



IMMIGRATION OPTIONS FOR UKRAINIANS

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Ukrainian American Cultural Center

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The Legal Project

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OUTLINE

- Overview of U.S. Immigration Statuses
- Pathways to Immigration & Non-Immigrant Status
 - Humanitarian
 - Asylum
 - Uniting for Ukraine (U4U)
 - Temporary Protected Status (TPS)
 - Other Humanitarian relief
 - Family
 - Employment
 - That leads to permanent residency
 - That leads to temporary status
 - Diversity Visa
- Frequently Asked Questions
- How You Can Help

U.S. IMMIGRATION STATUSES

*Status that CAN
lead to Lawful
Permanent
Residence*

Immigrant Visa

- Family
- Employment
- Diversity Lottery

- Asylees / Refugees
- Humanitarian Relief such as VAWA, T & U Visas, SIJS

*Status that CANNOT
lead to Lawful
Permanent
Residence*

- Humanitarian Relief such as TPS, Uniting for Ukraine (U4U), Withholding, CAT

Non-Immigrant Visa

- Visitor
- Student
- Employment

Undocumented

- Entered Without Inspection
- Status Expired

THERE IS NO LINE

No “catch-all” visas for immigrants or non-immigrants:
must fit within one of the specified categories

Generally no eligibility for permanent residence based
on length of time in the U.S., even in lawful status
(Unless in the U.S. before 1972)

HUMANITARIAN

OPTIONS OF PARTICULAR INTEREST TO UKRAINIANS

- For those overseas:
- **Humanitarian Parole (Uniting for Ukraine)** → temporary, NOT a pathway to permanent residence or citizenship
- For those present in the United States
- **Temporary Protected Status** → temporary, NOT a pathway to permanent residence or citizenship
- **Asylum** → leads to permanent resident status and citizenship

ASYLUM

- Asylum: Definition
 - An individual is eligible for asylum if she meets the definition of a refugee. Immigration & Nationality Act (INA) § 208(b)(1)(A).
 - A refugee is “any person who is outside any country of such person’s nationality . . . and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, political opinion, or membership in a particular social group.

ELEMENTS OF ASYLUM:

- “Well-Founded Fear”
- of “Persecution”
- Perpetrated by either (1) the government or (2) an entity the government cannot/will not control
- “On account of”
- A protected Ground:
 - (1) Race, (2) Religion, (3) Nationality, (4) Political Opinion, or (5) Membership in a Particular Social Group

ASYLUM: ONE-YEAR FILING DEADLINE

- Application for asylum must be filed within one year of most recent arrival in the U.S.
 - I.E. Entry on October 5, 2017 → File application by October 5, 2018 INA § 208(a)(2)(B); 8 C.F.R. § 208.4 (a)
- Exceptions:
 - Changed circumstances that materially affect eligibility, or
 - Extraordinary circumstances (e.g. mental or physical illness, legal disability, incapacity, lawful status) INA § 208(a)(2)(D); 8 C.F.R. § 208.4(a)
 - Must file within a “reasonable” period of time since the changed or extraordinary circumstance

PARTICULAR SOCIAL GROUP (PSG)

For 20 years, PSG was defined as a group with “common immutable characteristics”

In 2014, two new prongs were added, narrowing the definition

To be a cognizable PSG, must show:

- 1) “common, immutable characteristic”
 - e.g. race, age, gender
- 2) “social distinction”
 - Others in the society see you as part of the specific group
 - The group is defined by terms that others in the society recognize
- 3) sufficient “particularity”
 - Unlike “wealthy” or “young,” which are too broad
 - Must set boundaries on who can be considered part of the group

HUMANITARIAN PAROLE: UNITING FOR UKRAINE (U4U)

- US- based sponsors (“supporters”) can petition for Ukrainians overseas who have been displaced by war (“beneficiaries”)
- If approved, a Ukrainian abroad can enter the United States as a “parolee”, with permission to be physically present for two years
- Official information: <https://www.uscis.gov/ukraine>
- Note: the program is called “Uniting for Ukraine”, and those who enter through the program are granted “Humanitarian Parole”

UNITING FOR UKRAINE: BENEFITS AND LIMITATIONS

BENEFITS

- Two-year grant of parole – permission to be physically present, protection from deportation
- Eligibility for work authorization (not automatic – must apply)
- Eligibility for certain benefits: SNAP (food stamps), cash aid, health insurance

NOTE! Parolees who have entered the country but not through the U4U program are also eligible for benefits!

