



Basic Principles on the Treatment and Status of Migrants

(representing an augmentation of the Basic Principles on the Status of Refugees ratified by the General Assembly on 28 October 2016 in Budapest)

The Union Internationale des Avocats (UIA - International Association of Lawyers) in its General Assembly on 29 October 2025:

Recalling

- I. The Universal Declaration of Human Rights and the ten principal international human rights instruments, which lay down the principles of universal and inalienable rights for all human beings, regardless of their nationality, place of residence, gender, ethnic or national origin, colour, religion, language or any other characteristic, and place States under an obligation and duty to uphold, protect and establish these rights.
- II. The numerous international and regional binding and non-binding instruments on migrants, (including refugees, asylum-seekers and stateless persons) and in particular the European Convention on Human Rights, the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, the 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa, the 1979 Convention of the Elimination of All Forms of Discrimination against Women, the 1984 Cartagena Declaration, the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the 1985 Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in Which They Live, the 1989 Convention on the Rights of the Child, the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the 1997 European Convention on Nationality, the 2001 Bangkok Principles, the 2006 International Convention for the Protection of All Persons from Enforced Disappearance, the 2011 Istanbul Convention, the 2016 UN New York Declaration for Refugees and Migrants, the 2018 UN Global Compact for Safe, Orderly and Regular Migration, the 2020 Charter Of Fundamental Rights Of The European Union ,the 2021 EU Asylum, Migration and Integration Fund Regulation the 2024 EU Asylum and Migration Management Regulation, all the directives and regulations on the common European asylum system, and the guidelines drawn up by the Office of the United Nations High Commissioner for Refugees (HCR).
- III. That these instruments acknowledge the benefit of the aforementioned fundamental rights for migrants (including refugees and asylum-seekers).
- IV. That the “*non-refoulement*” of refugees is a principle of customary international law and that it applies until a request for asylum has been examined in accordance with applicable law.

- V. That the aforementioned instruments should be interpreted consistently; that this interpretation should support the objective of affording the greatest protection possible, in particular by conforming to definitions, as they are interpreted by the High Commissioner for Refugees, and interpretative guidance and decisions of the relevant international bodies that are competent in this field. That the migrant crisis makes it necessary to continually rethink migration policy on a more global level, with a view to States sharing responsibility;
- VI. That, in this context, it is vital to reaffirm recognised rights, means to ensure they are upheld and remedies against their violation;
- VII. That lawyers and bar associations have a vital role to play in this process.

Declares

1. That it is necessary and urgent for States, in fulfillment of their diplomatic responsibilities under international law (a) to grant all migrants (not only refugees and asylum-seekers) the broadest protection possible in accordance with that afforded by the organisations and courts that have authority in this area, and, (b) to reaffirm recognised rights, means to ensure they are upheld and remedies against their violation.
2. That each State on whose territory a migrant asks to be admitted as a refugee, on the basis of their protected human rights or in any other capacity must determine the status of that person in accordance with the relevant international or regional instruments under conditions that preserve human dignity and fundamental rights.
3. That all persons have the right to an identity and a nationality and that all steps must be taken to ensure that the children of migrants (including asylum-seekers and refugees) who are born in host States are registered there.
4. That there cannot be genuine access to fundamental rights without effective access to the law and, in particular, without migrants being ensured access to qualified lawyers who have received appropriate training in immigration law, so that they are in a position to know their rights and have them enforced.
5. That it is necessary for States to give priority to a *prima facie* approach in the recognition of refugee status in the event of an influx of persons who are fleeing objective and obvious circumstances in their country of origin, such as war, occupation or massive human rights violations; that, under such circumstances and given the shared readily apparent common risk of harm, States should apply a procedure known as “group determination” of refugee status, whereby, in the absence of evidence to the contrary, each member of the group is regarded at first sight as a refugee; that, alternatively, they must be able to implement mechanisms that provide temporary protection or stay arrangements that are designed to respond to these situations and in particular to ensure the benefit of subsidiary protection if the conditions for granting such a status are met.
6. That States, Law Societies, Bar Associations and national and international lawyers’ associations and their members must in the areas that concern them, apply the Basic Principles on the Treatment and Status of Migrants.

7. That the UIA is willing to provide its assistance and its support to bar associations, in particular for the training of lawyers in immigration law, but also in the actions to be taken to combat the criminalisation of national legislation on immigration and nationality law and the increase of security-based criteria as reasons to deny the benefit of migrants' legitimate rights.

Adopts the following Basic Principles on the Treatment and Status of Migrants

1. Scope of protection

1.1. The concept of asylum-seeker

An asylum-seeker is a person who, after being persecuted or fearing persecution in their country of origin has requested protection (or asylum) from the relevant authorities and is awaiting a decision in response to their request.

It is the role of national asylum systems to grant asylum-seekers a status that complies with international principles in this area.

