

February 6, 2023

The Honorable Alejandro Mayorkas  
Secretary  
U.S. Department of Homeland Security  
2707 Martin Luther King Jr Ave., SE  
Washington, D.C. 20528

**RE: Continuity of temporary protection, work authorization, and other benefits for Ukrainian humanitarian parolees**

Dear Secretary Mayorkas:

The 75 undersigned organizations write to urge you to extend temporary protection from deportation and extend work authorization for Ukrainians who were paroled into the United States at ports of entry (“DT” parole) since February 24, 2022. We are deeply concerned about vulnerable Ukrainians experiencing gaps in their immigration “status” and employment authorization, particularly in light of the significant backlogs in immigration-related processing at U.S. Citizenship and Immigration Services (USCIS).

We urge you to extend temporary protection and work authorization for Ukrainians paroled into the United States at ports of entry by:

1. Transferring authority from Customs and Border Protection (CBP) to USCIS for purposes of re-parole applications for Ukrainian humanitarian parolees (UHPs) who received DT parole;
2. Creating a streamlined, equitable, and efficient process for UHPs to request re-parole and obtain an automatic extension of work authorization upon submission of a request for re-parole;<sup>1</sup>
3. Reducing the processing backlog for [Temporary Protected Status \(TPS\) applications](#), expanding TPS protections, and improving processing times for both TPS and work authorization applications;
4. Considering additional options for temporary protection that ensure continuity in eligibility for and access to federal, state, and local benefits;
5. Issuing guidance that allows those holding UHP to be able to change to nonimmigrant or immigrant status without consular processing, similar to the way holders of Temporary Protected Status may change status;
6. Formally requesting Congress to authorize all Ukrainian parolees for REAL IDs as part of the next must-pass legislation;
7. Working with the Social Security Administration to repair the damage of local Social Security offices denying UHPs Supplemental Security Income (SSI) they were otherwise eligible for by approving SSI for UHPs who previously applied and were denied and by issuing them SSI benefits retroactive to their initial application date.
8. Redesignating Ukraine for Temporary Protected Status (TPS) which would allow recently arrived UHPs to access this form of legal protection;
9. Establishing a Parole in Place (PIP) program for certain Ukrainian nationals to receive work authorization (at minimum to allow local USCIS offices independent authority to grant an individual parole that would allow them to maintain work authorization eligibility and prevent them accruing unlawful presence); and
10. Authorizing permission to travel internationally and return as part of the parole process.

**A. Extension of temporary protection and work authorization for Ukrainians paroled into the United States at ports of entry.**

On April 21, 2022, President Biden announced [Uniting for Ukraine](#), a new streamlined process to

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<sup>1</sup> While focusing here on Ukrainians to illustrate the problem of re-paroles, we believe the transfer of authority and creation of an effective re-parole process should apply more broadly to all other nationalities in similar circumstances. Persons who have been paroled into the United States but lack clarity on how to extend their parole have commonalities that should be addressed in an engagement with you covering both Ukrainians specifically as well as other analogous categories of individuals granted parole.

provide Ukrainian citizens and their immediate family members who have fled Russia's aggression with opportunities to come to the United States and stay temporarily, with a period of parole up to two years. Ukrainians participating in *Uniting for Ukraine* (U4U) must have a supporter in the United States who agrees to provide them with financial support for the duration of their stay in the United States. As of December 13th, 2022, there have been 183,815 U4U supporter applications filed, 130,870 U4U beneficiaries approved for travel, and 93,928 U4U arrivals paroled into the United States.

However, between February 1 and April 6, 2022, CBP reported encountering [9,926 Ukrainians](#) at the U.S. southern border. In March 2022 alone, CBP processed [more than 3,000 UHPs](#) at ports of entry. Following the enactment of federal legislation in May 2022, UHPs became eligible for certain [refugee and other benefits](#)<sup>2</sup> to facilitate their economic self-sufficiency and integration while they remained in the United States. This included UHPs who entered the United States not only through the U4U program but also at the [southern border](#).

While U4U arrivals were issued a [two-year term of parole](#), UHPs who entered via the southern border at ports of entry were stamped with "DT," parole granted at port of entry, for less than 1 year (364 days). The UHP arrivals at the southern border are now only a couple of months away from their parole and work authorization end validity dates. The approximately 10,000 UHPs who were paroled after April 11, 2022 are particularly vulnerable because they are presently ineligible for TPS. Since entering the United States, UHPs have found long-term housing, enrolled in school and English classes, secured jobs, and are contributing to their families and communities both here and abroad.

