

# International Agreements for the Transfer of Refugees and Asylum-seekers

## Introduction

1. This guidance provides globally relevant advice and considerations to inform cooperative arrangements among States on asylum and ensure their consistency with international refugee and human rights law. In particular, it aims to inform the development and implementation of arrangements for State cooperation in relation to the transfer of refugees and asylum-seekers to a third country, when States are considering such arrangements. This guidance outlines the legal basis for such arrangements as well as their scope and content and should be read together with UNHCR's existing positions and guidance on related issues, on which it is based.<sup>1</sup> It also underscores the importance of responsibility-sharing and international cooperation as essential elements for the legality and practical viability of these arrangements. This guidance further describes the potential role of UNHCR in the development, conclusion, implementation and monitoring of transfer agreements pursuant to its mandate for the international protection of refugees and its supervisory responsibility for the application of refugee law instruments.

2. UNHCR has long aimed to support effective responses to the challenges of onward movements,<sup>2</sup> including by issuing legal and policy guidance as well as implementing practical and rights-based operational approaches that ensure international protection is accessible and effective.<sup>3</sup> While maintaining its position that asylum-seekers should ordinarily be processed in the territory of the State where they arrive, UNHCR considers that it is essential to provide specific guidance to ensure the lawful and rights-based implementation of transfer arrangements, should States consider such measures as part of broader responses to the challenges posed by the onward movements of refugees and asylum-seekers. Such

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<sup>1</sup> See particularly UNHCR, *Guidance Note on bilateral and/or multilateral transfer arrangements of asylum-seekers*, May 2013, [www.refworld.org/policy/legalguidance/unhcr/2013/en/16943](http://www.refworld.org/policy/legalguidance/unhcr/2013/en/16943). UNHCR, *Legal considerations regarding access to protection and a connection between the refugee and the third country in the context of return or transfer to safe third countries*, April 2018, [www.refworld.org/policy/legalguidance/unhcr/2018/en/120729](http://www.refworld.org/policy/legalguidance/unhcr/2018/en/120729). UNHCR, *Guidance on Responding to Irregular Onward Movement of Refugees and Asylum-Seekers*, September 2019, [www.refworld.org/policy/legalguidance/unhcr/2019/en/123059](http://www.refworld.org/policy/legalguidance/unhcr/2019/en/123059). These positions remain valid and should be read together with the present guidance.

<sup>2</sup> 'Onward movement' refers to movement of refugees and asylum-seekers from one country where they enjoyed international protection, or could have sought and received such international protection, to another country where they may request it. See UNHCR Guidance Note on irregular onward movement, note 1 above, discussing the transfer of refugees and others granted international protection (including subsidiary or other complementary forms of international protection), who move onward and seek protection in another State, as well as asylum-seekers requesting international protection in a current State who have, or could have, sought protection in a previous State. Regarding the definition of persons seeking or in need of international protection, see UNHCR, *Persons in need of international protection*, June 2017, [www.refworld.org/policy/legalguidance/unhcr/2017/en/121440](http://www.refworld.org/policy/legalguidance/unhcr/2017/en/121440). For the purposes of the present Guidance, the term 'current State' or 'current host State/country' refers to the State in which an asylum-seeker or refugee is physically present and/or where they have most recently applied for international protection. 'Transferring state' refers to a current State or current host State that is seeking to transfer refugees and asylum-seekers to another State. 'Third country/State' refers to a State where refugees and asylum-seekers had found, could have found, or can find international protection, and to where they are being transferred.

<sup>3</sup> Executive Committee of the High Commissioner's Programme, *Conclusion No. 58 (XL): Problem of Refugees and Asylum-Seekers Who Move in an Irregular Manner from a Country in Which They Had Already Found Protection*, 13 October 1989, <https://www.refworld.org/policy/exconc/excom/1989/en/114502>. UNHCR, *The 10-Point Plan in Action, 2016 Update, Chapter 8: Addressing Onward Movements*, December 2016, [www.refworld.org/policy/strategy/unhcr/2016/en/114091](http://www.refworld.org/policy/strategy/unhcr/2016/en/114091). See also UNHCR's guidance outlined in note 1 above.

arrangements need to enshrine the safeguards and guarantees provided in this guidance, including in relation to responsibility-sharing.

