UNHCR COMMENTS TO THE EGYPT ASYLUM LAW NO. 164-2024
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As the agency entrusted by the United Nations General Assembly with the mandate to provide international protection to refugees and, together with States, seek permanent solutions to the problems of refugees, UNHCR has a direct interest in law and policy proposals in the field of asylum. According to its Statute, UNHCR fulfils its mandate inter alia by "[p]romoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto[.]".[1] UNHCR's supervisory responsibility is reiterated in Article 35 of the 1951 Convention[2] and in Article II of the 1967 Protocol relating to the Status of Refugees[3] (hereafter collectively referred to as the "1951 Convention"), committing State Parties to cooperate with UNHCR, in particular facilitating UNHCR's supervisory responsibility.

UNHCR's supervisory responsibility is exercised in part by the issuance of interpretative guidelines on the meaning of provisions and terms contained in international refugee instruments, in particular the 1951 Convention. UNHCR also fulfils its supervisory responsibility by providing comments on legislative and policy proposals impacting the protection and durable solutions of its persons of concern.

The following comments are based on international protection standards set out in the 1951 Convention, in international human rights law, on Conclusions on International Protection of the UNHCR Executive Committee (hereafter "ExCom"), and on UNHCR guidelines. While neither UNHCR ExCom Conclusions nor UNHCR guidelines are binding on States, they contribute to the formulation of opinion juris by setting out standards of treatment and approaches to interpretation which illustrate States' sense of legal obligation towards asylum seekers and refugees.[4]

The Government of the Arab Republic of Egypt ('GoE') is a State Party to the 1951 Convention, its 1967 Protocol, and the 1969 OAU Convention[5]. Presidential Decrees No. 331[6], 332, and 333 of 1980, which were published in the Official Gazette, adopted the 1951 Convention, the 1969 OAU Convention, and the 1967 Protocol into domestic law.

On 16 December 2024, the GoE promulgated the Asylum Law for Foreigners No. 164 for 2024 (therein referred to as the Law).[7]

UNHCR takes this opportunity to highlight that the comments below include the following points, which we would like to highlight as critical in view of ensuring GoE is able to fulfill its international obligations, as well as per the aforementioned Presidential Decrees.

While the Law specifies protections against return or forcible return of refugees to their country of nationality or former habitual residence, UNHCR emphasizes that the Law does not explicitly incorporate the principle of non-refoulement— in line with Egypt's obligations under the 1951 Convention and the 1969 OAU Convention, international human rights law treaties to which it is a State Party, and customary international law. To that end, UNHCR strongly recommends that a clear prohibition to reject at the frontier, expel or return ("refouler") in any manner whatsoever a person to any territories where his/her life, physical integrity or liberty would be threatened on account of their race, religion or nationality, membership of a particular social group or political opinion, or due to external aggression or occupation, or events seriously disturbing public order, or it would result in exposing

[1] UN General Assembly, Statute of the Office of the United Nations High Commissioner for Refugees, A/RES/428(V), 14 December 1950, available at: https://www.refworld.org/legal/constinstr/unga/1950/en/72586 .
[2] UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations Treaty Series, No. 2545, vol. 189, available at: https://www.refworld.org/docid/3be01b964.html . According to Article 35(1) of the 1951 Convention, UNHCR has the "duty of supervising the application of the provisions of the Convention."
[3] UN General Assembly, Protocol Relating to the Status of Refugees, 31 January 1967, United Nations, Treaty Series, vol. 606, available at: https://www.refworld.org/docid/3ae6b3ae4.html , p. 267
[4] Goodwin-Gill and McAdam, The Refugee in International Law (3rd ed.), Oxford University Press, 2007, p. 217.
[5] Organization of African Unity (OAU), Convention Governing the Specific Aspects of Refugee Problems in Africa ("OAU Convention"), 1001 U.N.T.S. 45, 10 September 1969, available at: https://www.refworld.org/legal/agreements/oau/1969/en/13572 .
[6] 1951/7/28 مصر: قرار جمهوري رقم 331 لسنة 1980 بشأن الموافقة على اتفاقية 1951 الخاصة بوضع اللاجئين الموقعة في جنيف بتاريخ available at: https://www.refworld.org/legal/decreees/natlegbod/1981/ar/147116.
7 The Asylum Law for Foreigners No. 164 for 2024, published in the Official Gazette is in Arabic. The English translation provided in this document is unofficial.

them to serious human rights violations, notably arbitrary deprivation of life, or torture or other cruel, inhuman or degrading treatment or punishment, as set forth in international law. Protection from refoulement must be ensured while asylum processing is being carried out at first instance and appeal. Any exceptions under international refugee law to the non-refoulement principle must align to the due process guarantees that are set forth as per Article 33(2) of the 1951 Convention.

UNHCR further suggests incorporating the refugee definition verbatim as per Articles 1A (2) of the 1951 Convention as well as Article 1 (1 and 2) of the 1969 OAU Convention within the Law so as to ensure that the GoE complies with its obligations under the 1951 Convention and the 1969 OAU Convention.

UNHCR commends the GoE for affording refugees a range of rights under the Law. However, in the provision of those rights the Law refers to the relevant laws for their realization. UNHCR strongly recommends the revision of the existing legislation and policy to ensure the effective access for refugees and asylum seekers to rights, by inter alia, removing any administrative barriers that may arise and ensuring that domestic legislation and policy are refugee-protection sensitive and procedures are in place accordingly. UNHCR further notes, that the right to legal stay is not provided for in the Law and strongly recommends it is specifically included in the Executive Regulations to ensure that all persons, who are entitled to, can effectively enjoy their refugee status. In the same vein, UNHCR suggests that any withdrawal of refugee status as per Article 9 is also in line with international and regional refugee law standards.

UNHCR highlights that Article 10, which provides for national security and public order exceptions in times of war, to combat terrorism and in exceptional circumstances, is excessively wide in scope, and may lead to measures restricting or derogating the rights of refugees not in line with Egypt's obligations under international and regional refugee and human rights law. UNHCR recommends that more details on the measures and procedures foreseen by Article 10, as well as the grounds, conditions, and procedures to resort to them, and the effective remedies available be included in the Law in order to provide a clear legal basis. If that does not prove possible, it will be essential that they be provided in the Executive Regulations.

UNHCR notes that the Law does not make reference to asylum application determination procedures specific to situations of mass influx. Situations of mass influx have been observed as overwhelming asylum procedures in situations where the delivery of protection is of the highest importance. UNHCR therefore recommends including the below provision in the Executive Regulations:

> *"In the event of mass influx of persons seeking international protection in Egypt, the Competent Committee must take the decision to expedite the recognition of refugee status by recognizing a group of refugees on the basis of readily apparent, objective circumstances in the country of origin."*

With regard to the decision-making process, globally, UNHCR recommends an independent individual decision-making model to ensure integrity and efficiency. To this end, UNHCR recommends that the Permanent Committee for Refugee Affairs (and the Technical Secretariat, as the case may be) delegate its authority to make determinations on asylum applications to independent individual decision-making adjudicators within the Technical Secretariat and that the Technical Secretariat serves as the Registrar for case allocation and to ensure the harmonization of the application of principles and standards.

UNHCR notes with concern the articles penalizing certain acts within the Law, which appear to be inconsistent with international refugee law. UNHCR recommends that the article penalizing individuals who employ, or shelter asylum seekers, be removed, also in view of Articles 18 and 22 of the Law.

Article 1:
Without prejudice to international treaties in force in the Arab Republic of Egypt, the provisions of the accompanying law shall apply with regards to the asylum of foreigners. These provisions shall apply to refugees and asylum seekers as defined under Article 1 of the accompanying law and shall also apply to individuals who acquired refugee status prior to the enactment of this law.

UNHCR commends the decision by the GoE to confer the refugee status determined by UNHCR and other States prior to enactment of the Law.[8] Kindly note that UNHCR RSD decisions are based on a thorough determination process (including review at first instance and appeal levels by different officers). Accordingly, UNHCR recommends that all RSD decisions carried out by UNHCR post-enactment for a certain period during the transitional phase, i.e. five years, also be conferred refugee status by the GoE under the domestic asylum framework. This allows UNHCR to finalize RSD for a majority of asylum seekers registered with UNHCR and allows the GoE to assume responsibility of RSD with minimal backlog and for the development of a domestic asylum system which is sustainable from the outset.

