

UNHCR recommendations to Norway for strengthened refugee protection in Norway, Europe and globally

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 strengthen the protection of refugees in Norway, as well as to support Norway's engagement in European and international fora where issues of refugee protection and asylum are being discussed. The recommendations are addressed to the Norwegian Government, parliamentarians and all other relevant actors and stakeholders within the Norwegian society 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 (1951 Convention). The UN General Assembly has further entrusted UNHCR with a global mandate to provide protection to stateless persons worldwide and for preventing and reducing statelessness.²

1. Introduction

For decades, Norway has made important contributions to international refugee protection – including through maintaining a well-established asylum and reception system, engaging in comprehensive integration efforts, providing substantive financial support to UNHCR's global programmes and participating in UNHCR's resettlement programme. As one of the first Contracting Parties to sign on to the 1951 Convention, Norway has a long tradition of providing sanctuary to those in need of international protection. Norway 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.

With regard to Norway's engagement on global issues, UNHCR is grateful for the strong partnership and cooperation with Norway in supporting the protection of the high number of refugees and internally displaced people around the world and the search for solutions to their plight. Norway is a very important strategic partner and donor, including of flexible and unearmarked funding, enabling UNHCR to address the critical humanitarian needs of the most vulnerable refugee populations as well as strengthening and building capacity in host countries.

UNHCR commends Norway for its leading role in placing durable solutions, gender equality, education and development interventions in regions of origin on top of the international agenda. UNHCR welcomes Norway's strong support for the Global Compact on Refugees (GCR) and the encouraging levels of progress of the implementation of the pledges made at the Global Refugee Forum in 2019.³

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, <http://www.unhcr.org/refworld/docid/3b00f31d24.html>, reiterated in subsequent resolutions.

³ UNHCR, Global Compact on Refugees, Pledges and Contributions, <https://globalcompactrefugees.org/channel/pledges-contributions>.

UNHCR appreciates that Norway, as a member of the UN Security Council in 2021–2022, plays a key leadership role in the Working Group on Children and Armed Conflict, and is actively engaged on many of the key crisis points; the recent developments in Afghanistan, the humanitarian situation in Syria as well as on the international community's response to the climate crisis and global peace and security efforts. These topics and situations are of particular importance to UNHCR and have a direct impact on refugees, internally displaced and stateless people.⁴ UNHCR sees Norway as an important and influential partner in the international dialogue and counts on Norway continuing to be at the forefront of finding durable solutions for the world's forcibly displaced people, both at home in Norway and globally.

2. Strengthening protection and integration policies in Norway

UNHCR welcomes the efforts made by Norway to develop a sustainable immigration policy and maintain contingency arrangements to be able to respond to any sudden changes in the number of asylum-seekers and refugees coming to Norway. UNHCR acknowledges that unexpected events can affect forced displacement predictions and pose significant challenges for governments, such as in 2015, when Norway had to respond to an increased number of asylum-seekers and refugees arriving in the country. However, across Europe these developments - albeit temporary in nature - led to the introduction of a series of restrictive measures by a number of countries, including Norway, which were aimed at dissuading future arrivals of asylum-seekers to their countries. With regard to Norway, UNHCR is concerned that some of the restrictive asylum policies that have been adopted in recent years have remained in place even as the situation has normalized. Since the start of the Covid-19 pandemic, Norway has seen the lowest number of asylum-seekers since the mid 1980s.

Over the past years, UNHCR has submitted observations on a range of Norwegian asylum and integration related law proposals and expressed concerns that the proposed changes fall short of the standards set out in international law, including the 1951 Convention. These measures include restrictions on access to territory;⁵ increased use of "cessation" to end protection status;⁶ temporary permits for unaccompanied children;⁷ expanded use of "internal flight alternative" to deny protection;⁸ increased use of accelerated and admissibility procedures;⁹ restrictions on family reunification;¹⁰ increased requirements to obtain permanent residence¹¹ and enhanced use of coercive measures, including administrative detention.¹²

UNHCR is convinced that it is possible for a country like Norway to maintain a fair and sustainable immigration policy, while at the same time fully adhering to the letter and spirit of the 1951 Convention and other international and regional instruments. In the same vein, national security and international

⁴ Resultater av Norges arbeid i FNs sikkerhetsråd, 13 October 2021, https://www.regjeringen.no/no/tema/utenrikssaker/fn/norge_fnsr/id2876933/.