3. People seeking asylum in a State may lawfully be transferred by that State to a third country that is considered safe for them and where they can find international protection that is accessible and effective.<sup>4</sup> This includes asylum-seekers who have been in the third country, including those who transited through that third country and had not applied for international protection, as well as asylum-seekers who had applied for asylum but whose asylum claims were not previously assessed by the third country. It also includes asylum-seekers who have not been in the third country, and who have no meaningful link or connection to that country, but who following their transfer, can find international protection there. Finally, it includes refugees and others already granted international protection by the third country (the first country of asylum), provided that such protection continues to be accessible and effective and their stay in the third country is lawful.<sup>5</sup> Lawful transfers should not include transfers of people who have been formally recognized as refugees, or have otherwise been granted international protection, by the current host State. Such persons should not be transferred to a third country and should have legal residence in the current host country.<sup>6</sup>

### The legal basis for transfers of refugees and asylum-seekers

4. An arrangement between States for the transfer of refugees and asylum-seekers is best governed by a legally binding international – bilateral or multilateral – agreement, challengeable and enforceable in a court of law, including by the affected refugees and asylum-seekers.<sup>7</sup> International agreements between States regulating the transfer of refugees and asylum-seekers provide a clear and binding legal framework, setting out relevant standards, enabling such transfers to occur in accordance with international law. The agreements should outline the conditions under which transfers may occur, the specific responsibilities of the participating States and the criteria and safeguards necessary to ensure the rights and safety of the individuals concerned. Such agreements, when correctly developed and implemented, can advance the effective management of onward movements, reduce risks associated with dangerous journeys, enhance responsibility-sharing and strengthen inter-State cooperation, while upholding the rights of refugees and asylum-seekers.

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<sup>4</sup> The 2018 Legal Considerations, note 1 above, summarize UNHCR's position on the requirements for assessing the safety of the third country and access to protection for refugees and asylum-seekers being transferred, whereas the 2013 Guidance Note on bilateral and/or multilateral transfer arrangements of asylum-seekers, note 1 above, sets out key principles which are applicable when arrangements to transfer asylum-seekers are being made between States. As noted above, these positions remain valid and should be read together with the present guidance.

<sup>5</sup> The 'first country of asylum' concept is generally applied in cases where a person has already, in a previous State, found international protection that continues to be accessible and effective. See: 2018 Legal Considerations, note 1 above, para. 3. As to the lawfulness of stay in the country, see paragraph 8, footnote 11 of this guidance. See also Guidance on irregular onward movement, note 1 above, para. 33, as to the ongoing obligations of the first country of asylum vis-à-vis the refugee, including the obligation to readmit the refugee.

<sup>6</sup> The transfer of refugees recognized by the current host state is subject to strict rules concerning the expulsion of refugees under Article 32, *Convention relating to the Status of Refugees* (28 July 1951) 189 UNTS 137, [www.refworld.org/docid/3be01b964.html](http://www.refworld.org/docid/3be01b964.html).

<sup>7</sup> See 2013 Guidance Note on bilateral and/or multilateral transfer arrangements of asylum-seekers, note 1 above, para. 3(v). As such, an 'international agreement' concluded between States in written form, irrespective of the description, title or form in which the agreement is written, would be desirable. Such an agreement would be governed by international law and will be binding for the participating States. See *Vienna Convention on the Law of Treaties* (23 May 1969) 1155 UNTS 331.

5. International transfer agreements should be publicly available and incorporated in the domestic legal system of the participating States, to ensure accountability among the participating States and provide clarity for affected refugees and asylum-seekers as to their rights guaranteed by law. Such agreements then offer legal certainty for participating States and affected individuals, thereby enhancing the effectiveness, fairness and durability of the arrangement.

## The scope and content of transfer agreements

6. International transfer agreements should establish objective and legally enforceable standards applicable in the third country to ensure that transferred refugees and asylum-seekers have effective access to protection, assistance and solutions, both under the third country's domestic laws and policies and in practice. Such agreements should also define clear and enforceable responsibilities of the transferring State.