Furthermore, UNHCR underscores that it is of paramount importance to set forth fair, efficient and transparent procedures incorporating international standards (including, to the extent possible, UNHCR Procedural Standards), on the submission and processing of requests for asylum—including for individuals previously registered as asylum seekers, as well as recognized refugees—in the Executive Regulations. Should there be a regularization of the time limit set forth for UNHCR-registered refugees and asylum seekers to submit applications, UNHCR strongly recommends that the GoE take a flexible approach. This is with the view that the transition process may take multiple years and so refugees and asylum-seekers registered with UNHCR can continue to maintain their status until they are able to submit applications or have their status conferred under the national asylum framework. UNHCR notes that in countries that recently transitioned from UNHCR to the government assumption of responsibility, UNHCR continued to carry out mandate RSD for certain caseloads even after the enactment of the law and the government provided refugee status based on UNHCR's decisions.

To that end, UNHCR looks forward to discussing and agreeing on UNHCR's role and the interim measures to be set forth during the transitional phases. UNHCR stands ready to provide the necessary assistance and support to the GoE in establishing a fair, efficient, and transparent domestic asylum system which functions with integrity. UNHCR also stands ready to support the development of the Executive Regulations set forth below.

Article 2:
The Prime Minister shall issue executive regulations of the accompanying law within six months from the date it comes into effect.

UNHCR, a subsidiary organ of the UN General Assembly, has a mandate to provide international protection and assistance to refugees. This mandate is based on UNHCR's supervisory authority as per its Statute and the 1951 Convention, and expertise acquired in multiple countries in state legislative processes, reminding the GoE in particular of Article 35 of the 1951 Convention. In light of its mandate, UNHCR takes this opportunity to strongly advocate it is provided a meaningful opportunity to fully participate in the drafting of the Executive Regulations. To that end, UNHCR recommends establishing a national level forum dedicated to providing technical advice on the drafting of the Executive Regulations, which will ensure the representation of diverse stakeholders, facilitation of expertise and knowledge sharing, adherence to transparency, accountability, and scrutiny - thereby contributing to a more informed, inclusive, and effective legislative process. Furthermore, UNHCR recommends that the Executive Regulations at a minimum include the following:

1) *Specify that based on the asylum documentation provided by the GoE as per Article 11, asylum seekers and refugees can access rights as set forth under the Law as per Egypt's international obligations, including the legal right to stay in the form of a residency permit for a period of three years, as per Article 2 (8 and 9) of the Minister of Interior Decree No. 8180 for year 1996,[9] as well as in consideration of the administrative burden of renewals annually.*
2) *Set forth fair, efficient and transparent procedures incorporating international standards, for example, Procedural Standards for Refugee Status Determination Under UNHCR's Mandate (available in Arabic) on the submission and processing of requests for asylum, including for individuals previously recognized as refugees by UNHCR, the right to legal representation, as well as rules on appeals, withdrawal of refugee status, re-openings and other procedures, including clear parameters with regards the principle of family*

[8] Executive Committee of the High Commissioner's Programme, *Conclusion No.12 (XXIX): Extraterritorial Effect of the Determination of Refugee Status - Adopted by the Executive Committee (1978)*, No. 12 (XXIX) 1978, 17 October 1978, available at: https://www.refworld.org/policy/exconc/excom/1978/en/28675 .
[9] قرار رقم 8180 لسنة 1996 بتنظيم إقامة الأجانب في مصر, No. 8180, 1 November 1996, available at: https://www.refworld.org/legal/decreees/natlegbod/1996/ar/147114 .

unity, taking into account due consideration of different case processing modalities, such as group recognition to suit the specific attributes of caseloads.

3) *Set forth fair, efficient, adaptable and transparent procedures incorporating international standards (including, to the extent possible, UNHCR Procedural Standards), on the submission of applications for the confirmation of refugee status to the Committee.* [10]
4) *Define inclusive and non-discriminatory eligibility criteria as per the 1951 Convention and the 1969 OAU Convention.*
5) *Plainly define institutional set-up, infrastructure, human resources as well as a decentralized process with regard to reception and registration.*
6) *Indicate a clear institutional authority avoiding a conflict of interest, including with regard to appeal processes, and establish clear parameters for judicial review.*
7) *Establish referral mechanisms, as well as parameters of access, including for persons in administrative custody.*
8) *Detail a flexible approach, should there be a time limit set for all refugees and asylum seekers to register with GoE .*
9) *Ensure that persons with international protection concerns who entered irregularly are not penalized/disadvantaged, as a result of their means of entry.*

Article 3:
This law shall be published in the Official Gazette and will come into effect on the day following its publication.

This Law shall be stamped by the Seal of the State and shall be enforced as one of its laws.

Issued by the Presidency of the Republic on 14 Jumada Al Akhira of 1446
Corresponding to 16 December 2024

[Signature of the President]

The Asylum Law for Foreigners

Article 1
In execution of the provisions of this Law, the terms and expressions shall have the meanings ascribed thereto.

The Competent Ministry: Ministry of Interior.
The Competent Committee: The Permanent Committee for Refugee Affairs.

Refugee: any person being outside his country of nationality, or the country of his habitual residence, owing to a serious well-founded fear, due to a reasonable ground, of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, or due to external aggression or occupation, or events seriously disturbing public order in his country of nationality or the country of his habitual residence, and owing to such serious fear, is unable or unwilling to avail himself to the protection of that country; or who, not having a nationality being outside his country of habitual residence, as a result of such events, owing to such serious fear, is unable to return to it, whom the Committee conferred this definition on him according to the provisions of this Law.

The Refugee Definition
UNHCR commends the GoE for incorporating both the refugee definition set forth in Article 1A (2) of the 1951 Convention as well as Article 1 (1) and (2) of the 1969 OAU Convention.

UNHCR notes, however, that the term "serious" is added before "well-founded fear" as well as "reasonable ground of being" in front of "persecuted", which is not found in either of the Conventions and may change the

[10] UN High Commissioner for Refugees (UNHCR), Procedural Standards for Refugee Status Determination Under UNHCR's Mandate, 26 August 2020, available at: https://www.refworld.org/policy/legalguidance/unhcr/2020/en/123306.

meaning, which would result in restricting the refugee definition. Please note well-founded fear and persecution embrace two key elements of the refugee definition. Given the term "well-founded fear" is to be assessed by evaluating the applicant's personal facts and circumstances against the situation prevailing in his/her country of origin -- reasonable grounds are built into the definition. Moreover, the meaning of persecution is not defined, and the general understanding is that persecution in any case comprises of serious human rights violations, including threats to life, physical integrity or freedom. In addition, discrimination amounts to persecution if it leads to consequences of a substantially prejudicial nature for the person concerned, including serious restrictions on his/her right to earn a livelihood, his/her right to practice a religion, or his/her access to normally available educational facilities. Indeed, the general understanding is that the asylum seeker's fear should be considered well-founded if he/she "can establish, to a reasonable degree, that his[/her] continued stay in his country has become intolerable…" and accordingly the definition already includes the reasonableness standard.

Therefore, adding the terms "serious" and "reasonable ground" is divergent from the 1951 Convention (Article 1A (2)) and the 1969 OAU Convention (Article 1 (1)).

Moreover, UNHCR further notes that the spatial reference provided in the 1969 OAU Convention, with regard to "in either part or the whole of his country of origin or nationality" is not included after "due to external aggression or occupation, or events seriously disturbing public order in his country of nationality or the country of his habitual residence". This may change the application of the refugee definition and indeed the legislative intent of the drafters of the Convention— who clearly meant the refugee definition to apply when such events occur in both part or the entire country.

Accordingly, to ensure that the GoE complies with its international and regional legal obligations under the 1951 Convention and the 1969 OAU Convention to which Egypt is a State Party, UNHCR recommends that each of the refugee definitions be included verbatim into Article 1 of the Law.

Asylum Seeker: any foreigner who lodged an application to the Competent Committee to acquire refugee status according to the provisions of this law and the decision on his application has not been determined.

As noted above, UNHCR underscores that it is of crucial importance to set forth fair, efficient, adaptable and transparent procedures incorporating international standards (including, to the extent possible, UNHCR Procedural Standards), on the submission of applications for the confirmation of refugee status to the Committee.[11]

Article 2
Permanent Committee for Refugee Affairs shall be formed. The Committee shall have persona ficta and reports to the Prime Minister. Its headquarters shall be in Cairo City.

The Competent Committee is the entity concerned with refugee affairs, including the information and statistical data on the number of refugees, and shall specifically assume the following:

1. Asylum Application Determination pursuant to Article 7 of this Law.
2. Cooperation with UNHCR and other International Organizations and Entities concerned with refugees, after coordination with the Ministry of Foreign Affairs.
3. Coordination with the administrative authorities in the State to ensure that all forms of support, care and services are provided to refugees.

