



## **A necessary return to the spirit of Geneva in Europe**

Dr Bénédicte Halba, présidente de l'IRIV ([www.iriv.net](http://www.iriv.net)), June 2022

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The 1951 Geneva Convention relating to the Status of Refugees is the legal framework for the reception of refugees in the world, which has established a rule of international customary law. With its 1967 protocol, it is considered the “key document of refugee protection” that removes “temporal and geographical restrictions on its application.” Ratified by 145 States Parties, it defines the term “refugee” and provides for the rights of uprooted persons as well as the legal obligations of States to ensure their protection. The fundamental principle is non-refoulement, which states that a refugee should not be returned to a country where his or her life or liberty is in serious danger. The UN High Council for Refugees is the “guardian” of the 1951 Convention and its 1967 Protocol. States must cooperate with UNHCR to ensure that the rights of refugees are respected and protected.<sup>1</sup>

The Convention provides in particular that it shall be applied “without discrimination on the basis of race, religion or country of origin of the applicant”. One might expect that any person persecuted in his or her country would be able to benefit from it. There is a form of unequal treatment contrary to the spirit of Geneva. Some asylum seekers are more protected than others. The example of refugees from Ukraine is quite striking in spring 2022. A border country, Poland, which had been very hostile to the reception of asylum seekers from Syria or the Middle East on the border with Belarus in the autumn of 2021, was exemplary in the reception of Ukrainians. It is the country that has hosted the largest number of refugees since the war initiated by Russia in February 2022.<sup>2</sup> Europe is facing the largest wave of migration since 1945. Since the beginning of the conflict, the flow of Ukrainian displaced persons has reached more than 6.50 million people, including over 2.5 million children - according to figures from the UN and UNICEF. They fled to the European border countries (Poland, Slovakia, Hungary and Romania) but also to the rest of the continent (Germany, Italy, France, Austria, Belgium and the Netherlands).<sup>3</sup>

The NGOs and refugee associations welcomed this generous gesture, but also questioned whether it has not benefited other asylum seekers from the Middle East, North Africa or sub-Saharan Africa. African public opinion or Arab countries have not shown overwhelming enthusiasm in favor of the Ukrainians, incriminating as much NATO and Western countries as Russia in a conflict whose populations suffer mainly consequences - food crisis (cereals from Ukraine) and energy crisis (soaring oil, gas and electricity prices caused by the global

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<sup>1</sup> <https://www.unhcr.org/fr/convention-1951-relative-statut-refugies.html>

<sup>2</sup> Pierre-Olivier François « Europe, un continent bouleversé », documentaire diffusé sur Arte mardi 31 mai 2022

<sup>3</sup> Home office in France - <https://www.interieur.gouv.fr/actualites/dossiers/situation-en-ukraine/foire-aux-questions-accueil-des-refugies-ukrainiens>

post-Covid recovery that was amplified by the conflict) <sup>4</sup> A column published in Le Monde on Tuesday, April 19 by more than 80 writers and academics from countries in Africa (North and Sub-Saharan), the Middle East but also Latin America have stressed the responsibility of the Western powers on this point: “We know their selective use of the values they claim to have, leaving refugees from the South dying at their doors and welcoming “theirs” with open arms.” Yet, magnanimously, the Tribune’s signatories call for unreserved support for the Ukrainians “They must be supported without calculation or reservation”.

Other elements give a very bad image of Europe. The agreements signed between the UK and Rwanda to take over asylum seekers from the African country have deeply shocked NGOs working with refugees. They are legally and morally challenged. The first aim of these agreements is obviously to discourage the passage, invoking as always, the fight against human trafficking and smugglers. The behaviour of many of them is indeed a mafia practice, a lure for profit, considering asylum seekers as “goods”, and not hesitating to leave them on makeshift boats, to die, frozen, in the woods, or asphyxiated in containers <sup>5</sup>. There are many examples of abuses committed by smugglers without faith or law. But the fight against smugglers, legitimate, does not solve the real problem of thousands of exiles who have been forced to leave their countries for political, economic reasons or after a natural disaster.

The director of the UK’s Refugee Council , first migrant aid association, denounces this policy which will lead to “more suffering, chaos and huge expenses”. The shadow cabinet of the Labour Party calls this policy by the British Conservative Party "amorous, expensive and impossible to implement." Paradoxically, the Brexit that was to allow the United Kingdom to «regain control of its borders» London has been deprived of the possibility to invoke the Dublin Regulation to return to the European Union exiles who have made a first asylum application and were rejected.

The High Council for Refugees (UNHCR) has found that the “Nationality and Borders” law allowing transfers of asylum seekers “fundamentally contradicts the government’s commitments to meet its obligations under the Geneva Convention on Refugees”. Another question is asked-is Rwanda a safe country for asylum seekers while the NGO Human Rights Watch makes a harsh statement - “of arbitrary detention, ill-treatment and torture in unofficial detention centres”.

The war in Ukraine after the pandemic that has profoundly destabilized the western world could be an opportunity for Europe to return to the spirit of the Geneva Convention, which last year celebrated its 70th anniversary - a more essential “jubilee” for the European continent.

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<sup>4</sup> Editorial du Monde du 16 mars 2022

<sup>5</sup> Very well described in the documentary “Flee” by Jonas Poher Rasmussen (2021) from the exodus of an Afghan family from Kabul in the 1980s to exile in Russia, Sweden and Denmark