



Applicability of Article 1D of the *1951 Convention relating to the Status of Refugees* to Palestinian Refugees

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OUTLINE OF PRESENTATION

1. Background to UNWRA and Article 1D
2. Who are the refugees within the scope of Article 1D?
3. Application of Article 1D

BACKGROUND

- 1948 War – Iraq, Lebanon, Syria, Trans-Jordan, Saudi Arabia, Yemen and Egypt rejected the partition of Palestine and the creation of the state of Israel. Attacked but were defeated by the Israeli army.
- Created flight of approximately 750,000 Palestinians from Israel to refugee camps throughout the Middle East

UNRWA – UNITED NATIONS RELIEF AND WORKS AGENCY

- December 1949 – UNRWA created to assist Palestinian refugees
- Operates in Jordan, Syria, Lebanon, West Bank and Gaza Strip
- UNRWA' s work:
 - primary and vocational education
 - primary health care
 - relief and social services
 - infrastructure and camp improvement
 - microfinance and
 - emergency response, including in situations of armed conflict.

ARTICLE 1D – 1951 REFUGEE CONVENTION

- ❑ This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.
- ❑ When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.

RATIONALE OF ARTICLE 1D

1. To avoid overlap between the work of UNHCR and other UN agencies (therefore – **excluded** from *1951 Convention* under first paragraph); and
2. To ensure protection is continued in circumstances where protection or assistance has ceased (therefore – **included** in the second paragraph)

WHO ARE THE REFUGEES WITHIN THE SCOPE OF ARTICLE 1D?

Two groups of Palestinians who are receiving or eligible to receive UNRWA protection or assistance:

- a) Palestinians and their descendants displaced in 1948 from that part of Palestine which became Israel
- b) Palestinians and their descendants displaced from Palestinian territory occupied by Israel as a result of the 1967 Arab-Israeli conflict

WHAT ARE THE CONDITIONS UNDER WHICH THE ASSISTANCE PROVIDED BY UNWRA MAY BE REGARDED AS HAVING CEASED?

El Kott – Judgment of European Court of Justice, 19 December 2012:

- Mere absence from the area or a voluntary decision to leave cannot be regarded as cessation of assistance
- If the person has been forced to leave for reasons unconnected with his will, such a situation may lead to a finding that assistance has ceased

UNHCR - INCLUSION CLAUSE – “CEASED FOR ANY REASON”

Includes the following situations:

- The termination of UNWRA as an agency
- The discontinuation of UNRWA’s activities
- Any objective reason outside the control of the person concerned such that the person is unable to re-avail themselves of the protection of assistance of UNRWA

OBJECTIVE REASONS OUTSIDE THE CONTROL OF THE PERSON CONCERNED
SUCH THAT THE PERSON IS UNABLE TO RE-Avail THEMSELVES OF THE
PROTECTION OF ASSISTANCE OF UNRWA

- 1. Угроза для жизни, физической безопасности или свободы либо другие серьезные вопросы защиты – Примеры:**
вооруженный конфликт, насилие, civil unrest. General insecurity, events seriously disturbing public order
- 2. Practical barriers to return - Examples:**
inability to access the territory because of border closures, road blocks or closed transportation routes

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3. Legal barriers to return – Examples: lack of documents to travel to, transit, or re-enter or reside or where authorities in the receiving country refuse re-admission or renewal of travel documents

4. Safety barriers to return – Examples: dangers *en route* such as mine fields, factional fighting, shifting war fronts, banditry or the threat of other forms of harassment, violence or exploitation

ОСНОВА ДЛЯ АНАЛИЗА

1. Is the applicant under the mandate of UNWRA?

- No – Art. 1D does not apply. Consider application in ordinary manner applying Art. 1A.
- Yes – Consider whether UNWRA protection or assistance has ceased “for any reason”

2. Has UNWRA protection or assistance ceased?

- No – Applicant is excluded
- Yes – Applicant is a refugee for purposes of Article 1D

ЗАКЛЮЧЕНИЕ

- UNHCR Guidelines are forthcoming on Article 1D
- Вопросы / комментарии?
- Учебные дела