UNHCR notes that the Law assigns the authority for asylum application determination to the Competent Committee. UNHCR would like to share its concern that considering the volume of applications, decision-making by a Committee will not allow for the required levels of efficiency to address the planning assumptions, particularly if this is based on decisions for each individual's grant of refugee status. This is because similar committee-models oftentimes have led to a large number of RSD applications pending. As such, the GoE may wish to consider establishing an individual decision-maker structure with authority delegated to individual staff in the Technical Secretariat. This ability for delegation can be applied as the standard procedures or alternatives

[11] Ibid.

for specific profiles. The independent decision-making model is recommended for the following reasons: a designated authority with the requisite expertise is able to carry out such functions more efficiently, including more timely, free of conflict of interest or external influences, in a transparent fashion, with integrity and accountability. Furthermore, the independent decision-making model is efficient with regard to the use of resources.

Article 3

The Competent Committee shall consist of representatives of Ministries of Foreign Affairs, Justice, Interior and Finance. The membership period shall be four years. A decree by the Prime Minister shall be issued nominating the chairman of the Competent Committee and its members, its Executive Regulations, and the financial transaction for its chairman and members within three months from the date of enforcement of this Law. The Chairman shall represent the Committee before the court and in its communications with third parties.

The Prime Minister may include representatives of relevant ministries and authorities in the membership of the Competent Committee. The competent committee may also invite experts and specialists whom their responsibilities deem necessary to assist the committee in its work field to attend its meetings.

UNHCR reiterates its recommendation that the relevant provisions in the Executive Regulations that address the Competent Committee, the Committees' responsibilities in relation to asylum application determination are focused on the overall management of the asylum application determination process and the decision-makers in the Technical Secretariat are granted the delegated authority to take individual decisions on refugee status. The Competent Committee should provide guidance on situations where refugee status on a group basis is recommended and make policy decisions, including in relation to the establishment of differentiated procedures for decision-making.

Given the fact that UNHCR is the relevant international organization with a mandate by the UN General Assembly to provide protection and assistance to refugees, and as per its supervisory authority set forth in Article 35 of the 1951 Convention, UNHCR recommends that it be provided status as an ex-officio member with advisory capacity on the Competent Committee (or any sub-committees thereto). This approach would be in line with global practice, whereby UNHCR sits on 47 of the 58 Eligibility Commissions worldwide, generally having observer status.

Furthermore, UNHCR recommends that the Executive Regulations provide that all members of the Competent Committee, including and in particular the Chairperson, are fully dedicated to the functions assigned to the Competent Committee and formally and temporarily liberated from their existing functions. In the alternate, that the Executive Regulations enable the assignment of delegates/ alternative members to partake in the Committee, as it may be very difficult for all of the Committee members to meet, which could lead to undue delays.

The Competent Committee shall prepare a report on the results of its work every three months, to be submitted to the Prime Minister by the Chairman of the Committee.

Article 4

The Competent Committee shall have a technical secretariat. A decree by the Prime Minister shall be issued to determine the secretariat competencies, Executive Regulations, appoint the chairman, his term, financial transactions, and responsibilities.

The chairman of the Technical Secretariat shall be assisted in performing the tasks he is assigned by enough employees deployed to the Competent Committee from the administrative authorities in the State after the approval of the relevant authorities.

UNHCR commends the GoE for establishing a Technical Secretariat to ensure the continuity of asylum procedures and the technical capacity, knowledge and expertise to implement these procedures with quality. UNHCR commends the GoE for ensuring the allocation of necessary resources through the availability of enough employees to fulfil the responsibilities of the Secretariat and ensure the fairness and efficiency of the procedures.

UNHCR recommends that the decree and Executive Regulations are issued by the Prime Minister determining the Secretariat's competencies, the chairperson and his or her responsibilities, including the possibility to delegate such authority to the Technical Secretariat, including personnel of the Secretariat, which can then address responsibilities in relation to reception, registration of asylum applications, the determination of asylum applications in first instance, and documentation for refugees and asylum seekers. UNHCR recommends an asylum application determination process which incorporates a fact-finding, interview and decision-drafting stage as well as a stage which covers review of quality and finalization of the decision in first instance. The decree and Executive Regulations should provide for flexibility for decision-making procedures to simplify procedures to address specific claim types and refugee profiles with the most efficient use of resources as possible that are appropriate in the circumstances.

The competencies of the Secretariat and the chairperson's responsibilities, as well as the delegated authority, thereto, should ensure the implementation of minimum procedural and due process guarantees, including for vulnerable groups identified in Article 7.

UNHCR recommends that the Technical Secretariat be provided the authority to recruit employees with the knowledge and expertise to implement asylum procedures in line with human resources practices in Egypt. UNHCR advises that the responsibilities of the Technical Secretariat and Competent Committee would include responsibilities relating to reception, registration, status determination in implementing and support roles, which would include the provision of interpretation. UNHCR recommends that the option to deploy employees from the administrative authorities in the State is limited to be a contingency measure in situations of emergency or other extraordinary circumstances, as implemented in some other States.

Given the fact that UNHCR is the relevant international organization with a core mandate by the UN General Assembly to provide protection and assistance to refugees, and as per its supervisory authority set forth in Article 35 of the 1951 Convention, we would recommend that UNHCR be provided status as an ex-officio member with advisory capacity on the Technical Secretariats. This approach would be in line with global practice, whereby UNHCR sits on 47 of the 58 Eligibility Commissions worldwide, generally with UNHCR staff as observer members.

Furthermore, UNHCR recommends that all members of the Technical Secretariat, including the Chairperson, be permitted to assign delegates/ alternative members to partake in the Secretariat or in the alternative, to assign Alternative Members, as it may be very difficult for the Secretariat to meet, which could lead to undue delays in proceedings.

Article 5

The resources of the Competent Committee shall consist of:

1- Appropriations that may be allocated by the State in the general budget.
2- Grants, donations, gifts, subsidies, and loans received or concluded in accordance with the terms and provisions stipulated in this regard, without prejudice to its purposes, and after the approval of the relevant ministries and authorities of the State.

UNHCR commends the GoE for including provisions for financing the Competent Committee and Technical Secretariat. UNHCR recommends that allocations are made based on a comprehensive assessment of needs.

Article 6

Without prejudice to the provisions of the Unified Finance Law issued by Law No. 6 of 2022, the resources of the Competent Committee shall be deposited in a special account within the unified treasury account at the Central Bank of Egypt and shall be spent on its purposes in accordance with the rules and procedures issued by a decision of the Prime Minister based on the presentation of the Competent Committee. The surplus of its own resources shall be carried over from one fiscal year to another, and its funds shall be subject to the oversight of the Accountability State Authority.

Article 7
The asylum seeker or his legal representative shall submit the asylum application to the Competent Committee, and if the asylum seeker entered the country legitimately, the committee shall determine the status of the application within six months from the date of its submission. However, if he entered illegitimately, the period for determining the status of the application shall be within one year from the date of its submission.

UNHCR commends the GoE for including legal representation for asylum seekers in the Law. Given the right of all individuals under Egyptian law to be represented by a legal representative, as set forth in Article 98 of the 2014 Egyptian Constitution amended in 2019.[12] UNHCR recommends that all individuals submitting asylum applications be afforded the right to contact a legal representative of her/his choice prior to submission, that such legal assistance cover the entire asylum process, and be made available free of charge. Furthermore, all individuals should be duly informed that they are able to contact a representative of UNHCR prior to submission, as well.

UNHCR recommends establishing an independent decision-making entity to register, document and conduct refugee status determination (RSD) under the Law which can be carried out by the Competent Committee and Technical Secretariat delegating their authority to decision makers focused on asylum processing.

Further, differentiated treatment between asylum seekers having entered Egypt regularly versus those who have entered irregularly as to the maximum period to decide on their asylum application would be discriminatory. Such differentiated treatment would not be reasonable in pursuit of a legitimate aim. Moreover, such differentiated treatment would be in breach of Article 31(1) of the 1951 Convention for asylum seekers who meet the qualifying conditions stipulated therein, as the differentiated treatment would be tantamount to a penalty prohibited by Article 31(1).[13]

Asylum applications submitted by persons with disabilities, the elderly, pregnant women, unaccompanied children, victims of human trafficking, torture, or sexual violence shall have priority in study and examination.

UNHCR commends the GoE for taking into consideration vulnerabilities in prioritization of assessing asylum claims.

UNHCR recommends detailing the implications of this provision in Executive Regulations and adding "and other persons in vulnerable situation" to the list of situations covered by this article to ensure that all scenarios are covered.

UNHCR recommends inserting in the Executive Regulations a clause relating to the best interests of the child determined independently by the relevant national entity, as the Committee, should, in particular, take due account of a minor's well-being and social development, safety and security considerations and the views of a minor in accordance with his/her age and maturity, including his/her background.[14] In addition, specific procedure guarantees for unaccompanied minors should be provided on account of their particular vulnerability.

