

UNHCR recommendations to Denmark on strengthening refugee protection in Denmark, Europe and globally

November 2022

This document sets out a number of recommendations, which the Representation for the Nordic and Baltic Countries of the United Nations High Commissioner for Refugees (UNHCR) has developed, with a view to further strengthening the protection of refugees in Denmark, as well as to support Denmark's engagement in European and international fora where issues of refugee protection and asylum are being discussed. The recommendations are addressed to the Danish Government, parliamentarians and all other relevant actors and stakeholders and aim at contributing to constructive discussions on improvements of the protection and integration systems for refugees and stateless persons at the national, regional and international level.

UNHCR offers these recommendations as the agency entrusted by the UN General Assembly with the global mandate to provide international protection to refugees and, together with Governments, seek permanent solutions to their plight.¹ UNHCR is responsible for supervising the application of the 1951 Convention relating to the Status of Refugees – to which Denmark is a State party. UNHCR thus has a direct interest in policy discussions and legislative initiatives in the field of asylum.²

1. Introduction

For decades, Denmark has made important contributions to international refugee protection – including through maintaining a well-established asylum and reception system, engaging in comprehensive integration efforts and participating in UNHCR's resettlement programme. As one of the first parties to sign on to the 1951 Convention, Denmark has a long tradition of providing sanctuary to those in need of international protection. Denmark is also a State party to both the 1954 and 1961 Statelessness Conventions and has over the years demonstrated a strong commitment to support efforts to end statelessness.

Like in several other European countries, over the past decade issues around refugee protection have increasingly been the subject of intense political and public debate in Denmark – a politicization that has led to an increasingly restrictive climate and regrettably at times have been accompanied by a harsh rhetoric and measures that have undermined the public support for the protection and integration of refugees. UNHCR has on many occasions expressed its strong disagreement with the Danish Government's policy to pursue the termination of protection for certain groups of refugees from Syria by rescinding their temporary residence permits and its pursuit of an arrangement to externalize Denmark's responsibilities to receive asylum applications and protect refugees to a third country.

With regard to Denmark's engagement on global refugee issues, UNHCR appreciates the strong partnership and cooperation that exists between Denmark and UNHCR in supporting the protection of the high number of forcibly displaced persons around the world and in the search for solutions to their plight. Denmark is also very important donor to UNHCR's global activities, enabling UNHCR to address critical humanitarian needs of the most vulnerable refugee populations as well as strengthening and building capacity in host countries.

¹ UN General Assembly, UNHCR Statute, 14 December 1950, www.refworld.org/docid/3ae6b3628.html, para. 1.

² UN General Assembly Resolution A/RES/50/152, 9 February 1996, available at: <http://www.unhcr.org/refworld/docid/3b00f31d24.html>, reiterated in subsequent resolutions.

2. Strengthening protection and integration policies in Denmark

UNHCR has been concerned with the pace and scope of the restrictions that successive Danish Governments have introduced over the years to restrict asylum space. Many of the measures, initially intended to deal with an exceptional situation in 2015-2016, have remained in place even as the situation normalized.

UNHCR is particularly concerned about the Danish Government's pursuit of developing an externalization arrangement with a third country under which Denmark would transfer its responsibilities for considering asylum applications and offering protection to refugees to that country. UNHCR provided a comprehensive set of observations³ when the proposal was tabled in Parliament, noting that such arrangement could be in violation of Denmark's international obligations under international human rights instruments and EU law. In addition, UNHCR expressed concern that the proposed arrangement may lead to a gradual erosion of the wider international protection system which is in place for refugees – and under which millions of refugees are able to be assisted and protected. UNHCR has therefore repeatedly called for Denmark to abandon its pursuit of such arrangement and instead work with other countries within Europe to develop a common regional approach that safeguards the rights of refugees in conformity with international protection principles, see further below under Section 3.2.

UNHCR also regrets⁴ the adoption in 2019 of a package of legislative changes known as the so-called “paradigm shift” which places a disproportionate emphasis on the “temporariness” of asylum and thereby risks unsettling persons with strong protection needs and hindering their quick and supported integration into the Danish society, see further below under Section 2.2.