Although we don't know the precise figures, many UHP arrivals at the southern border had pending referrals to the U.S. Refugee Admissions Program (USRAP), whose cases were closed once they entered the United States and processing of their refugee claims ceased. These barriers include struggling to understand the process and requirements, limited access to pro and low bono counsel due to capacity and logistical constraints, difficulties in aiding case preparation due to mental health issues and the impact of traumatic events, and lack of persecution-related evidence due to loss or destruction of vital documentation when fleeing. USCIS is already struggling to manage the volume of Afghan/OAW asylum cases in its pipeline, which will continue to worsen as tens of thousands of Afghan arrivals file cases in 2023.

#### **B. Transfer authority from Customs and Border Protection (CBP) to USCIS for purposes of re-parole applications for UHP southern border arrivals.**

Ukrainians who entered the United States with DT, parole at a port of entry, were processed by CBP and issued parole on a case-by-case basis by CBP officers pursuant to DHS's parole authorities enumerated in the Immigration and Nationality Act (INA). Specifically, the INA provides DHS with the discretionary authority to "parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States."<sup>3</sup>

With respect to extending parole validity or re-parole, a Memorandum of Agreement between DHS component agencies (USCIS, CBP, and Immigration and Customs Enforcement, or ICE),<sup>4</sup> hereinafter "DHS MOA," outlines the authority and process by which an agency may adjudicate requests:

Except as provided in the paragraph below, if a bureau has previously adjudicated and granted parole to an individual, the issuing bureau should, in the interest of efficiency, adjudicate requests for re-parole, **unless (1) the circumstances or intent of the parole have changed such that additional factors render the bureau inappropriate to adjudicate the new application, or (2)**

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<sup>2</sup> We strongly recommend that the administration issues guidance, in collaboration with DHS, as well as the Office of Refugee Resettlement (ORR) within the U.S. Department of Health and Human Services (HHS), clarifying that UHPs who are re-paroled remain eligible for federal resettlement benefits.

<sup>3</sup> INA §212(d)(5), 8 U.S.C. § 1182(d)(5)

<sup>4</sup> U.S. Immigration and Customs Enforcement (ICE), "Parole Authority Memorandum of Agreement," September 2008, accessed October 28, 2022, <https://www.ice.gov/doclib/foia/reports/parole-authority-moa-9-08.pdf>.

**another bureau agrees to assume a particular caseload in the interest of expediency or settled local practice. (Emphasis added.)**

According to the DHS MOA, Ukrainians seeking an extension of their parole grant would need to request re-parole from CBP. Per CBP protocols, such re-parole requests would typically be presented at a deferred inspection site. Most of these sites are located at certain airports and CBP processes require people seeking deferred inspection assistance to appear in person for one-on-one meetings. CBP generally does not have the resources to assist so many re-parole applicants applying all at the same time (as most Ukrainians with DT parole expire around the same time), particularly given their other job functions. The feasibility and logistical challenges of arranging for thousands of UHPs who have now resettled in communities across the United States, many of whom do not yet speak English proficiently or own cars, make the mass re-parole of UHPs by CBP inappropriate.

Already, resettlement agencies have reported multiple instances of humanitarian parolee clients across nationalities (e.g., Ukrainians and Afghans) with I-94 errors and other fixes that CBP has required in-person appointments at deferred inspection sites to address; however, resettlement sites report significant challenges in scheduling appointments at deferred inspection sites, no one picking up the phone at deferred inspection sites, and being turned away if clients show up without an appointment. This is compounded by the long-distance travel needed to physically get to a deferred inspection site, the restrictive hours of operation, and the need for resettlement staff to accompany clients to these appointments. Indeed, resettlement agencies have repeatedly asked CBP to create a remote process to address I-94 issues without necessitating an in-person appointment at a deferred inspection site. **Thus, we recommend that CBP transfer the entire caseload of UHP DT parole cases to USCIS, which should establish a streamlined and efficient process for adjudicating re-parole requests online without a fee.**

