

## RESEARCH ARTICLE

# What Ukraine, Afghanistan, and Syria Have Taught Us About the Politics of International Refugee Law

Jasmin Lilian Diab<sup>a</sup> <sup>a</sup> Lebanese American University**ABSTRACT**

Following months of tensions, Russian forces launched what they referred to as a “special military operation” in Ukraine in late February 2022. Governments across Europe have since opened their borders to host hundreds of thousands of Ukrainians fleeing Russia’s invasion. Several of these governments, which have historically taken an uncompromising stance toward refugees hailing from countries such as Syria and Afghanistan in recent years, have undertaken a decidedly different tone in pledging to both host and support their now refugee neighbors. In complete contrast to a number of conflicts around the globe, Russia’s attack on Ukraine has ignited a visible outpouring of support for those fleeing the violence. Although not part of the EU, the European Commissioner for Home Affairs expressed that the EU was “well prepared” to absorb Ukrainian refugees as a matter of “unity” and “solidarity.” This article explores the dimensions of political will associated with the application of international refugee law, as well as the selectivity of the refugee system. It additionally aims to highlight how “the refugee crisis of the moment” impacts larger conversations on ongoing conflict, discrimination, migration and access.

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## The Russo–Ukraine Conflict and Refugees of the Twenty-first Century

What could become Europe’s largest humanitarian crisis since 2015—when more than 1 million refugees from Syria, Iraq, and Afghanistan arrived at the European Union (EU) borders, prompting continent-wide political panic—is continuing to rapidly unfold. Following months of tensions, Russian forces launched what they referred to as a “special military operation” (Financial Times, 2022) in Ukraine in late February 2022. Governments across Europe have since opened their borders to host hundreds of thousands of Ukrainians (Fallon, 2022) fleeing Russia’s invasion. Several of these governments, which have historically taken an uncompromising stance toward refugees hailing from countries such as Syria and Afghanistan in recent years, have undertaken a decidedly different tone (Jakes, 2022) in pledging to both host and support their now refugee neighbors.

Merely three days into the conflict, an increasing number of humanitarian agencies proceeded to make

official statements articulating their commitment to Ukrainian refugees, requesting that countries continue to open their borders to Ukrainians seeking safety and fleeing for their lives. According to the United Nations High Commissioner for Refugees (UNHCR) (2022), more than 360,000 people have fled Ukraine into Poland and other neighboring countries in the wake of Russia’s invasion. Meanwhile, as the conflict incessantly escalates, the UN agency has since warned that up to 5 million of Ukraine’s 44 million citizens (Bergner, 2022) could become refugees if the attacks persist. Most individuals fleeing are women, children, and older adults—as men aged 18–60 years have been barred from leaving Ukraine (CBS News, 2022) after its President called upon Ukrainians to take up arms and defend their country (Jenkins, 2022) as the fighting in Kyiv escalates.

The UNHCR is continuing to work with governments in neighboring countries, calling on them to “keep their borders open” (Latrech, 2022) to those seeking safety and protection. Neighboring Moldova has since opened its borders to Ukrainians in their unremitting support for

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people crossing the border with their “humanitarian needs” (Epstein, 2022). Poland, which had taken a rigid stance against international migration flows in recent years, prepared eight reception points (Wadolowska, 2022) for refugees along its border with Ukraine. Hungary, which had also taken a similarly hostile stance (UNHCR, 2021a) to incoming refugees from countries such as Syria (UNHCR, 2021a) as recently as last year (2021-2022), pledged to open “a humanitarian corridor” (Business Standard, 2022) for those fleeing Ukraine.

### **On Blame and Responsibility: Selectively Externalizing the Management of Refugees**

Europe has long been a primary destination for mixed-migration (Eurostat, 2022) influxes. Since the early 2000s, the regulation of these influxes (European Council, 2022) has constituted an essential pillar of EU policies toward its neighboring countries and regions. In the post-2011 era, namely, following the reconfiguration of the EU’s Southern Neighborhood following the Arab Spring (Vohra, 2022) and its subsequent migratory flows, this regulation framework was largely challenged and eventually destabilized (Seeberg, 2013). More specifically, unclear political transitions coupled with the violent conflicts that erupted in countries such as Syria (BBC News, 2022) and Libya (McQuinn, 2021) resulted in increased pressure at international borders and increasing (internal and external) displacement numbers (Reliefweb, 2021a). By 2015 (at the refugee crisis’ peak), the EU had become a target for migratory flows on an unprecedented scale, with more than 1 million migrants, asylum seekers, and refugees having reached its borders irregularly through the Mediterranean Sea (Human Rights Watch, 2015) and the Balkan Peninsula (Cocco, 2017). The 2015 experience not only shifted the EU’s overall capacity to respond, but it also shifted its priorities and the political will of many of its member states regarding placing the humanitarian needs of the migrants and refugees before their own.