Over the past years, UNHCR has also submitted observations on a range of Danish law proposals, such as the introduction of a temporary subsidiary protection category,⁵ confiscation of valuables from asylum-seekers,⁶ restrictions on family reunification,⁷ reduced social benefits for refugees,⁸ introduction of short-term residence permits,⁹ mandatory regular review of protection needs,¹⁰ increased use of cessation,¹¹ restrictive criteria for permanent residency and the temporary halt of the resettlement programme.¹²

³ UNHCR Observations on the Proposal for amendments to the Danish Aliens Act (Introduction of the possibility to transfer asylum-seekers for adjudication of asylum claims and accommodation in third countries), 8 March 2021

<https://www.refworld.org/docid/6045dde94.html>; UNHCR Press Release

<https://www.unhcr.org/news/press/2021/6/60b93af64/news-comment-un-high-commissioner-refugees-filippo-grandi-denmarks-new.html>

⁴ UNHCR Observations on the Proposed Amendments to the Danish Aliens Legislation (Sags Nr. 2018-20616, Akt Nr. 598518), 18 January 2019 <https://www.refworld.org/docid/5c6bccf16.html> (UNHCR Observations, January 2019)

⁵ UNHCR, Observations by the UNHCR Regional Representation for Northern Europe on the proposed amendments to the Danish Aliens Act: Lov om ændring af udlændingeloven (Midlertidig beskyttelsesstatus for visse udlændinge samt afvisning af realitetsbehandling af asylansøgninger, når ansøgeren har opnået beskyttelse i et andet EU-land mv.), November 2014 <https://www.refworld.org/docid/5813224b7.html> (UNHCR Observations, November 2014).

⁶ UNHCR Observations on the proposed amendments to the Danish Aliens legislation, L 87, 6 January 2016, <https://www.refworld.org/docid/5694ed3a4.html> (UNHCR Observations on L87, January 2016), paras. 41-52.

⁷ UNHCR Observations on L 87; UNHCR Observations, November 2014.

⁸ UNHCR Observations on the proposed amendments to the Danish Social Security legislation, 12 January 2016 <https://www.refworld.org/docid/5694ec964.html>; UNHCR Observations on the proposed amendments to the Danish Social Security legislation (reduction of social welfare and change of bonus for language level test), 15 November 2017 <https://www.refworld.org/pdfid/5a0e95245.pdf>.

⁹ UNHCR Observations on L 87, January 2016.

¹⁰ UNHCR Observations on L 87, January 2016.

¹¹ UNHCR Press release <https://www.unhcr.org/neu/dk/24533-unhcr-flygtninge-bor-have-sikkerhed-for-at-de-ikke-sendes-hjem-til-usikker-situation.html>.

¹² UNHCR Press release <https://www.unhcr.org/neu/dk/21513-unhcr-beklager-danmarks-beslutning-om-ikke-at-genstarte-modtagelsen-af-kvoteflygtninge.html>.

More recently, UNHCR has commended Denmark for responding in a swift and protection-oriented way to the unprecedented refugee situation arising as a result of the war in Ukraine. Denmark quickly adopted a Special Act to provide those arriving with temporary protection and access to a range of rights and services, similar to the EU Temporary Protection Directive.¹³ These measures have greatly facilitated the reception and support to Ukraine refugees, but also exposed a different level of treatment with equally deserving refugees arriving in Denmark from other countries.

UNHCR recommends that the Danish authorities consider undertaking a review on how some of the measures to speed up reception, decision-making and integration support for refugees from Ukraine could also be extended to asylum-seekers and refugees of other nationalities in the future.

2.1. Quality asylum and reception system

Denmark has a well-established asylum and reception system, which guarantees the right for individuals to apply for asylum in the country and to have their asylum application processed in a fair and efficient asylum procedure.

Continuous investment in the first instance procedure performed by the Danish Immigration Service (DIS), including through quality management, can enhance the quality and timeliness of asylum decisions, which then are less likely to be overturned at second instance and may also reduce the number of appeals. UNHCR further recommends sustained support of the role performed by the Refugee Appeals Board (RAB) as the second instance. Such investments would in turn reduce the cost of reception conditions, thus saving resources and producing more efficient and fairer decisions for asylum-seekers.

UNHCR stands ready to continue to provide support to the DIS and RAB in their work on quality assurance and fulfilling Denmark's international obligations.

UNHCR recommends Denmark to uphold the quality and efficiency of the Danish asylum procedure including by ensuring continued commitment to quality decision-making and safeguarding the resources of the Danish Immigration Service and the Refugee Appeals Board.

2.2. Regular review of protection status and termination of protection

UNHCR has long advocated that refugees, including beneficiaries of subsidiary protection, are entitled to a secure and stable protection status, which should not be subject to regular review. Frequent periodic reviews often undermine refugees' sense of security, creating anxiety and uncertainty which hinders their integration process. That is not to say that once protection has been accorded it can never cease. The refugee protection system – as set out in the 1951 Convention – was designed with that in mind, but an important feature is that refugees should be able to rely on that protection until such time when significant changes have taken place in the country they fled from which would have brought an end to any risks to their lives and safety and therefore paved the way for their safe return and re-enjoyment of the full range of rights as accorded to other citizens of their country.