**C. Create a streamlined, equitable, and efficient process for UHPs to request re-parole and obtain an automatic extension of work authorization.**

UHPs present in the United States since February 24, 2022 need more time to secure their footing in the United States and the immigration system, to seek mental health support and cope with the wounds of trauma, and to secure evidence for and prepare their legal claims. Also, the immigration legal services community needs more time to build the capacity to serve our new neighbors -- not only for UHPs but also for the Afghan evacuees who many of us have been serving since FY 2022 and continue to serve. Further, USCIS, which is currently plagued by significant front-logs and backlogs, would benefit from having well-prepared and documented applications filed over a period of time rather than a rushed application because of an impending deadline. It is for these reasons that **we urge DHS to establish a streamlined, equitable, and efficient system for re-parole and automatic extensions of work authorization for Ukrainian parolees who arrived at the U.S. southern border on/after February 24, 2022.**

On November 21, 2022, DHS [announced](#) that Ukrainian and Afghan parolees with certain classes of admission are employment authorized incident to their parole. This is an important step toward supporting UHPs with achieving economic self-sufficiency given backlogs in work authorization/EAD processing -- and should be considered for UHPs who seek re-parole, as well, especially if they have periods of time when their EADs would otherwise lapse.

USCIS has proven through its Uniting for Ukraine (U4U) parole program<sup>5</sup> that it can efficiently vet and process tens of thousands of parole applications in a short timeframe. We urge USCIS to apply the innovation of U4U to adjudicate the re-parole requests of UHPs paroled into the country. Such a process should be streamlined to ensure there is an efficient case-by-case decision. The application for re-parole should be made available online, accessible in English, Ukrainian, and Russian, and should facilitate the automatic extension of work authorization.

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<sup>5</sup> U.S. Citizen and Immigration Services (USCIS), "Uniting for Ukraine," accessed October 28, 2022, <https://www.uscis.gov/ukraine>.

**D. Authorize permission to travel internationally and return as part of the parole process.**

Many of the Ukrainian parolees would also benefit with advanced permission to travel internationally and to be readmitted. We urge the administration to issue a renewed parole with such permission, similar to the advance parole process now used for adjustment of status applicants or those with TPS. For efficiency, it would be best if the permission to travel was not discretionary but part of the extension process. The benefit to this would be lessening any burdens on already stressed DHS operations in other areas and allow greater economic self-sufficiency for the parolees. We have already seen times when parolees are urgently needed to aid family or attend to business matters outside of the United States and their lack of a travel document is extremely harmful. A parallel might be found in the European Union treatment of the Ukraine nationals that may travel within the EU once granted permission to shelter.

**E. Issue guidance that authorizes these parolees to change status to other nonimmigrant status or to adjust status via employment-based categories.**

Under current agency interpretation, a person with parole cannot change status to another nonimmigrant category such as J-1, F-1, O-1, etc. The United States has a treaty with Ukraine for E-2 investor status. Some attorneys are worried that clients who could seek E-2 status and start a business or to be a key employee of a Ukrainian-owned business are foregoing these opportunities and are underemployed because securing this status would require an application at a U.S. consular post. Allowing change of status would establish an orderly transition for some Ukraine nationals who qualify for a nonimmigrant status other than those designed for humanitarian protection.

Similarly, while a parolee may seek adjustment of status under INA § 245 if they qualify for a family-based visa or one of the non-employment based categories, they are not deemed to be maintaining a nonimmigrant status for adjustment purposes under INA § 245(c)(7). This restricts a path to permanent status that some Ukraine nationals immediately qualify for and unnecessarily requires them to undergo consular processing for an immigrant visa at a time of great disruption due to the war. This might also alleviate a need for some Ukraine nationals to seek TPS and would give a path to status other than asylum for those who were paroled but are not eligible for TPS due to the specific dates of arrival.

**F. Redesignate Ukraine and reduce the processing backlog for Temporary Protected Status (TPS) applications and improve processing times for both TPS and work authorization applications.**

As the Secretary of DHS, you announced the designation of Ukraine for Temporary Protected Status (TPS) on [March 3, 2022](#). The program officially opened for applications in [April 2022](#). Ukrainians are registering for TPS to ensure their ability to remain in the United States with lawful status. If granted, they will have protection from deportation and may apply for work authorization through the TPS initial designation period of October 19, 2023. Further, Ukrainian TPS holders may be eligible for extensions of TPS and work authorization, if the DHS Secretary determines country conditions warrant an extension.<sup>6</sup> Based on data provided by USCIS, approximately 25,000 Ukrainians had applied for TPS [by September 30, 2022](#).

