equal in their dignity and rights, and their rights and freedoms are inalienable and inviolable. The inalienability of rights and freedoms is an internal immanent, inevitable property of a person. This property of rights and freedoms is that the human capabilities reflected in them are a natural belonging of every human being. They arise from the moment of birth and do not require permission, or approval from anyone, including the state (Hrabar, 2008). According to Article 26 of the Basic Law, stateless persons and foreigners legally staying in Ukraine have the same range of rights, freedoms, and obligations as Ukrainian citizens. However, there are some exceptions to this rule, which are enshrined in the Constitution, legislation, and international agreements. Asylum is granted to such persons in accordance with the law (Constitution of Ukraine, 1996). Therefore, the Constitution of Ukraine generally establishes the possibility of granting asylum to foreigners in need, regulating the specifics and practical issues by special legislation.

The Constitution of Ukraine is a guarantee for further development of the system of protection of human and civil rights and freedoms. It enshrines the national legal regime of refugees and foreigners in Ukraine, which has the following features:

1. The legal regime is general and applies to all categories of foreigners.
2. Foreigners, stateless persons, and refugees enjoy the same rights as citizens of Ukraine.
3. The national legal regime on foreigners and refugees has certain limits: they are not fully equated in rights and obligations with citizens of Ukraine, in particular foreigners, stateless persons, and refugees do not enjoy most political rights in Ukraine (they cannot form political parties, do not participate in the management of public affairs, do not have voting rights, cannot participate in referendums, do not have equal access to public service, cannot form trade unions, etc).
4. The national legal regime of Ukraine is unconditional, it does not apply to foreigners and refugees regardless of whether Ukrainian citizens have similar rights in the respective countries (Hrabar, 2008).

The basic law regulating the specifics of refugee protection in Ukraine is the Law of Ukraine No. 3671-VI "On Refugees and Persons in Need of Complementary or Temporary Protection" (2011). According to the provisions of this law, On the

territory of Ukraine, refugee status may be granted to a person who is not a citizen of this state and who has a well-founded fear of becoming a victim of persecution in the state of his/her citizenship and cannot enjoy its protection because of such danger. Such persons on the territory of Ukraine may receive refugee status or a person in need of complementary protection. Persons with the appropriate status cannot be expelled from the country to a dangerous state (Law of Ukraine No. 3671-VI “On Refugees and Persons in Need of Complementary or Temporary Protection”, 2011).

Considering the issue of exercising the right to work by a refugee in Ukraine, we note that according to Article 14 of the Law of Ukraine No. 3671-VI “On Refugees and Persons in Need of Complementary or Temporary Protection” (2011), persons granted refugee status have the same rights, freedoms, and obligations as citizens of Ukraine, except for exceptions established by law. Persons recognized as refugees in Ukraine are considered to be permanently residing in Ukraine from the date of the decision to recognize them as refugees (Law of Ukraine No. 3671-VI “On Refugees and Persons in Need of Complementary or Temporary Protection”, 2011). That is, on the basis of this norm we can state that refugees have the opportunity to exercise their right to work on an equal basis with citizens of Ukraine, except for legal exceptions. Article 13 of this Law states that persons with the relevant status have the right to temporary employment in Ukraine.

It should be noted that in accordance with the Law of Ukraine No. 5067-VI “On Employment of the Population” (2012), foreigners wishing to be employed in Ukraine must obtain a relevant permit. However, the same law establishes exceptions to the general rule and defines the categories of persons whose employment is carried out without such permission. Among such categories are foreigners who have acquired refugee status or have received permission to immigrate to Ukraine. Thus, we can state that persons who have been granted refugee status in Ukraine can exercise their right to work on an equal footing with citizens of the state, without needing additional permits. At the same time, it should be noted that the legislation of Ukraine provides for a number of positions that foreigners, including refugees, cannot hold, in particular, elected positions in central and local authorities, positions in the civil service, as well as positions related to the possession of information constituting a state secret. Such positions include notaries; civil servants; judges; prosecutors; police officers; customs officers; and employees of the Security Service of Ukraine.