LIMITATIONS

- Not available to those already present in the U.S.
- NOT a pathway to lawful permanent residence / citizenship

UNITING FOR UKRAINE: REQUIREMENTS FOR SUPPORTER

- Must hold lawful status in the United States or be a parolee or beneficiary of deferred action or Deferred Enforced Departure (DED) (basically anyone other than undocumented)
- Must pass background check
- Must demonstrate sufficient financial resources to receive, maintain, and support the individuals whom they commit to support for the duration of their stay in the United States
 - At least person must sign the form as a supporter, but additional people or even organizations can also join in to show financial resources

UNITING FOR UKRAINE: REQUIREMENTS FOR BENEFICIARY

- Must have resided in Ukraine immediately before the Russian invasion (through Feb. 11, 2022)
- Must have been displaced as a result of the invasion;
- Must be a Ukrainian citizen and possess a valid Ukrainian passport (or be a child included on a parent's passport);
 - OR, be an immediate family member of a Ukrainian citizen beneficiary of Uniting for Ukraine with a valid passport;
- Must have a supporter who has been approved by USCIS
- Must pass background check
- Children under 18 MUST be accompanied by a parent or legal guardian
- Those already present in the U.S. are NOT eligible for U4U.
- There is no requirement that Petitioner and Beneficiary be related

HOW TO SHOW FINANCIAL ABILITY TO SUPPORT

- The I-134 will ask for information about income and assets (the instructions provide guidance on documents to submit)
 - Include tax returns to show income
 - Letter from employer
 - Documents from bank
- USCIS will look to see if you have income equal to 100% of the Federal Poverty Guideline level
- See <https://www.uscis.gov/i-864p>
- E.g. If you have a household of 4 and wish to support 2 beneficiaries, you must have income equivalent to 100% Federal Poverty Guideline for a family of 6 (\$37,190)
- If your income is insufficient, you can have additional people join you and provide their financial information with the I-134

UNITING FOR UKRAINE: RESPONSIBILITIES OF SPONSORS

- Receive beneficiary upon arrival; transport them to initial housing
- Be responsible for beneficiary's safe and appropriate housing for the entire period of parole
- Provide necessities
- Help with employment authorization application; social security card, school enrollment, help with finding work, English help
- Note: Ukrainian parolees cannot apply for work authorization until they arrive
 - Will require a fee / fee waiver to apply
 - Under current processing times, it takes approximately a year for work authorization to arrive
 - Supporters should be prepared to provide necessities and financial support for an extended period, up to the entire period of parole (2 years)

UNITING FOR UKRAINE: PROCESS

- 1. U.S. Supporter files form I-134 (no filing fee)
 - Indicating name of beneficiary (cannot file without name of beneficiary)
 - Attesting to having sufficient financial resources to provide support
 - Committing to providing that support
 - Including supporting documentation
 - This can be done online if supporter is within the United States
 - Need a separate I-134 filed for each individual (even dependent children)
 - You will need to show financial resources to support all of your proposed beneficiaries
- 2. USCIS approves I-134 and contacts beneficiary abroad **by email**
 - If I-134 is deemed insufficient, it will be denied and there is no appeal, but you can try again with better documentation

UNITING FOR UKRAINE: PROCESS (CONTINUED)

- 3. Beneficiary must create online account to continue the process
 - Must provide biographic information
 - Must show up to date vaccinations, including 1st dose of COVID vaccine
 - If approved, will receive notice electronically through online portal and have 90 days to travel
 - USCIS will not take responsibility for travel arrangements or expenses

UNITING FOR UKRAINE: FREQUENTLY ASKED QUESTIONS

- If a Ukrainian has sufficient resources, can they file I-134 on their own?
 - No. You must have a US-based supporter. Disregard the option on I-134 for individuals to petition for themselves; it does not apply to U4U program.
- What if I am trying to bring an unaccompanied minor child?
 - Cannot go through U4U; but could try regular Humanitarian Parole process; may not be as fast but you can request an expedite
- What if my beneficiary is already in Canada with CUAET? Can we try to do U4U?
 - Unknown. The rules do not prohibit it.
- What if my beneficiary is already in the United States? Can they leave and try to return on U4U?
 - Unknown. The rules do not prohibit it; this would be at your own risk!
- How quickly can U4U be approved?
 - Possibly weeks or even days – which is extreme lightning speed for immigration!