Resettlement agencies and other service providers are expecting that country conditions in Ukraine will merit an extension of TPS in 2023. According to publicly available USCIS data, the agency is facing a staggering backlog in processing TPS applications (Form I-821) and associated work permit applications (Form I-765).<sup>7</sup> USCIS processing time information indicates initial TPS registration applications are taking approximately 12.5 months to process.<sup>8</sup> In the absence of clear guidance from DHS regarding re-parole, UHPs who wish to extend the temporary protection from deportation and maintain work authorization are

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<sup>6</sup> Pursuant to 8 U.S.C. § 1254a, the DHS Secretary shall make a decision on whether to extend a TPS designation 60 days prior to the expiration.

<sup>7</sup> U.S. Citizenship and Immigration Services (USCIS), "Form I-821, Application for Temporary Protected Status," accessed October 28, 2022, [www.uscis.gov/sites/default/files/document/data/I821\\_RADP\\_FY22\\_Q3.pdf](http://www.uscis.gov/sites/default/files/document/data/I821_RADP_FY22_Q3.pdf).

<sup>8</sup> U.S. Citizenship and Immigration Services (USCIS), "Check Case Processing Times," accessed October 2022, <https://eqov.uscis.gov/processing-times/>.

working quickly to submit TPS applications that must be quickly processed to secure their protection and the seamless continuity of vital benefits. We recognize and affirm the Department's establishment of a "streamlined process" for humanitarian parolees applying for work authorization under the c(11) category. **It is imperative that USCIS explore other efforts to streamline EAD processing for other categories (TPS applicants, asylum seekers, and others, across nationalities). We applaud the decision by USCIS to waive filing fees for UHPs filing form I-765 in category (c)(11) and further urge USCIS to take the necessary steps to streamline the TPS application process by automatically waiving fees (Forms I-821 and I-765) and dedicating resources to reduce backlogs and improve case processing times.**

In addition, Ukraine should be redesignated for TPS. Currently individuals applying for TPS from Ukraine must establish residence in the United States as of [April 11, 2022](#). This is currently preventing individuals who entered under the U4U program from being eligible for TPS as the program was not announced until [April 21, 2022](#). By redesignating Ukraine, more UHPs will have access to this important form of protection and continued work authorization.

**G. Consider additional options for temporary protection that ensure continuity in eligibility for and access to federal, state, and local benefits.**

In addition to improving the TPS process and reducing processing backlogs, the administration should ensure that TPS protections for Ukrainians are maximized through timely consultation and review for redesignation and extension. Extensions of TPS should be granted to the maximum amount allowed by law - 18 months - and associated Federal Register Notices should be published quickly. The Biden administration has another tool in its humanitarian protection toolbox that may offer similar benefits as parole and TPS while reducing the administrative burdens on Ukrainians, their legal services providers, and USCIS -- Deferred Enforced Departure (DED). Unlike parole and TPS, which are statutorily based and delegated to DHS, the president has the sole authority to issue DED. Specifically, DED authority is derived from the president's constitutional power to conduct foreign relations. Thus, DED is highly discretionary and can be terminated when presidential administrations change. While this is a significant drawback to consider, DED implementation is less burdensome (no application is required) and the eligibility requirements are set by the president's directive, offering significant flexibility.

**H. Formally request Congress to authorize all Ukrainian parolees for REAL IDs as part of the next must-pass legislation.**

Certain states don't have any mechanisms for individuals who arrived via humanitarian parole to receive a driver's license, particularly where the state has concluded that the parolees are ineligible for REAL IDs and don't have another driver's license option. Last year, the September CR for FY 2022 included language clarifying that Afghan parolees were eligible for a REAL ID. We request that similar language be used in the FY 2023 omnibus for UHPs; specifically we call on the administration to submit a formal request from Congress to authorize Ukrainian parolees' eligibility for REAL IDs as part of the next must-pass legislation.

