

# **Draft Bill on Refugee Status Determination and Treatment of Refugees and Others**

## **Proposal**

The Republic of Korea signed the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees in December 1992, and regulates refugee issues according to the Immigration Control Act. However, only less than 2,000 people applied for refugee status for the past 15 years and less than 100 people have been eventually recognized as refugees. The Republic of Korea, as a signatory of both the Convention and the Protocol, is not fully complying with its international responsibility in refugee protection in accepting refugees.

Problems regarding speed, credibility and fairness of the refugee status determination procedures have been continuously raised; nearly 1,000 refugee status applicants have not even received first instance decisions.

Moreover, there are no means available for refugee status applicants to sustain very basic living standards and recognized refugees and even persons with refugee status cannot fully enjoy the rights under the 1951 Convention.

Therefore, the new “Act on Refugee Status Determination and Treatment of Refugees and others” is hoped to catalyze better compliance of domestic laws with international human rights standards and provide fundamental protection mechanism for refugees by specifying refugee status determination procedures and treatment of refugees and others, whereby the Republic of Korea would be able to build foundations on becoming a model country in human rights issues.

## **Main Issues of “Refugee Act”**

1. Supports full implementation of refugee protection according to the international law system by clearly defining relevant terms such as ‘refugee’, ‘refugee status applicants’ and ‘persons with humanitarian. (Article 2)
2. Upholds non-refoulement principle without exception based on the international law. (Article 3)
3. Specifies residence status of refugee applicants; access to information is strengthened as well. (Article 5)
4. Articulates refugee status application procedures at ports of entry as to prevent arbitrary denial of application by discretionary actions. (Article 6)
5. Provides time limit on decision making period and stipulates procedural guarantees regarding interview, factual investigation, cooperation by related organizations,

- access to legal assistance, participation of UNHCR, interpretation, confirmation of interview report, right to access and copy relevant documents, and confidentiality.
6. Stipulates burden of proof and lower standard of proof due to special characteristics of refugees. Reflects the general agreement that the standard of proof required in refugee status determination is “reasonable possibility” which is far less than the balance of probabilities for civil litigation matters. (Article 9)
  7. Sets restriction on detention period of refugee status applicants; guarantees procedural measures such as oral deposition at appeal level.
  8. Ensures the procedures to determine humanitarian status to follow principles of refugee status determination. (Article 27)
  9. By stipulating resettled refugees, grant overseas refugees possibility to resettle in the ROK. (Article 28)
  10. Establishes “Refugee Committee”, an independent committee dealing with issues on refugee policy and appeals on refugee status decision. (Article 29)
  11. Rights stipulated in the 1951 Convention relating to the Status of Refugees shall be the minimum standard guaranteed by the domestic legislation concerning refugees. (Article 36)
  12. By stipulating the principle of family unity, which does not have any legal basis in current domestic legislation, attains firm legal basis. (Article 44)
  13. Persons with humanitarian status could be treated in the same manner with refugees except for matters related to entry/exit. (Article 47)
  14. For refugee applicants, minimum living expense is provided and after a period of time, work permit could be issued exceptionally. (Article 48)

## **Chapter 1. General Provisions**

### **Article 1. (Objectives)**

This law aims at stipulating determination of refugee status and humanitarian status; and treatment of refugees, persons with humanitarian status and refugee status applicants, in pursuant to international human rights instruments such as the 1951 Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees.

### **Article 2. (Definitions)**

Definitions of the terms in this law are as follows:

1. “refugees and other persons” refers to any person with refugee status, humanitarian status and who applied for refugee status.
2. a “refugee” refers to any person who has 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/her nationality or citizenship (abbreviated to “country of nationality” below) and is unable or, owing to such fear, is unwilling to avail him/herself of the protection of that country; or who, not having a nationality and being outside the country of his/her former residence (abbreviated to “country of residence” below) as a result of such events, is unable or, owing to such fear, is unwilling to return to it.
3. a “humanitarian status holder” refers to a status of a person who does not meet the criteria of a “refugee”, but owing to inhumane treatment or punishment, or other situations that seriously harm public safety such as violence, aggression, domestic disputes, mass human rights violation, and torture, is unwilling to avail him/herself of the protection of country of nationality; or who, not having a nationality and being outside the country of his/her former residence, is unable or unwilling to return to it.
4. a “refugee status applicant” refers to a person who, being a foreigner or a stateless person, filed the refugee status application and whose claim is being examined under the process of refugee status determination procedure; a person who has not expired the period given to file an appeal after whose refugee application or appeal application was denied; a person who is in the process of appeal at the court; or a person who has not been given the final decision from the appeal suit.
5. a “resettled refugee” refers to a person who is allowed to resettle in the Republic of Korea among overseas refugees.
6. a “foreigner” refers to any person who does not have the nationality of the Republic of Korea, that is, a person with a foreign nationality or a stateless person.
7. a “country of origin” refers to the country of nationality for the person with a foreign nationality and the country of residence for the stateless person.