It was never the intention that refugees were to be subjected to constant reassessments once their protection needs had first been established. After it has been determined that persons are in need of protection, focus should be on providing the refugees with a set of rights and support in order to restart their lives, enable them to provide for themselves and their families and contribute to the society that hosts them.

¹³ Stateless persons from Ukraine are not included, and a residence permit will be given for two years at first, with the possibility of extension for a further year.

UNHCR is thus concerned about the introduction in 2019 of a regular mandatory review applicable to all persons in need of international protection when their residence permits expire.¹⁴ As their status may be reviewed not only as a result of new country of origin information, but on any occasion when their residence permit has to be renewed, beneficiaries of international protection are left in persistent uncertainty as the permits are of a short duration. Regular, mandatory status reviews may not only be detrimental to the mental health and well-being of the individual but may also create an unnecessary burden on the asylum authorities and increased costs for the State. In many cases, it is unlikely that protection status will end, as the protection needs are not typically of a short duration. Many situations of forced displacement worldwide are regrettably of a protracted nature and go on for many years, even decades.

UNHCR is also very concerned about the inadequate criteria which have been introduced in the Danish Alien's Act for withdrawing or not renewing a subsidiary protection status.¹⁵ Under the Danish Aliens' Act, improvements of the general conditions in the home country – which are not just of a temporary nature – can lead to a loss of protection regardless of whether the conditions are still considered to be serious, and the security situation remains fragile and unpredictable. In UNHCR's view, the loss of protection status because of changes in the circumstances that gave rise to the protection needs should not leave room for a high level of risks and uncertainty, but only be considered when these changes are *fundamental* and *durable*. In UNHCR's and EU's terminology this is referred to as the conditions for cessation of protection. While 1951 Convention status and subsidiary protection status are legally distinct, the loss of subsidiary protection status should, in UNHCR's view, by analogy be guided by the same principles as those applicable to cessation under the 1951 Convention.¹⁶

Denmark's recent practice with regard to pursuing early termination of protection status have had significant consequences for refugees, including many Somalis and Syrians, who have lost their protection although the situation in their country of origin has not changed in a fundamental and durable manner.¹⁷ Adding to the risk of being sent back to a situation where their lives or freedom could be in danger, the loss of protection may also lead to families being torn apart, as family members may hold different protection statuses, and this seems especially to have affected the protection of younger female adults within families. UNHCR regrets that termination of protection status has also applied to refugees who were resettled to Denmark under UNHCR's global resettlement program which was designed to provide refugees with a durable solution to their plight.

The determined pursuit of early termination of protection for certain groups of Syrian refugees has also created a situation where refugees who either have received a negative decision to extend their protection in Denmark, or who fear that this also may happen to them when their residence permit next is up for renewal, have traveled on to other European countries in search of obtaining a recognized protection status, thereby challenging the established system of responsibility sharing within the EU for handling asylum-seekers and refugees.¹⁸

¹⁴ UNHCR Observations January 2019. See also, Lov om ændring af udlændingeloven, integrationsloven, repatrieringsloven og forskellige andre love, Lov 174 af 27/02/2019 (Gældende), <https://www.retsinformation.dk/Forms/R0710.aspx?id=207366> and the related law proposal as presented in January 2019: L 140 Forslag til lov om ændring af udlændingeloven, integrationsloven, repatrieringsloven og forskellige andre love <https://www.ft.dk/samling/20181/lovforslag/l140/index.htm>.

¹⁵ UNHCR Observations November 2014, paras. 33-37.

¹⁶ EU, Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), 20 December 2011, Articles 11, 14, 16 and 19, cf Article 1 C(5) and (6) of the 1951 Convention. See also, EU Court of Justice, Mohammed Bilali v. Bundesamt für Fremdenwesen und Asyl, C-720/17, 23 May 2019.

¹⁷ UNHCR, International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update VI, March 2021, <https://www.refworld.org/docid/606427d97.html>

¹⁸ Dublin Regulation II and III. Judgements of the Dutch Administrative Jurisdiction Division, [Ruling 202106573/1/V3 - Council of State \(raadvanstate.nl\)](https://www.raadvanstate.nl/en/2021/06/06/ruling-202106573-1/v3-council-of-state) and [Ruling 202105784/1/V3 - Council of State \(raadvanstate.nl\)](https://www.raadvanstate.nl/en/2022/07/06/ruling-202105784-1/v3-council-of-state), 6 July 2022.