7. International transfer agreements should include obligations on the part of the third country to admit transferred individuals to its territory and ensure that they are afforded standards of treatment commensurate with the 1951 Convention, its 1967 Protocol and international human rights law.<sup>8</sup> This includes the guarantee of certain core rights, most notably the obligation to protect against refoulement, among others.<sup>9</sup>

8. For asylum-seekers transferred to a safe third country, the agreement should also outline clear obligations to ensure admission to the country<sup>10</sup> and access to a fair and efficient State-led asylum procedure in the third country, ensuring an assessment on the merits of the asylum claim and guaranteeing lawful presence<sup>11</sup> in the third country. Such State-led asylum procedures could include a variety of case processing modalities, such as simplified, group or prima facie procedures.<sup>12</sup> When a transferred asylum-seeker is recognized as a refugee or otherwise being in need of international protection, the agreement should also guarantee the

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<sup>8</sup> Guidance Note on irregular onward movement, note 1 above, para. 20.

<sup>9</sup> Under the 1951 Convention, note 6 above, other core rights include: non-discrimination between refugees (Article 3); personal and civil status recognition (Article 12); free access to courts of law (Article 16(1)); administrative assistance (Article 25); identity documentation (Article 27); travel documentation, particularly for lawfully staying refugees (Article 28); transferring assets (Article 30); non-expulsion of refugees lawfully in the territory (Article 32); and non-refoulement (Article 33). For the remaining rights included in the Convention, the standards of treatment afforded to refugees is relative to the treatment of other legally residing non-nationals or nationals. International human rights instruments require States to ensure core standards of treatment. See: UN Commission on Human Rights, *The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*, 28 September 1984, E/CN.4/1985/4, [www.refworld.org/docid/4672bc122.html](https://www.refworld.org/docid/4672bc122.html). In addition, international human rights law provides scope for progressive realization of certain socio-economic rights, taking into account the concerned country's available resources, levels of international assistance and cooperation, stage of economic development and the general welfare of society. See UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant)*, E/1991/23, 14 December 1990, <https://www.refworld.org/legal/general/cescr/1990/en/5613>.

<sup>10</sup> The 2018 Legal Considerations, note 1 above, para. 4. Guidance Note on irregular onward movement, note 1 above, para. 18(a).

<sup>11</sup> The term "lawfully in", a legal term used in the 1951 Convention, refers to refugees, including asylum-seekers, who are in the territory in an authorized manner, even if they are authorized to remain only on a temporary basis, for example for the duration of their asylum procedure. See UNHCR, *"Lawfully Staying" - A Note on Interpretation*, 3 May 1988, <https://www.refworld.org/policy/legalguidance/unhcr/1988/en/27335>.

<sup>12</sup> See UNHCR, *Guidelines on International Protection No. 11: Prima Facie Recognition of Refugee Status*, HCR/GIP/15/11, 24 June 2015, [www.refworld.org/policy/legalguidance/unhcr/2015/en/105663](https://www.refworld.org/policy/legalguidance/unhcr/2015/en/105663). Where UNHCR carries out status determination under its mandate, this cannot be considered equivalent to an asylum procedure conducted by a State, see Guidance Note on irregular onward movement, note 1 above, para. 19.

granting of lawful stay in the third country.<sup>13</sup> In cases involving previously recognized refugees, or beneficiaries of other forms of international protection, being transferred to their first country of asylum, the agreement should ensure that these persons are readmitted, granted lawful stay and can re-avail themselves of the rights previously granted or enjoyed in that country, in accordance with international law.<sup>14</sup>

9. International transfer agreements should also set out the obligations of the transferring State, before and after transfer, including measures to enforce the agreement and implement transfers, and mechanisms to monitor all parties' (including the third country's) compliance with the agreement and its implementation.