1.2. The concept of refugee

For the purposes of these Principles and in accordance with the interpretation used by the HCR, which has been followed by the case law in an increasing number of States that are parties to the Geneva Convention, the term "refugee" is defined as follows:

A refugee is 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 their nationality and is unable or, owing to such fear, is unwilling to avail themselves of the protection of that country; or who, not having a nationality and being outside the country of their former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it; but also any person who, due to conflict, occupation, foreign domination, massive human rights violations or other events that seriously disturb public order in part or all of the country of their nationality – or, if they do not have a nationality in the country of their former habitual residence – is compelled to leave that country as they believe for the same reasons that they are unable to avail themselves of the protection of that country.

Such an individual maintains their status as a refugee until they are willing or able, freely and voluntarily, to return to the country of their nationality or the country of their last residence.

1.3. Grounds for exclusion

A person will not be deemed to be a "refugee" if there are serious grounds to believe that they have committed a crime against peace, a war crime or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; or, that they have committed a serious non-political crime outside the country of refuge prior to their admission to that country as a refugee or that they have been guilty of acts contrary to the purposes and principles of the United Nations.

1.4. The concept of environmental refugee or displaced person

According to the United Nations Development Programme (UNDP), environmental refugees are “those people who have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption (natural or triggered by people) that jeopardized their existence and/or seriously affected the quality of their life”. However, no universally accepted definition of this concept exists at present. It is therefore the role of States to reflect together on the implementation of mechanisms to protect this type of displaced person after jointly defining the concept. It is also their role to enact on an individual basis, as some of them already have, specific national legislation that aims to protect, as necessary via subsidiary protection, persons who have been subjected to serious threats to their life, their safety or their wellbeing, which result from serious natural phenomena, which are catastrophic or gradual, human-induced or natural.

1.5. The concept of migrant

A migrant is any person who travels away from their usual place of residence, regardless as to their reason for doing so, their legal status or their long term intentions. It is critical to note that not all those seeking admission to a State due to fleeing persecution/conflict or to be united with family will necessarily be categorised or processed as asylum seekers/refugees.

2. Rights and duties of migrants

2.1. All migrants (including refugees and asylum-seekers) must be granted reception conditions that respect their fundamental rights in accordance with the obligations that are provided for in the international and regional instruments that are binding on the receiving State and with the customary standards of international law:

- They must, in particular, benefit from certain material reception conditions, and in particular (where required) accommodation, food and clothing (in kind or in the form of a financial allowance). Allowances must be such that they prevent the applicant from becoming destitute.
- The safety of those seeking to enter a State via dangerous methods must be paramount in the actions of national authorities and their agents. Deterrence strategies implemented by States must not endanger migrants and priority must be given to support protection initiatives.
- Reception and custodial measures must preserve family unity and guarantee medical and psychological care. Access to the education system and where necessary language courses must be provided for minors to enable them to attend ordinary school.
- Where migrants are required to attend a refugee centre or processing facility, provision must be made to ensure that they are able to engage with the tenets of their chosen faith and worship as required.

2.2. Migrants must be able to benefit from special measures in order to meet their individual needs, including where they have specific vulnerabilities. This concerns in particular, minors (accompanied or otherwise), disabled people, elderly people, people who are pregnant, persons accompanied by and responsible for minor children, victims of human trafficking, persons with mental illness and persons who have been subjected to torture, rape or other

serious forms of psychological, physical or sexual violence.

Thus, for example:

- Tailored provision and support must be provided for women and girls throughout any application process, in which the best interests of the child shall be a primary consideration. Applications by a minor or their parents for the purpose of family reunification shall be dealt with in a positive, humane and timely manner.
- All minors who make an application for immigration permission (including asylum) must be assisted by a qualified legal representative during the procedure where it is considered necessary. If suitable they must be able to apply for immigration permission in their own right, regardless of whether or not they are accompanied, and must be able to be heard during the procedure that concerns them by qualified persons who take into account their level of development.

2.3. When assessing applications for asylum by persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, the specific vulnerability of the applicant (which may be inherent due to their migratory path and possible previous traumatic experiences) must be properly assessed and taken into account as part of the consideration process:

- All migrants have the right to a quick, flexible and fair procedure, which takes into account the difficulties in providing individual proof of persecution. Specifically, minimal procedural guarantees must be provided when processing asylum-seekers' applications; asylum-seekers must be informed of their rights and duties as soon as possible, as well as of the status of their application, by persons with authority, in a language and in terms that they can understand.
- Under all circumstances, asylum-seekers must be entitled to and have the possibility in practice of contacting the HCR and the non-governmental organisations that work with the HCR in the field of assisting asylum-seekers and the beneficiaries of international refugee protection.
- Asylum-seekers must be able to receive legal assistance that provides them with counsel and representation by a lawyer of their choice and assisted by an interpreter at all stages of the procedure concerning the recognition of their status until the final decision to grant or refuse recognition. This legal assistance must be provided to them free of charge.
- All asylum-seekers must have the benefit of the guarantee of "non-refoulement".
- All recourse (including appeals) within the asylum procedure must immediately suspend any extradition or deportation procedures in order to ensure that the asylum seeker will not be forced to leave the country in which they apply for asylum pending a final decision on their application for asylum.
- No asylum-seeker may be detained for the sole reason that they have applied for asylum. Such a measure must be necessary for legitimate reasons of public order, public health or national security, must never be applied automatically but undertaken under the supervision of a judge, and must be the subject of independent monitoring and inspection, including by the HCR. It must not be used for unaccompanied minors.

2.4. All migrants must have the benefit of the rights provided for by international texts under conditions that are no less favourable than those provided for by these texts, and in particular the following rights:

- Absence of discrimination on the basis of gender, race, religion, country of origin, belonging to a certain social group, sexual orientation or political opinions.
- Freedom to practice religion and freedom to provide minors with religious instruction.
- Exemption from special measures based solely on the nationality of origin.
- The right to respect for the migrant's personal status, as acquired in their country of origin.
- Respect for the right of ownership.
- The right of association.
- The right to have access to judicial proceedings and the right to be assisted by a lawyer and an interpreter.
- Ease of access to a professional activity, at least under the same conditions as those that the host State grants to nationals of foreign countries that have the most favourable status.
- The right to evidence of their immigration status to enable them to share with relevant third parties, including employers, landlords, banks and carriers.
- The right to education/healthcare.
- The right to work.
- The right to benefit from a certain amount of administrative assistance for the issuance of documents that are the responsibility of the authorities of their State of origin.
- The right not to be expelled or turned away other than for reasons of national defence or public security and, in this case, under the control of the judicial authority.
- The right to a nationality. Migrants will not be arbitrarily deprived of their nationality or be made stateless
- A legitimate route to permanent residence/citizenship of the host State, uninfluenced by the legality of entry or migration journey (subject to approval of any initial application or claim).
- Minors must not be disadvantaged by the breakdown of the relationship of their parents/legal guardians or by their family living in different States.
- The right to protection with regard to the processing of personal data, thereby contributing to respect for their human rights, fundamental freedoms and in particular the right to privacy.

2.5. Migrants must, in particular, be afforded the following guarantees:

- **The right to an identity:** host States must register the migrants who are on their territory and provide a provisional identity document to those who do not have one, after carrying out such verifications as are reasonably possible.
- **Registration of births:** in accordance with Article 24 of the International Covenant on Civil and Political Rights and Article 7 of the Convention on the Rights of the Child, all children of migrants who are born outside their country of origin, and in particular in a refugee centre, must be immediately registered, whether by the authority of the country in which the child is born, or by a supranational body, such as the HCR, in order to establish the child's identity, name and parentage. The purpose of this registration of the child is not to establish the child's nationality, which will still be defined by the applicable laws, and will not create a presumption of nationality.
- **Right to have access to minimum living conditions:** in liaison with international institutions states must provide migrants with reasonable means to access living conditions that ensure their basic needs are met, in particular in terms of food, accommodation, and access to drinking water and electricity, and provide a minimum standard of hygiene and ensure protection from the elements.

2.6. All migrants shall comply with the laws and regulations of the host State, as well as with the measures adopted to maintain public order. In particular, they must comply with the obligations provided for immigration procedures in the receiving State and cooperate with the competent authorities to the extent that such cooperation is necessary in order to process their application. This must not, however, be used as a basis to make improper application of the provisions concerning the grounds for denying permission (including the status of refugee).

3. Obligations of the States

- 3.1. To ratify all international and regional instruments concerning migrants (including refugees, asylum-seekers, stateless and internally displaced persons) and to adopt, if necessary, national legislation for their implementation; in all cases, the States should grant these persons all the rights conferred on them by said instruments, regardless of any ratification.
- 3.2. To guarantee an asylum system which is in accordance with international law and allows anyone to apply for international protection upon arrival to the State. There shall be no limitation to this right, in particular no system of quotas for admission/recognition of international protection or specific preclusion according to legality of entry.
- 3.3. To not delegate functional responsibility for processing immigration applications to other States. Applications for immigration permission (including asylum) must be considered by the State to which the application has been made.
- 3.4. To ensure that deportation procedures align with international law, do not threaten the right to asylum and place the safety and human rights of migrants at their forefront.
- 3.5. To ensure that where required, migrants have the benefit of minimum living conditions, in particular in terms of food, housing, access to drinking water, electricity, minimum hygiene standards and protection from the elements (this will also be the responsibility of the HCR).