TEMPORARY PROTECTED STATUS (TPS)

- General idea: not requiring people to return to a place of danger.
- The Secretary of the Department of Homeland Security may designate a country for Temporary Protected Status due to ongoing armed conflict, environmental disaster or epidemic, or other extraordinary and temporary conditions.
- Individual citizens of that country can then apply for Temporary Protected Status, which lasts for a set amount of time.

BENEFITS OF TEMPORARY PROTECTED STATUS

- Protection from being removed/deported; the Secretary of Homeland Security announces the period of protection (“designation period”)
- Eligible for **Employment Authorization** (application is necessary)
- If residing in New York, also eligible for certain benefits, i.e., **Medicaid**
- May be eligible for in-state tuition
- May be permitted to travel abroad by applying for “**Advance Parole**”
- If a country’s designation is renewed, all TPS holders can re-register and renew their employment authorization

- Note: even those in removal proceedings (deportation) are eligible to apply

LIMITATIONS OF TPS

- TPS is temporary and its benefits expire after the designation period.
- Registration is available only for a certain period; there are only a few exceptions that allow for late filing
- TPS can be permanently lost through failure to re-register
- TPS is not a pathway to United States Citizenship or to Lawful Permanent Residence
- Applicant must already be present in US on the specified date: TPS is not a means of obtaining admission to the United States from abroad
- Inadmissibility bars apply and all applicants must undergo biometrics
 - If TPS is denied, individual can be placed in removal proceedings if out of status

ELIGIBILITY FOR TEMPORARY PROTECTED STATUS

- Be a national of a country designated for TPS, or a person without nationality who last habitually resided in the designated country;
- File during the open initial registration period;
- Have been continuously physically present in the United States since designation date;
- Have been continuously residing in the United States since designation date;
- Not be subject to any of the grounds of inadmissibility / ineligibility
- Any person can apply for TPS regardless of immigration status (except permanent residents)

TPS – INELIGIBILITY

- Individuals **may be ineligible** for TPS based on any of the following:
 - Criminal record – arrests or convictions
 - Involvement in prostitution, commercialized vice, smuggling of non-citizens
 - Drug abuse/addiction, or drug trafficking
 - Prior immigration issues: prior deportations, allegations of frivolous asylum claims or immigration fraud
 - National security/terrorism grounds; persecution of others
 - Being firmly resettled in a third country
- **If you might have any of these issues, it is especially important to seek legal advice before applying for TPS – otherwise, risk deportation**

TPS FOR UKRAINE

- TPS Designated Through: October 19, 2023
- Registration Period: April 19, 2022 – October 19, 2023
- Continuous Residence in U.S. Since: April 11, 2022
- Continuous Physical Presence in U.S. Since: April 19, 2022
- <https://www.uscis.gov/humanitarian/temporary-protected-status/TPS-Ukraine>

TPS – HOW TO APPLY

- Submit forms I-821 (Application for Temporary Protected Status)
 - If work permit desired, submit I-765 (Application for Employment Authorization)
 - If unable to pay the fee, submit I-912 (Application for Fee Waiver)
- Include evidence of identity and nationality
 - Passport, birth certificate, national ID card
- Include evidence of residence and physical presence since the designation date
 - Rent receipts, bank statements, medical records, school records, cell phone bills, photos, affidavits, etc.
- Two passport-style photographs
- Documentation related to any convictions or arrests – **see an attorney!!**
- Each individual must have their own application (including minor children)

TPS – AFTER FILING

- Receipt notice, acknowledging application – can take weeks to months
- Biometrics appointment (fingerprints / photo / signature)
- If USCIS deems your evidence insufficient, may issue a Request for Evidence – be sure to respond on time!
- Interview is possible but unlikely for most people
- If approved, will receive approval letter and work authorization in the mail (if work authorization was requested)
- Note that processing times are currently very long

TPS – FREQUENTLY ASKED QUESTIONS

- What if I'm a dual citizen of Ukraine and another country?
 - No problem, as long as you are citizen of Ukraine and were not firmly resettled elsewhere at time of the invasion.
- What if I entered U.S. on my other (non-Ukrainian) passport?
 - No problem, as long as you are citizen of Ukraine and were not firmly resettled elsewhere at time of the invasion.
- What if my passport is expired?
 - No problem, you can still apply for TPS.
- What if I already have a different status (e.g. F-1)?
 - It can be beneficial to also apply for TPS – **but seek individualized legal advice**
- Will the TPS date be extended so that more Ukrainians will be eligible? Will TPS be renewed after the current designation expires?
 - This is unknown.

