

**Note on the Cancellation of Refugee Status**

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## I. INTRODUCTION

1. Under applicable legal principles and standards, a person who was recognised as a refugee by a State under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (hereafter referred to as the “1951 Convention”) and/or determined to be a “mandate refugee” by UNHCR may lose refugee status only if certain conditions are met. The following three categories need to be distinguished:
  - (i) **Cancellation:** a decision to invalidate a refugee status recognition which should not have been granted in the first place. Cancellation affects determinations that have become final, that is, they are no longer subject to appeal or review. It has the effect of rendering refugee status null and void from the date of the initial determination (*ab initio* or *ex tunc* – from the start or from then).<sup>1</sup>
  - (ii) **Revocation:** withdrawal of refugee status in situations where a person engages in conduct which comes within the scope of Article 1F(a) or 1F(c) of the 1951 Convention after having been recognised as a refugee. This has effect for the future (*ex nunc* – from now).<sup>2</sup>
  - (iii) **Cessation:** the ending of refugee status pursuant to Article 1C of the 1951 Convention because international protection is no longer necessary or justified on the basis of certain voluntary acts of the individual concerned or a fundamental change in the situation prevailing in the country of origin. Cessation has effect for the future (*ex nunc*).<sup>3</sup>
2. The above-listed grounds for ending international refugee protection should not be confused with expulsion under Article 32 nor with loss of protection against *refoulement* pursuant to Article 33(2) of the 1951 Convention. Neither of these provide for the loss of refugee status of a person who, at the time of the initial determination, met the eligibility criteria of the 1951 Convention.<sup>4</sup>
3. This Note sets out the legal parameters for the cancellation of refugee status granted by a State under the 1951 Convention. Throughout the Note, the terms “cancellation” and “revocation” are used as defined in paragraph 1 above. The

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<sup>1</sup> See UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status*, 1979, reedited January 1992 (hereafter “UNHCR Handbook”), paragraph 117. See also S. Kapferer, *Cancellation of Refugee Status*, UNHCR Legal and Protection Policy Research Series, Department of International Protection, PPLA/2003/02, March 2003.

<sup>2</sup> See UNHCR, “Guidelines on International Protection: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees”, HCR/GIP/03/05, 4 September 2003 (hereafter “Guidelines on Exclusion”), and the accompanying “Background Note on the Application of the Exclusion Clauses” (hereafter “Background Note on Exclusion”), especially paragraphs 11 and 17 of the latter.

<sup>3</sup> See UNHCR, “Guidelines on International Protection: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees (the ‘Ceased Circumstances’ Clauses)”, HCR/GIP/03/03, 10 February 2003; UNHCR, “The Cessation Clauses: Guidelines on their Application”, 26 April 1999; UNHCR, “Note on the Cessation Clauses”, 30 May 1997; UNHCR, “Discussion Note on the Application of the ‘Ceased Circumstances’ Cessation Clauses in the 1951 Convention”, 20 December 1991.

<sup>4</sup> See also Background Note on Exclusion, above footnote 2, paragraph 10.

conditions and criteria for the cessation of refugee status are dealt with in UNHCR's Guidelines on Cessation<sup>5</sup> and those for revocation in UNHCR's Guidelines on Exclusion.<sup>6</sup>

## **II. GENERAL CONSIDERATIONS AND LEGAL PRINCIPLES**

### **A. General considerations**

4. The issue of cancellation arises where there are grounds for considering that a person recognised as a refugee under the 1951 Convention should not have been granted such status at the time of the positive determination. This is the case where there are indications that, at the time of the initial decision, the applicant did not meet the inclusion criteria of the 1951 Convention, or that an exclusion clause of that Convention should have been applied to him or her.<sup>7</sup>
5. In principle, individuals who were not eligible for international protection at the time they were recognised as refugees cannot claim to be prejudiced by the cancellation of a status which should not have been granted to them in the first place. It is not the purpose of the 1951 Convention to extend international protection to persons who are not in need, or not deserving, thereof. The erroneous act of recognition needs to be rectified in order to preserve the integrity of the refugee definition. This explains why cancellation, though not explicitly foreseen by the 1951 Convention, is fully consonant with its object and purpose. As explained in the following sections, however, cancellation is lawful only if certain criteria are met.

