

International Legal Framework for refugee protection

Riga, April 2016

Marcel Colun, Regional Liaison Officer



UNHCR

Created in 1951
Subsidiary organ of the UN General Assembly

Headquarters in Geneva, Switzerland
Over 9300 Staff Members
123 countries

UNHCR is one of the world's most prominent humanitarian organizations and has helped more than 50 million people to create a better life.

More than 60 per cent of the employees work in the field in remote and dangerous areas.
UNHCR has received the Nobel Peace Prize twice, in 1954 and 1981.

UNHCR Statute

- “ The United Nations High Commissioner for Refugees ... shall assume the function of providing international protection ... to refugees ... and of seeking permanent solutions for the problem of refugees.”
 - General Assembly Resolution 428 (V) of 14 December 1950, Annex, para. 1
- “ The work of the High Commissioner shall be of an entirely non-political character; it shall be humanitarian”.
 - General Assembly Resolution 428 (v) of 14 December 1950, Annex, para. 2



Supervisory Role of UNHCR

- Article 35 of the 1951 Refugee Convention:
 - The Contracting States undertake to co-operate with UNHCR and in particular facilitate its duty of supervising the application of the provisions of the 1951 Convention.
 - The Contracting States undertake to provide UNHCR with information on laws and regulations, condition of refugees and with statistical data requested

See also:

EU Asylum Procedures Directive 2005/85/EC, *Article 21*

EU Asylum Procedures Directive recast 2013/32/EU, *Article 29*

Latvian Asylum Law, *Article 4*



The Work of UNHCR

■ International Protection:

All actions aimed at ensuring the equal access to and enjoyment of the rights of persons of concern to UNHCR, in accordance with the relevant bodies of law

- Access to territory
- Non-refoulement
- Access to asylum
- Respect for fundamental human rights
- **Durable solutions:**
 - **Voluntary Repatriation**
 - **Local Integration**
 - **Resettlement**



UNHCR Regional Representation for Northern Europe

- Supports the governments in their implementation of the 1951 Convention
- Advice on the application of international standards
- Training in refugee law, information concerning refugee flows and the situation in countries of origin.
- Assistance to NGOs and asylum lawyers
- Public information and awareness activities, cooperation with governments, local authorities and NGOs in organizing public information campaigns etc, contacts with media
- Private sector fund raising



UNHCR Regional Representation for Northern Europe

**Ynglingagatan 14
113 47 Stockholm
SWEDEN**

**Phone: +46 (0)8 457 48 80
Fax: +46 (0)8 457 48 97**

E-mail: swest@unhcr.org

Web: www.unhcr-northerneurope.org



International Legal Framework

- International Refugee Law
 - 1951 Refugee Convention and its Protocol of 1967
 - UN GA resolutions
 - UNHCR Executive Committee Conclusions
- International Human rights law:
- International Humanitarian law: the four Geneva conventions
- International Criminal law:
 - International Criminal Tribunal