Furthermore, UNHCR recommends inserting in the Executive Regulations a clause noting that the particular needs of unaccompanied and separated children, persons with physical and intellectual disabilities, female asylum-seeking applicants, and other vulnerable persons will be taken into account when processing their asylum claims.

[12] Egyptian Constitution promulgated in 2014 and its amendment in 2019, Official Egyptian Gazette, available at: Constitutional amendments-SIS, Art. 98.
[13] UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 14: Non-penalization of refugees on account of their irregular entry or presence and restrictions on their movements in accordance with Article 31 of the 1951 Convention relating to the Status of Refugees, HCR/GIP/24/14, 23 September 2024, available at: https://www.refworld.org/policy/legalguidance/unhcr/2024/en/148632, paras. 28, 32.
[14] See, e.g. UN High Commissioner for Refugees (UNHCR), A Framework for the Protection of Children, 26 June 2012, available at: https://www.refworld.org/policy/strategy/unhcr/2012/en/86879 .

The Competent Committee shall issue its decision to confer refugee status or reject the application. In the latter case, the Competent Committee shall request the Competent Ministry to deport the asylum seeker outside the country, and the asylum seeker shall be notified of the decision of the Competent Committee.

Given the due process guarantees and right to appeal set forth in Articles 54, 97, 198 and 190 of the 2014 Egyptian Constitution[15] and as amended in 2019, the criminal procedural law No. 150 for year 1950[16] and its amendments, and State Council Law No. 47 for the year 1972[17]—UNHCR recommends clearly noting in the Executive Regulations that any notification decision be provided in writing in a language the person understands. Furthermore, given the right to appeal, the request of the Competent Committee to the Competent Ministry to deport the asylum seeker needs to be stayed until any asylum seeker rejected at first instance is provided the right to meaningfully appeal as set forth in Article 35 of the Law (and, where they choose to do so, until they exercise that right).

Furthermore, given that non-refoulement is a core principle as set forth in the 1951 Convention and 1969 OAU Convention, and consequently prohibits the government from returning or expelling an individual in any manner whatsoever to countries or territories where they may be subjected to persecution on one of the five 1951 Convention grounds, or where his/her life, physical integrity or liberty would be threatened due either the aforementioned grounds or due to external aggression or occupation, or events seriously disturbing public order, as well as per human rights treaties and customary international law— it is strongly recommended that the prohibition of refoulement remains until there is a final determination of the asylum claim after the asylum seeker is provided the right to effectively appeal. The non-refoulement obligation should be clearly provided for in the text of the Law and further delineated in the Executive Regulations (see also the comment below regarding Article 13 of the Law).

The Competent Committee shall have the right, until the status of the asylum application is determined, to request the adoption of any necessary measures and procedures regarding the asylum seeker for considerations of protecting national security and public order. All of this shall be in the manner regulated by the executive regulations of this law.

It is recommended that clear processes be set forth and further that procedures under the Law regarding the protection of national security or public order are conducted in a manner consistent with government policies as well as Egypt's international obligations. UNHCR recommends that more details on the measures and procedures be included in the Law in order to provide a clear legal basis. If that does not prove possible, it will be essential that they be provided in the Executive Regulations.

Article 8

The asylum seeker shall not acquire refugee status in any of the following cases:

1. If there are serious reasons to believe that he has committed a crime against peace, humanity, or a war crime.
2. Has committed a serious crime prior to his admission to Egypt.
3. Has committed any acts contrary to the purposes and principles of the United Nations.
4. If listed on the terrorist entities list within the Arab Republic of Egypt in accordance with the provisions of Law No. 8 of 2015 regarding the regulation of terrorist entities and terrorist.
5. Has committed any acts that would prejudice national security or public order.

UNHCR notes that under the exclusion provisions in Article 1F of the 1951 Convention and Article I(5) of the 1969 OAU Convention, the requirement that there be "serious reasons for considering" applies to all exclusion grounds, not only the international crimes listed in Article 1F(a) (crimes against peace, crimes against humanity, and war crimes), and as such, the phrase "if there are serious reasons for considering" should be moved into the chapeau sentence at the start of the provision, in line with the wording of Article 1F of the 1951 Convention.

[15] Egyptian Constitution (Article 54, 97, 198, 190 of the year 2014), promulgated in 2014 and its amendment in 2019, Official Egyptian Gazette, available at: Constitutional amendments-SIS .

[16] Egyptian Criminal Procedure Law (Law No. 150 of the year 1950), promulgated in 1950, Official Egyptian Gazette, available at: <4D6963726F736F667420576F7264202D20DEC7E4E6E420C7E1C7CCD1C7C1C7CA20C7E1CCE4C7C6EDC920C7E1E3D5D1ED2E646F63> .

[17] Egyptian State Council Law (Law No. 47 of the year 1972 and its amendment 2019), promulgated in 1950 and 2019, Official Egyptian Gazette, available at: https://manshurat.org/node/7274

As regards the second exclusion ground listed in Article 8, it is noted that the Law does not fully reflect the criteria for exclusion based on common (rather than international) crimes. Specifically, Article 8(2) omits the requirement, per Article 1F(b) of the 1951 Convention, that the serious crime be "non-political" in character and that it took place outside the country of refuge (Egypt) as well as prior to the asylum seeker's admission to Egypt.

Specifically, with regard to the requirement that, for exclusion based on Article 1F(b) of the 1951 Convention to be justified, a "serious crime" not only be committed prior to the person's admission to Egypt, but also that the crime be "non-political", UNHCR notes that the notion of a "non-political crime" is generally understood to mean that the crime – which needs to be considered serious in most jurisdictions –is predominantly motivated by non-political reasons, such as personal gain; that there is a rational link between the crime and the purported political purpose; and that the harm caused by the crime is not disproportionate to that purpose. Crimes that are politically motivated but that cause indiscriminate harm to civilians and/or are disproportionate to the alleged political purpose, would-be considered "non-political" for the purposes of the exclusion clause in Article 1 F (b) of the 1951 Refugee Convention. For example, any serious crime as per international standards (i.e. a capital crime or a very grave punishable act", such as e.g. murder, rape, arson and armed robbery, or certain other offenses if accompanied by the use of deadly weapons or involving serious injury to persons and/or serious habitual criminal conduct and other similar factors) would qualify under this definition, provided the geographic and temporal criteria under this exclusion clause are also met.

As regards the fourth ground for denial of refugee status under Article 8, UNHCR notes that crimes or acts properly considered to be of a terrorist nature may fall within the scope of any of the exclusion grounds set out in Article 1F of the 1951 Convention and/or Article II(5) of the 1969 OAU Convention.[18] What matters is whether the acts in question meet the relevant definitions and criteria – e.g. if they constitute war crimes, if committed during a time of armed conflict; or crimes against humanity, if the acts in question are sufficiently serious and the relevant contextual criteria ("committed as part of a systematic or widespread attack against a civilian population") are met; as serious non-political crimes, if committed outside the country of refuge prior to the person's admission to that country as a refugee; or as acts contrary to the purposes and principles of the United Nations or the African Union, if they are capable.

In all cases, the assessment needs to be made in light of international standards, and the applicability of exclusion needs to be examined in an individualized determination, in light of all relevant circumstances. The designation of certain individuals or groups as "terrorist" on lists – be they international or national – may trigger the need for an assessment of possible exclusion issues, but it does not provide for the automatic application of exclusion.

With regard to the fifth ground for denial of refugee status under Article 8, UNHCR further notes that within the framework of the 1951 Convention, acts threatening national security or public order do not form part of the eligibility criteria for refugee status and are thus not to be applied as grounds for excluding an asylum seeker from refugee status at the initial determination stage, except where such acts fall within the scope of Article 1F of the 1951 Convention. It is recalled, in this context, that Article 1F exhaustively enumerates the grounds for denial of refugee status on grounds related to a person's criminal conduct.