### **Article 3. (Non-Refoulement)**

Refugees and other persons shall not be repatriated to the following countries:

1. a country where a person's life or freedom could be threatened for reasons of race, religion, nationality, membership of a particular social group or political opinion.
2. a country where a person could be subjected to torture, inhumane treatment, punishment or other similar treatment articulated by the conventions or treaties that the Republic of Korea has ratified.
3. a country where a person has the possibility of being repatriated to a third country under the situations referred to in Clause 1 and 2.

#### **Article 4. (Laws)**

Regarding the aspects of the status and treatment of refugees, not specifically stipulated under this law, regulations under the Immigration Control Act shall be followed.

## **Chapter 2. Refugee Status Determination Procedures**

#### **Article 5. (Refugee Status Application)**

- (1) A foreigner in the territory of the Republic of Korea, willing to attain refugee status, shall apply for refugee status to Minister of Justice. A foreigner willing to attain refugee status should submit his/her refugee status application attached with documentary evidence and two pictures to Chief of Immigration Office, Immigration Branch Office or Immigration Processing Center.
- (2) When applying in pursuant to Section(1), the applicant should provide one of the following documents:
  1. Passport or Certificate of Alien Registration. If these documents not available, written statement explaining the reasons.
  2. Documents regarding the refugee status determination, if existent.
- (3) Immigration officer shall fully support any person requesting information on or expressing showing intention to undergo refugee status application procedure.
- (4) When a person applies refugee status as provided in Section (1), Minister of Justice shall issue a certificate accordingly, confirming the person is in the process of refugee status determination.
- (5) A refugee status applicant can legally stay in the Republic of Korea, regardless of his/her status and possession thereof, regulated by the Immigration Control Act, until the decision on his/her refugee status recognition is made (including if an appeal has been lodged after denial of his/her refugee status application, until the proceeding is concluded)

#### **Article 6. (Refugee Status Application at Ports of Entry)**

- (1) A foreigner may apply for refugee status at ports of entry or the border prior to undergoing the immigration procedure, despite regulations under the Immigration Control Act.
- (2) A person, who applied for refugee status at ports of entry or the border, shall be allowed to stay at the port or airport until he receives first instance decision on his/her application.
- (3) Minister of Justice should make decision within 4 weeks and if not, the applicant shall be allowed to enter, and issued permit for temporary stay in the Republic of Korea. The applicant's case shall be processed according to ordinary refugee status determination procedure.
- (4) Refugee status applicant at ports of entry or the border should be provided with food, accommodation, and clothing, during the time period specified under Section (2).
- (5) Refugee status determination procedure at ports of entry or the border should follow the ordinary refugee status determination procedure, except for limitation on time and location specified in this Article.

**Article 7. (Notice of the Details on Refugee Status Determination Procedure)**

- (1) Minister of Justice shall post notice(including notice on the internet website) or provide handbook fully describing documents, offices responsible for accepting application, time period for decision making, decision making procedure (including procedural guarantees), decision making standards, and other facts relating to refugee status determination at Immigration Offices, Immigration Branch Offices, Immigration Processing Center, Ports, Airports, and border areas.
- (2) The notice referred to in Section (1) should be made in languages understood by foreigners. The notice should be made in Korean, English, Chinese and other languages designated by presidential decree. When a foreigner does not fully understand the content of the notice, proper explanation shall be provided by translation or other appropriate measures.

**Article 8. (Assessment of the Claim)**

- (1) When an application referred to in Article 5 is submitted, Chief of Immigration Office, Immigration Branch Office or Immigration Processing Center shall immediately have immigration officers interview the applicant, perform factual investigation, and deliver the report to Minister of Justice. If requested by applicants, interviews shall be conducted by the officers of the same sex.
- (2) When the report referred in Section (1) delivered, Minister of Justice decides whether the applicant has reasonable cause in applying for refugee status on the basis of assessment made by refugee officers from Nationality and Refugee Team of Korea Immigration Service.