FREE ASSISTANCE WITH TPS APPLICATIONS

- The ABA Commission on Immigration has teamed up with other organizations to provide free assistance with TPS applications for Ukrainian, Haitian, and Venezuelan nationals on June 23 -24 through a virtual legal clinic. Since the clinic is virtual, applicants can reside anywhere.
 - Assistance for Ukrainian applicants: Friday, June 24 from 10-1 and 12-3 Eastern:
 - Sign up here: <https://ona.salsalabs.org/tpsclinic2022/index.html>
 - Or phone: 305-573-1106 ext. 1109 or 1180
- The ABA Commission is also seeking Russian and Ukrainian interpreters to assist with the clinic on June 24. Interpreters can sign up here: <https://ona.salsalabs.org/tpsvolunteer/index.html>

OTHER COMMON HUMANITARIAN PATHWAYS TO EITHER PERMANENT RESIDENCY OR TEMPORARY STATUS

- VAWA (abused children/spouses of LPRs/citizens)
- U-Visa (victims of certain crimes)
- T-Visa (victims of human trafficking)
- Special Immigrants (SIJS, SIVs)
- Cancellation of Removal

FAMILY

FAMILY PATHWAYS TO LAWFUL PERMANENT RESIDENCE

- Family (480,000/year)
 - A U.S. citizen can sponsor:
 - Spouse (immediate relative)
 - Child under 21 and unmarried (immediate relative) or child over 21 and/or married (preference relative)
 - Parent (immediate relative)
 - Siblings (preference relative)
 - A Lawful Permanent Resident can sponsor:
 - Spouse (preference relative)
 - Children under 21 and unmarried (preference relative)
- Immediate v. Preference relative: Immediate relatives do not have to await visa eligibility; preference relatives may have to await such

FAMILY BASED PROCESS

- Always starts with filing I-130 with USCIS (with current special exceptions for Afghans, Ukrainians, and Ethiopians—next slide)
- For family in the U.S.:
 - If they are either an “immediate relative” or a preference relative with a current “priority date,” the I-485 Application for Permanent Residence can be concurrently filed and will be adjudicated together
 - Preference category relatives can file I-485 to adjust status when priority date is current, only if they have remained in lawful status and have not engaged in unauthorized work, and if they meet other eligibility criteria
- If family member is abroad:
 - case will be transferred to Dept. of State if USCIS approves I-130; National Visa Center will hold the application until priority date becomes current, and then will collect necessary documents
 - If approved after interview, visa will be granted, applicant can fly to the U.S., and after they are admitted, green card will be mailed to them

SPECIAL I-130 FILING RULE FOR UKRAINIANS, AFGHANS, & ETHIOPIANS

- Special filing rule: some I-130 petitions can be filed directly with US consulate overseas
 - Petitioner must be a US Citizen who is overseas with family member
 - Petition can be only for immediate family members
 - spouse, unmarried children under 21, parents (if petitioner is at least 21)
 - Beneficiaries must have fled Ukraine as a result of war (after February 1, 2022)
 - May allow for faster processing
 - To request direct filing, contact nearest consulate

EMPLOYMENT

EMPLOYMENT PATHWAY: OVERVIEW

- Employment (140,000/year)
 - There are two types of employment categories: non-immigrant (temporary) and immigrant (permanent)
 - All nonimmigrant options: must prove that person has intent to be in the U.S. on only a temporary basis for the specified purpose of the visa
 - Almost all employment-based categories require two things:
 - An employer to be the sponsor
 - Completion of the labor certification/labor conditions application showing that there are not sufficient U.S. workers for the job at issue

SOME EMPLOYMENT PATHWAYS TO NONIMMIGRANT (TEMPORARY) STATUS

- Academic Students (F-1) or Vocational Students (M-1)
 - Must be pursuing full-time course of study at a USCIS-approved school
- Exchange Visitors (J-1)
 - Entering U.S. as a student, scholar, trainee, teacher, professor, research assistant, specialist, or leader in a field of specialized knowledge or skill, or similar
 - Most often have residency requirement—must return to home country for 2 years after program completion
 - J-1 Au Pair: enter U.S. to provide full-time childcare for up to 2 years
- Specialty Occupations (H-1B)
 - Entering U.S. to perform specialty occupation; employer must sponsor and must complete labor condition application (i.e. not sufficient U.S. workers)
- Intracompany Transferees (L-1A & L-1B)
 - Entering U.S. to continue executive, managerial, or specialized knowledge employment with a company that has a U.S. branch, affiliate, etc.