⁵ UNHCR, Observations on the proposed amendments to the Norwegian Immigration Act and Regulation: Høring – Endringer i utlendingslovgivningen (Innstramninger II), 12 February 2016 <https://www.refworld.org/docid/56c1c6714.html>, paras 13-23.

⁶ Ibid, paras. 52-62.

⁷ Ibid, paras. 63-72.

⁸ Ibid, paras. 73-75.

⁹ UNHCR, Observations by UNHCR on the proposed amendments to the Norwegian Immigration Act to allow for detention of asylum-seekers in the 48-hours accelerated procedure, October 2015 <https://www.refworld.org/docid/581323d27.html>; UNHCR Observations on the Law Proposal "Prop. 16L (2015- 2016) Endringer i utlendingsloven (innstramninger)", Instructions GI-12/2015, GI-13/2015 and 15/7814-EST". Circular "RS 2015-013", and amendment to the "Immigration Regulation, §§ 17-18", 23.12.2015 UNHCR-brev-23-desember-2015.pdf (noas.no) para. 11.

¹⁰ Innstramninger II, paras. 76-94. UNHCR Observations on the proposed amendments to the Norwegian Immigration Act and Immigration Regulations, 5 April 2017 <https://www.refworld.org/docid/59e612984.html>.

¹¹ Innstramninger II, paras. 95-102.

¹² UNHCR, Observations on the proposed legislative amendments to Chapter 12 of the Norwegian Immigration Act on the use of coercive measures, including administrative detention of families with children, arrest, directed residence/residence restrictions and regular reporting to the authorities- public hearing/public consultation [Høringsbrev om endringer i utlendingslovens regler om tvangsmidler], February 2017 <https://www.refworld.org/docid/58a2f8084.html>.

protection for refugees are compatible goals in UNHCR's view. Restrictive border controls and enhanced coercive measures will often have limited effect on the improvement of security and tend to simply divert refugee movements along other routes, aggravate their situation, and contribute to the business of smugglers and traffickers.

Increasing xenophobia and vilification directed towards refugees pose a risk for cohesive and peaceful communities and societies. UNHCR thus welcomes Norway's efforts to build strong communities and promote integration. Ensuring that refugees are included in Norwegian life once they have arrived, through access to work, education, and social services, can prevent exclusion and marginalization that can lead to disempowerment, disenfranchisement, and in some extreme cases, radicalization. To grow and sustain this, UNHCR recommends Government and leading opinion makers to exert continued resolute leadership in de-dramatizing and de-politicizing the challenges associated with managing the arrival of asylum-seekers and refugees to Norway.¹³

2.1. Access to territory and quality asylum procedures

The legislative and policy changes in recent years in the field of border control have made access to the Norwegian territory and asylum procedures more difficult for asylum-seekers. UNHCR is concerned that the combined effect of increased use of accelerated admissibility procedures, weakened procedural safeguards and provisions for automatic rejection at the point of entry in emergency situations will place asylum-seekers and refugees at risk of refoulement and other violations of the 1951 Convention.

Norway's current legislation permits the transfer of asylum-seekers to safe countries outside Europe if they have come to Norway via this country. UNHCR is concerned that asylum-seekers can be returned without the required procedural safeguards being enshrined in the law. As a precondition to return or transfer of an asylum-seeker or refugee to another country, it has to be established that s/he will be (re)admitted and has access in that country to standards of treatment commensurate with the 1951 Convention and international human rights standards. UNHCR thus recommends the Government to ensure that Norway has a protection-sensitive border management in place which fully maintains a fair and efficient identification of persons in need of protection and provides the necessary procedural safeguards in border procedures. UNHCR would also like to emphasize the importance of in-merits procedures in lieu of admissibility considerations as the latter tend to create procedural inefficiencies and shift the responsibility onto countries outside Europe.

UNHCR has also noted an increased use in Norway of the notion of the "internal flight alternative" (IFA) to deny protection on the grounds that the applicant can find protection in another part of his/her home country. In Norway, the so called "reasonableness" requirement, that in UNHCR's view should be part of the IFA assessment, was removed from the Immigration Act in 2016. This means that an assessment no longer needs to be made as to whether it is reasonable in the specific case to reject the asylum application and refer the asylum-seeker to another part of the home country. The reasonableness test requires decision-makers to inquire whether the applicant will be able to lead a relatively normal life without facing undue hardship in the proposed place of IFA. To avoid incorrect use of the IFA concept, UNHCR recommends Norway to reinstate this criterion in its national legislation.