- (3) A refugee officer from Nationality and Refugee Team of Korea Immigration Service, Ministry of Justice is responsible for assessment of refugee status applications; gathering and managing information regarding refugee status determination standards and procedures, facts regarding countries of origin and other regional information; and training immigration officers.

**Article 9. (Burden and Standard of Proof)**

A refugee applicant assumes the burden of proof. He/she shall not be denied of refugee status recognition on the grounds of absence of supporting evidence, unless there are substantial reasons why his/her testimony is suspected to be false.

**Article 10. (Factual Investigation)**

- (1) Minister of Justice shall have refugee officers from Korea Immigration Service, Immigration Office, Immigration Branch Office or Immigration Processing Center, perform factual investigation in making decisions on refugee status determination according to Article 4 and cancellation according to Article 23.
- (2) When needed in pursuant to Section (1), the applicant or other related persons shall be requested to present, be investigated and submit relevant materials.
- (3) On completing factual investigation by refugee officers, the Head of the Nationality and Refugee Team of Korea Immigration Service, Chief of Immigration Office, Immigration Branch Office and Immigration Processing Center should report to Minister of Justice without delay.

**Article 11. (Cooperation by Related Organizations)**

- (1) When pursuing investigation for refugee status recognition and such referred to in Article 10 Section (1), immigration officers can request support from other related organizations in ways such as submission of materials or verification of facts.
- (2) When request for cooperation according to Section (1) is made, requested organizations should not decline without any reasonable ground.

**Article 12. (Right to Legal Assistance)**

- (1) A refugee status applicant has the right to be assisted by a lawyer.
- (2) When a refugee is unable to be assisted by a lawyer due to financial or other reasons, he/she shall be able to ask one to be appointed at the cost borne by the government.

**Article 13. (Participation by a Reliant Companion)**

When requested by a refugee applicant, Minister of Justice should allow presence of a reliant companion, except for in unavoidable situations such as concerns with interference of the interview.

**Article 14. (Interpretation)**

- (1) When a refugee status applicant cannot fluently communicate in Korean, Minister of Justice should provide in the course of the application procedure, such as during interviews, by an interpreter who meets the qualification as prescribed in presidential decree.
- (2) A refugee applicant shall be allowed to designate an interpreter at his/her own expense.

**Article 15. (Confirmation of Written Record of Interview)**

On completing the interview, refugee officers should enable the refugee applicant to understand and confirm the interview report in a language understood by the applicant by providing translation if he/she cannot read the written record of interview in Korean.

**Article 16. (Right to Read and Copy Relevant Materials)**

- (1) A refugee applicant can read and copy relevant materials such as documentary evidence submitted by the applicant to Minister of Justice, interview record, unclassified information on country of origin or the region held by the Minister, and documents from factual investigation.
- (2) If a refugee applicant requests to read and copy relevant documents, immigration officer shall immediately respond to it.

**Article 17. (Confidentiality)**

- (1) Any civil servant involved in refugee status determination procedure shall not release nor disclose to others personal details or photos of refugee applicants; reliant companions participating in interview referred to in Article 13; address, name, age, occupation, or appearance of the lawyer; and any other information that may specify the applicant's identity.
- (2) No individual is allowed to disclose information referred to in Section (1) through publication, broadcasting and other means of communication, unless permitted by the person whom the information belongs to.
- (3) Any information on refugee status applicants shall not be provided to their country of origin.

**Article 18. (Recognition of Refugee Status)**

- (1) When Minister of Justice acknowledges that an application for refugee status has reasonable grounds, he/she should decide to recognize the applicant as a refugee; and issue the Certificate of Refugee Recognition to the applicant via Chief of Immigration Office, Immigration Branch Office or Immigration Processing Center.
- (2) When Minister of Justice decides that application for refugee status does not have reasonable cause, he should decide not to recognize the applicant as a refugee; and issue Notice of Denial to the applicant. A denial notice should state reasons for denial (including the decision on applicant's factual and legal claims) and the fact that the applicant may appeal within 30 days.
- (3) Determination of refugee status should be made within 6 months after registration of application. In cases of unavoidable situations, however, Minister of Justice shall extend the time period by six months at his discretion.
- (4) When period of determination extended following the exception proviso in Section (3), the applicant should be notified 7 days before the expiry of initial six months.
- (5) Certificate of Refugee Recognition and Notice of Denial of Refugee Status as specified in sections 1 and 2 shall be picked up via postal delivery according to Article 14 of Administrative Procedures Act. Only when a refugee status applicant expresses wish to pick up the documents in person, the applicant or his/her representative may do so via Chief of Immigration Office, Immigration Branch Office or Immigration Processing Center. However this shall not be arranged when, at the fault of the applicant, the documents were not picked up for three months.