UNHCR recommends Denmark to

- Align the criteria and practice for the loss of subsidiary status (cessation) with the requirements of Article 1 C of the 1951 Convention;
- Use cessation practices cautiously and restrictively with the necessary legal standards and procedural safeguards in place;
- Refrain from a regular mandatory review of the protection needs of beneficiaries of international protection.

2.3. Integration

The importance of effective integration has been underlined by most political parties in Denmark as a crucial focus area. Fostering sustainable integration at the local level through social cohesion and equal opportunities is also a key objective of the Global Compact on Refugees (GCR - see further below at 4.1.). Integration requires appropriate investments of time and resources from States, local authorities, the private sector and civil society that all have a key role to play in supporting integration, in addition to the efforts required from refugees themselves. Additionally, intensifying joint efforts and increased focus on countering growing intolerance and xenophobia against asylum-seekers and refugees is required. These elements are particularly underscored throughout the sixth report on Denmark of the Council of Europe's (CoE) European Commission against Racism and Intolerance (ECRI).¹⁹

UNHCR fully endorses the importance of integration policies with a holistic rights-based approach, based on which refugees gain access to education and labour markets, language training, civic orientation and social support as well as benefit from national services as a means to become self-reliant and contribute to society and their local community.

UNHCR is very concerned about the “paradigm-shift” which has changed the protection focus in Denmark from supporting integration and inclusion to a focus on primarily emphasizing the hoped-for short duration of protection and emphasis on using all instruments to effect return at the earliest opportunity.²⁰ In particular, UNHCR considers the strict eligibility requirements for permanent residency, shortened length of the residence permits and frequent reviews of protection needs as counter-productive to integration objectives.²¹ Insecure status is likely to harm employment prospects, and risks undermining the Government's goal to ensure effective and non-discriminatory access for refugees to the labor market.

The Executive Committee of the High Commissioner's Programme (ExCom)²² has called on States to support refugees' ability to attain local integration through the timely grant of a secure legal status and residency rights, and to facilitate their naturalization.²³

UNHCR recommends Denmark to facilitate integration for persons in need of international protection by,

- Aligning the length of permits for the three protection categories;
- Granting a secure and stable status with residence permit of a longer duration, preferably with a minimum duration of five years.

¹⁹ Council of Europe (CoE) European Commission against Racism and Intolerance (ECRI), ECRI Report on Denmark (sixth monitoring cycle), adopted on 29 March 2022, published on 9 June 2022, <https://rm.coe.int/6th-ecri-report-on-denmark-/1680a6d5e4>

²⁰ See above at section 2 concerning paradigm shift.

²¹ UNHCR, Note on the Integration of Refugees in the European Union, May 2007 <https://www.refworld.org/docid/463b24d52.html>.

²² ExCom meets in Geneva annually to review and approve the agency's programmes and budget, advise on international protection and discuss a range of other issues with UNHCR and intergovernmental and non-governmental partners. See further <https://www.unhcr.org/executive-committee.html>.

²³ UNHCR ExCom, Conclusion No. 104, para. (j), UNHCR, Thematic Compilation of Executive Committee Conclusions, August 2009, 4th edition <http://www.refworld.org/docid/4a7c4b882.html>.

2.4. Family reunification

UNHCR strongly believes that supported and well-managed access to family reunification enables in particular women and children to safely access protection. Effective and prompt family reunification procedures help discourage communities from resorting to criminal smuggling networks, remove the risk of undertaking dangerous journeys, and ensure more gender equity in terms of access to protection. Family reunification is also a strong element in support of successful integration strategies and programs as well as an important factor in reducing mental health issues among refugees.

Over the last decades, many changes have been introduced in Denmark with respect to the legal framework on family reunification, gradually making it more difficult for refugees and other beneficiaries of international protection to reunite with their families.²⁴ UNHCR regrettably sees that the rules around family reunification seem to have been caught up in the basket of restrictive measures and used as an element of deterrence. Actions around family reunification really ought to be anchored in a family-centred approach with a focus on the well-being and support given to parents and their children, and for reunification to take place in a fast, safe and effective way.