¹³ UNHCR, Addressing Security Concerns Without Undermining Refugee Protection - UNHCR's Perspective, 17 December 2015, Rev.2 <https://www.refworld.org/docid/5672aed34.html>.

UNHCR recommends Norway to:

1. Ensure that all asylum-seekers and refugees have effective access to territory and to fair and efficient asylum procedures by providing minimum procedural safeguards and protection from refoulement;
2. Reinstatement of the reasonableness criterion as part of the assessment of whether an internal flight alternative is available to the applicant.

2.2. Status of beneficiaries of international protection

UNHCR appreciates that Norway has maintained a uniform status for those in need of protection. In UNHCR's experience, beneficiaries of international protection, whether under the 1951 Convention or subsidiary forms of protection, have the same protection needs and face the same integration opportunities and challenges, as well as similar return prospects. In practice, beneficiaries of subsidiary protection are generally not able to return home earlier than refugees.

UNHCR thus recommends that the same protection and rights, including the length and type of permit, are granted to all beneficiaries of protection, to avoid discrimination and ensure equal treatment. UNHCR considers family reunification to be equally important for beneficiaries of subsidiary protection as it is for 1951 Convention refugees (see further below at 2.6).

UNHCR recommends Norway to:

1. Maintain the practice of granting "Convention status", rather than subsidiary protection, to the vast majority of those receiving positive asylum application decisions.
2. Maintain equal rights for both categories, including to family reunification.

2.3. Protection of children

The significant increase in the number of unaccompanied and separated children since 2015 in Norway and other European countries revealed shortcomings in the national reception systems and raised concerns over the protection and well-being of the children.¹⁴ UNHCR thus highly appreciates the measures taken by Norway to improve the conditions in the reception centers for children and other asylum-seekers.

Unaccompanied children between the ages of 15 and 18 years, however, still lack specialized child facilities and services in Norway. UNHCR thus recommends amending existing national legislation to extend the responsibility of the Child Welfare Services to all children under 18 years in order to ensure that all unaccompanied children are given access to child-friendly reception conditions and that the special protection and assistance needs of vulnerable children and youth are adequately addressed across the country.

UNHCR welcomes the reference in the Government platform for 2021-2025 to refugee children and that Norway shall be a driving force in safeguarding their rights. UNHCR agrees that children's asylum

¹⁴ A total of 6,462 UASC were registered in Norway in the period of 2015-2018. See also, UNHCR, This is our view: the voices of unaccompanied Afghan children in Norway, November 2017 <https://www.refworld.org/docid/5a7ac9cc4.html>; Committee against Torture Concluding Observations on Norway, 2018 [Treaty bodies Download \(ohchr.org\)](https://www.refworld.org/docid/5a7ac9cc4.html); Human Rights Committee Concluding Observations on Norway, 2018 [Treaty bodies Download \(ohchr.org\)](https://www.refworld.org/docid/5a7ac9cc4.html).

claims should be processed on a priority basis as they often will have special protection and assistance needs.¹⁵ It is important, however, to bear in mind that children will require sufficient time to reflect on their experiences, to build trusting relationships and to feel safe and secure in order to render their accounts. UNHCR recommends Norway to develop practical guidance on the operationalization of the principle of the best interests of the child in asylum, expulsion and family reunification cases.¹⁶

UNHCR recommends Norway to ensure:

1. Full implementation in practice of the principle of the best interests of the child as it applies to children in the asylum process; and
2. Child-friendly reception conditions and support for all children through extending the responsibility of the Child Welfare Services to all children up to the age of 18 age.

2.4. Cessation of protection

UNHCR acknowledges the possibility of using the “ceased circumstances” cessation clauses of the 1951 Convention in situations where due to a change of circumstances in their home country refugees no longer require international protection. The use of the cessation clauses to end refugees’ protection in the country has increased in Norway in recent years. A review of the protection needs of refugees is now mandatory prior to possible conversion of the temporary permit into permanent residency. Some refugees have had their protection terminated even in situations when the change only applied to part of their home country.