10. The existence of an international transfer agreement does not absolve the transferring State of its ongoing responsibility to assess whether conditions in the third State meet the standards contained in the agreement, both in law and in practice. This obligation is engaged upon the agreement's conclusion and must be upheld throughout its implementation.<sup>15</sup> To this end, the transferring State must undertake regular monitoring to ensure that the agreed standards are consistently met in practice. The agreement should also include a clause requiring its suspension or termination in case reliable information, including from UNHCR, indicates that the standards are not upheld.

11. Whether an individual can lawfully be transferred can be assessed, for example, through an admissibility procedure or other expedited procedure regulated by law. In any event, individuals must, prior to their transfer, have a meaningful opportunity to assert that the third country is not safe in their particular circumstances, or otherwise that their transfer is unlawful, and have access to an effective remedy to challenge the proposed transfer.<sup>16</sup> For some individuals with specific profiles, vulnerabilities or belonging to particular groups, the third country may not be safe. This includes individuals at risk of human rights violations as well as those who may otherwise face significant barriers to enjoying their rights or accessing basic services in the third country. Equally, when asylum-seekers are not admitted to the territory of the third country, or have no access to fair and efficient asylum procedures, they must not be transferred and must be able to seek and enjoy asylum in the current host State. Also, the transfer would not be lawful when, for example, it breaches the right to family life that the transferred individual is enjoying in the current host State. These individuals must not be transferred. In all cases in which the transfer of children is being considered, the best interests of the child must be a primary consideration.

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<sup>13</sup> The term "lawful stay" also refers to refugees who are authorized to stay in the host country, including after recognition. See UNHCR, "*Lawfully Staying*" - A Note on Interpretation, note 11 above.

<sup>14</sup> The 2018 Legal Considerations, note 1 above, para. 3. Guidance Note on Irregular Onward Movement, note 1 above, paras. 18 and 33. When a refugee has moved onward from a State which has granted international protection, that State bears ongoing obligations towards the individual, unless their status has ceased.

<sup>15</sup> This obligation is based on the principle of non-refoulement, which requires the transferring State to ensure that the individual being transferred is not at a real risk of persecution or other serious human rights violations in the receiving country.

<sup>16</sup> International law recognizes States' obligation to ensure that any person whose rights or freedoms are infringed upon shall have an effective remedy by a competent authority, see, for example, Article 2(3) of the International Covenant on Civil and Political Rights (ICCPR) and Article 13 of the European Convention on Human Rights (ECHR). Further, transfers without the possibility of an individual assessment may also amount to a violation of the prohibition of collective expulsion under, among others, Article 13 of the ICCPR, Article 4 of Protocol 4 of the ECHR, Article 12(5) of the African Charter on Human and Peoples' Rights and Article 22(9) of the American Convention on Human Rights.

## Transfer of asylum-seekers to safe countries with which they have no link or connection

12. Transfers need to be sustainable and reasonable.<sup>17</sup> A meaningful link or connection between an asylum-seeker and a third State is not mandatory under international law to permit transfers,<sup>18</sup> although it can enhance their sustainability and reasonableness. In the absence of a meaningful link or connection to the receiving country, measures are needed to ensure sustainability of the transfer, the dignity of the asylum-seekers in the receiving country, including to support prospects for self-reliance and inclusion, and enhancement of responsibility-sharing.

13. The standards applicable to the safety of the third country and other safeguards and guarantees for transfer agreements to a country where the asylum-seeker does have a link – as set out in paras 4 to 11 above – equally apply in relation to transfers to a country where the asylum-seeker does not have a link. In summary, there would need to be guarantees of access to a fair and efficient asylum procedure, of treatment in line with international standards, and of international protection for those who are found to be in need of such protection. The third country must be one that is considered safe for the transferred asylum-seeker and where they can find international protection that is accessible and effective.

## Enhancing responsibility-sharing and international cooperation

14. International transfer agreements should serve to effectively share responsibilities for international refugee protection obligations. Furthermore, they should contribute to the effective management of refugee movements and help expand the overall protection space, both in the transferring State and the receiving State, as well as across the broader regions in which these concerned States are situated. Engagement with relevant regional intergovernmental organizations might further facilitate regional cooperation and responses, by leveraging existing mobility frameworks to regulate transfers. Such organizations and frameworks could enable dialogue and joined-up approaches on comprehensive responses to transfers of refugees and asylum-seekers and advance regional harmonization of standards and inclusive State systems, expanding the overall protection space in the region.

