



UNHCR Observations on the modalities surrounding the Citizenship Test (*Medborgerskabsprøven*) and the Naturalization Test (*Indfødsretsprøven*)

(Høring over *Bekendtgørelse om medborgerskabsprøven* and Høring over *Bekendtgørelse om indfødsretsprøven af 2015*, of 12 February 2016)

I. Introduction

1. The UNHCR Regional Representation for Northern Europe (hereafter “RRNE”) is grateful to the Ministry of Immigration, Integration and Housing for the invitation to submit its observations in the context of the above mentioned proposed legislation (hereafter “the Proposals”).
2. As the agency entrusted by the United Nations General Assembly with the mandate to provide international protection to refugees and, together with governments, to seek permanent solutions to the problems of refugees,¹ UNHCR has a direct interest in asylum laws. According to its Statute, UNHCR fulfils its mandate *inter alia* by “[p]romoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto[.]”.² UNHCR’s supervisory responsibility is reiterated in Article 35 of the 1951 Convention and in Article II of the 1967 Protocol relating to the Status of Refugees (hereafter collectively referred to as the “1951 Convention”).³ It has also been reflected in European Union law, including by way of a general reference to the 1951 Convention in Article 78(1) of the Treaty on the Functioning of the European Union (hereafter “TFEU”).⁴
3. UNHCR also provides these comments as the agency which has been mandated by the UN General Assembly to prevent and reduce statelessness around the world, as well as to protect the rights of stateless people. UN General Assembly resolutions 3274 (XXIV) and 31/36 designated UNHCR as the body to examine the cases of persons who claim the benefit of the 1961 Convention on the Reduction of Statelessness and to assist such persons in presenting their claims to the appropriate national authorities. In 1994, the UN General Assembly further entrusted UNHCR with a global mandate for the identification, prevention and reduction of statelessness and for the international protection of stateless persons.⁵ This mandate has continued to evolve as conclusions of UNHCR’s Executive

¹ UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, 14 December 1950, A/RES/428(V), available at: <http://www.refworld.org/docid/3ae6b3628.html> (hereafter “UNHCR Statute”).

² *Ibid.*, para. 8(a).

³ According to Article 35 (1) of the 1951 Convention, UNHCR has the “duty of supervising the application of the provisions of the 1951 Convention”.

⁴ European Union, *Consolidated version of the Treaty on the Functioning of the European Union*, 13 December 2007, OJ C 115/47 of 9.05.2008, available at: <http://www.unhcr.org/refworld/docid/4b17a07e2.html>.

⁵ UNGA resolutions A/RES/49/169 of 23 December 1994 and A/RES/50/152 of 21 December 1995. The latter endorses UNHCR’s Executive Committee Conclusion No. 78 (XLVI) – 1995, *Prevention and Reduction of Statelessness and the Protection of Stateless Persons*, at: <http://www.unhcr.org/refworld/docid/3ae68c443f.html>.

Committee⁶ have been endorsed by the UN General Assembly. Over time, UNHCR has developed a recognized expertise on statelessness issues.⁷

4. UNHCR's supervisory responsibility is exercised in part by the issuance of interpretative guidelines on the meaning of provisions and terms contained in the 1951 Convention,⁸ as well as by providing comments on legislative and policy proposals impacting on the protection and durable solutions of its persons of concern.

II. The Proposals

5. The Proposals concern the modalities of the Citizenship and the Naturalization Tests in Denmark. The Citizenship Test is intended for individuals wishing to prove their knowledge of Danish society, culture and history, as the successful completion of the test counts towards one of the additional integration related criteria introduced through the adoption of the L 87,⁹ when applying for a permanent residence permit. The test is thus not compulsory in order to obtain permanent residence, but can assist an individual in obtaining it faster.¹⁰ Successful completion of the Naturalization Test is compulsory for anyone applying for naturalization in Denmark. Also the Naturalization Test assesses the applicant's knowledge regarding Danish society, culture and history.

III. UNHCR Observations

6. As stated, in the context of the adopted law proposal L 87 of 10 December 2015 (hereafter L 87), additional integration related criteria for obtaining permanent residence permits were introduced, out of which one was the successful completion of the Citizenship test here commented upon. UNHCR wishes to refer to its earlier comments made in this context.¹¹ UNHCR drew the Danish Government's attention *inter alia* to the importance of granting refugees residence permits of a secure nature as soon as possible, and progressively affording refugees increasing rights. UNHCR expressed concerns that introducing additional requirements could rather constitute retrogression and could hamper integration.