Because of the potential grave consequences for the refugee concerned, UNHCR recommends that cessation provisions are used cautiously and restrictively with the necessary legal standards and procedural safeguards in place. Refugees and other beneficiaries of international protection should not be compelled to return to a still volatile situation in their country of origin so the cessation clauses should only be resorted to in situations where the changes in the country are of a *fundamental* and *durable* nature.¹⁷ This means that protection cannot be terminated based on an improvement in the home country that is only local or confined to a particular city or town or other smaller area. Also, changes in

¹⁵ In UNHCR’s view, priority processing means reduced waiting periods at each stage of the asylum procedure, including as regards the issuance of a decision on the claim. See further, UNHCR, Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, 22 December 2009, HCR/GIP/09/08 <https://www.refworld.org/docid/4b2f4f6d2.html>.

¹⁶ UNHCR Submission on Norway: 33rd UPR Session, May 2019 <https://www.refworld.org/docid/5ccaccc17.html>; The Internal Flight Alternative in Norway, Jessica Schultz, November 2017 Studie: “The Internal Flight Alternative in Norway” – [UNHCR Norge](#); Barnets Beste i Utvisningssaker (Child’s best interests in expulsion cases), NOAS, December 2020 [NOAS Barnets-beste_rapport_WEB.pdf](#); NOAS report “Realizing Refugees’ Right to Family Reunification – The challenges for family reunification in Norway, Sweden and Denmark”, November 2019 [Realizing Refugees Right to Family Unity.pdf](#) ([noas.no](#)); Committee on the Rights of the Child, Concluding Observations on Norway, 2018 [Treaty bodies Download](#) ([ohchr.org](#)).

¹⁷ See further, UNHCR, Guidelines on International Protection No. 3: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees (the “Ceased Circumstances” Clauses), 10 February 2003, HCR/GIP/03/03 <https://www.refworld.org/docid/3e50de6b4.html>. Para. 17 notes with regard to partial cessation: “The 1951 Convention does not preclude cessation declarations for distinct sub-groups of a general refugee population from a specific country, for instance, for refugees fleeing a particular regime but not for those fleeing after that regime was deposed. In contrast, changes in the refugee’s country of origin affecting only part of the territory should not, in principle, lead to cessation of refugee status. Refugee status can only come to an end if the basis for persecution is removed without the precondition that the refugee has to return to specific safe parts of the country in order to be free from persecution. Also, not being able to move or to establish oneself freely in the country of origin would indicate that the changes have not been fundamental.”

the personal circumstances of the refugee cannot be considered in isolation but need to be holistically looked at together with a careful assessment of the situation in the country of origin as a whole.¹⁸

In UNHCR's view, regular reviews of the need for protection with the objective of ending refugee status can create considerable uncertainty, make it difficult for a refugee to focus on the longer-term future and are not conducive to integration. Research has shown that uncertainty of the duration of status has a range of negative short- and long-term consequences for the individual where integration is put on hold or reversed.¹⁹ The impact of cessation could also lead to adverse physical and mental symptoms, as well as loss of access to work, housing, education, social support, and social contact.

UNHCR recommends Norway to:

1. Refrain from mandatory periodic review of the protection needs of refugees;
2. Align the standards and practice for the loss of refugee protection with the requirements of Article 1 C (5) and 1 C (6) of the 1951 Convention.

2.5. Integration

The importance of effective integration has been underlined by both the Norwegian Government, parliamentarians and all other relevant actors and stakeholders 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 GCR. 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.

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. The Executive Committee of the High Commissioner's Programme (ExCom)²⁰ 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.²¹ Anything else would be detrimental to refugees' sense of security, which international protection is intended to provide.

While UNHCR welcomes the many positive steps taken by Norway in the area of integration, UNHCR remains concerned over the increased requirements for obtaining permanent residency and

¹⁸ UNHCR, Amicus curiae of the UNHCR in case number UM 2839-20, X against the Migration Agency before the Migration Court of Appeal (Kammarrätten i Stockholm, Migrationsöverdomstolen), 21 September 2020 <https://www.refworld.org/docid/5fa50ed84.html>.