15. To ensure the lawfulness and effectiveness of international transfer agreements and encourage constructive engagement with partner States, such agreements should be grounded in the principles of responsibility-sharing and international cooperation, as articulated in the 1951 Convention and the Global Compact on Refugees.<sup>19</sup> Transfer agreements should also uphold the right to seek and enjoy asylum.<sup>20</sup> These objectives can be achieved through provisions in the transfer agreement that incorporate the following elements:

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<sup>17</sup> Executive Committee Conclusion No. 15(XXX) of 1979, *Refugees Without an Asylum Country*, para (h)(iv). See also 2018 Legal considerations, note 1 above, para. 6 and Guidance Note on Irregular Onward Movement, note 1 above, paras. 14, 15 and 23.

<sup>18</sup> UNHCR 2018 Legal Considerations, note 1 above, para. 6. Guidance Note on Irregular Onward Movement, note 1 above, para. 23.

<sup>19</sup> 1951 Convention, note 6 above, preambular para. 4. UN General Assembly, *Global Compact on Refugees*, 2018, para. 14, [www.refworld.org/legal/agreements/unga/2018/en/124198](http://www.refworld.org/legal/agreements/unga/2018/en/124198).

<sup>20</sup> *Universal Declaration on Human Rights* (1948), Article 14.



- Timely, predictable, adequate and sustainable financial and material support to the third country,<sup>21</sup> to enable it to ensure that refugees and asylum-seekers, alongside members of host communities, have access to adequate standards of treatment and basic services.
- A fair distribution of refugees among participating States,<sup>22</sup> having regard to the fact that low- and middle-income States host the majority of the world's refugees. For example, participating States with fewer refugees are encouraged to take on the responsibility for refugees through resettlement and complementary pathways.<sup>23</sup>
- Support for the further development of State asylum systems in third countries to ensure fair and efficient procedures as well as the development of inclusive State systems in areas such as education, health, housing, employment and social protection as part of efforts to support sustainable responses.<sup>24</sup>

16. Transferring States must still uphold the right to seek and enjoy asylum and cannot relinquish responsibility for all asylum-seekers who seek protection at their borders or in their territory. International transfer agreements are not lawful where they are, in whole or in part, an attempt by a State to divest itself of its international legal obligations, for example with regard to “sur place” refugees, referring to persons who were not refugees when they left their country of origin, but become refugees at a later date.<sup>25</sup> A practice by a State fully divesting itself of its international legal obligations would amount to externalization of refugee law obligations contrary to international law.<sup>26</sup> UNHCR has cautioned that this may be the case when transfer agreements lack adequate safeguards to ensure effective access to international protection including as provided in this guidance, unfairly shift the burden for identifying or addressing international protection needs to another State or leave transferred persons' international protection needs unmet.

## UNHCR engagement in relation to international transfer agreements

17. In line with UNHCR's mandate, particularly its competence to promote the conclusion of international conventions for the protection of refugees and to advocate the admission of

<sup>21</sup> *Ibid.*, paras. 14 and 32. This is particularly important where the receiving country is one of the low- and middle income countries which host 73% of the world's refugees, see: UNHCR, *Global Trends Report 2024*, <https://www.unhcr.org/global-trends-report-2024>.

<sup>22</sup> 1951 Convention, note 6 above, preambular paragraph 4, recognizing that “the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation”.

<sup>23</sup> Global Compact on Refugees, note 19 above, paras. 18, 21, 23, 90-96.

<sup>24</sup> Sustainable responses are nationally-led strategies that promote self-reliance and support durable solutions from the outset, while advancing responsibility-sharing across the international community. They help advance the objectives of the Global Compact on Refugees – easing pressure on host countries, enhancing self-reliance, expanding access to third-country solutions, and supporting conditions in countries of origin for safe and dignified return. See Executive Committee of the High Commissioner's Programme, *Sustainable responses*, EC/76/SC/CRP.17, 11 June 2025, <https://www.unhcr.org/media/sustainable-responses-93rd-meeting-standing-committee>.

