



# UNHCR

United Nations High Commissioner for Refugees  
Haut Commissariat des Nations Unies pour les réfugiés

1. The UNHCR Regional Representation for Northern Europe (RRNE) is grateful to the Ministry of Justice of Denmark for the invitation to submit its observations on the proposal dated 20 December 2013 (Sagsnr.: 2013-960-0020), to amend the criteria for the selection of quota refugees for resettlement to Denmark ('Ændring af kriterierne for udvælgelse af kvoteflygtninge' ("the Proposal")).
2. UNHCR has a direct interest in law proposals in the field of asylum, as the agency entrusted by the United Nations General Assembly with the mandate to provide international protection to refugees and, together with Governments, seek permanent solutions to the problems of refugees<sup>1</sup>. 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[.]"<sup>2</sup> UNHCR's supervisory responsibility is exercised in part by the issuance of interpretative guidelines on the meaning of provisions and terms contained in international refugee instruments, in particular the 1951 Convention Relating to the Status of Refugees (hereafter '1951 Convention'). Such guidelines are included in the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status ('UNHCR Handbook') and subsequent Guidelines on International Protection<sup>3</sup>. This 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<sup>4</sup>.
3. UNHCR's supervisory responsibility 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 ("TFEU")<sup>5</sup>, as well as in Declaration 17 to the Treaty of Amsterdam, which provides that "*consultations shall be established with the United Nations High Commissioner for Refugees ... on matters relating to asylum policy*"<sup>6</sup>.

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<sup>1</sup> 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.unhcr.org/cgi-bin/txis/vtx/refworld/rwmain?docid=3ae6b3628> ("UNHCR Statute").

<sup>2</sup> *Ibid.*, paragraph 8(a).

<sup>3</sup> UN High Commissioner for Refugees (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>.

<sup>4</sup> According to Article 35 (1) of the 1951 Convention, UNHCR has the "duty of supervising the application of the provisions of the 1951 Convention".

<sup>5</sup> 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>.

<sup>6</sup> European Union, *Declaration on Article 73k of the Treaty establishing the European Community*, OJ C 340/134 of 10.11.1997, available at:

4. At the outset, UNHCR would like to express its appreciation for Denmark's long standing resettlement programme and for the good cooperation enjoyed in this field.
5. Resettlement is first and foremost a tool to provide international protection and meet the specific needs of individual refugees whose life, liberty, safety, health or other fundamental rights are at risk in the country where they have sought refuge. It is also a tool to provide a more durable solution for larger numbers or groups of refugees, alongside the other durable solutions of voluntary repatriation and local integration. Finally, it can be a tangible expression of international solidarity and a responsibility sharing mechanism, helping States to share responsibility for refugee protection, and reduce problems impacting the first country of asylum.
6. Through partnerships with governments offering resettlement places, a process for the selection and preparation of cases has been developed, within which UNHCR takes the lead in identifying refugees who fulfil the agreed resettlement criteria. The framework agreement for the selection process allows UNHCR to carry out this, often labour intensive and complex task, in refugee operations worldwide.
7. To ensure that resettlement programs both meet the overall aims of resettlement and are managed well, UNHCR has ongoing discussions with resettlement countries on how to make best use of the places offered by individual countries. In these discussions, UNHCR has in general advised countries not to introduce additional and specific selection criteria, which can lead to the rejection of refugees whom UNHCR has identified as being in need of resettlement.
8. UNHCR has consequently discouraged governments from adding "integration potential" to the criteria for resettlement. As resettlement is a humanitarian response to the protection and solution needs of the most vulnerable refugees, the level of education and work experience, language ability, family size and composition, as well as the nature of the support needed in the resettlement country should not determine the acceptance of resettlement cases.
9. UNHCR was therefore pleased to note the Danish government's intention, in its platform "Et Danmark, der står sammen" from October 2011, to change the criteria to ensure that all refugees identified as meeting the global resettlement criteria would have equal opportunities for resettlement to Denmark, regardless of their ability and readiness ("integrationsparathed") to integrate.
10. With regard to the Proposal, UNHCR appreciates the recognition that resettlement regimes are based on humanitarian considerations and that Denmark sees it as part of the responsibility sharing efforts with some of the countries hosting most of the world's refugees. UNHCR also welcomes the emphasis given to the importance of Denmark offering good reception and integration possibilities for resettled refugees.

11. UNHCR welcomes the proposed abolition of the present integration potential selection criteria. UNHCR would prefer that the present integration potential criteria not be replaced by another selection criteria. Notwithstanding this, UNHCR welcomes that the proposed criteria places the focus on the capacity of the receiving communities instead of on the individual refugee's perceived ability to integrate in Denmark. UNHCR understands that the explanatory remarks to the proposal indicate that the new criteria will not be applied in a discriminatory manner or negatively affect vulnerable refugees with critical protection needs.
12. UNHCR further understands that the proposal does not intend for refugees' expectations to be the decisive factor in the selection process. A refugee interviewed by a selection mission in his/her first country of asylum will often have a rather vague picture of her/his future life in the country of resettlement. Therefore, from the beginning of the resettlement process, it is very important that the resettlement country provides comprehensive information about what the refugee can expect, if selected for resettlement. Refugees are often extremely resilient and flexible, and UNHCR believes that it is difficult to predict and try to assess, based on an interview, how an individual refugee will adapt to the new environment and integrate.
13. In addition, when refugees are fully informed and counselled about what they may expect upon resettlement, they will be better prepared to start the integration process. Integration is a process which develops over time; it has a social-cultural, an economic and a legal aspect. As such, the needs, expectations and the potential of each individual refugee will develop with time as they encounter a new culture, a new society, and new opportunities for growth, which resettlement enables.
14. In this context, UNHCR would like to also note that the reference to "... the integration capacity of receiving communities..." in the European Parliament's Comparative Study on the Best Practices for the Integration of Resettled Refugees in the EU Member States<sup>7</sup>, should be understood as placing the responsibility on resettlement countries to ensure that their communities are prepared to meet the needs and capacities of the resettled refugees they will be receiving.
15. In conclusion UNHCR proposes that in situations where the additional selection criteria might lead to a rejection, that this be addressed through dialogue between UNHCR, the selection mission, and the refugee to explore whether selection concerns could be addressed.

**UNHCR Regional Representation for Northern Europe**  
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<sup>7</sup> European Parliament, Directorate General for Internal Policies, "*Comparative study on the best practices for the integration of resettled refugees in the EU Member States*", available at: [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474393/IPOL-LIBE\\_ET\(2013\)474393\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474393/IPOL-LIBE_ET(2013)474393_EN.pdf).