¹⁹ NOAS, Save the Children and Norwegian Union of Social Educators and Social Workers (FO), Norges bruk av opphør av flyktningstatus, Et liv i usikkerhet, August 2018, https://www.noas.no/wp-content/uploads/2019/04/Et_liv_i_usikkerhet_inkl_vedlegg.pdf; Jan-Paul Brekke, Simon Roland Birkvad, and Marta Bivand Erdal, Losing the Right to Stay, Revocation of immigrant residence permits and citizenship in Norway: Experiences and effects, 2019 https://samfunnsforskning.brage.unit.no/samfunnsforskning-xmlui/bitstream/handle/11250/2599967/Rapport_9_19_Losing_the_right_to_stay_Web.pdf?sequence=1&isAllowed=y.

²⁰ 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>.

²¹ 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>.

naturalisation which have been introduced in recent years. In UNHCR's experience, the combined requirements of years of residency and language skills are difficult for many refugees to meet. Some flexibility is required as there may be individuals with specific learning needs, and, while not specific to refugees, stringent language and civic orientation tests may penalize certain categories of refugees, in particular older or illiterate persons. The temporary nature of their legal status and restrictions on the right to bring their family members also risk having a demotivating effect on integration.

UNHCR recommends Norway to:

1. Revisit the current requirements for permanent residency and naturalisation, including the economic, language and other requirements;
2. Retain a stable and secure status for beneficiaries of international protection.

2.6. Family reunification

UNHCR strongly believes that a supported and well-managed access to family reunification enables many women and children to safely access protection. It is well known that the urge to reunite with family members is a key driver of irregular onward movements, which speaks to the need for effective family reunification arrangements. Constant worry about one's family who stayed behind has significant impact on the mental health of refugees in their everyday life and hampers integration efforts. Family reunification is thus 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.

During the past years, many restrictive changes have been introduced in Norway with respect to the legal framework on family reunification, gradually making it more difficult for refugees to reunite with their families. As a result, the Norwegian procedures for family reunification are amongst the most expensive and restrictive among the Nordic countries.²² While actions around family reunification really should be anchored in a family-centred approach with a focus on the well-being and support given to parents and their children for a fast and effective way of ensuring that reunification can take place safely, UNHCR regrettably sees that the rules around family reunification seem to have been caught up in the basket of restrictive measures and developed to be used as part of a policy to dissuade asylum-seekers from seeking asylum in Norway.²³

While welcoming Norway's reduction in 2020 of the application fee for family reunification from 10,500 to 7,800 NOK for refugees with a temporary residence permit, UNHCR remains concerned that the fee is still quite high. UNHCR is also concerned that the concept of family has been defined in a limited way and that the discretionary possibility to grant family reunification to family members beyond the nuclear family is interpreted very restrictively. In UNHCR's view, it is important that there is scope to grant family reunification to other close family members beyond the nuclear family where there is social, emotional

²² NOAS, "Realizing Refugees' Right to Family Reunification – The challenges for family reunification in Norway, Sweden and Denmark", November 2019, [Realizing_Refugees_Right_to_Family_Unity.pdf](#) (noas.no).

²³ The adopted measures include high application fees, a stringent supporting requirement and, most recently, the introduction of specific eligibility criteria for family re(union) depending on whether the refugee families were established post- or pre-flight.

or economic dependency - in line international and regional jurisprudence as well as commitments under the GCR to make available and expand family reunification.²⁴

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 Norwegian Embassies in person. UNHCR thus recommends Norway to make it possible to appear before a Nordic Embassy or a Norwegian Consulate for verification and for the issuance of travel documents. This will minimize the practical obstacles faced by many family members granted family reunification, but who find themselves in a country without a Norwegian representation.

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

1. Applying flexible and humane criteria for family reunification and allow other dependents beyond the nuclear family to reunite with refugee family members;
2. Further reducing administrative processing fees, lowering the supporting requirement, and extending application deadlines;
3. Revising and concluding new agreements with various consular authorities to facilitate the issuance of visas and travel documents.

2.7. Statelessness

As a party to both statelessness Conventions for over four decades, Norway has contributed to the identification and protection of stateless people as well as the prevention and reduction of statelessness. While the Conventions have been incorporated into Norwegian law, UNHCR notes that not all provisions have been expressly adopted.²⁵ As flagged in a study in 2020, the legal situation for stateless persons in Norway has largely remained unchanged during the past five years since UNHCR published its mapping of the situation of stateless persons in Norway in 2015.²⁶ While UNHCR acknowledges the view that citizenship should not be easily obtained and the need for strict conditions for citizenship to ensure that new citizens are active participants in society, it is important to remember that stateless people are among the most vulnerable individuals in the world and that without the necessary steps and solutions, they have no access to the protection and rights they are entitled to under international law.