**I. Repair the damage of local Social Security (SS) offices denying UHPs Supplemental Security Income (SSI) they were otherwise eligible for.**

In November 2022, local resettlement agencies began reporting that local SS offices were denying UHPs SSI despite [U.S. law authorizing UHPs for federal benefits](#), similar to benefits Afghan humanitarian parolees ([AHPs](#)) are eligible for. Although the Social Security Administration (SSA) later [clarified](#) that UHPs are eligible for SSI (if they otherwise meet the other requirements for SSI), UHPs who were initially denied but should have received SSI have to return to the local SS offices. SSA should publicly post on its website that UHPs are eligible for SSI, direct local SS offices to approve SSI for UHPs who previously applied and were denied, and issue them SSI benefits retroactive to their initial application date.

**J. Conclusion**

Ukrainians who arrived in the United States with DT parole urgently require guidance and solutions concerning how to maintain their current protection from deportation and work authorization as they seek firmer footing in the United States and pathways for permanent protection. DHS should use its established parole authorities to create a streamlined and efficient re-parole process. In parallel, DHS should work to reduce burdens on Ukrainians seeking alternative temporary protections, like TPS. Please contact Jill Marie Bussey at [jbussey@lirs.org](mailto:jbussey@lirs.org) and Meredith Owen at [mowen@cwsglobal.org](mailto:mowen@cwsglobal.org) with any questions or to schedule an engagement to discuss.

Sincerely,

African Communities Together  
American Immigration Lawyers Association  
Americans for Immigrant Justice  
Arizona Justice for Our Neighbors  
Asylum Seeker Advocacy Project (ASAP)  
Cache Refugee and Immigrant Connection  
Catholic Charities of Onondaga County- Refugee Resettlement Program  
Catholic Charities USA  
Catholic Legal Immigration Network, Inc.  
Catholic Migration Services  
Center for Gender & Refugee Studies  
Central Washington Justice For Our Neighbors  
Church World Service  
Community Refugee & Immigration Services  
Cooperative Baptist Fellowship  
CWS  
Disciples Immigration Legal Counsel  
Exodus Refugee Immigration (Bloomington)  
Exodus Refugee Immigration Inc.  
Fellowship Southwest  
Haitian Bridge Alliance  
Hearts & Homes for Refugees  
HIAS  
Human Rights First  
Immigrant Legal Advocacy Project  
Immigration Law and Justice Network  
Interfaith Welcome Coalition - San Antonio  
International Rescue Committee  
IRIS- Integrated Refugee & Immigrant Services  
Jesuit Refugee Service/USA  
Jewish Family and Children's Services (San Francisco, CA)  
Jewish Family Service of San Diego  
Journey's End Refugee Services  
Just Neighbors Ministry  
Justice for Our Neighbors Michigan  
Justice in Motion  
Lawyers for Good Government (L4GG)  
Legal Information Network for Ukraine  
Louisiana Organization for Refugees and Immigrants  
Lutheran Family Services of Nebraska, Inc.  
Lutheran Immigration and Refugee Service  
Lutheran Social Services of the National Capital Area (LSSNCA)  
Maryknoll Office for Global Concerns  
Migration and Refugee Services, U.S. Conference of Catholic Bishops  
Mishkan Shalom Immigration and Refugee Rights Committee  
Nashi Immigrants Health Board

National Partnership for New Americans  
New American Pathways  
New York Immigration Coalition  
Nova Ukraine  
Opening Doors, Inc.  
Pace Law Firm  
Refugee Services of Texas  
Refugees International  
SHOENBERGER PUBLIC INTEREST LAW FOUNDATION, ORG  
Sisters of Mercy of the Americas Justice Team  
Tahirih Justice Center  
Tennessee Justice for Our Neighbors  
The Advocates for Human Rights  
U.S. Committee for Refugees and Immigrants  
Ugryn Law LLC  
Ukraine Immigration Task Force  
Ukrainian Community Center of Washington  
Ukrainian Educational and Cultural Center  
Union for Reform Judaism  
United Religious Community of St. Joseph County, Inc.  
VECINA  
Voice for Refuge Action Fund  
Volunteer Lawyers Project of CNY, Inc.  
We Are All America  
Welcoming America  
Westchester Jewish Coalition for Immigration  
Wind of the Spirit Immigrant Resource Center  
Women's Refugee Commission  
World Relief

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Harrison Levy, Social Security Administration