Denmark's mandatory, statutory waiting period before refugees with temporary subsidiary status according to Article 7:3 of the Aliens Act can apply for family reunification introduced in 2015 has received international attention. Following a judgment by the European Court of Human Rights finding the three-year waiting period unjustified and highlighting the need to safeguard flexibility, speed and efficiency,²⁵ Denmark has reduced the waiting period to two years.²⁶ In recognition of the devastating consequences of long-term separation of refugee families, UNHCR's ExCom has underlined that "every effort should be made to ensure the reunification of separated refugee families", and that reunification "takes place with the least possible delay."²⁷

UNHCR is also concerned that the concept of family has been defined in a quite limited way. Even children may be denied family reunification if they are above 15 years of age. UNHCR considers that all children below the age of 18 should be presumed to be dependent on their parents and automatically be entitled to reunification. Children have special rights to family reunification and the Convention on the Rights of the Child (CRC) calls for positive, humane and expeditious procedures. The discretionary possibility for extended family members, beyond the nuclear family, also seems to be interpreted too restrictively with regard to the dependency requirement. UNHCR would strongly recommend the adoption of a more flexible definition of family in the refugee context that builds on international and regional jurisprudence. In UNHCR's view, there needs to be scope to grant family reunification to other close family members beyond the nuclear family where there is a social, emotional or economic dependency.

Lastly, even when the legal conditions for family reunification are met, many refugee families who seek to reunite also face numerous practical obstacles. UNHCR is concerned about the difficulties for family members in certain countries to access Danish Embassies as required by DIS for identification purposes and issuance of travel documents to Denmark. UNHCR thus recommends Denmark to reintroduce the possibility to appear before a Danish Consulate or Nordic Embassy for the issuance of travel documents.

²⁴ UNHCR Observations on L 87; UNHCR Observations, November 2014. See also, Norwegian Organization for Asylum-Seekers (NOAS), Realizing Refugees' Right to Family Unity: The challenges to family reunification in Norway, Sweden and Denmark, December 2019 https://www.noas.no/wpcontent/uploads/2019/11/Realizing_Refugees_Right_to_Family_Unity.pdf.

²⁵ European Court of Human Rights (ECtHR), M.A. v. Denmark (Application no. 6697/18), 9 July 2021 <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%7B%22001-211178%22%7D%7D>}. See further, UNHCR, Submission by the Office of the United Nations High Commissioner for Refugees in the case of M.A. v. Denmark (Application no. 6697/18) before the European Court of Human Rights, 21 January 2019 <https://www.refworld.org/docid/5c4591164.html>.

²⁶ Act amending the Aliens Act, LOV nr 915 af 21/06/2022, §1, point 1 <https://www.retsinformation.dk/eli/lt/2022/915>

²⁷ UNHCR ExCom Conclusion, Family Reunification No. 24 (XXXII) - 1981, 21 October 1981, <https://www.refworld.org/docid/3ae68c43a4.html>, paras 1-2.

This will minimize the practical obstacles faced by many family members granted family reunification, but who find themselves in a country without a Danish Embassy.

UNHCR recommends Denmark to remove legal and practical obstacles to family reunification by:

- Ensuring that all children between 15 and 18 are entitled to family reunification, in line with Article 1 of the Convention on the Rights of the Child;
- Applying flexible and humane criteria for family reunification and allow other dependents beyond the nuclear family to reunite with their family members;
- Reintroducing the possibility to appear before a Danish Consulate or Nordic Embassy for the issuance of travel documents to enable family reunion.

2.5. Situation of stateless persons

Statelessness is an often-overlooked global challenge, leaving millions of people without a nationality and thus without access to basic rights and services. UNHCR therefore appreciates that Denmark has demonstrated its support and commitment to the Global Campaign to end statelessness by 2024 (the #IBelong Campaign), including Denmark's contribution to the 2019 High-Level Segment on Statelessness (HLS).²⁸

UNHCR appreciates Denmark's pledge during the HLS to improve cooperation between relevant authorities regarding the identification of stateless persons. Danish institutions are competent to assess a person's statelessness for the purposes of registration, for example, in the context of establishing the identity of asylum-seekers, however, there is no dedicated statelessness determination procedure. UNHCR therefore recommends Denmark to adopt relevant legislation and strengthen the existing statelessness registration procedure under the DIS with a view to establish a dedicated statelessness determination procedure. Stateless persons who, due to their statelessness, are unable to return to their country of previous habitual residence also need to be afforded a specific status as stateless.

UNHCR also welcomes that children born in Denmark who would be otherwise stateless can acquire Danish nationality upon application and without needing to meet the otherwise applicable requirements. UNHCR recommends Denmark to allow children who are born stateless in Denmark to acquire Danish nationality at birth automatically as the best and safest way of avoiding childhood statelessness in Denmark. If Denmark opts to continue with the application procedure, stateless children who are born in Denmark and who reside in the country habitually, but without lawful residence, should be allowed to submit their application as soon as possible after birth in order not to be left stateless for an extended period of time.