UNHCR is concerned that the lack of a clear legal and institutional framework to address statelessness hinders Norway from identifying and registering stateless persons. Several UN treaty bodies have also pointed to these gaps and recommended Norway to provide in national law a specific definition of statelessness and procedure to determine statelessness.²⁷ UNHCR is thus very pleased to note Norway's commitment in response to the Universal Periodic Review in 2019 to consider incorporating into domestic law the definition of a stateless person and establishing a statelessness determination

²⁴ For an overview of the concept of family in international and regional law and practice, see UNHCR, *The Right to Family Life and Family Unity of Refugees and Others in Need of International Protection and the Family Definition Applied*, January 2018, 2nd edition <https://www.refworld.org/docid/5a9029f04.html>, Chapter 3. See also, UN General Assembly, New York Declaration for Refugees and Migrants: resolution / adopted by the General Assembly, 3 October 2016, A/RES/71/1: <http://www.refworld.org/docid/57ceb74a4.html> Annex 1, Comprehensive Refugee Response Framework, para. 14.

²⁵ UNHCR, *Mapping Statelessness in Norway*, October 2015 <https://www.refworld.org/docid/5653140d4.html>.

²⁶ NOAS, *Statsløse i norsk rettspraksis, En analyse av statsløses stilling i Norge fem år etter FNs høykommissær for flyktningers kartlegging*, November 2020 https://www.noas.no/wp-content/uploads/2020/11/NOAS_Stats%C3%B8se-i-norsk-rettspraksis_WEB.pdf.

²⁷ Committee on the Rights of the Child Concluding Observations on Norway, 2018 [Treaty bodies Download \(ohchr.org\)](#); Human Rights Committee Concluding Observations on Norway, 2018 [Treaty bodies Download \(ohchr.org\)](#); Committee on the Elimination of all Forms of Discrimination against Women, 2017 [Treaty bodies Download \(ohchr.org\)](#).

procedure.²⁸ In this connection, UNHCR wishes to reiterate its earlier recommendation to introduce statelessness as a ground for residence permit, to facilitate the enjoyment of stateless persons of the core protections of the 1954 Convention.

Norway also has an obligation under international law to prevent childhood statelessness.²⁹ UNHCR thus welcomes that Norway has introduced the possibility for children who are born stateless in Norway to obtain Norwegian citizenship through application after three consecutive years in Norway, regardless of their legal or residence status. UNHCR recommends that these provisions be anchored in law rather than just in the form of an instruction, as well as to introduce in law provisions for automatic citizenship to stateless children born in the territory as the safest way to avoid childhood statelessness.

UNHCR recommends Norway to continue its efforts towards the elimination of statelessness by:

1. Introducing in national law a definition of “stateless person”;
2. Establishing a procedure for the determination of persons as stateless;
3. Introducing a ground for residence permit in Norway based on statelessness;
4. Incorporating in law the possibility for children born stateless in Norway to obtain Norwegian citizenship through application, as well as automatic citizenship to stateless children born in Norway.

3. Norwegian engagement to support and strengthen regional initiatives

UNHCR recognizes the Norwegian Government’s important role at the European level as an advocate for greater solidarity and a joint and fair solution to Europe’s asylum and migration situation. While as a non-EU Member State, Norway does not take part in the Common European Asylum System (CEAS), UNHCR appreciates Norway’s support to EU efforts to find good solutions to common challenges relating to migration.

Norway maintains formal ties to the EU through the Dublin and Schengen Cooperation Agreements. Moreover, as a corollary to its Schengen membership, Norway applies and is bound by Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (Dublin III Regulation). Further, Norway also applies Council Regulation (EC) No 2725/2000 concerning the establishment of Eurodac for the comparison of fingerprints.

In the context of the European refugee situation, UNHCR has repeatedly called on States to demonstrate the principles of international solidarity and responsibility sharing. UNHCR highly appreciates the commitment of a number of European States, including Norway, to help unaccompanied children and other particularly vulnerable individuals in Greece and other front-line countries through relocation and reunion with family members elsewhere in the Europe. European solidarity is still needed to address situations of severe overcrowding and dismal living conditions and to ensure the safety of the most vulnerable asylum-seekers and refugees. UNHCR would like to encourage Norway to continue its engagement with these EU efforts and commit to additional relocation and reception of unaccompanied children and other very vulnerable refugees, as a concrete and tangible measure of solidarity and responsibility sharing in Europe.

