



UNHCR Observations on the proposed amendments to the Danish Aliens legislation:

Udkast til forslag til lov om ændring af udlændingeloven (Skærpelse af reglerne om tidsbegrænset opholdstilladelse)

I. Introduction

1. The UNHCR Regional Representation for Northern Europe (hereafter “RRNE”) is grateful to the Ministry of Immigration and Integration for the invitation to submit its observations on the above mentioned draft Proposal dated 13 January 2017, containing amendments to the Danish *Aliens Act* (hereafter “Proposal”).
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’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,⁵ as well as by providing comments on legislative and policy proposals impacting on the protection and durable solutions of refugees and others in need of international protection.

II. Observations

Restricted conditions for obtaining a permanent residence permit

4. UNHCR notes that the purpose of the Proposal is to further tighten the requirements for aliens to obtain permanent residence in Denmark. UNHCR commented on similar types

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> (“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 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>.

of restrictions in the context of Danish law proposal L 87 and notes that the conditions for permanent residency with the present proposal will become even more onerous.⁶

5. According to the Proposal, the requirements for permanent residency will apply to all aliens, including refugees and beneficiaries of other forms of protection. The proposed changes to the basic eligibility requirements are the following:
 - 1) **Legal residence:** Eight (8) years of legal residence (instead of the current six (6) years);
 - 2) **Criminality:** A conviction resulting in a prison sentence of six (6) months or more precludes eligibility for permanent residence altogether (instead of the current one year prison sentence);
 - 3) **Employment:** Full-time employment during three and a half (3.5) out of the last four (4) years at the time of application (instead of the current two and a half (2.5) out of the last three (3) years); and
 - 4) **Self-sufficiency:** No reliance on social benefits during the last four (4) years at the time of application (instead of the current three (3) years).
6. UNHCR wishes to reiterate that the timely grant of a secure legal status and residency rights are essential factors in the integration process.⁷ In order to take into account the special position of refugees, UNHCR recommends that permanent residence should be granted, at the latest, after a three year residence period,⁸ and that this time-frame should also apply to beneficiaries of subsidiary protection. Furthermore, UNHCR wishes to underline that the proposed measures are contrary to the guidance provided in Conclusion No. 104 on local integration of UNHCR's Executive Committee, of which Denmark is a member, which affirms "the particular importance of the legal dimension of integration, which entails the host State granting refugees a secure legal status and a progressively wider range of rights and entitlements that are broadly commensurate with those enjoyed by its citizens and, over time, the possibility of naturalizing".⁹
7. In UNHCR's view, the combined requirements will be very difficult for many refugees and other beneficiaries of protection to meet. UNHCR thus deeply regrets the proposed measures – in particular the increase from six to eight years of legal residence to be eligible for permanent residence – as they will further undermine the ability of beneficiaries of international protection to integrate in Denmark, and the Danish Government's expressed aim to improve the integration process.

UNHCR Regional Representation for Northern Europe

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⁶ UNHCR, *UNHCR Observations on the proposed amendments to the Danish Aliens legislation, L 87*, 6 January 2016, para. 19 and onwards, <http://www.refworld.org/docid/5694ed3a4.html>.

⁷ UNHCR Executive Committee, *Conclusion No. 104*, para. (j), UNHCR, *Thematic Compilation of Executive Committee Conclusions*, August 2009, 4th edition, <http://www.refworld.org/docid/4a7c4b882.html>.

⁸ *Ibid.*, para. 20.

⁹ UNHCR, *Conclusion on Local Integration*, 7 October 2005, No. 104 (LVI) - 2005, para. (l), <http://www.refworld.org/docid/4357a91b2.html>.