### **B. General legal principles**

6. Since the 1951 Convention and 1967 Protocol do not specifically address the issue of cancellation, general principles of law apply. While there is some variation in the detail between common law and civil law systems and even within those systems from one country to another, the legal criteria and requirements generally applicable to cancellation are very similar. The legal framework established by international refugee law and applicable general principles delimits the conditions under which the invalidation of a refugee status recognition is lawful, while at the same time ensuring that those who claim to have a well-founded fear of persecution under the 1951 Convention be protected from arbitrary or discriminatory cancellation of their status.
7. If a judicial or administrative decision is flawed, it nevertheless becomes valid and binding in most cases. The power to reopen such a decision is an exception to the rule that a final determination will operate as *res judicata*. This principle, which is widely reflected in the legislation and jurisprudence of States, provides that a matter which has been the subject of a judicial determination cannot be opened again for re-examination except in those special circumstances expressly provided for by law. While *res judicata* also applies to final administrative acts, the

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<sup>5</sup> See above footnote 3.

<sup>6</sup> See above footnote 2.

<sup>7</sup> See below at paragraphs 15–16.

threshold set by applicable national legislation and/or general principles of law for the reopening of administrative decisions is typically lower than for judicial determinations. In civil law systems, the grounds for reopening provided for by law are deemed to “break through” the legal validity of final administrative acts, which would otherwise stand in the way of a renewed examination of the matter. In common law jurisdictions, *res judicata* must also yield to the doctrine that decisions taken by an authority acting outside its jurisdiction (*ultra vires*) are considered to be void and may be invalidated at any time. This Note sets out the conditions and criteria for cancellation of refugee status granted through an administrative decision.

8. Whenever a final administrative decision is reopened with a view to its possible invalidation, the general principles of legal certainty and protection of legitimate expectations, or “acquired rights”, need to be reconciled with requirements stemming from the principle of legality. The latter provides that decision-makers are bound by law and that unlawful situations ought to be rectified, while the application of the former may preclude States from cancelling an erroneous administrative decision if their own organs are responsible for the mistake.<sup>8</sup> Moreover, the principle of proportionality requires that the effects of invalidating a flawed decision for the person concerned be taken into consideration.<sup>9</sup> The guarantees and safeguards of procedural fairness also apply.
9. In summary, irrespective of the reasons for reopening a refugee’s case, the invalidation of refugee status *ab initio* may be lawful only if there are grounds for cancellation, supported by adequate evidence; if the consequences of cancellation for the individual concerned are clearly not disproportionate and of a seriously prejudicial nature; and if the decision to cancel is made in due observance of the guarantees and safeguards of procedural fairness.

### **C. Opening cancellation proceedings**

10. The reopening of a final determination by the issuing authority itself, by a higher-level organ within the same administrative authority, or by a court, always requires a legal basis. Depending on the legal regime in place, this may be provided by statute or derived from applicable general principles of law.
11. Under national refugee legislation or applicable administrative law, the reopening of a final refugee status determination is often subject to time limits, which may range from a few months to several years from the date of the decision. This does not usually apply to decisions obtained through fraud or other criminal conduct, which may be reopened at any time, although there may be procedural rules limiting the reopening of a decision to a certain period from the moment the authority becomes aware of elements justifying re-examination. Even in the absence of specific statutory time limits for reopening a final decision, an undue delay in raising the issue may preclude the authority from proceeding with cancellation on the basis of procedural fairness, if the delay causes prejudice to the case.

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<sup>8</sup> See also paragraph 28 below.

<sup>9</sup> See also paragraph 29 below.

12. Information which casts doubt on a positive refugee status determination may come to light in any number of ways, ranging from pure coincidence to mandatory re-examination provisions in national refugee legislation. In practice, cancellation considerations are often triggered by apparent contradictions in statements made by refugees or others in the course of a subsequent procedure, such as applications for permanent residence or family reunification. Information which suggests that Article 1F of the 1951 Convention would have applied may also surface in the course of criminal investigations or during extradition proceedings.
13. As a general rule, cancellation proceedings should not be opened except where there are valid reasons to doubt that the initial determination was made correctly.