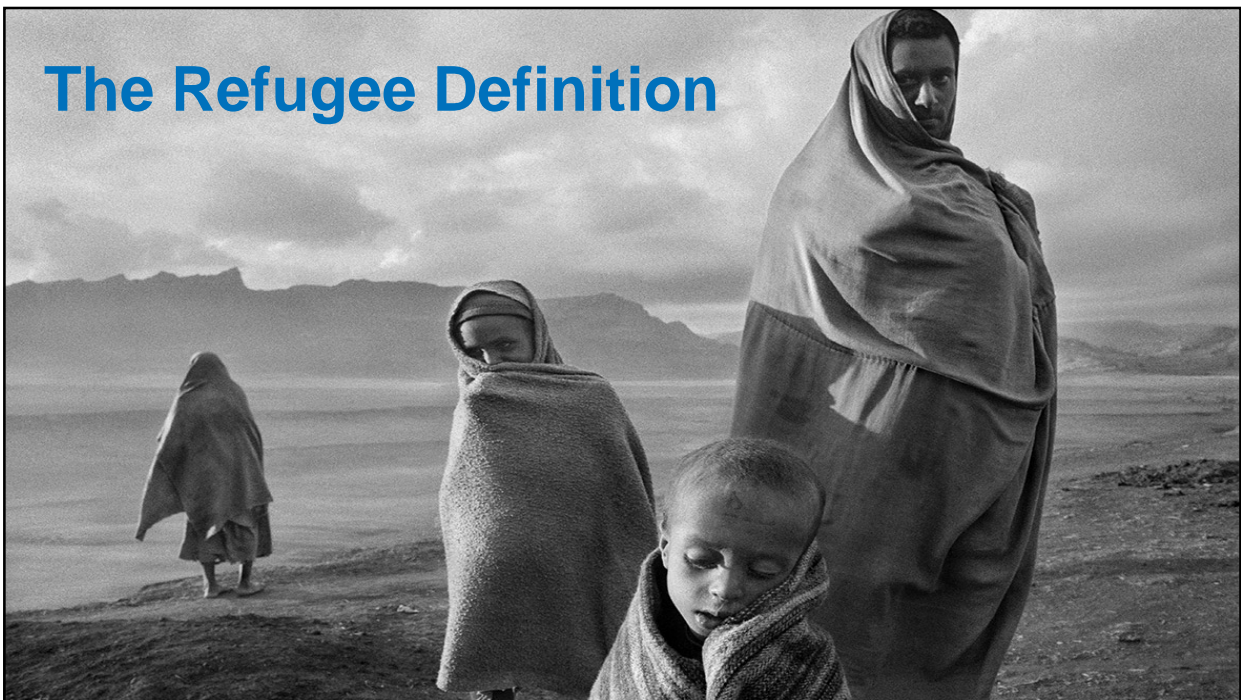


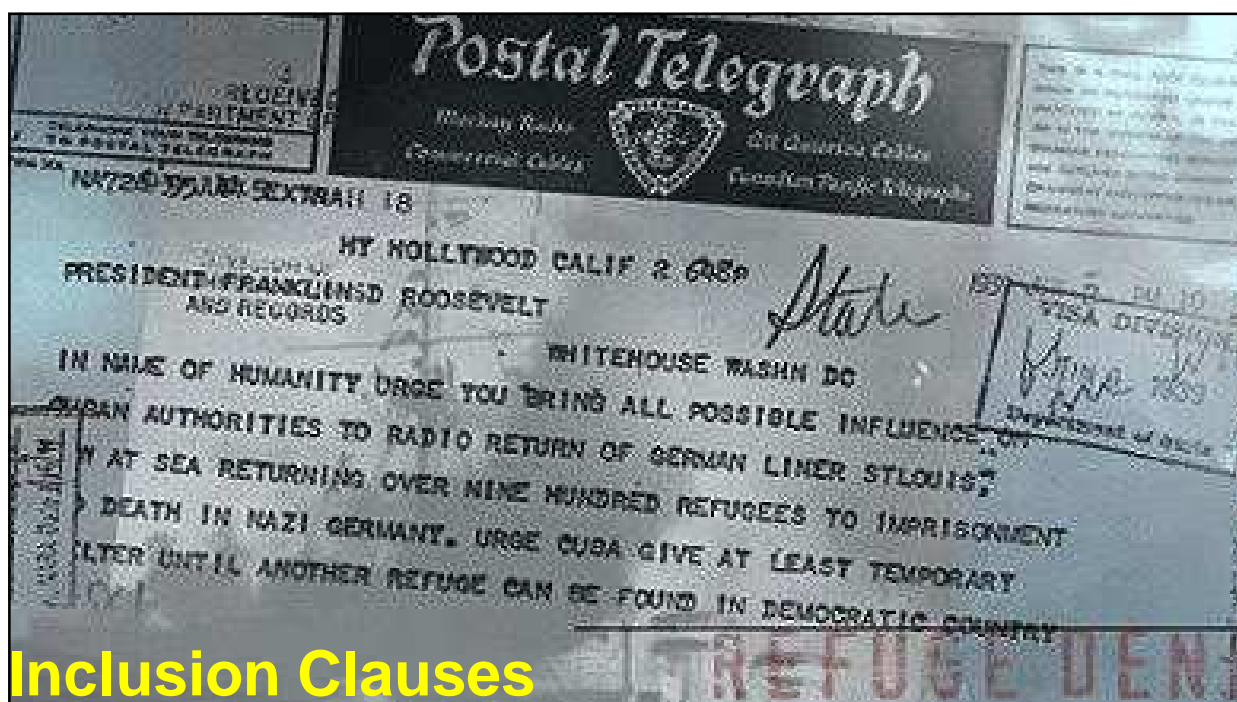
EU Law

- Treaty on the Functioning of the EU
- *Reception Conditions Directive 2013/33/EU*
- *Dublin Regulation 604/2013*
- *Eurodac Regulation No 603/2013*
- *Asylum Procedures Directive 2013/32/EU*



The Refugee Definition





Refugee Convention (1951)

A person who , owing to a 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 it.