**Article 19. (Exclusion of Refugee Status Recognition)**

- (1) Even when a refugee status applicant satisfies the criteria for refugee status recognition, Minister of Justice may decide not to recognize the applicant as a refugee, if there are substantial reason linking the applicant to one of the following:
  1. a person who is at present receiving protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees. Only when such protection or assistance has ceased for any reason, without the position of such persons being ultimately resolved in accordance with the relevant resolution adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention.
  2. a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of that country;



3. a person who has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provisions in respect of such crimes;
  4. a person who has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
  5. a person who has been guilty of acts contrary to the purposes and principles of the United Nations.
- (2) When Minister of Justice decides not to recognize the applicant as a refugee in pursuant to Section (1), he/she should issue Notice of Denial to the applicant via Chief of Immigration Office, Immigration Branch Office or Immigration Processing Center. The notice should state reasons for denial and the fact that the applicant may appeal within 30 days.

**Article 20. (Detention to Verify Identification and others)**

- (1) Immigration Officers can detain a foreigner who applied for refugee status for the purpose of identifying verification if it is obvious that the person destroyed means of identification (i.e. passport) to conceal one's identity or used forged documents as to receive refugee recognition more easily, with order of detention issued by Chief of Immigration Office under Article 51 of the Immigration Control Act..
- (2) Any person, who is detained in pursuant to Section (1), shall be immediately released when the person's identification is verified. If his/her identity cannot be verified within 10 days, the detainee shall be released. Only under unavoidable circumstances, Chief of Immigration Office, Immigration Branch Office or Immigration Processing Center may extend the detention period by maximum of 10 days.

**Article 21. (Submission of Refugee Status Application by a Detainee)**

- (1) When a refugee status applicant is already being detained on application under Article 51 and Article 63 of the Immigration Control Act, detention shall last no longer than 6 months. With the court's permission, this may be extended only once.
- (2) Certain conditions may be imposed upon the release of a refugee status applicant, such as bail.

**Article 22. (Appeal)**

- (1) A person whose refugee status application is denied in pursuant to Article 18 Section (2) or Article 19; or a person whose refugee status is cancelled in pursuant to Article 23, may appeal to Minister of Justice within 30 days after receipt of notice. The appellant should attach reasons for appeal when filing appeal through Chief of Immigration Office, Immigration Branch Office or Immigration

Processing Center. The appellant cannot lodge an administrative appeal as guaranteed in Korean Administrative Judgment Act.

- (2) When an appeal is filed in pursuant to Section (1), Chief of Immigration Office, Immigration Branch Office or Immigration Processing Center should without delay forward it to Minister of Justice with written opinion attached.
- (3) Minister of Justice, when an appeal is forwarded in pursuant to Section (2), should immediately send the case to Refugee Committee in pursuant to Article 29.
- (4) Refugee Committee, when an appeal is sent in pursuant to Section (3), evaluates and decides whether the appeal has rational grounds.
- (5) Refugee Committee should perform factual investigation on its own or by refugee officers.
- (6) Article 8 through Article 17 is applied for appeal procedures. However, appellant's opportunity to oral statement should be guaranteed.
- (7) When Refugee Committee decides that the appeal has reasonable grounds following the procedure in Section (4), Minister of Justice should issue Certificate of Refugee Status to the appellant via Chief of Immigration Office, Immigration Branch Office or Immigration Processing Center. When Refugee Committee decides that the appeal has no reasonable grounds, Minister of Justice should issue notice of decision to the appellant via Chief of Immigration Office, Immigration Branch Office or Immigration Processing Center. The notice should state reasons for the negative decision (including the decision on applicant's factual and legal claims) and the fact that the applicant may lodge an appeal at the Administrative Court within 90 days.
- (8) Decision on appeal should be made within 6 months after receipt of appeal. In cases of unavoidable situations, however, Refugee Committee may extend the period for another 6 months at its discretion.
- (9) When period of decision extended following the provisions in Section (8), extension should be noticed to the appellant until 7 days before the initial decision period expires.