### **III. GROUNDS FOR CANCELLATION OF REFUGEE STATUS**

14. Cancellation of an administrative decision requires a determination that the decision was incorrect as regards its substance. Where the administrative act concerned is a recognition of refugee status, the relevant substantive criteria are those governing eligibility for refugee status under the 1951 Convention (see paragraphs 15–16 below). The conditions in which it may be reopened and, provided a substantive flaw has been established, invalidated vary depending on the circumstances which led the determining authority to reach the incorrect decision. The relevant criteria can be derived from general legal principles and national administrative law (see paragraphs 17–29 below).

#### **A. Substantive criteria for cancelling refugee status**

15. For cancellation of a refugee status recognition to be justified, it must be established that the initial decision was incorrect, because:
  - (i) the **inclusion criteria** of Article 1A(2) of the 1951 Convention were not met;<sup>10</sup> or
  - (ii) an **exclusion clause** of the 1951 Convention should have been applied to an applicant who was:
    - **not in need of international protection**, because he or she was receiving protection from organs or agencies of the United Nations other than UNHCR (Article 1D of the 1951 Convention)<sup>11</sup> or because he or she was recognised by the competent authorities of another country in which he or she has taken residence as having the rights and obligations attached to

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<sup>10</sup> The refugee definition contained in Article 1A(2) of the 1951 Convention states that, for the purposes of that Convention, the term “refugee” shall apply to 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 his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”

<sup>11</sup> See UNHCR, “Note on the Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian Refugees”, October 2002 (hereafter: “Note on Article 1D”).

the possession of the nationality of that country (Article 1E of the 1951 Convention);<sup>12</sup> or

- **not deserving of international protection**, because there were serious reasons for considering that he or she had committed acts falling within the scope of Article 1F of the 1951 Convention.<sup>13</sup>

16. Cancellation on the basis of one of the exclusion clauses of the 1951 Convention may be lawful only if all elements of the relevant provision (Article 1D, 1E or 1F) were present at the time of the initial determination. In practice, cancellation considerations in the context of exclusion frequently arise in relation to Article 1F of the 1951 Convention. Whenever information comes to light which indicates that Article 1F may have been applicable at the time of the initial status determination, a full assessment of all aspects of the claim must be carried out. It is necessary to establish that the acts imputed to the applicant meet the definitions of excludable acts pursuant to the relevant legal standards, and that there is credible and reliable information establishing the applicant's individual responsibility for the acts in question. Finally, the principle of proportionality requires that the consequences of exclusion be taken into account and weighed against the seriousness of the crime.<sup>14</sup>

## **B. Criteria for cancelling final administrative decisions**

17. National legislation typically permits the cancellation of a final administrative decision which is later determined to have been wrongly made. The conditions in which a State may cancel an incorrect administrative decision vary, depending on whether the mistake was caused by:

- (i) substantial fraud by the applicant with regard to core aspects relating to his or her eligibility for refugee status;
- (ii) other misconduct affecting materially eligibility by the applicant, for example, threats or bribery;
- (iii) an error of law and/or fact by the determining authority.

18. The following sections examine how these criteria apply in situations where refugee status was granted to a person who, at the time of recognition, did not meet the eligibility criteria of the 1951 Convention.

### ***Fraud by the applicant***

19. The notion that an administrative decision obtained by fraudulent means is vitiated by this very fact and may be cancelled at any time is a generally accepted principle. It is widely reflected in national refugee laws, legislation on general administrative procedures, jurisprudence and doctrine as well as UNHCR policy documents. It is also generally accepted that a decision obtained by fraudulent means cannot form the basis of legitimate expectations or acquired rights.

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<sup>12</sup> See UNHCR Handbook, above footnote 1, paragraphs 144–146.

<sup>13</sup> See Background Note on Exclusion, above footnote 2, especially paragraphs 13–16.

<sup>14</sup> The legal principles and standards governing the application of Article 1F of the 1951 Convention are set out in UNHCR's Guidelines and Background Note on Exclusion, above footnote 2.