International refugee law foresees other measures which States may take in cases involving threats to national security or public order, including, in particular, expulsion pursuant to Article 32, or exceptions to the principle of non-refoulement in the specific circumstances provided for in Article 33 (2) of the 1951 Convention. The purpose and scope of application of Article 1F are different from those for Article 32 or Article 33 (2). Article 1F aims at depriving persons undeserving of international protection of their refugee status. In comparison, both Article 32 and Article 33 (2) concern those who are already determined to be refugees. Article 32 refers to the exceptional circumstances of expulsion of refugees who are lawfully present in the country. Article 33 (2) allows States not to apply the benefit of protection from refoulement under Article 33(1) of the 1951 Convention to refugees whom there are reasonable grounds for regarding as a danger to the security of the country in which they are, or who, having been convicted by a final judgment of a particularly serious crime, constitute a danger to the community of that country. It aims to protect the safety of the country of refuge and hinges on the assessment that the

[18] see e.g. UN Security Council, Security Council resolution 1566 (2004) [concerning threats to international peace and security caused by terrorism], S/RES/1566 (2004), 8 October 2004, available at: https://www.refworld.org/legal/resolution/unsc/2004/en/35952 , OP 3, for a description of the characteristics of an "act of terrorism" within the meaning of counter-terrorism resolutions adopted by the UN Security Council.

refugee in question poses a major actual or future threat[19] (on these provisions, please see below in the comments on Article 9 of the Law). UNHCR recommends the assessments of acts related to concerns of national security or public order, for the purposes of exclusion, to be made strictly within the scope of grounds enumerated in Article 1F. In the case of Article 1F(b), the specific temporal and territorial criteria are further to be met. Further, UNHCR recommends the different concepts and respective legal requirements be reflected and clearly stated in the Executive Regulations.

In light of the above, UNHCR recommends that exclusion provisions which reflect verbatim the wording of Article 1F of the 1951 Convention and Article II (5) of the 1969 OAU Convention be inserted within the Executive Regulations to ensure that the meaning is not changed and adherence to the 1951 Convention and 1969 OAU Convention.

Article 9

The Competent Committee issues a decision to revoke the refugee status in any of the following cases:

1- If the refugee status was obtained through fraud, deceit, or omission of any essential data or information.
2- If it is proven that the individual has committed any of the acts stipulated in Article (8) of this law.
3- If it is proven that the individual has violated any of the obligations stipulated in Articles (28), (29), and (30) of this law.

The Competent Committee requests the Competent Ministry to deport the individual from the country upon issuing a decision to revoke the refugee status, as regulated by the executive regulations of this law.

UNHCR notes that Article 9 of the Law addresses different scenarios, however, the current wording is broad and may, therefore, lead to the revocation of refugee status in circumstances where this would not be consistent with international and regional refugee law. To guard against this, UNHCR recommends that the difference between these concepts and their legal requirements be reflected, and clearly stated, in the Executive Regulations.

In Article 9(1), the term "revocation" of refugee status refers to situations in which a refugee was recognized based on "fraud, deceit or omission of any essential data or information". This scenario concerns the invalidation of a refugee status recognition decision which was incorrectly made in the first place – UNHCR refers to it as "cancellation" of refugee status, although other terms (including "revocation") may be used, as there is no legal "term of art" under international refugee law for this scenario. States generally regulate the circumstances in which a final decision to grant refugee status can be re-opened and, under certain circumstances, invalidated ("cancelled") under general administrative law or national legislation regulating the re-opening and revision of judicial decisions that have become final, depending on the system.

UNHCR notes that the wording in the above clause is very broad and may lead to arbitrary interpretation and application of the revocation of refugee status. From an international and regional refugee law perspective, UNHCR notes that the 1951 Convention and 1969 OAU Convention do not expressly provide for revocation ("cancellation" in these circumstances), but where it is determined, in proper procedures offering adequate safeguards, that a person should not have been granted refugee status because they were not eligible for it at the time of the initial determination, this is consonant with the 1951 Convention.

Article 9(2) of the Law contemplates the "revocation" of refugee status with reference to the exclusion provisions in Article 8. UNHCR notes that the ending of refugee status based on exclusion grounds may be consistent with international refugee law in two scenarios:

[19] See UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees, HCR/GIP/03/05, 4 September 2003, available at: https://www.refworld.org/policy/legalguidance/unhcr/2003/en/14733 ; see also UN High Commissioner for Refugees (UNHCR), Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees, 4 September 2003, available at: https://www.refworld.org/policy/legalguidance/unhcr/2003/en/33331 .

First, in situations where it is determined that an individual should not have been recognized as a refugee in the first place, because it is later found that an exclusion ground provided for in Article 1F of the 1951 Convention or Article II(5) of the 1969 OAU Convention should have been applied at the time of the initial determination, this would indeed justify the invalidation ("cancellation", in UNHCR's terminology) of refugee status, provided all relevant criteria are met and there are no other provisions under national law which would preclude the re-opening of a final administrative or judicial decision. The considerations set out above under Article 8 in relation to the application of exclusion to asylum seekers apply equally in the context of cancellation of refugee status on exclusion grounds pursuant to Article 9(2) of the Law.

Second, Article 9(2) of the Law may also be relevant in situations where an individual engages in conduct within the scope of an exclusion provision after being recognized as a refugee. In this scenario, it is important to recall the geographic (outside the Host State) and temporal (prior to admission to that country) requirements under Article 1F(b) (and Article 8(2) of the law). Only those exclusion grounds which are not restricted in this way can be applied as grounds for revoking refugee status in such cases – in other words, under international refugee law, the term "revocation" of refugee status (also used in this sense in UNHCR's terminology), refers to the withdrawal of refugee status in situations where a person properly determined to be a refugee engages in conduct which comes within the scope of Article 1F(a) or (c) of the 1951 Convention after recognition or Article 1 and 8 of the Law.

Article 9(3) adds further grounds for the "revocation" of refugee status, which go beyond the circumstances in which international refugee law permits the ending of refugee status, once granted. To recall, this would be consistent with the 1951 Convention only if it is established that one of the cessation grounds in Article 1C of the 1951 Convention or Article II(4) of the 1969 OAU Convention is applicable; or that refugee status may be "cancelled" (i.e. invalidated) or "revoked" based on the exclusion provisions in Article 1F(a) or (c) of the 1951 Convention (or their equivalents in Articles II(5) (a), (c) and (d) of the 1969 OAU Convention). Specifically, UNHCR notes that cessation, cancellation and revocation of refugee status are not permitted under international refugee law for lack of observance of the constitution, laws, and regulations in force in the Host State, or of its societal values and traditions (Article 28), based on grounds of national security (Article 29) or because the individual concerned engages in political activities (Article 30). With regard to refugees who are determined, in proper procedures, to pose a risk to national security or public order, international refugee law permits their expulsion, albeit to a country where they would not be exposed to a risk of persecution (Article 32 of the 1951 Convention) or, in the specific circumstances provided for in Article 33(2) of the 1951 Convention, the Host State may exceptionally withdraw protection against refoulement under international refugee law.

However, as non-refoulement is a core principle as set forth in the 1951 Convention and 1969 OAU Convention, and prohibits States from returning or expelling an individual in any manner whatsoever to countries or territories where they may be subjected to persecution on one of the five Convention grounds, or where his/her life, physical integrity or liberty would be threatened due to external aggression or occupation, or events seriously disturbing public order, as the case may be, and that any decision on the application of an exception to the non-refoulement obligation would need to be made in procedures offering appropriate safeguards, UNHCR recommends that the requirement for due process guarantees be specifically provided in the text of the Executive Regulations.

Furthermore, UNHCR suggests that, in line with Article 33(2) of the 1951 Convention, the reference to national security and public order be clearly defined in the Executive Regulations, including to highlight that the exception only be applied to individuals for whom there are reasonable grounds to regard as a danger to the security of the country in which they are or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country, to prevent instances of deportation or other forms of forcible removal which would be inconsistent with Egypt's obligations under international law.

Finally, UNHCR recalls that, even when Article 33(2) of the 1951 Convention applies, States are prohibited from removing individuals to countries where there are substantial grounds for believing that they are at risk of being subject to torture or other cruel, inhuman or degrading treatment or punishment, or other serious violations of their human rights or from where they could subsequently be removed to countries where they would be exposed to such risks as per Egypt's obligations under the 1951 Convention and the 1969 OAU Convention, international human rights law treaties to which it is a State Party, and customary international law.

Article 10
The Competent Committee, in times of war, or within the framework of measures taken to combat terrorism, or in the event of serious or exceptional circumstances, may request the adoption of measures and procedures towards the refugee for considerations of national security and public order, as regulated by the executive regulations of this law.

UNHCR notes that Article 10 is wide in scope and may lead to restrictions or derogations of the rights of refugees that are not in line with Egypt's obligations under international and regional refugee and human rights law. Compliance with international and regional refugee and human rights law applicable to Egypt will depend on the specific measures that will be concerned by this Article. Under international refugee law, "measures and procedures towards the refugee for considerations of national security and public order" refer only to specific measures, including the use of detention (see UNHCR Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, Guideline 4.1)[20] or the possibility of not issuing Convention Travel Documents for "compelling reasons of national security or public order" (Article 28 of the 1951 Convention). The measures leading to restrictions of rights on grounds of national security and public order will need to be prescribed by law, necessary and proportionate to the aim pursued, and would need to provide an effective remedy to guarantee against abuse. UNHCR recommends that more details on the measures and procedures foreseen by Article 10, as well as the grounds, conditions, and procedures to resort to them, and the effective remedies available be included in the Law in order to provide a clear legal basis. If that does not prove possible, it will be essential that they be provided in the Executive Regulations.