EMPLOYMENT PATHWAYS TO LAWFUL PERMANENT RESIDENCE

- EB-1 (no labor certification required)
 - Aliens of extraordinary ability: must have sustained national or international acclaim in sciences, arts, education, business, or athletics
 - Outstanding researchers or professors: recognized nationally or internationally for their outstanding achievement in their field and who have made original contributions of major significance
 - Multinational managers: Employed outside US for at least 1 of preceding 3 years by firm or corporation in managerial or executive capacity AND seeking to enter to continue managerial or executive service to that firm or organization
- EB-2 Advanced degrees/Exceptional Ability (labor certification usually required)
 - Member of the Professions with advanced degree (i.e. more than bachelors) or equivalent (bachelor's plus at least 5 years progressive work experience)
 - Exceptional Ability in sciences, arts, or business (i.e. a degree of expertise significantly above that ordinarily encountered in relevant field)

EMPLOYMENT PATHWAYS TO LAWFUL PERMANENT RESIDENCE

- EB-3 Professionals, Skilled workers, or Other workers (labor certification always required)
 - Professionals: Job requires at least bachelor's degree or foreign equivalent
 - Skilled Workers: Job requires minimum 2 years training or work experience, not of temporary or seasonal nature
 - Other Workers: Unskilled labor requiring less than 2 years training or experience, not of a temporary or seasonal nature (Limited to 10,000 per year)
 - All require labor certification that specifies that foreign national will be performing work for which qualified US workers are not available

EMPLOYMENT PATHWAYS TO LAWFUL PERMANENT RESIDENCE

- EB-4 Special immigrants/religious
 - Religious Workers
 - Special Immigrant Juveniles
 - Broadcasters for the US Agency for Global Media (USAGM) or a grantee of the USAGM
 - G-4 International Organization or NATO-6 Employees and Their Family Members
 - International Employees of the U.S. Government Abroad
 - Armed Forces Members (now-expired program)
 - Panama Canal Zone Employees
 - Certain Physicians
 - Afghan and Iraqi Translators
 - Afghan and Iraqi Nationals Who Have Provided Faith Service in Support of U.S. Operations
- EB-5 Investors
 - Invest at least \$1,800,000.00 (or 900,000.00 in rural area) to create or maintain U.S. jobs

DIVERSITY

DIVERSITY VISA

- Diversity Visa (55,000/year)
 - From countries with low rates of immigration to the U.S. (Ukraine currently included)
 - Submit an entry here (but only during specified dates; currently, last year's information is still posted):
<https://travel.state.gov/content/travel/en/us-visas/immigrate/diversity-visa-program-entry/diversity-visa-submit-entry1.html?wcmmode=disabled>
 - If selected in the Diversity Visa, have a limited amount of time to complete the application for the immigrant visa and travel to the United States

FREQUENTLY ASKED QUESTIONS

- Can Ukrainians just enter with a tourist visa?
 - Not advisable; will not be eligible for work authorization; duration is much shorter; risk of being accused of misleading consulate / border officials
- My relative has already arrived but is not eligible for TPS. Can they just leave and return through Uniting for Ukraine?
 - This is unknown. The rules do not specifically prohibit it, but they do not permit it, either.
- If I have Humanitarian Parole, can I also apply for asylum?
 - Yes, if you qualify, you can apply for asylum.
- If I have Humanitarian Parole, can I change to another non-immigrant status (such as F-1 student visa)?
 - No, would require consular processing.
- If I have Humanitarian Parole, can I adjust to lawful permanent residence?
 - Generally not. However, a US Citizen can petition for spouse, unmarried children under 21, or parents to adjust status to permanent residence. Certain humanitarian programs permit this as well. You must qualify under those separate programs in order to do this.

HOW YOU CAN HELP

HOW YOU CAN HELP

- Be a Sponsor: Uniting for Ukraine (U4U)
 - If you don't personally know any people in need of evacuation, there are some matchmaking initiatives that have been set up by ordinary citizens
 - <https://www.facebook.com/groups/na4ukraine>
 - <https://ukraine.welcome.us/>
- Donate money for application fees (humanitarian parole and U4U)
- Volunteer to interpret
- Local Ukrainians seeking help – are there any local organizations coordinating help for new arrivals? TLP may refer individuals

THANK YOU!

- Questions?
- Mary Armistead, marmistead@legalproject.org
- Michelle Lee, mlee@legalproject.org
- FAQ from CLINIC (Catholic Legal Immigration Network, Inc.):
<https://cliniclegal.org/file-download/download/public/67430>