²⁸ UNHCR, Submission on Norway: 33rd UPR Session, May 2019 <https://www.refworld.org/docid/5ccaccc17.html>.

²⁹ UNICEF and UNHCR, Observations on the proposed amendments to the Norwegian Nationality Act and Nationality Regulations, 18 October 2017 <https://www.refworld.org/docid/5b4cba894.html>.

The asylum system in the EU has increasingly faced challenges over the past years and it is more important than ever to find common ground and solutions. As negotiations on the CEAS are continuing and as basic principles of international protection are called into question, Norway can show the way for Europe and be a voice of reason in upholding a fair and protection principled asylum system. This includes 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. UNHCR has in the same context called for the creation of credible complementary pathways as legal alternatives to undertaking dangerous irregular movements; such alternatives may include enhanced resettlement opportunities, humanitarian admission programmes, facilitate greater access to family reunion options, student and employment visas for refugees and other forms of legal admission to Europe.

UNHCR is also concerned about the efforts by some European States to move the processing of asylum applications and the protection of refugees to countries outside of Europe. UNHCR urges States not to externalize their asylum and protection obligations as such practices jeopardize the safety of those in need of international protection, shift asylum responsibilities elsewhere and evades international obligations.³⁰ UNHCR also believes that externalization arrangements run counter to the spirit of the GCR under which 181 countries, including Norway, agreed to share equitably the responsibility for refugee protection.

The spirit of European solidarity needs to be accompanied by measures which ensure continued access for persons seeking protection to the national asylum procedures within the EU – not national, unilateral measures which, in effect, deny access to territory to claim asylum at a country's borders and abdicate responsibility to others. UNHCR thus calls on Norway to refrain from taking the path of externalization and speak up against any such approaches. Moreover, any admissibility procedures or arrangements between Norway and safe "first" or "third" countries need to be premised on the notion of solidarity and responsibility-sharing and should not shift Norway's obligations under the 1951 Convention on to other countries.³¹

UNHCR recommends Norway to:

1. Continue the relocation of asylum-seekers eligible under the EU's emergency relocation scheme to ease the humanitarian situation in other Member States and improve the lives of vulnerable asylum-seekers and refugees;
2. Prevent the externalization of asylum obligations to third countries outside Europe.

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

With more than 82 million people displaced globally as of end of 2020, the world is facing major global challenges that no State can solve alone. People who have been forcibly displaced or who are stateless have been among the hardest-hit groups of society by the Covid-19 pandemic, facing increased food and economic insecurity as well as challenges to access health and protection services. Climate change is also driving displacement and increasing the vulnerability of those already forced to flee.³² UNHCR thus

³⁰ UNHCR, Note on the "Externalization" of International Protection, 28 May 2021 <https://www.refworld.org/docid/60b115604.html>.

³¹ UNHCR, Practical considerations for fair and fast border procedures and solidarity in the European Union, 15 October 2020, <https://www.refworld.org/docid/5f8838974.html>.

³² UNHCR, Global Trends, Forced displacement in 2020 <https://www.unhcr.org/flagship-reports/globaltrends/>.

appreciates that a key goal for Norway over the coming years is to support binding international cooperation and the multilateral system to respond to global displacement.

4.1. Global Compact on Refugees

UNHCR appreciates Norway's active role in developing the GCR, which aims to improve responsibility-sharing for the protection of and assistance to refugees and which the UN General Assembly gave its support with an overwhelming majority in 2018. Although not legally binding, it guides the international community as a whole in supporting refugees and countries and communities hosting large numbers through the mobilization of political will, a broadening of the base of support, and the activation of arrangements for more equitable and predictable burden- and responsibility-sharing.

As global displacement continues to increase, it is usually low- and middle-income countries that shoulder much of the responsibility for refugees. Meanwhile, the world's response has remained inadequate and under-funded, leaving refugees with an uncertain future. To secure the continued successful implementation of the GCR, UNHCR thus hopes that Norway will further enhance its commitment to establish a stronger refugee governance architecture by making concrete pledges of support such as financial, material, and technical assistance; changes to national policies, laws, and practices; or the creation or expansion of programmes to ensure a more predictable and equitable international response to large refugee situations and meet the goals of the GCR.