⁶ UNHCR, *Conclusion on International Protection*, 05 October 2001, No. 90 (LII) - 2001, para. (q), at: <http://www.unhcr.org/refworld/docid/3bd3e3024.html>; *General Conclusion on International Protection*, 10 October 2003, No. 95 (LIV) - 2003, para. (y), at: <http://www.unhcr.org/refworld/docid/3f93aede7.html>; *General Conclusion on International Protection*, 08 October 2004, No. 99 (LV) - 2004, para. (aa), at: <http://www.unhcr.org/refworld/docid/41750ef74.html>; *General Conclusion on International Protection*, 07 October 2005, No. 102 (LVI) - 2005, para. (y), at: <http://www.unhcr.org/refworld/docid/43575ce3e.html>; *Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons*, 06 October 2006, No. 106 (LVII) - 2006, paras. (f), (h), (i), (j) and (t), at: <http://www.unhcr.org/refworld/docid/453497302.html>.

⁷ UNHCR has published a number of Guidelines pursuant to its mandate responsibilities to address statelessness, which are intended to provide interpretive legal guidance for governments, NGOs, legal practitioners, decision-makers and the judiciary. Guidelines on Statelessness of particular relevance for Estonia are: *Guidelines on Statelessness No. 1: The definition of "Stateless Person" in Article 1(1) of the 1954 Convention relating to the Status of Stateless Persons*, 20 February 2012, HCR/GS/12/01, available at: <http://www.unhcr.org/refworld/docid/4f4371b82.html> and *Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness*, 21 December 2012, HCR/GS/12/04, ("UNHCR Guidelines on Statelessness No. 4") available at: <http://www.unhcr.org/refworld/docid/50d460c72.html>.

⁸ UNHCR, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, December 2011, HCR/1P/4/ENG/REV. 3, available at: <http://www.refworld.org/docid/4f33c8d92.html>.

⁹ Law proposal L 87 of 10 December 2015; available at: http://www.ft.dk/R1pdf/samling/20151/lovforslag/L87/20151_L87_som_fremsat.pdf.

¹⁰ If a person fulfills all the basic **and** all the additional integration related criteria adopted through L 87, s/he can obtain permanent residence already after four years instead of six.

¹¹ UNHCR, *UNHCR Observations on the proposed amendments to the Danish Aliens legislation, L 87*, 6 January 2016, in particular paragraphs 23-24, available at: <http://www.refworld.org/docid/5694ed3a4.html>.

7. In respect of the current Proposals, UNHCR notes that both tests are subject to a fee to be paid by individuals taking part in the tests. The fees are yet to be established, but the Proposals indicate that they will be proportionate to the authorities' expenses for arranging the tests. UNHCR advises against the introduction of test fees for refugees and other beneficiaries of international protection, in the context of applications for permanent residence permits and naturalization. Such fees run contrary to the recommendation in Article 34 of the 1951 Convention, which calls on States to facilitate the integration of refugees. Article 34 also refers specifically to the reduction of fees for naturalization. In addition, and in line with Article 32 of the 1954 Statelessness Convention,¹² States must also 'make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings'.
8. UNHCR wishes to encourage the Danish Government to, in the context of both tests, recognize the importance of formulating questions and preparatory materials in such a way that it is understandable for persons without longer education. UNHCR therefore suggests the involvement of experts on Danish language teaching for foreigners when developing and reviewing the tests. UNHCR also recommends that the Government subsequently reviews the structure and effect of the tests, in order to secure that they take into consideration the particular circumstances of refugees, stateless persons and other beneficiaries of international protection.

Summary of UNHCR recommendations

UNHCR recommends that the Government of Denmark

- Recognizes the importance of affording stateless persons, refugees and other beneficiaries of international protection progressively increasing rights, and facilitates their naturalization in accordance with its international obligations.
- Considers exempting stateless persons, refugees and other beneficiaries of international protection from test fees in accordance with Article 34 of the 1951 Convention and Article 32 of the 1954 Convention.
- Evaluates the impact of the test on stateless persons and refugee applicants.

UNHCR Regional Representation for Northern Europe

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¹² UN General Assembly, *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, available at: <http://www.refworld.org/docid/3ae6b3840.html>.