- 3.6. To ensure that families are not separated and that family units are preserved. Any immigration requirements for family members joining residents/nationals of States must be considered in consultation with appropriate parties, be proportionate, be achievable and not disproportionately disadvantage specific demographics. The position of women and girls must be at the forefront in the consideration of policy development.
- 3.7. To ensure that in all actions concerning minors the best interest of the child shall be a primary consideration. Minors shall not be separated from their parents/legal guardians against their will as a result of immigration status or a lack thereof.
- 3.8. To provide designated immigration routes for migrants resident in the State who have been identified as victims of domestic abuse. Any such routes must be accessible to victims regardless as to the particular status they hold and provide autonomous long term protection.
- 3.9. To ensure that the ability of a migrant who has secured nationality of the State to pass on that citizenship to their children is not prevented by the migrant's sex or marital status.
- 3.10. To provide access to rights and to justice under all circumstances to migrants as a vital condition for the recognition of the aforementioned rights. This must extend to providing legitimate and timely methods by which the legality of individual State decisions may be challenged. Similarly, States must support and encourage lawyers, Law Societies, Bar Associations and national and international lawyers' associations as regards to legal assistance to migrants.
- 3.11. To ensure the right to an effective remedy and the right to a fair hearing. Migrants (if need be assisted by a lawyer) must be able to exercise the remedies provided for by national laws and, as necessary, be able to go before international courts and tribunals regarding all decisions that concern them. States must facilitate the implementation of systems of duty lawyers to enable asylum-seekers to have access to specially-trained lawyers at any time, including in refugee centres.
- 3.12. To set up financing mechanisms that make it possible to ensure allowances to be provided for legal aid to people without means in accordance with the rules laid down by the United Nations Basic Principles on the Role of Lawyers adopted in 1990, known as the "Havana Principles". Consequently, these provisions must also be applied to all migrants. The amounts allocated by the national authorities in the form of legal aid must, to the extent possible, cover all the needs of the persons who meet the eligibility conditions for this aid.
- 3.13. To under all circumstances seek by all means never to derogate from the application of international provisions when they provide for the possibility of such derogations. In the event of derogations, they must submit to control mechanisms and limit these derogations to what is strictly necessary, given the reasons for which they were applied.
- 3.14. Given the nature of the continued migratory crisis and the high density of migrant populations in certain States, the international community must implement solidarity mechanisms that make it possible to share equitably the pressure that results from the crisis in order to assist the States that are the most affected in the management of that crisis. To this end, States must honour the commitments made, in particular, in the New York Declaration, which was adopted in September 2016 and continue to work together in order to reflect on long-term solutions to the issue of refugees and migrants.

4. The responsibility of Law Societies, Bar Associations and national and international lawyers' associations

- 4.1. To take action with regard to their national authorities, with a view to the ratification of international instruments that have not yet been ratified and the adoption of national measures necessary for their implementation, when necessary.
- 4.2. To closely scrutinise the actions of national authorities, ensuring the legality of statute and policy implementation and prompt provision of immigration solutions (where required) in the eventuality of mass displacement arising from international crises.
- 4.3. To take all necessary actions with regard to the public authorities and international bodies to ensure that there are appropriate living conditions in immigration/refugee centres according to the above-mentioned criteria.
- 4.4. To take action with regard to their national and supranational authorities for the implementation of the above-mentioned legal aid, the assistance of an interpreter and legal assistance.
- 4.5. To actively and publicly participate in political debates on legislative initiatives, corresponding regulations and further issues concerning migrants and in so doing acting as the guardian of national/international standards.
- 4.6. To the extent possible, to ensure that lawyers are trained in immigration law.
- 4.7. To ensure that legal aid is managed transparently and does not generate excessive formalities for lawyers who provide legal aid.
- 4.8. To ensure compliance with ethics rules in the services to be provided to migrants;
- 4.9. To actively ensure the defence and protection of "front line" lawyers in national/international contexts who may be subject to intimidation, retaliation or pressure by hostile or unfriendly parties where they act to defend/promote migrant rights.
- 4.10. To cooperate with each other in the performance of these assignments and to set up a global structure for consultation and cooperation.

5. Adherence

The affirmation of the Basic Principles on the Status of Refugees, known as the "Budapest Principles" was adopted by the General Assembly of the Union Internationale des Avocats (UIA - International Association of Lawyers) held in Budapest on 28 October 2016. The affirmation of the Basic Principles on the Status and Treatment of Migrants, known as the "Guadalajara Principles" (representing an expanded version of the aforementioned document) was adopted by the General Assembly of the UIA held in held in Guadalajara on 29 October 2025. Being mindful of the need for as broad a consensus as possible among the legal profession throughout the world, the UIA proposes that all Law Societies, Bar Associations and national and international lawyers' associations adhere thereto via a declaration. The list of the adherent organisations will be stated at the head of the Guadalajara Principles.