UNHCR further recalls that certain rights, including the principle of non-refoulement, may not be derogated either in times of war or public emergency. The other rights of refugees may be temporarily derogated under international human rights law only in situations of war and public emergency threatening the life of the nation, when strictly necessary and proportionate, and subject to a procedure of notification and oversight as well as the access to effective remedies.

Article 11
The Competent Committee issues a document to the refugee proving their status. The executive regulations of this law specify the data included in this document, its validity period, and the procedures for its issuance and renewal.

UNHCR commends the GoE for ensuring the refugee documentation has set parameters as per the Executive Regulations. UNHCR recommends that the asylum documentation provided set forth rights for the legal right to stay in the form of a residency permit for a period of three years, as per Article 2 (8 and 9) of the Minister of Interior Decree No. 8180 for year 1996, as well as other associated rights as per the asylum law and Egypt's international obligations.[21] UNHCR further recommends that the Executive Regulations clarify that the refugee documentation is recognized as proof of identity as per Article 27 of the 1951 Convention. In this regard, it must be noted that while the Law mentions documentation provided to refugees, it is silent on whether or what documentation will be issued to asylum seekers. In line with Article 27 of the 1951 Convention, UNHCR recommends that documentation also be issued to asylum seekers serving as proof of their identity, and UNHCR recommends that asylum seekers be provided with a legal right to stay pending the duration of a final decision on their asylum application.

Article 12
A refugee has the right to obtain a travel document issued by the Competent Ministry after the approval of the Competent Committee. The executive regulations of this law specify the rules and procedures for its issuance and renewal. The Competent Committee may decide, for reasons related to national security or public order, that the refugee [should not][22] receive the travel document.

UNHCR commends the GoE for providing the right to travel documents to refugees in the Law.

[20] UN High Commissioner for Refugees (UNHCR), Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, 2012, available at: https://www.refworld.org/policy/legalguidance/unhcr/2012/en/87776.
[21] قرار رقم 8180 لسنة 1996 بتنظيم إقامة الأجانب في مصر, No. 8180, 1 November 1996, available at: https://www.refworld.org/legal/decreees/natlegbod/1996/ar/147114, Article 2 (8 and 9).
[22] The Arabic text of the Law reads [year].

Given that under Article 28(1) of the 1951 Convention and Article VI(1) of the 1969 OAU Convention the issuance of a travel document to travel outside the country may only be denied on the basis of compelling reasons of national security or public order, UNHCR recommends the GoE to specify this threshold for refusal to issue a travel document explicitly in the Executive Regulations.

Article 13

Return or forcible return a refugee to the country of their nationality or habitual residence is prohibited.

UNHCR welcomes this provision, which is a positive safeguard that seeks to prevent the return of a refugee to their country of origin, in line with the principle of non-refoulement under the 1951 Convention and 1969 OAU Convention, as well as international human rights law.[23] UNHCR recalls that the prohibition of the forcible removal of refugees to the country of origin and/or any other country where they would be at risk of persecution or other serious harm is applicable to all forms of removal, including expulsion, deportation, rejection at the border or extradition. The principle of non-refoulement also applies to asylum seekers and protects them from removal to their countries of nationality or habitual residence, or any other country where they are at risk, prior to a final determination on their refugee status being handed down. UNHCR notes further that the non-refoulement protection as set forth in the comments to Article 7 above clearly be provided in the law, and, its procedural safeguards, in the Executive Regulations.

To that end, UNHCR strongly recommends that a clear prohibition to reject at the frontier, expel or return ("refouler") in any manner whatsoever a person to any territories where his/her life, physical integrity or liberty would be threatened on account of their race, religion or nationality, membership of a particular social group or political opinion, or due to external aggression or occupation, or events seriously disturbing public order, or it would result in exposing them to serious human rights violations, notably arbitrary deprivation of life, or torture or other cruel, inhuman or degrading treatment or punishment, as set forth in international law. Protection from refoulement must be ensured while asylum processing is being carried out at first instance and on appeal. Any exceptions under international refugee law to the non-refoulement principle must align to the due process guarantees that are set forth as per Article 33(2) of the 1951 Convention.

UNHCR further recommends the inclusion of procedural guarantees in line with the 1951 Convention relating to due process of law in issuing the decision allowing the refugee to appeal such decision, and a reasonable period to seek legal admission into another country while reserving the right to apply measures as deemed necessary during that period.

Article 14

A refugee has the freedom of religious belief, and those of the Abrahamic religions have the right to practice their religious rituals in designated places of worship.

Article 15

A refugee is subject to the personal status laws, including marriage and its effects, inheritance, and endowment, of their country of origin or, if they have no country of origin, the country of their residence, provided this does not conflict with public order. This does not affect related rights established before acquiring refugee status, provided the completion of any incomplete procedures. All of this is regulated by the laws and regulations in force in the Arab Republic of Egypt.

UNHCR strongly recommends that all refugees and asylum seekers be able to effectively access civil registration procedures (birth, marriage, death, etc.) and be issued related civil documentation, in an inclusive manner. This is critical for ensuring that refugees and asylum seekers (including those born in Egypt) are able to be properly documented by the State and that, when appropriate, they are able to access solutions, including resettlement

[23] See, e.g. Committee against Torture, General Comment No. 4 (2017) on the implementation of article 3 of the Convention in the context of article 22, UN Committee Against Torture (CAT), 9 February 2018, available at: https://www.refworld.org/legal/general/cat/2018/en/120416; UN General Assembly, International Convention for the Protection of All Persons from Enforced Disappearance, 20 December 2006, available at: https://www.refworld.org/legal/agreements/unga/2006/en/57490 , Art. 16(1).

and voluntary repatriation. To this end, UNHCR recommends revision of the existing national laws and regulations to ensure the effective access for refugees and asylum seekers to civil documentation by inter-alia, removing any administrative barriers that may arise and ensuring that domestic legislation is refugee-protection sensitive and procedures are placed accordingly.

Article 16
A refugee enjoys the same rights as foreigners concerning movable and immovable properties, including principal and associated rights, and has the same rights regarding intellectual property. Refugees also have the right to transfer their possessions into the Arab Republic of Egypt for residence, provided this does not compromise national security or public order. All of this is regulated by the relevant laws.

Article 17
A refugee has the right to litigate and be exempt from judicial fees if found necessary, as regulated by the relevant laws.

Article 18
A refugee has the right to work and receive appropriate remuneration for their work. They also have the right to practice freelance professions if they hold a recognized certificate after obtaining a temporary permit from the competent authorities in the country, all as regulated by the relevant laws.

UNHCR commends the GoE for providing refugees with the right to work under the Law. UNHCR further recommends including in the Executive Regulations a clause that exempts refugees from any conditions under Labour Law No. 12 of the Year 2003 that they would be unable to fulfil by reason of being a refugee.[24] For example, refugees may be unable to present evidence of past income levels, particular identity documents, or other/specific documents, including from their country of origin.

Article 19
A refugee has the right to work for themselves, establish companies, or join existing companies, as regulated by the relevant laws.

UNHCR commends the GoE for providing refugees the right to self-employment under the Law. As set forth in Article 18 of the 1951 Convention, on self-employment, asylum seekers also have a right to work for themselves. UNHCR recommends that asylum seekers be provided access to the labour market for the purposes of self-employment, no later than six months from the date of applying for international protection.[25]

Article 20
A refugee child has the right to elementary education. Refugees holding educational certificates granted abroad have the right to have them recognized. All of this is in accordance with the relevant rules established for foreigners.

UNHCR strongly recommends that asylum-seeking and refugee children be able to effectively access elementary education on the same footing as national children, as per the 1951 Convention's Article 22, by inter alia removing any legal and administrative barriers. UNHCR further recommends that the State lift its reservations to Article 22 (1).

Article 21
A refugee has the right to receive adequate healthcare, as regulated by the executive regulations of this law and the decisions issued by the minister responsible for health affairs.

[24] Egyptian Labour Code (Law No. 12 of 2003), promulgated 2003, Official Egyptian Gazette.
[25] UN High Commissioner for Refugees (UNHCR), UNHCR Guidelines on International Legal Standards Relating to Decent Work for Refugees, July 2021, available at: https://www.refworld.org/policy/legalguidance/unhcr/2021/en/123889 , para.46.