### **Article 23. (Cancellation)**

- (1) Minister of Justice may cancel refugee status of a person when he/she corresponds to one of the following:
  1. a person who has voluntarily re-availed him/herself of the protection of the country of his/her nationality;
  2. a person having lost his/her nationality, has voluntarily re-acquired it;
  3. a person who has acquired a new nationality and enjoys the protection of the country of his/her new nationality;
  4. a person who has voluntarily re-established him/herself in the country which he/she left or outside which he remained owing to well-founded fear of persecution;
  5. a person who can no longer, because the circumstances in connection with which he/she has been recognized as a refugee have ceased to exist, continue to refuse to avail him/herself of the protection of the country of

his/her nationality; this paragraph shall not apply to a refugee who is able to invoke humanitarian reasons arising out of previous persecution, making it difficult to request him/her to return to the country of his/her former habitual residence.

6. Being stateless, because of the circumstances in connection with which he/she has been recognized as a refugee has ceased to exist, a person able to return to the country of his/her former habitual residence; this paragraph shall not apply to a refugee who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his/her former habitual residence.
- (2) Minister of Justice shall, when canceling refugee status in pursuant to Section (1), shall notify the foreigner with written notice of cancellation. A notice of cancellation should state reasons for cancellation and the fact that the person may appeal within 30 days.

#### **Article 24. (Decisions from UNHCR's Executive Committee)**

Minister of Justice and Refugee Committee shall respect Conclusions on the International Protection of Refugees, adopted by the UNHCR's Executive Committee, in their refugee status determination and appeal procedures.

#### **Article 25. (Exception on Disclosed Procedure)**

- (1) Refugee Committee and the Court may decide to close the sessions concerning refugees to the public in order to protect identity of refugee status applicant.
- (2) A refugee status applicant may request a closed session to the Refugee Committee and the court in order to protect his/her identity. In such case, Refugee Committee and the court may decide on whether to grant such request, how to carry out the procedure and the where to hold the session.

#### **Article 26. (Laws)**

- (1) This Act is the primary law regarding refugee matters, except for cases where special provisions exist.
- (2) Administrative Procedure Act and Administrative Judgment Act shall be applied for matters on refugee status determination procedures which this Act does not specifically regulate.

#### **Article 27. (Humanitarian Status Determination Procedure)**

Provisions on refugee status determination procedure shall be applied for humanitarian status determination procedure. Refugee status application and humanitarian status

application shall be submitted either together or separately. Even when only refugee status application is submitted, Minister of Justice may grant humanitarian status if considered appropriate.

**Article 28. (Acceptance of Resettled Refugees)**

Minister of Justice may allow refugees overseas to resettle out of considerations with respect to humanitarian spirit and international cooperation, after review by the ministerial meeting on key issues such as the need to accept refugees to resettle, the scale of resettlement and the country of origin.

## **Chapter 3. Refugee Committee**

**Article 29. (Establishment and Organization of Refugee Committee)**

- (1) Refugee Committee is established within Ministry of Justice to review and decide on matters regarding refugee policy and appeal provided in Article 31 Section (1).
- (2) Refugee Committee consists of 1 chairperson and other members, at most 15 members including the chairperson. More than one member shall be standing members of the committee.

**Article 30. (Nomination and Qualification of Refugee Committee Members)**

- (1) The President makes the final nomination of committee members following recommendations made by Minister of Justice, via Prime Minister. Minister of Justice shall recommend persons who held administrative office at least as a 4<sup>th</sup> grade official<sup>1</sup> and high ranking officials in other governmental branches as governmental delegates of persons with expert knowledge and experience in refugee matters, and recognized to be able to fairly and independently pursue activities guaranteeing and promoting human rights of refugees, who correspond to one of the followings are eligible to be recommended;
  1. a person who is admitted to the Korean Bar;
  2. a person who has been teaching law as a position higher than assistant professor at institutions defined in Article 2 Section(1) or Section(3) of Higher Education Act;
  3. a person who held office at least as a 4<sup>th</sup> level administrative governmental officer, or who held office as other higher-governmental officer; or

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<sup>1</sup> 4<sup>th</sup> grade officials are equivalent to persons such as major in the army, adjunct professors, or persons with doctoral degrees.