4.2. Resettlement and complementary pathways for admission

UNHCR has a long-standing partnership with Norway on resettlement – which UNHCR views as a critical lifeline for some of the most vulnerable people on the planet. Thousands of refugees, including many women and children, have been able to find safety and restart their lives through the Norwegian resettlement programme. Resettlement is also an important Norwegian contribution to responsibility sharing with the major refugee hosting countries.

Against the backdrop of continuing high resettlement needs, UNHCR recommends Norway to deepen its commitment to global solidarity and responsibility-sharing by expanding both access to resettlement and complementary pathways for admission to disrupt the business model of human smuggling and trafficking networks. If Norway could prioritize the allocation of a gradual increase in the number of resettlement places from the current 3000 to 5000 places yearly, this would not only be a way to demonstrate solidarity with frontline States and regions hosting the largest number of refugees but also a safe and fair scheme for ensuring the reception of refugees in need of protection, in particular at times of a low number of spontaneous arrivals to Norway.³³

In the unanimously adopted New York Declaration for Refugees and Migrants of 2016, Norway and other UN Member States indeed expressed their intention to “expand the number and range of legal pathways available for refugees to be admitted to or resettled in third countries”.³⁴ As part of a comprehensive response, UNHCR recommends States, including Norway, to identify and implement such complementary pathways, including for education and work purposes.

³³ In a letter to Prime Minister Solberg in 2017, UNHCR recommended Norway to commit to a gradual increase of the yearly resettlement quota to 5000 places.

³⁴ New York Declaration for Refugees and Migrants, paras. 77-81, <https://www.unhcr.org/new-york-declaration-for-refugees-and-migrants.html>.

4.3. The 1951 Convention – as relevant as ever before

The 70th anniversary of 1951 Convention in 2021 serves as a reminder of the international community's determination to build a better world and is an opportunity to revitalise our commitment to that ideal. Unfortunately, the relevance of the Convention and its ability to meet the displacement challenges of today's world has increasingly been questioned - in Norway and in other countries. In UNHCR's view, the Convention remains as relevant today as it was when it was drafted and agreed, including in the context of contemporary and unprecedented challenges and emergencies – such as the COVID-19 pandemic. The continued relevance of the 1951 Convention was also expressed in the GCR. The international community thus needs to uphold the key principles of refugee protection, including the right to seek asylum and of someone fleeing persecution to not be sent back into the path of harm or danger – the principle of non-refoulement.

In view of UNHCR's special legal authority and accumulated experience over the past 70 years as the world's mandated organisation for the protection of the forcibly displaced, UNHCR is concerned that its views and positions on refugee law matters are dismissed as non-binding and not taken properly into account in legislative and judicial processes in Norway. UNHCR would thus like to recall Norway's obligation as a State party to the 1951 Convention to cooperate with UNHCR in its supervisory functions, an obligation explicitly incorporated in the Norwegian Immigration Act. Additionally, some Governments, including Norway, have expressed that UNHCR's positions go beyond States' obligations according to public international law and refugee law. UNHCR thus wishes to emphasise that UNHCR's positions are reflective of States' sense of legal obligation towards asylum-seekers and refugees and are based on extensive research, including of international, regional and national law and jurisprudence and stakeholder consultations.³⁵

UNHCR recommends Norway to:

1. Commit to a gradual increase of the resettlement quota to 5000 places yearly as a demonstration of responsibility sharing and global solidarity for refugee protection;
2. Renew efforts to identify and implement alternative pathways for admission to meet the needs identified by the UNHCR;
3. Continue the commitment to increase predictable financial and flexible support from both humanitarian and development funding sources to support international and local organization as well as host countries to respond to refugee situations around the world;
4. Refrain from undermining the relevance of the 1951 Convention and uphold the spirit of the Global Compact on Refugees;
5. Abide by the obligation to cooperate with UNHCR in the exercise of its mandated supervisory role for the 1951 Convention.

UNHCR Representation for the Nordic and Baltic Countries

November 2021

³⁵ Various jurisdictions have found UNHCR's Handbook and Guidelines a persuasive source of expertise which can aid the interpretation and application of the provisions of the 1951 Convention that are ambiguous or unclear, and which should be given due weight. UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, April 2019, HCR/1P/4/ENG/REV. 4 <https://www.refworld.org/docid/5cb474b27.html>.