Article 22
Except for the cases mentioned in Article (10) of this law, a refugee has the freedom to move and choose their place of residence, provided they notify the Competent Committee of their permanent residence and any changes to it. All of this is regulated by the relevant laws and the executive regulations of this law.

Article 23
A refugee shall not be subjected to any taxes, fees, or other financial burdens different from those imposed on citizens. Without prejudice to the provision of the first paragraph of this article, the Competent Committee may request the relevant ministry to consider exempting the refugee from the fees and service charges for issuing administrative documents granted to foreigners, as regulated by the relevant laws.

Article 24
A refugee has the right to join any associations or their boards of directors in accordance with the law regulating civil society work and its executive regulations.

Article 25
A refugee has the right to voluntarily return at any time to the country of their nationality or habitual residence. The Competent Committee, in coordination with the United Nations High Commissioner for Refugees and the country of the refugee's nationality or habitual residence, shall take the necessary measures for voluntary return. All of this is regulated by the executive regulations of this law.

UNHCR notes that the 1969 OAU Convention, Article V, includes important safeguards for voluntary repatriation.[26] UNHCR recommends the GoE to include these safeguards in the Executive Regulations.

Article 26
The Competent Committee, in coordination with the relevant international bodies, may resettle the refugee in a country other than the one they left, as regulated by the executive regulations of this law.

Article 27
A refugee has the right to apply for Egyptian citizenship, as regulated by the relevant laws.

UNHCR welcomes the express right for refugees to apply for Egyptian citizenship. Given Article 34 of the 1951 Convention clarifies that State Parties to the Convention shall in particular make every effort to expedite the naturalization process and to reduce as far as possible the charges and costs involved, UNHCR recommends that such clarifications be provided for in the Law. Particular consideration could be given to any stateless refugees.

Article 28
A refugee is obligated to respect the constitution, laws, and regulations in force in the Arab Republic of Egypt, to observe Egyptian societal values, and to respect its traditions.

UNHCR suggests that the GoE incorporate Article 2 of the 1951 Convention: "Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order." If amendments are not possible, this Article should be interpreted in light of Article 2 of the 1951 Convention in that a refugee should be obligated to observe and respect values and traditions insofar as they are based on laws or regulations and that they are in compliance with international and regional refugee and human rights law.

[26] Organization of African Unity (OAU), Convention Governing the Specific Aspects of Refugee Problems in Africa ("OAU Convention"), 1001 U.N.T.S. 45, 10 September 1969, available at: https://www.refworld.org/legal/agreements/oau/1969/en/13572 , Art. V.

Article 29
A refugee is prohibited from engaging in any activity that would harm national security or public order or that conflicts with the goals and principles of the United Nations, the African Union, the Arab League, or any organization to which Egypt is a party or from committing any hostile act against their country of origin or any other country.

While understanding that the general aim of this provision is to preserve the national security or public order of the country, UNHCR considers that the term "hostile" as employed in this Article is excessively vague and may risk to inadvertently include activities that would constitute the legitimate exercise of the refugee's freedom of expression, assembly and association. These rights may be restricted in case of hostile acts that would lead to threats to national security and/or public order. These situations would however already be covered by the first line of this Article, rendering the last line mentioning "hostile acts" redundant.

UNHCR recognizes that refugees enjoy the right to freedom of opinion and expression pursuant to human rights law, which may only be restricted pursuant to law, in pursuance of a legitimate aim allowed under international human rights law, and when necessary and proportionate to achieve such aim. The grant of asylum is a peaceful and humanitarian act, which no other State may consider unfriendly. However, the grant of asylum should not jeopardize the sovereignty, political independence, territorial integrity and national unity or disrupt the political, economic and social stability of another State, including the country of origin. Limitations on the exercise of rights by refugees to safeguard against these risks, including as related to disruption of political stability in the country of origin, would need to be in line with international law, and would thus only be justified where a refugee, having been granted asylum, propagates war or advocates national, racial or religious hatred that rises to the level of constituting incitement to discrimination, hostility or violence. The Host State is required to take measures preventing the refugee from undertaking such conduct. This is so, not only because such propaganda and advocacy are prohibited under international law, but also because it affects the humanitarian and non-political character of asylum if left unaddressed. With regard to measures which Host States may take where a refugee engages in acts that pose a threat to national security or public order, please see also the comments under Article 9 above.

UNHCR recalls that, always in light of the humanitarian and non-political character of asylum, persons who are engaged or pursue military activities in Egypt cannot be considered as asylum seekers or refugees. UNHCR therefore recommends deleting the sentence "or any organization to which Egypt is a party or from committing any hostile act against their country of origin or any other country." Finally, as highlighted in the comment on Article 9(3) above, UNHCR recalls that the situations referred to in Article 29 cannot be used as a ground for exclusion from, revocation or cancellation of refugee status.

Article 30
A refugee is prohibited from engaging in any political or party activities, any work within unions, or from founding, joining, or participating in any political parties in any form.

Refugees, like any worker, with the sole possible exception of members of the armed forces and the police, have the right to form and join an organization for the promotion and protection of its economic and social interests, i.e. trade unions.[27] According to ILO recommendation No. 205, Member States should "enable the participation of refugees in representative organizations of employers and workers, to promote equality of opportunity and treatment for refugees with regard to fundamental principles and rights at work and coverage under relevant

[27] See, e.g. UN General Assembly, International Covenant on Economic, Social and Cultural Rights, United Nations, Treaty Series, vol. 993, p. 3, 16 December 1966, available at: https://www.refworld.org/legal/agreements/unga/1966/en/33423 , Art. 8; UN General Assembly, International Covenant on Civil and Political Rights, United Nations, Treaty Series, vol. 999, p. 171, 16 December 1966, available at: https://www.refworld.org/legal/agreements/unga/1966/en/17703 , Art. 22; International Labour Organization (ILO), C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948, No.87, 9 July 1948, available at: https://www.refworld.org/legal/agreements/ilo/1948/en/36193 , Art. 2.

labour laws and regulations".[28] Foreigners, including refugees and asylum seekers, are therefore equally allowed to form or join a trade union or an employer organization subject to the rules of organization itself.[29]

Further, under international human rights law, everyone has the right to hold opinions and is free to express them.[30] This includes political opinions expressed and disseminated in any shape or form.[31] The right of refugees to express their opinions, including political opinions, can be restricted as it can for everyone else. Such restrictions must be necessary, serve a legitimate purpose and be provided for and defined in law. Under the 1951 Convention, refugees are explicitly required to conform to the laws and regulations of the country in which they find themselves and to measures taken for the maintenance of public order. Where refugees do not conform to lawful measures restricting their freedom of expression, they may be held accountable under the normal and non-discriminatory application of the Host State's domestic laws and regulations in accordance with international standards.[32]

Finally, as highlighted in the comment on Article 9(3) above, UNHCR recalls that the situations referred to in Article 30 cannot be used as a ground for exclusion from, revocation or cancellation of refugee status.

Article 31

Anyone who enters the Arab Republic of Egypt illegally and meets the objective conditions for asylum must voluntarily present themselves to the Competent Committee within 45 days of their entry date.

UNHCR underscores it is in the interest of both the State and asylum seekers that they present themselves to the authorities as soon as reasonably possible and request asylum. However, non-compliance with time limits set in law by which asylum seekers must make themselves known to the authorities and claim asylum cannot be an automatic bar to applying for asylum and having the asylum application assessed. Given this would be in breach of the right to seek asylum and may lead to refoulement, UNHCR recommends that the GoE clarify this in the Executive Regulations.

Article 32

A person who arrives directly from regions where their life or freedom was in danger does not bear civil or criminal liability for illegal entry or presence in the Arab Republic of Egypt, provided they surrender themselves immediately upon arrival to any government authorities.

While it is appreciated that no civil or criminal liability is incurred on persons entering or being present irregularly and coming directly from a territory where their life or freedom was threatened, provided they have presented themselves to the authorities without delay, it is recommended to clarify these conditions – of directness and promptness – in the Executive Regulations accompanying the Law, as per UNHCR Guidelines on International Protection No. 14 on Article 31 of the 1951 Convention.[33]

Further, under any circumstance criminal liability for irregular entry or presence by a refugee must be avoided. The irregular entry or presence of refugees must not be treated as a criminal offense. This would be unnecessary and disproportionate, exceeding the legitimate interest of the State to control irregular immigration. UNHCR recommends the GoE clarify this in the Executive Regulations.