<sup>25</sup> UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, HCR/1P/4/ENG/REV. 4, April 2019, paras. 94-96, [www.refworld.org/policy/legalguidance/unhcr/2019/en/123881](http://www.refworld.org/policy/legalguidance/unhcr/2019/en/123881).

<sup>26</sup> ‘Externalization’ refers to measures taken by States – unilaterally or in cooperation with other States – which involve inadequate safeguards to guarantee international protection as well as shifting responsibility for identifying or meeting international protection needs to another State or leaving such needs unmet, making such measures unlawful. See UNHCR, *UNHCR Note on the “Externalization” of International Protection*, 28 May 2021, [www.refworld.org/policy/legalguidance/unhcr/2021/en/121534](http://www.refworld.org/policy/legalguidance/unhcr/2021/en/121534).

refugees to the territories of States,<sup>27</sup> UNHCR can play an important role in supporting the conclusion and implementation of international transfer agreements of refugees and asylum-seekers. Through constructive engagement with States and other stakeholders, UNHCR can foster international cooperation, enhance the effectiveness and sustainability of transfer agreements, improve refugees' self-reliance and resilience, and advance the rights-based and effective management of refugee movements.

18. Specifically, UNHCR's role in fostering adherence by States with international protection principles and standards in the conclusion and implementation of transfer agreements may include:

- advising States and regional organizations on the development of international transfer agreements;
- providing guidance to States on the scope and terms of transfer agreements to ensure compliance with international legal standards, as well as with the principles of responsibility-sharing and international cooperation;
- advising States on reforms required to domestic legal frameworks to enable effective implementation and enforcement of transfer agreements;<sup>28</sup>
- facilitating and/or participating in negotiations of transfer agreements between States;
- monitoring the implementation of transfer agreements and advising participating States accordingly, including, when relevant, on the suspension or termination of agreements;
- providing legal and practical advice, including through partners, to refugees and asylum-seekers subject to transfer agreements, notably through effective approaches for communication with communities;
- following formal agreement by the third country to admit them to the territory,<sup>29</sup> supporting refugees in re-acquiring lawful status previously held in the third country, including the renewal of expired, withdrawn or lost residency permits.
- noting that the third country is required to facilitate access to documentation, rights and basic services, including meeting immediate needs and ensuring adequate reception conditions, UNHCR may provide support as relevant;
- supporting the development of asylum capacity in the participating States to ensure access to fair and efficient asylum determination procedures;
- supporting the development of inclusive State systems to ensure access to education, employment, housing, health care, and social protection, among other areas, while

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<sup>27</sup> UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, 14 December 1950, A/RES/428(V), [www.refworld.org/docid/3ae6b3628.html](http://www.refworld.org/docid/3ae6b3628.html), paras. 8(a) and 8(d).

<sup>28</sup> Relevant in this regard is UNHCR's supervisory responsibility under paragraph 8(a) of its Statute, note 27 above, as well as the 1951 Convention and 1967 Protocol Contracting States' obligation to cooperate with UNHCR and facilitate its supervisory responsibility, particularly in relation to the States' laws, regulations and decrees. See Article 35 of the 1951 Convention, note 6 above, and Article II of the *Protocol relating to the Status of Refugees* (31 January 1967) 606 UNTS 267, [www.refworld.org/docid/3ae6b3ae4.html](http://www.refworld.org/docid/3ae6b3ae4.html).

<sup>29</sup> It is noted that admission to the territory is a precondition for the lawfulness of a transfer arrangement (see paras 7-10).

coordinating with partners efforts to address the welfare of refugees and asylum-seekers;<sup>30</sup>

- facilitating access to solutions for refugees, including through resettlement and complementary pathways; and
- administering funds to support the implementation of transfer agreements.<sup>31</sup>

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<sup>30</sup> UNHCR Statute, note 27 above, para. 8(i).

<sup>31</sup> *Ibid.*, para. 10.