4. a person who corresponds to qualifications provided above with knowledge and experience in refugee matters.
- (2) The Chairperson of the Refugee Committee and standing members are nominated among the Committee members by the President.
- (3) The Chairperson of the Refugee Committee and standing members are administrative officials.
- (4) The number of governmental members cannot exceed the number of non-governmental members.
- (5) The term of office for Chairperson and other members is 3 years. It may be extended once.

**Article 31. (Mandate of the Refugee Committee)**

- (1) Refugee Committee reviews and decides on the following issues:
  1. Policies on refugee status determination and support for refugees
  2. Appeal by persons denied of refugee status or persons whose refugee status is cancelled;
  3. Appeal by persons denied of humanitarian status or persons whose humanitarian status is cancelled;
  4. Cooperation and exchange with UNHCR;
  5. Issues considered relevant and thus put up for discussion by Minister of Justice; and
  6. Other relevant issues in guaranteeing and promoting human rights of refugees.
- (2) The Chairperson, as a representative of the Refugee Committee, oversees the operation of Refugee Committee. When he/she is unable to fulfill his/her duty due to unavoidable circumstances, a standing member will act as the Chairperson.
- (3) A decision is made when more than half of the entire members present and more than half of the present members consent.
- (4) Refugee Committee's decisions in pursuant to Section (1)-2 and Section (1)-3 are binding. Other decisions shall be respected by Minister of Justice as well, unless considered posing threat to national security, public order or social welfare.

**Article 32. (Research Officer on Refugee Issues)**

- (1) More than 1 research officer on refugee issues should be placed with the Refugee Committee. Research officer on refugee issues belongs to Human Rights Bureau of Ministry of Justice.
- (2) Research officer, by order of the Chairperson, deals with the following:
  1. Support operation of Refugee Committee;
  2. Research refugee policies and others;
  3. Investigate the appeals; and
  4. Other administrative affairs for the Refugee Committee.

**Article 33. (Consultative Body)**

- (1) Refugee committee may establish a consultative body as to consult matters regarding its mandate.
- (2) Organizational and operational details of consultative body shall be regulated by the regulations of Refugee Committee.

**Article 34. (Operation of Refugee Committee)**

Details regarding operation of Refugee Committee not regulated by this Act shall be regulated by presidential decree.

**Article 35. (Cooperation with UNHCR)**

- (1) Minister of Justice and Refugee Committee shall cooperate when UNHCR makes requests for information and statistics related to refugees and others on one of the following:
  1. Information on current condition of a refugee(s);
  2. Information on compliance and implementation of the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees and the Protocol;
  3. Information on laws and administrative regulations on refugee affairs and relevant draft bills and administrative regulations;
  4. Expression of an opinion to Minister of Justice or Refugee Committee after reviewing relevant documents on refugee status determination or appeal
- (2) Minister of Justice and Refugee Committee shall cooperate UNHCR to do one of the following upon requests by UNHCR or a refugee status applicant:
  1. Interview with a refugee status applicant
  2. Participation in interviews conducted by refugee officer or research officer on refugee issues
  3. Participation in Refugee Committee's sessions
  4. Expression of an opinion to Minister of Justice or Refugee Committee after reviewing relevant documents on refugee status determination or appeal
- (3) Minister of Justice and Refugee Committee shall provide convenience in order for UNHCR's to fulfill its mandate of supervising implementation of and compliance with the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees, cooperate with UNHCR to develop and run training program for government officials engaged in refugee status determination and appeal procedures.
- (4) The Chairperson shall request UNHCR to provide information on refugee issues and an expert from UNHCR to be present at Refugee Committee to give opinion.

## **Chapter 4. Treatment of Refugees and Other Persons**

### **(1) Treatment of Refugees**

#### **Article 36. (Treatment of Refugees)**

- (1) A foreigner who is recognized as a refugee by the Republic of Korea shall enjoy the rights designated in the Convention relating to the Status of Refugees and other international human rights treaties signed and ratified by the Republic of Korea, regardless of other related domestic laws.
- (2) In order to accomplish the goal of Section 1, national and local authorities shall strive to establish and implement policy on refugees, to revise relevant laws, support relevant ministries and departments, and to put in place other measures.