In recent years, European countries have aimed to halt (in many instances, forcibly and violently (Kakissis, 2018)) the flow of what has largely been perceived as non-White and non-Christian (Islam, 2020) migrants and asylum seekers fleeing protracted conflicts and wars across the Middle East, Afghanistan, and the African continent. In late 2021, in what the United Nations termed an “appalling” border crisis, Poland forcibly denied entry (Gall, 2017) to asylum seekers from the Middle East and Africa who became caught in a legal and political limbo as they attempted to enter the EU through Belarus (Reliefweb, 2021b). Amid the aforementioned 2015–2016 refugee crisis peak, the EU negotiated away its “problem” through a strategic deal with Turkey, under which it allocated 6 billion euros to the latter for Ankara to prevent Syrian refugees from crossing into Europe (Wallis, 2020). In 2015, Hungary went as far as building a border fence to close off a major migrant route through which more than 500 people per day (predominantly from the Middle East and North Africa traveling through Turkey) were crossing (BBC News, 2015). Additionally, Hungary enacted a law (Human Rights Watch, 2018) making it a crime to assist immigrants who entered Hungary irregularly in applying for asylum through legal channels.

In contrast to a largely swifter response on the EU’s part amid recent developments in Ukraine, the Union’s response as late as months after Kabul fell to the Taliban in 2021 (and thousands were still attempting to escape Afghanistan in search of safety and refuge) was one of diversion and limited interference (Shankar, 2021). Despite the UNHCR warning that by the end of 2021, the humanitarian crisis in Afghanistan could lead to the displacement of over half a million more Afghans (UNHCR, 2021b), for EU member states, this statement did nothing but bring flashbacks of the 2015 refugee crisis, delaying a unified response on Afghan asylum (Shankar, 2021). With past experiences impacting their approach to Afghanistan, the European Commissioner revealed an EU plan to initiate a “regional political platform of cooperation with Afghanistan’s direct neighbors” (Kuwait News Agency, 2021) to manage the migration crisis. Based on precedents, the EU’s asylum policy has typically been to externalize the management of refugees and diminish its obligations under international refugee law and the *non-refoulement* principle (Jeanty, 2022). The 22,000 individuals that the EU managed to evacuate from Afghanistan to its 24 member states selectively included (Jahnz, Berard, & Bottomley, 2021) EU officials and their dependents, as well as Afghans who assisted the EU operations in the country.

In complete contrast to a number of conflicts around the globe, Russia’s attack on Ukraine has ignited a visible outpouring of support for those fleeing the violence. Although not part of the EU, the European Commissioner for Home Affairs expressed that the EU was “well prepared” to absorb Ukrainian refugees (Berger, 2022) as a matter of “unity” and “solidarity.” This encompassed an unconditional (and largely uncommon) welcome from countries such as Poland and Hungary that outwardly resisted those fleeing conflict and poverty in the Middle East and Africa. For its part, Poland declared its border open (Brezar, 2022) to fleeing Ukrainians (even those without official documents), going as far as waiving its requirement (Brezar, 2022) of presenting a negative COVID-19 test or vaccination status. Even Hungary,

often dubbed as one of Europe's leading anti-migrant (BBC News, 2021) governments, declared that it was accepting all citizens (Ellena, 2022) and legal residents of Ukraine.

Greece, a major entry point for hundreds of thousands of people fleeing conflict from Syria and Afghanistan in recent years, also expressed its willingness to take in refugees (Panoutsopoulou, 2022) from Ukraine. Greece faced international condemnation (Human Rights Watch, 2020) from international human rights groups in recent years for its heavily documented pushbacks of asylum seekers from both its land and sea borders. Ireland announced that it was immediately lifting visa requirements (Gov.ie, 2022) for Ukrainians. The United States stated that it was providing emergency aid; since its announcement, thousands of soldiers from the U.S. Army's 82<sup>nd</sup> Airborne Division were deployed to Poland (Morris, 2022) to assist with preparations for the admission of more Ukrainian citizens.

### The Politics of the Refugee Definition

There are certainly various motives and interests at the center of the “change of heart” of some EU countries that had been notably hostile to the idea of asylum seekers crossing into their borders in recent years. If the refugee crises in Ukraine, Afghanistan, and Syria teach us anything, it is that international refugee law remains only as strong as the underlying political will, interests, and fears. It would be the latest test to international refugee law, as well as the *non-refoulement* principle, to see just how many Ukrainians will be displaced and what the EU's response would be moving forward in its international obligations. While it remains increasingly difficult to assess how long the ongoing conflict will last, what can be certain is that the conflict will only continue to trigger refugee movements into Europe. The lowest predictions in terms of a Russia's full-scale invasion of Ukraine reveal 1 million displaced persons, but predictions estimate that this number could grow to 5 million—a reality that could lead to similar refugee numbers for the EU as in 2015–2016 (Narea, 2022). A responsible EU migration policy that addresses its ethical responsibilities toward all people directly or indirectly affected by its foreign policy decisions, and one that reflects its core values, is largely overdue. While the Syrian and Afghan crises presented an important opportunity to start building an EU that upholds the rights of all human beings fleeing persecution, political interests and motives continue to take priority. The world's most recent refugee crisis reveals that upholding international refugee law, as well as caring for the livelihoods and rights of refugees, is becoming an increasingly political and selective game of tag.

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