Upon acceding to the 1954 Convention back in 1956, Denmark made several reservations to the Convention that may now have become outdated and obsolete due to subsequent developments in Danish legislation and policies. UNHCR thus recommends Denmark to consider withdrawing its reservations to the 1954 Convention.

For a comprehensive set of recommendations on how to address the existing gaps in legislation and administrative practices, see the UNHCR "Mapping Statelessness in Denmark".²⁹ The study analyses the Danish legislation and administrative practices in relation to the standards set in the UN Statelessness Conventions on identification, prevention and reduction of statelessness and protection of stateless persons.

²⁸ See further at <https://www.unhcr.org/ibelong/results-of-the-high-level-segment-on-statelessness/>.

²⁹ UNHCR, Mapping Statelessness in Denmark, 10 November 2020, available at: <https://www.refworld.org/docid/5fe138154.html>

UNHCR recommends Denmark to build on the commitment to end statelessness by:

- Establishing a statelessness determination procedure including the granting of a formal status for those stateless persons who are unable to return to their country of previous habitual residence;
- Aligning the Danish Nationality Act with the standards of the 1954 and the 1961 Conventions on Statelessness and the Convention on the Rights of Child so that children born stateless in Denmark will acquire citizenship automatically, or as soon as possible after birth, regardless of whether they are legal residents.

3. Danish engagement in strengthening the EU refugee protection regime

Although Denmark does not formally participate in the Common European Asylum System (CEAS) of the EU and is not bound by the reform proposals currently being negotiated, UNHCR recognizes that Denmark has nevertheless maintained an active engagement in the broader discussions. UNHCR urges Denmark to continue to advocate for human rights, democracy and solutions as a foundation for building a coordinated European response and a unified European asylum and migration policy.

UNHCR encourages Denmark to consider its full participation in the common system and support the important process ahead, including on a predictable intra-EU solidarity mechanism, and fair and effective asylum procedures. In this respect, UNHCR notes that Denmark already applies certain asylum related legislative acts, such as, the Dublin Regulation III, and although falling outside the CEAS, the Eurodac Regulation 2013 and the Return Directive.

3.1. The European Commission's Pact on Migration and Asylum

The European Commission's Pact on Migration and Asylum and the new legislative cycle provide new opportunities to forge common ground among Member States on evolving issues of asylum and migration, in line with the Global Compact on Refugees and the Global Compact for Migration. UNHCR considers that a comprehensive approach to addressing the internal and external aspects of asylum and migration policies would be the most effective, sustainable and humanitarian way of reaching an agreement among Member States on the reform of the CEAS, including on the issues of solidarity, protection-sensitive entry systems, a strong commitment to resettlement and complementary pathways as well as increased support to countries outside of the EU.

UNHCR welcomes the European Commission's continued support for the right to seek asylum, its rejection of pushbacks at borders and efforts to promote responsibility-sharing among its members through the Pact.³⁰ The Pact is largely in line with UNHCR's recommendations for a fair, accelerated and simplified process for border procedures and refugee status determination³¹, for sharing relocation needs, for cooperation on disembarkations³² and for an efficient system for returns.

UNHCR supports fair and efficient border procedures that adhere to international law, including EU legislation. Border procedures allow for quick identification of persons in need of international

³⁰ UNHCR, EU Pact on Migration and Asylum: Practical considerations for fair and fast border procedures and solidarity in the European Union, August 2020 <https://www.refworld.org/docid/5f8838974.html>.

³¹ UNHCR, Fair and Fast: UNHCR Discussion Paper on Accelerated and Simplified Procedures in the European Union, July 2019 <https://www.refworld.org/pdfid/5b589eef4.pdf>.

³² UNHCR and International Organization for Migration (IOM), *Proposal for a regional cooperative arrangement ensuring predictable disembarkation and subsequent processing of persons rescued-at-sea*, June 2018 <https://www.unhcr.org/partners/eu/5b35e60f4/proposal-regional-cooperative-arrangement-ensuring-predictable-disembarkation.html>.

protection, persons with specific needs or heightened vulnerabilities as well as facilitate the return of persons found not to be in need of international protection.

3.2. Externalization of asylum obligations

UNHCR is pleased that the proposed Pact on Migration and Asylum does not contain proposals on externalization. Internal EU solidarity must be accompanied by continued access for people to the EU's asylum procedures to have one's asylum application assessed – as it is demanded of countries globally in order to ensure compliance with the principle of non-refoulement.