20. Where fraud is considered as the ground for cancellation, States' legislation and jurisprudence consistently require the presence of all three of the following elements:
- (a) objectively incorrect statements by the applicant;
  - (b) causality between these statements and the refugee status determination; and
  - (c) intention to mislead by the applicant.
21. The evidentiary requirements to be met by an authority which contends that statements made by the applicant were incorrect are referred to below at paragraphs 30–34.
22. “Causality” means that an applicant’s misrepresentations or concealment must relate to “relevant” or “material” facts, that is, elements which were clearly instrumental to the recognition. In practice, false statements often concern the applicant’s identity and/or nationality, or the main circumstances triggering his or her flight. Since misrepresentations with regard to these elements are important and will raise issues as to the overall credibility of a claim, they are in principle decisive factors in determining the applicant’s status.
23. When establishing whether there was an “intention to deceive”, decision-makers must be sensitive to the special circumstances which surround applications for asylum. Traumatic experiences, time lapse or the intensity of past events often make it difficult for an applicant to speak freely and provide a full factual account without inconsistencies or confusion. Minor omissions or inaccuracies, vagueness or incorrect statements, which are insubstantial, should not be used as decisive factors undermining an applicant’s credibility, much less deemed sufficient to establish an “intention to deceive”. The use of forged documents should also be assessed in light of the circumstances of the case: in many instances, asylum-seekers need to rely on false papers to flee persecution. The use of forged documents does not of itself render a claim fraudulent and should never automatically result in the cancellation of refugee status, provided the true identity and nationality of the person is known and has formed the basis of the recognition decision. In addition, it should be noted that cancellation does not serve as a “punishment” for incorrect statements.
24. Cancellation on the basis of an exclusion ground often involves misrepresentations or concealment by the applicant. In such cases, refugee status may be cancelled if all criteria for the application of an exclusion clause were met at the time of the initial decision. It is not necessary for the determining authority to show that the elements of fraud were also present, although this may mean that time limits precluding the reopening of the decision after a certain period apply.

***Other misconduct by the applicant***

25. Where an applicant has obtained refugee status through bribery or by threatening the adjudicator, this constitutes a ground for cancellation, if such conduct was material to the decision made and led to the recognition of an applicant who did not meet the eligibility criteria under the 1951 Convention.

### *Cancellation on the basis of an error by the determining authority*

26. A positive refugee status determination may result from an error on the part of the decision-maker. Refugee status may be wrongly granted if the determining authority errs in its legal qualification of the facts before it, for example, by concluding wrongly that the feared harm is a form of persecution and/or is based on a Convention ground or by misinterpreting the requirements for the application of an exclusion clause (error of law). The authority may also fail to establish the correct facts of the case, for example, because it does not conduct appropriate inquiries, or it may be unable to do so because the true facts become known only after the decision is taken (error of fact).
27. When determining whether an applicant meets the criteria of the refugee definition, adjudicators are usually free to evaluate and assess the information before them, within the limits of judicial control. A mistake in the evaluation of the evidence related to the claim may give rise to cancellation. Yet a positive determination of an applicant's eligibility for refugee protection cannot be reversed simply on the basis of a subsequent change in the evaluation as to the well-foundedness of the fear, or a change of opinion with regard to his or her credibility.<sup>15</sup>
28. Applicable national law typically imposes strict conditions on the reopening of final administrative decisions which benefit individuals on the basis of an error entirely attributable to the determining authority. Frequently, there are time limits: once they have expired, even unlawful decisions can no longer be cancelled. Where the applicant presented his or her claim in good faith and was therefore entitled to put trust in the correctness and validity of the decision, the principles of legal certainty and protection of legitimate expectations will normally outweigh the State's interest in correcting mistakes made by its decision-making organs. In such cases, the authority may be barred from cancelling it, or it may be required to provide compensation to the person concerned.
29. In all such cases, the principle of proportionality applies and requires the public interest in rectifying the flawed decision to be weighed against that of the individual in maintaining it.<sup>16</sup> All relevant circumstances of the case should be taken into consideration, including the person's length of stay and degree of social and economic integration, as well as potential hardship which may be caused by a decision to cancel. Where cancellation is appropriate in the context of exclusion, the seriousness of the act in question is an important consideration when looking at proportionality.

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<sup>15</sup> See also paragraph 33 below.

<sup>16</sup> See also paragraph 8 above.