However, researchers note that certain obstacles often prevent refugees from exercising their right to work. The most common problem is the reluctance of employers to employ such persons. According to the data provided by the Right to Protection Charitable Foundation with the support of the Open Society Foundation, every second refugee looking for a job faces a similar situation. Approximately 20% of refugees faced situations when the employer refused without explanation. In general, employers can refuse both because of prejudice against foreigners and because of the



desire to avoid additional documents or simply ignorance of the law. Even though no additional documents are required for the employment of refugees and persons in need of complementary protection, most employers are likely to be unaware of these rules and do not want to understand it further (Key aspects of employment of refugees, persons in need of complementary protection and asylum seekers in Ukraine, 2020). We believe that in order to overcome the relevant problem, it would be advisable to implement a state policy aimed at promoting information about the employment of refugees, as well as providing additional benefits for employers who employ such persons.

Another problem is the low level of integration of refugees into Ukrainian society, in particular language skills. Ignorance or poor knowledge of the language is the reason why about 40% of respondents had problems with employment (Key aspects of employment of refugees, persons in need of complementary protection, and asylum seekers in Ukraine, 2020). In our opinion, the only way to overcome this situation is for the state to ensure the normal integration of asylum seekers into Ukrainian society, including proper education in the field of language, history, cultural peculiarities, and traditions.

Despite the existence of certain problems regarding the employment of refugees, we can state that in general Ukraine complies with the requirements of international law on the protection of the rights of refugees, including the right to work. Ukraine has a mechanism for the employment of such persons, and in addition, it provides for the possibility of their work without the need to obtain any additional permits.

## CONCLUSION

Refugees should be provided with the full range of economic and labor rights, as provided by international law. States are obliged to ensure that refugees legally staying on their territory are able to exercise the right to work on an equal basis with foreign citizens. Despite a significant legislative framework at the international, EU, and national levels for the protection of human rights, there are still issues related to the protection and realization of refugees' rights. Significant human rights violations in some countries, military and political instability, among others, contribute to this situation. This situation requires, first of all, the creation of a unified policy in the field of refugee rights in the international space, which would help to balance the burden and readiness of countries to accept refugees and ensure the exercise of their rights in their territories. This system of normative legal documents establishes an institutional framework for regulating the migration of refugees and asylum seekers, legitimizing their stay in the countries of destination, however, in fact, there is a need to streamline the mechanisms and procedures for determining the status and rights of refugees, as well as the formation of effective mechanisms to control their migration movements in connection with the strengthening of political and security determinants of

migration motives in the world, in particular, the shortcomings of existing public administration systems in countries, low level of democracy and human rights.

EU legislation on refugee protection has incorporated the key areas of protection of the rights of such persons by international law. The Union in secondary legislation regulates the scope of refugee protection, which is expanded and supplemented in the legislation of the Member States. This is since employment issues fall within the competence of states, and therefore each of them at its own discretion determines the procedure for granting refugee status to asylum seekers and the procedure for their employment. The relevant procedure is implemented in different ways in individual EU Member States. Estonia and Slovakia, considered in this article, adhere to international and European standards of refugee protection and have implemented appropriate procedures to help Ukrainians. We can state that refugees from Ukraine in these countries are provided with all opportunities to exercise the right to work. Both states have adopted special legislative acts aimed at protecting Ukrainians, which complement national legislation on refugee rights.

If we consider the relevant problem on the territory of Ukraine, it can be noted that its legislation complies with the requirements of international law and establishes the possibility for persons with refugee status to work freely without the need to obtain additional permits. Despite such steps taken by the state, refugees often face problems when looking for work in practice. For example, they face reluctance from employers to hire foreigners. In addition, they have lower chances of employment due to poorer language skills and generally lower levels of integration into society. Xenophobia and stereotypical attitudes of employers towards the employment of foreigners remain one of the biggest obstacles to the employment of refugees. One in five respondents faced a situation when an employer refused to hire them without explanation. Low level of integration, lack of knowledge of the language, lack of understanding of where and how to look for a job, lack of free funds to start looking for a job, as well as problems with obtaining the necessary documents for employment - all this not only hinders access to the labor market; for some, it becomes a reason not to look for a job at all. Despite certain existing problems, we believe that they can be solved by providing additional benefits for hiring employers, as well as by assisting refugees in their integration and education.

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