#### **Article 37. (Social Security of Refugees)**

A person of refugee status shall enjoy equal treatment in terms of social security with nationals of the Republic of Korea, despite regulations in Article 8 of Social Security Law and other laws on social security.

#### **Article 38. (Basic Livelihood of Refugees)**

A person of refugee status experiencing economic difficulties shall be protected by Article 7 through Article 15 of National Basic Livelihood Security Act upon his/her request, regardless of Article 5 and Article 5-2 of National Basic Livelihood Security Act.

#### **Article 39. (Medical Care)**

Refugees and their family members shall be provided with medical assistance (or care) by Medical Care Act.

#### **Article 40. (Right to Education and others)**

- (1) Minors recognized as refugees and underage children of recognized refugees have the right to enjoy elementary and secondary education equivalent to nationals of the Republic of Korea.
- (2) Minister of Justice may provide educational support as prescribed by the presidential decrees, appropriate for a refugee considering his/her age, learning ability and other situations.

**Article 41. (Social Adjustment Training and others)**

- (1) Minister of Justice may provide social adjustment training, such as Korean language training, essential for local integration in Korea, as prescribed by presidential decree.
- (2) Minister of Justice may provide vocational training when requested by persons with refugee status as prescribed by presidential decree.

**Article 42. (Recognition of Education)**

A person with refugee status may be recognized his/her educational attainment at a level corresponding to the degrees pursued in other countries in the past, as prescribed by presidential decree.

**Article 43. (Recognition of License)**

- (1) A person with refugee status may be authorized with license, equivalent or partly equivalent to the license the person attained in other countries according to related domestic laws.
- (2) Minister of Justice may provide necessary complementary training or re-training in order to recognize qualifications in pursuant to Section (1), as prescribed by presidential decree.
- (3) To implement Section (1) and Section (2), a committee deciding whether to grant recognition may be established as prescribed by presidential decree.

**Article 44. (Family Unity)**

- (1) Minister of Justice may grant refugee status to spouses and children under 20 of persons with refugee status. When spouses or children under 20 of persons with refugee status attempt to enter the Republic of Korea, admission should be allowed for family unity.
- (2) Refugee status of spouses or children under 20 obtained according to the above section (1) shall be maintained in cases of death of spouse with refugee status; divorce with spouse with refugee status; or reaching the age of 20, unless voluntarily waived. Persons with waived refugee status should be issued with transferred sojourn permission in pursuant to Article 24 of Immigration Control Act if the person wishes to stay and remain in the Republic of Korea.

**Article 45. (Exemption from Reciprocity)**



A person with refugee status is exempted from reciprocity regardless of other laws.

**Article 46. (Naturalization)**

A person with refugee status and lived in the Republic of Korea for more than three years with permanent address may be naturalized even if the person does not meet requirements set out in Article 5 section (1) of Naturalization Act.

**(2) Treatment of Persons with Humanitarian Status**

**Article 47. (Treatment of Persons with Humanitarian Status)**

Regarding treatment of persons allowed to stay in the Republic of Korea in pursuant to Article 27, regulations under the Articles 35 through 46 shall be followed. However, restrictions may render regarding travel in and out of the Republic of Korea as prescribed by presidential decree.

**(3) Treatment of Refugee Status Applicants**

**Article 48. (Support for Living Cost of Refugee Status Applicants and others)**

- (1) Minister of Justice shall provide living allowance to refugee status applicants as prescribed by presidential decree.
- (2) Minister of Justice may allow employment of a refugee applicant when refugee status determination procedure does not conclude within 6 months from the application date.

**Article 49. (Housing Support for Refugee Status Applicants and others)**

- (1) Minister of Justice shall establish and operate housing facility for refugee applicants to stay until the conclusion of refugee status determination procedure. The housing facility, however, should allow the applicants to come and leave at any time.
- (2) Relevant matters regarding the housing facility such as its type and management shall be regulated by presidential decree.

**Article 50. (Medical Aid)**

Minister of Justice may provide medical aid to refugee status applicants as prescribed by presidential decree.

**Article 51. (Right to Education of Minor Refugee Applicants)**

Minor refugee applicants or underage children of refugee applicants shall enjoy the right to elementary and secondary education equivalent to nationals of the Republic of Korea.

**Article 52. (Educational Support for Refugee Applicants)**

Minister of Justice shall provide education such as Korean language training as prescribed by presidential decree.

**Appendix**

This act shall enter into force 6 months after the date of its promulgation.