## **IV. EVIDENTIARY REQUIREMENTS**

### **A. Evidence required to establish the existence of a ground for cancellation**

30. The presence of a ground for cancellation must be substantiated with evidence. In principle, and subject to applicable rules of evidence in national legislation, any kind of information may be used as evidence within the parameters outlined below.
31. In all cases, evidence for the purpose of cancellation must be information that is related to elements which were material to the initial positive determination. Such information must establish the existence of a ground for rejection or exclusion at the time of the original assessment of the claim. This should not be confused with information concerning a substantial change in circumstances, which may give rise to the application of a cessation clause or concerning activities by a recognised refugee which might justify revocation, expulsion or loss of protection against *refoulement*.
32. In many cases, recognition of refugee status ultimately hinges on the credibility of the information provided by applicants to support their claim of a well-founded fear of persecution. Cancellation can never be justified simply on the basis of a change of opinion on the part of the authority, which may subsequently come to assess the facts of the case in a different light. A change in the credibility assessment will justify cancellation only if the initial finding on credibility regarding core aspects related to an applicant's eligibility for refugee status is clearly contradicted by elements contained in the record of the case at the time of the original determination, or inconsistent with new and reliable information that has come to light with regard to facts which were material to the credibility determination.
33. In some jurisdictions, State authorities are precluded from reopening a final decision, or cancelling it, on the basis of evidence which was before the initial decision-maker, or which the authority could have had before it, but did not obtain because it failed to comply with its duty to establish the correct facts of the case. Where such restrictions are in place, cancellation would require "new evidence", that is, information which either did not exist or was not known to the determining authority at the time of the initial decision.

### **B. Burden and standard of proof**

34. As a general principle, the burden of proof lies on the person who makes an assertion. In cancellation proceedings, the onus to show that refugee status should be cancelled normally rests on the authority which reviews the initial decision. The burden of proof is reversed where the evidence is such that it creates a rebuttable presumption, for example, a valid passport which shows that the applicant's nationality is different from that claimed during the determination procedure.
35. The standard of proof for cancellation is closely related to that required to determine refugee status. At the eligibility stage, the adjudicator must decide if,

based on the evidence provided by the applicant as well as the latter's statements, it is likely that the claim of that applicant is credible. The applicant must have presented a claim which is coherent and plausible, not contradicting generally known facts, and therefore, on balance, capable of being believed. The applicant must also establish that his or her fear of persecution is well-founded, that is, reasonably possible.<sup>17</sup>

36. Cancellation may be justified only if the (new) evidence, had it been before the determining authority at the time, could have supported a negative finding with regard to the applicant's credibility and/or the well-foundedness of his or her fear of persecution for a Convention reason, or if it would have been sufficient to establish the existence of an exclusion ground provided for under the 1951 Convention. In Article 1F cases, there must be clear and credible evidence to support "serious reasons for considering" that an applicant was involved in acts within its scope.

### **C. Other questions related to evidence**

37. Under the legal regime applicable to cancellation proceedings in most countries, the determination of whether or not a refugee was correctly recognised may be based only on such information as was before the decision-maker at the time of the initial procedure. The only new elements admissible in cancellation procedures are those presented to support, or refute, the existence of a ground for invalidating the initial refugee status determination.
38. Even if there is (new) evidence which deprives the initial determination of part of its basis, other elements may remain to sustain it. For example, misrepresentations or concealment may affect some, but not all, of the information provided by the applicant. In some countries, applicable legislation specifically requires an examination of such "remaining evidence". Even without explicit provisions to this effect, however, the authority must always determine whether, on the basis of the information before the decision-maker at the time of the original determination, the applicant was eligible for refugee status.<sup>18</sup> A decision to cancel refugee status despite the existence of "remaining evidence" supporting the applicant's claim of a well-founded fear of persecution at the time of the initial determination would be at variance with the 1951 Convention.

## **V. CANCELLATION – DISCRETIONARY OR MANDATORY?**

39. Cancellation clauses in national refugee legislation and general administrative law often provide for the exercise of discretion on the part of the authorities with regard to initiating cancellation proceedings as well as the decision to cancel as such. Cancellation provisions, whereby the determining authority is entitled, and

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<sup>17</sup> See UNHCR, "Note on Burden and Standard of Proof in Refugee Claims", 16 December 1998.

<sup>18</sup> For example, in one case concerning a stateless person born in a country in the Middle East who had falsely claimed to have been born in another country, the authorities of the country where he sought asylum found that there was enough evidence before the original decision-maker to show discrimination amounting to persecution against his ethnic group in the country where he had been born.

required, to exercise discretion, are preferable, since they permit a full appreciation of the circumstances of each case, in keeping with the 1951 Convention and general principles of law.