[28] See International Labour Organization (ILO), R205 - Employment and Decent Work for Peace and Resilience Recommendation, 2017, No. 205, 16 June 2017, available at: https://www.refworld.org/legal/resolution/ilo/2017/en/97708 .
[29] UN High Commissioner for Refugees (UNHCR), UNHCR Guidelines on International Legal Standards Relating to Decent Work for Refugees, July 2021, available at: https://www.refworld.org/policy/legalguidance/unhcr/2021/en/123889 , paras. 1-3.
[30] See, e.g. UN General Assembly, International Covenant on Civil and Political Rights, United Nations, Treaty Series, vol. 999, p. 171, 16 December 1966, available at: https://www.refworld.org/legal/agreements/unga/1966/en/17703 , Art. 19.
[31] UN Human Rights Committee (HRC), General comment no. 34, Article 19, Freedoms of opinion and expression, CCPR/C/GC/34 , 12 September 2011, available at: https://www.refworld.org/legal/general/hrc/2011/en/83764 , *paras. 9, 11 and 12.*
[32] See UN High Commissioner for Refugees (UNHCR), Legal considerations on the right for refugees to hold and express political opinions in their country of asylum, 6 March 2020, available at: https://www.refworld.org/policy/legalguidance/unhcr/2020/en/123152 .
[33] See UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 14: Non-penalization of refugees on account of their irregular entry or presence and restrictions on their movements in accordance with Article 31 of the 1951 Convention relating to the Status of Refugees, HCR/GIP/24/14, 23 September 2024, available at: https://www.refworld.org/policy/legalguidance/unhcr/2024/en/148632 .

Article 33
Refugee status ceases in any of the following cases:

1. The voluntary return of the refugee to the country of their nationality or to their habitual residence if they are stateless.
2. The resettlement of the refugee in a country other than the one they left.
3. The refugee's naturalization as a citizen of the Arab Republic of Egypt.
4. The refugee's voluntary re-availed of the protection of the country of their nationality.
5. The refugees voluntarily reacquire the nationality they lost and enjoy the protection of that nationality.
6. The refugee's acquisition of a new nationality and the enjoyment of the protection of that nationality.
7. If it becomes impossible to continue refusing the protection of the country of the refugee's nationality or residence due to the cessation of the reasons that led to the asylum.
8. The refugee's departure from the Arab Republic of Egypt for a continuous period of six months without an excuse accepted by the Competent Committee.

The Competent Committee issues a decision to cease the refugee status within fifteen days from the date of the occurrence of any of the cases mentioned in the first paragraph of this article. Except for the cases stipulated in items (1) and (3) of the first paragraph of this article, the Competent Ministry decides to deport the refugee from the country after the issuance of the decision above. All of this is regulated by the relevant laws and the executive regulations of this law.

Article 1C of the 1951 Convention exhaustively outlines the conditions under which refugee status ceases. Cessation may arise because international protection is no longer necessary or justified on the basis of certain voluntary acts of the individual concerned or through a fundamental change in the situation prevailing in the country of origin. UNHCR notes that sub-Articles (1)-(6), which although not verbatim, do seek to reflect Article 1C of the 1951 Convention. However, the additional sub-Articles 7 and 8 go beyond the scope of Art 1C of the Convention, which is of concern. Of further concern is the Competent Committee's power to cease refugee status within 15 days of events referred to under sub-Articles (1), (7) and (8), without procedural safeguards in place, including the refugees right to appeal such a decision that may ultimately lead to refoulement.

As articulated in UNHCR's 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, when interpreting the cessation clauses, it is important to bear in mind the broad durable solutions context of refugee protection informing the object and purpose of these clauses.[34] This is supported by numerous Executive Committee Conclusions affirming that the 1951 Convention and principles of refugee protection look to durable solutions for refugees.[35] UNHCR recommends the GoE to develop cessation practices that are consistent with the goal of durable solutions.

Article 34
The competent investigative authority is obligated to notify the Competent Committee if a refugee is accused of committing a felony or misdemeanour or if a judgment is issued against them for any of these crimes.

The Article does not specify the consequences of the notification. In line with international and regional legal standards, UNHCR encourages the GoE to clarify such consequences in the Executive Regulations.

Article 35
Appeals against the decisions issued by the Competent Committee pursuant to the provisions of this law shall be made before the Administrative Court of the State Council.

[34] See UN High Commissioner for Refugees (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), HCR/GIP/03/03, 10 February 2003, available at: https://www.refworld.org/policy/legalguidance/unhcr/2003/en/14489 .
[35] See, e.g., Executive Committee Conclusions No. 29 (XXXIV) (1983), No. 50 (XXXIX) (1988), No. 58 (XL) (1989), No. 79 (XLVII) (1996), No. 81 (XLVIII) (1997), No. 85 (XLIX) (1998), No. 87 (L) (1999), No. 89 (L) (2000), and No. 90 (LII) (2001).

UNHCR commends the GoE for including a right to appeal the decisions made pursuant to the Law. In light of the enforceable administrative decision taken by the Competent Committee, UNHCR recommends considering the imposition of a moratorium on the decision and allowing for a minimum of 60 days for appeal, as set forth in Article 24 of the Egyptian State Council law no.47 for year 1972, so that applicants are provided with an adequate timeframe to prepare their appeal submissions.[36] UNHCR also recommends clearly noting the standard of review and the fact that the appeal should take into consideration any new information relevant to the claim, including information relating to a change in the applicant's personal circumstances or a change in the situation in their country of origin, as well as affording the applicant with the right to present his appeal in person. Furthermore, the scope of the review on appeal encompasses both findings of fact and law and should also take into consideration any new element relevant to the claim and provide the applicant with an opportunity to present his appeal in person. UNHCR further recommends that the right to legal assistance be afforded in the entire asylum procedures, including on the appeal and for those under administrative detention pending removal procedures.

Article 36
Without prejudice to any more severe penalty provided for in the Penal Code or any other law, the crimes specified in the following articles shall be punished with the penalties prescribed therein.

Article 37
Subject to the provisions of the Labor Law, anyone who employs or shelters an asylum seeker without notifying the relevant police department in whose jurisdiction the place of work or shelter is located shall be punished with imprisonment for not less than six months and a fine of not less than fifty thousand pounds and not more than one hundred thousand pounds, or either of these two penalties, if it is [proven that they were aware] of it[37].

While UNHCR recognizes the Egyptian State's sovereignty in governing the movements and employment of individuals within its territory, UNHCR does not recommend the penalization of individuals who employ or shelter asylum seekers in any manner, as the right to housing and employment are enshrined in Article 21 and Article 17 in the 1951 Convention for both asylum seekers and refugees and set force in Article 18 and 22 in the Law. Furthermore, this provision may equally limit asylum seekers' access to housing to which they are entitled under international and regional human rights law. Finally, it may be that the punishment, particularly the deprivation of liberty, is disproportionate.

Article 38
Anyone who violates the provisions of Article (29) of this law shall be imprisoned for a period of not less than three years and a fine of not less than one hundred thousand pounds and not more than five hundred thousand pounds or with one of these two penalties.

While preserving national security is the sovereign right of the State, the imposition of a criminal sentence for committing an act against national security without setting clear parameters or definition of the criminal act and intent is excessively broad and may not be in line with the requirement of prescription by law, necessity and proportionality for any permissible restriction to the rights of freedom of expression or associations under international human rights law. Moreover, the imposition of a criminal sentence for committing any act against national security is best regulated through the country's Penal Code.

Article 39
Taking into account the provisions of the Law on Combating Illegal Immigration and Smuggling of Migrants issued by Law No. 82 of 2016 and Article (32) of this law, anyone who violates the provisions of Article 31 of this law shall be punished with imprisonment for not less than six months and a fine of

[36] Egyptian State Council law, (Law No.47 for year 1972), Article 24.
[37] The Arabic text of the Law reads [work].

not less than ten thousand pounds and not more than one hundred thousand pounds, or with one of these two penalties.

While it is appreciated that no civil or criminal liability is incurred on persons entering or being present irregularly and coming directly from a territory where their life or freedom was threatened, provided they have presented themselves to the authorities without delay, as stipulated in Article 32, UNHCR does not recommend, under any circumstance criminal liability for irregular entry or presence by a refugee.[38] The irregular entry or presence of refugees must not be treated as a criminal offense as this would be unnecessary and disproportionate, exceeding the legitimate interest of the State to control irregular immigration. UNHCR recommends the GoE to specifically set this forward in the Law or clarify this in the Executive Regulations.

[38] See UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 14: Non-penalization of refugees on account of their irregular entry or presence and restrictions on their movements in accordance with Article 31 of the 1951 Convention relating to the Status of Refugees, HCR/GIP/24/14, 23 September 2024, available at: https://www.refworld.org/policy/legalguidance/unhcr/2024/en/148632 .