OAU Refugee Convention (1969)


The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.



Cartagena Declaration on Refugees (1984)

The definition of a refugee includes...persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.





**Exclusion
Clauses**

The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

- (a) He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- (b) He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
- (c) He has been guilty of acts contrary to the purposes and principles of the United Nations.

Asylum-seekers vs Refugees

- "Asylum-seeker" is a general term for a person who has not yet received a decision on his/her claim for refugee status.
- Until the claim is examined fairly, the asylum-seeker is entitled to not be returned, according to the principle of *non-refoulement*, and to benefit from humanitarian standards of treatment.
- As a matter of international law, a person is a refugee as soon as the criteria contained in the definition are fulfilled.
- Recognition of refugee status is declaratory, that is, it states the fact that the person is a refugee.

Non-refoulement

**Article 33 of the 1951 Refugee Convention:
Prohibition of expulsion or return ("refoulement")**

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.



Non-penalization

**Article 31 of the 1951 Refugee Convention:
Refugees unlawfully in the country of refuge**

1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.





Particular attention is paid to persons with special needs such as:


- Children, especially unaccompanied minors
- Women
- Elderly
- Victims of torture, persons suffering trauma, victims of trafficking
- Disabled



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

REISSUED
GENEVA, DECEMBER 2011



UNHCR
The UN Refugee Agency

60
YEARS 1949-2009





UNHCR
The UN Refugee Agency

Distr:
GENERAL
HCR/GIP/02/01
7 May 2002
Original: ENGLISH

Human Rights and Refugee Protection

Self-study Module 5, Vol. I




 **UNHCR**
The UN Refugee Agency

15 December 2006

**GUIDELINES ON INTERNATIONAL PROTECTION:
Gender-Related Persecution within the context of Article 1A(2)
of the 1951 Convention and/or its 1967 Protocol
relating to the Status of Refugees**

UNHCR issues these Guidelines pursuant to its mandate, as contained in the Statute of the Office of the United Nations High Commissioner for Refugees, in conjunction with Article 35 of the 1951 Convention relating to the Status of Refugees and Article II of its 1967 Protocol. These Guidelines complement the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees (Reedited, Geneva, January 1992). They further replace UNHCR's Position Paper on Gender-Related Persecution (Geneva, January 2000) and result from the Second Track of the Global Consultations on International Protection process which examined this subject at its expert meeting in San Remo in September 2001.

These Guidelines are intended to provide legal interpretative guidance for governments, legal practitioners, decision-makers and the judiciary, as well as UNHCR staff carrying out refugee status determination in the field.



Inclusion

- UNHCR Handbook
- Guidelines on International Protection No 1: “Gender-Related Persecution”
- Guidelines on International Protection No 2: “Membership in a Particular Social Group”
- Guidelines on International Protection No 4: “Internal Flight or Relocation Alternative”
- Guidelines on International Protection No 6: “Religion-Based Claims”



Inclusion

- Guidelines on International Protection No 7: “Victims of trafficking”
- Guidelines on International Protection No 8: “Child Asylum Claims”
- Guidelines on International Protection No 9: “Claims based on Sexual Orientation”
- Guidelines on International Protection No 10: “Claims based on military service”
- Guidelines on International Protection No 11: “Prima facie recognition”



Exclusion

- **Guidelines on International Protection No 5: “Exclusion”**
- **Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees**
- **UNHCR Note on the Interpretation of Article 1E of the 1951 Convention relating to the Status of Refugees**
- **Revised Note on the Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian Refugees**



Termination of refugee status

- **Guidelines on International Protection No 3: “Cessation”**
- **The Cessation Clauses: Guidelines on Their Application**
- **Note on the Cancellation of Refugee Status**



Other guidelines and guiding material

- Country specific eligibility guidelines
 - The most recent: Guidelines on eligibility claims from Afghanistan
- The case law of the European Regional Courts: the Court of Justice of the European Union and the European Court of Human Rights on refugees, asylum-seekers, and stateless persons



Resources for lawyers and practitioners

- www.unhcr.org
- www.refworld.org
- www.ecoi.net
- <https://easo.europa.eu>
- <http://www.asylumlawdatabase.eu/en>
- <http://www.coi-training.net/content/>

