

Canada's immigration law response to the war in Ukraine

Lessons Learned





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Ukrainian conflict - displaced people



UN Refugee Convention

- ▶ 1951 [Refugee Convention](#) (incorporated by s. 96, IRPA)
 - ▶ well-founded
 - ▶ fear of being persecuted
 - ▶ for reasons of:
 - ▶ Race
 - ▶ Religion
 - ▶ Nationality
 - ▶ Membership of a particular social group
 - ▶ 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

IRPA Section 97

- ▶ **97 (1)** A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally
 - ▶ **(a)** to a danger, believed on substantial grounds to exist, of torture within the meaning of Article 1 of the Convention Against Torture; or
 - ▶ **(b)** to a risk to their life or to a risk of cruel and unusual treatment or punishment if
 - ▶ **(i)** the person is unable or, because of that risk, unwilling to avail themselves of the protection of that country,
 - ▶ **(ii)** the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that country,
 - ▶ **(iii)** the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international standards, and
 - ▶ **(iv)** the risk is not caused by the inability of that country to provide adequate health or medical care.

Applying refugee law to war situations

- ▶ Civil war:
 - ▶ Ali v. Canada (Minister of Citizenship and Immigration), [1999 CanLII 7416](#)
- ▶ Tigray / Ethiopia
- ▶ Afghanistan
- ▶ Ukraine ?

Ukraine - measures to date

- ▶ Prioritizing applications already in pipeline
- ▶ Canada-Ukraine Authorization for Emergency Travel (CUAET)
- ▶ Forthcoming: special family reunification sponsorship pathway for permanent residence
- ▶ Settlement support

CUAET

- ▶ CUAET (Canada-Ukraine Authorization for Emergency Travel) - March 2022
 - ▶ “Airbridge”
 - ▶ “not a refugee program”, temporary humanitarian relief
 - ▶ “most will return”

CUAET v. TRV

TRV

- ✓ temporary intent
- ✓ default 6 months entry
- ✓ \$100
- ✓ biometrics (\$85) & security

CUAET TRV

- ✓ ~~temporary intent~~
- ✓ 3 years entry
- ✓ ~~\$100~~
- ✓ biometrics (~~\$85~~(+ exemptions) & security screen
- ✓ priority processing
- ✓ free open work permit

Other developments

- ▶ Counterfoil-less visas
- ▶ Pop-up biometrics
- ▶ Aeroplane donations <https://miles4migrants.org/>
- ▶ Ukraine-specific SINP draw

Temporary resident visa applications



Data below is for applications received and approved between March 17 and April 19, 2022. Data on this page is approximate and is subject to change.

Applications received
163,747

Applications approved
56,633

Afghan response


- ▶ Worked with/for Canada (nexus)
- ▶ Special humanitarian program:
 - ▶ are outside of Afghanistan
 - ▶ don't have a durable solution in a third country
 - ▶ are part of one of the following groups:
 - ▶ women leaders
 - ▶ [human rights defenders](#)
 - ▶ persecuted religious or ethnic minorities
 - ▶ LGBTI individuals
 - ▶ journalists and people who helped Canadian journalists
- ▶ [Family members of 2009 & 2012 interpreters](#)

Afghanistan response

#WelcomeAfghans: Key figures

The Government of Canada remains firm in its commitment to welcome at least 40,000 refugees and vulnerable Afghans to Canada. This will be done through several programs, including:

- a special immigration program for Afghans who assisted the Government of Canada and
- a humanitarian program.

 Information on this page is up to date as of April 14, 2022. Data is approximate and subject to change.

Welcomed in Canada

11,165

People who have arrived in Canada,
under all streams, since August
2021

Special immigration program for Afghans who assisted the Government of Canada

Afghan nationals arriving through the [special immigration program for those who assisted the Government of Canada](#) fall under the government-assisted refugee program.

Applications **received**
14,900

Applications **approved**
10,180

Arrived in Canada
5,630

Ethiopia - Tigray response

- ▶ Humanitarian assistance

Helping Ukrainians to stay permanently

- ▶ CUAET - most don't need a lawyer
- ▶ Ukrainians in Canada will need help to immigrate:
 - ▶ Family (spousal sponsorship)
 - ▶ Employment-based applications
 - ▶ Refugee claims (?)
 - ▶ Humanitarian and compassionate grounds (H & C, Section 25)

H & C

- ▶ establishment in Canada for in-Canada applications;
- ▶ ties to Canada;
- ▶ the best interests of any children directly affected by the H&C decision;
- ▶ factors in their country of origin including adverse country conditions;
- ▶ health considerations including inability of a country to provide medical treatment;
- ▶ family violence considerations;
- ▶ consequences of the separation of relatives;
- ▶ inability to leave Canada has led to establishment (in the case of applicants in Canada);
- ▶ ability to establish in Canada for overseas applications;
- ▶ any unique or exceptional circumstances that might merit relief.

Hardship

- ▶ When an applicant submits information claiming that there are conditions in the country of origin that would result in hardship if they were not granted the exemption requested, decision makers must consider the conditions in that country and balance these factors into the hardship assessment.
- ▶ Adverse country conditions could include factors having a direct, negative impact on the applicant such as war, natural disasters, unfair treatment of minorities, political instability, lack of employment, widespread violence etc.
- ▶ <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/permanent-residence/humanitarian-compassionate-consideration/processing/assessment-hardship-assessment.html>



Closing and questions