40. Where the law vests discretion in an authority, the latter must exercise it lawfully and in keeping with the purposes for which it was conferred, within the limits of control by superior administrative authorities or courts. As a general rule, its decisions are held to the standard of reasonableness with reference to the evidence before it. Thus, the authorities may decide, upon consideration of all relevant facts, not to open cancellation proceedings despite the existence of (new) evidence, or to maintain refugee status, even if it should not have been granted in the first place. Whether or not this is the appropriate decision in a given situation depends on the circumstances and is a judgement for the authorities themselves to make.
41. In some countries, once certain grounds – usually fraud – are established, cancellation is mandatory. In others, it is recognised that even if there was fraud on the part of the applicant, the individual may have a well-founded fear of persecution and their refugee status should not automatically be cancelled.

## **VI. PROCEDURAL ISSUES**

42. In cancellation procedures, the safeguards and guarantees of procedural fairness need also to be fully respected. The stakes are particularly high, as such procedures determine an individual's claim to protection against *refoulement* under the 1951 Convention and call into question a legal status that has already been accorded to him or her.
43. The following are minimum procedural requirements:
  - (i) Cancellation may only be decided on an individual basis, including where the original decision was made as part of an expedited process during which the circumstances of the individual case may not have been fully examined, or where refugee status was granted to the members of a group on a *prima facie* basis. The existence of reasons which would render cancellation lawful and appropriate must be established for each particular case.
  - (ii) A refugee whose status may be cancelled should be informed of the nature of the proceedings and of the evidence in support of cancellation. He or she should be given an opportunity to make submissions and present evidence to rebut any allegations of fraud or other misconduct, or to refute any other ground for cancellation claimed by the authority to apply to him or her.
  - (iii) The assistance of an interpreter should be provided, if required.
  - (iv) The assistance of counsel should be permitted.
  - (v) There should always be an interview/hearing as part of the cancellation procedure. The individual concerned should be enabled to enter into the substance of the case. Notice of the interview/hearing should be given in time to permit preparation for it. Cancellation *in absentia* should take place only

in exceptional circumstances if every effort has been made to serve notice on the person concerned.

- (vi) The right to appeal or seek review of decisions whereby refugee status is cancelled is essential. The appeal, or review, should be dealt with by a different person or a differently constituted panel from that which made the original decision. It should provide an opportunity to challenge a cancellation on matters of law as well as fact. It should have suspensive effect: refugee status is to be maintained until a cancellation decision becomes final.

## **VII. EFFECT AND CONSEQUENCES**

- 44. Cancellation invalidates an incorrect refugee status determination, with effect *ab initio*. The original recognition of refugee status is deemed never to have been made: the applicant was not a refugee at the time of the original status determination.
- 45. In principle, loss of refugee status means that those concerned are subject to the legal provisions governing the presence of aliens in the country in question. In some countries, refugees also hold permits authorising residence or stay, which normally remain in effect, unless they are also cancelled in a separate procedure. In other countries, persons whose refugee status was cancelled are immediately liable to removal. Depending on the applicable law, possibilities to seek a stay of removal may be available.
- 46. If refugee status is cancelled, States may grant permission to remain on their territory for reasons which justify a complementary form of protection or on humanitarian grounds. This should be considered and may be an appropriate solution particularly for situations in which the decision-making authority erred in its determination on a claim presented in good faith, or where cancellation might otherwise lead to disproportionate consequences or cause particular hardship. Where cancellation of refugee status affects children, States should consider the granting of such protection if this is in the children's best interest, in keeping with States' obligations under the 1989 Convention on the Rights of the Child. Other forms of protection, including against *refoulement* to torture or inhuman treatment, would continue to apply.
- 47. Cancellation of refugee status regularly results in the cancellation, as a consequence, of derivative status, particularly that of family members. In such cases, those concerned must be given an opportunity to apply for asylum, if they so wish, and show that they should be recognised as refugees in their own right.
- 48. Cancellation of refugee status does not preclude a subsequent claim for international protection. Any provision stating that cancellation of a previous refugee status determination makes a subsequent new claim for refugee status inadmissible would be in breach of the 1951 Convention, since cases in which the individual may have a well-founded fear of persecution either at the time of the cancellation procedure or at a later stage cannot always be excluded. A different adjudicator, or a differently constituted panel, should decide on such a claim.