UNHCR does not support the efforts by some countries, including Denmark, to externalize their asylum processes to third countries that are already protecting thousands of refugees.

While some of the risks may be mitigated by putting in place necessary and extensive safeguards, externalization arrangements could lead to an exposure to danger and chain *refoulement*. It would also involve a shift of protection responsibilities to non-EU countries instead of contributing to increased solidarity and responsibility-sharing within the EU as well as with States outside the EU, who are currently hosting the majority of refugees.

Measures designed, or effectively serving, to avoid responsibility or to shift, rather than share, burdens run counter to the 1951 Refugee Convention as well as the Global Compact on Refugees. Externalization measures have been strongly opposed at various levels, including by the UN High Commissioner for Refugees Filippo Grandi and the African Union.³³ UNHCR therefore encourages Denmark to change its focus from promotion of externalization to effective access to EU territory, including finding a long-term predictable solution for disembarkation arrangements as well as ensuring timely returns for those who are not in need of international protection.

To contribute to an effective EU protection regime, UNHCR recommends Denmark to:

- Actively support the development of a Common European Asylum System, and consider formal participation in the new common system;
- Refrain from the promotion of externalization as this presents a threat to the global asylum system, and rather strengthen the cooperation with EU member states as well as countries of transit to expand the global protection space for persons in need of international protection.

4. Danish engagement in strengthening the global commitment for protection of refugees

In the past decade, global forced displacement has increased in scale and complexity. In 2022, the total forced displacement exceeded 100 million people. Contrary to what is often portrayed, the majority of persons forced to flee from their homes stay in their own country or flee to the immediate neighboring country. Low and middle-income countries are hosting 83 per cent of the world's refugees, with the least developed countries providing asylum for one-third of the global total.

³³ UNHCR Note on the "Externalization" of International Protection, 28 May 2021 <https://www.refworld.org/docid/60b115604.html>; Annex to UNHCR Note on the "Externalization" of International Protection: Policies and practices related to the externalization of international protection, 28 May 2021 <https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=60b115b64>; News comment by UN High Commissioner for Refugees Filippo Grandi on Denmark's new law on the transfer of asylum-seekers to third countries, 3 June 2021, <https://www.unhcr.org/news/press/2021/6/60b93af64/news-comment-un-high-commissioner-refugees-filippo-grandi-denmarks-new.html>; African Union Press Statement on Denmark's Alien Act provision to Externalize Asylum procedures to third countries, 2 August 2021 <https://au.int/en/pressreleases/20210802/press-statement-denmarks-alien-act-provision-externalize-asylum-procedures>

While fewer people are crossing the sea borders to Europe, too many are still tragically losing their life at sea trying to reach safety. Pushbacks and abuses at land borders also continue, meaning many people cannot access Europe to seek protection. Meanwhile, the world's response to large-scale movements remains inadequate and underfunded, leaving many refugees with a very uncertain future.

While acknowledging the global challenges of refugee protection, UNHCR is concerned by statements made in some European countries, including Denmark, that the international refugee system is broken and not functioning. These statements, while mainly fueled by frustrations about irregular migration towards and a lack of functioning responsibility-sharing arrangements within the European continent, are tearing at the fabric of the international protection system. This in turn risks setting a spiral in motion which may unsettle the entire system and its foundations in international refugee law. If the countries which today are hosting a majority of refugees would no longer feel bound by the international refugee protection system, it could lead to a situation where refugees would have to migrate further away from their region in order to find a country willing to provide protection.

4.1. Global Compact on Refugees

The GCR recognizes the need for strengthened burden- and responsibility-sharing in the context of forced displacement and for more complementarity between the approaches of humanitarian, development and peace-building actors. The GCR, adopted in December 2018, although not legally binding, guides the international community as a whole in supporting refugees and countries and communities hosting large numbers through the mobilization of political will and a broadening of the base of support.

The GCR mandates the organization of a Global Refugee Forum every four years, as the main vehicle for follow-up and implementation of the GCR. The first Forum was convened in December 2019 and indicated a strong international commitment to come together to work in the spirit of the UN's 2030 Agenda for Sustainable Development and help refugees and their hosts to live lives in dignity. Every two years between Forums, a High-Level Officials Meeting is convened to take stock of progress and maintain momentum towards the objectives of the GCR. The first meeting took place in 2021 to shape the substance and implementation of both ongoing and future pledges, support, partnerships, and initiatives.

Denmark's recent strategy for development cooperation, "The World We Share: Denmark's strategy for development cooperation," outlines its commitment to addressing forced displacement through a development lens.³⁴ UNHCR appreciates this commitment to the GCR and encourages Denmark's continued promotion and support for the effective implementation of the GCR.³⁵

4.2. Resettlement and complementary pathways

As opportunities for voluntary repatriation and local integration of refugees in the current global landscape are increasingly limited, resettlement becomes an even more important tool for protection and for finding solutions for some of the world's most vulnerable refugees.³⁶ Intensified international efforts are critical to address the shortage of resettlement opportunities. Denmark, and other States, can demonstrate their commitment to global solidarity and responsibility-sharing with States hosting large numbers of refugees, by expanding resettlement programs and the range of legal pathways for refugees,

³⁴ Denmark Ministry of Foreign Affairs, The World We Share: Denmark's Strategy for Development Cooperation, August 2021 <https://um.dk/en/news/newsdisplaypage/?newsid=f401381f-a342-4d38aa4f-b10a312a6287>

³⁵ For further information about the Global Compact on Refugees, including pledges and contributions, see <https://globalcompactrefugees.org/index.php/>

³⁶ In Denmark, resettled refugees are referred to as "kvoteflygtninge".

which will also help to combat the business model of human smuggling and trafficking networks. Resettlement is an important way to manifest solidarity and responsibility-sharing with the main refugee-hosting countries, encouraging them to keep their borders open and to provide protection to those fleeing conflict and persecution.³⁷

UNHCR is thankful for its long-standing partnership with Denmark on resettlement. Thousands of refugees, including many women and children, have been able to find safety and restart their lives through the Danish resettlement programme. UNHCR acknowledges the Government's decision to resettle 200 refugees, currently hosted by Rwanda, under the yearly quota in 2020, 2021 and 2022.

However, UNHCR is concerned about the very restrictive resettlement criteria put forward by the Danish authorities which limits resettlement only for refugees in Rwanda and with a very specific profile. UNHCR is furthermore very concerned that resettlement in Denmark is not seen as the durable solution it is intended to be and that some refugees admitted under the Danish resettlement program have had their status reviewed and protection terminated.

With Denmark's strong, well-coordinated and successful reception and integration programmes, it is UNHCR's assessment that Denmark has the capacity to receive a larger number of refugees for resettlement. UNHCR thus appeals to Denmark to increase the quota and apply more flexible selection criteria in the years to come in order to respond to the growing global resettlement needs. UNHCR also urges Denmark to view resettlement as a durable solution, not as a temporary one, and grant resettled refugees permanent residence.

UNHCR also hopes that Denmark will consider introducing complementary pathways, including work and study visas and community-based sponsorship programs.

4.3. Denmark's political and financial support to international refugee situations

UNHCR appreciates Denmark's role in international crisis management and its commitment to multilateralism and support for the UN. Denmark's humanitarian policy supports protection of vulnerable groups in displacement, including vulnerable girls/women, survivors of sexual and gender-based violence and persons with disabilities. Denmark also plays an important role with its support for the humanitarian-development nexus, including exploring opportunities for targeting development programs in large refugee-hosting countries to meet the needs of both host communities and refugees.

Denmark is one of UNHCR's most important donors providing a significant share of its contribution as flexible and unrestricted core funding. UNHCR appreciates Denmark's continued commitment to predictable and increased levels of flexible funding to both humanitarian and development programs benefitting host communities and refugees as well as to finding humanitarian solutions and developing new innovative approaches to end displacement.

³⁷ UNHCR, The Three-Year Strategy (2019-2021) on Resettlement and Complementary Pathways, June 2019, <https://www.unhcr.org/5d15db254.pdf>.



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

UNHCR looks forward to further developing its cooperation with Denmark and working together to find solutions for refugees both in Europe and globally, through resettlement and in seeking other complementary pathways for refugees.

To enhance Danish support to refugee protection around the world, as a demonstration of responsibility-sharing and global solidarity for refugee protection, UNHCR recommends Denmark to:

- Continue to promote the Global Compact on Refugees – ensuring its effective implementation – and sustained engagement in placing protection and solutions of refugee situations at the top of the international political agenda;
- Increase gradually the Danish resettlement quota, apply flexible selection criteria and grant resettled refugees permanent residence;
- Introduce complementary pathways, including work, study visa, and community-based sponsorship programs;
- Continue commitment to increased predictable financial and flexible humanitarian and development funding to support international and local organizations as well as host countries respond to refugee situations around the world.

UNHCR Representation for the Nordic and Baltic Countries

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