



## UNHCR's Observations

### on the proposed amendments to the Danish law on social pension

Lov om ændring af lov om social pension (Harmonisering af regler om opgørelse af bopælstid for folkepension), L72.

#### Introduction

UNHCR provides these comments as the agency entrusted by the United Nations General Assembly with the responsibility for providing international protection to refugees and other persons within its mandate, and for assisting governments in seeking permanent solutions to the problem of refugees<sup>1</sup>. As set forth in its Statute, UNHCR fulfils its international protection mandate by, inter alia, "[p]romoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto." UNHCR's supervisory responsibility under its Statute is reiterated in Article 35 of the *1951 Convention relating to the Status of Refugees* ("herinafter; the 1951 Convention") according to which State parties undertake to "co-operate with the Office of the United Nations High Commissioner for Refugees [...] in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the Convention". The same commitment is included in Article II of the *1967 Protocol relating to the Status of Refugees* ("the 1967 Protocol")."

Considering the short deadline given by the Danish government, the Office has not had adequate opportunity to analyze the proposal, but will limit itself to make a few observations relating to the interpretation of Article 24 of the *1951 Convention relating to the Status of Refugees*. UNHCR reserves the right, once adequate analysis is completed, to provide further detailed and public comments to the legislation, and to further elaborate any opinion provided in these preliminary, and necessarily incomplete, comments.

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<sup>1</sup> Statute of the Office of the United Nations High Commissioner for Refugees, UN General Assembly Resolution 428(V), Annex, UN Doc. A/1775, para. 1, available at <http://www.unhcr.org/refworld/docid/3ae6b3628.html>.

## Proposed amendments concerning old age pension

The current legislation from 1984 relating to old-age pensions ensured refugees the same terms as Danish nationals by including the period of residence in the country of origin in the calculation for the entitlement to old age pension. However, according to the proposed amendments, the period of residence in the country of origin shall no longer be taken into account when calculating refugees' entitlement to old-age pension.

Similar to immigrants and nationals, who have lived abroad, refugees must from now on reside in Denmark for 40 years after the age of 15 in order to obtain full old-age pension. Many refugees will most likely not meet the requirement for full pension, and elderly beneficiaries of international protection will have constraints in securing other forms of pension due to their age. The minimum requirement of three-years-residence may exclude some refugees from so-called "fraction pension". As a consequence, they will not be entitled to other social benefits either which pensioners enjoy, such as housing, heating and health allowance. They will consequently be in a particularly vulnerable situation, which hinders their successful integration into the society.

Article 24(1)(b) of *the 1951 Convention relating to the Status of Refugees* provides that refugees lawfully staying in a state party should be accorded the same treatment as is accorded to nationals with regard to social security, including old age pension. This right is limited in situations where part of the social benefit would ordinarily be paid by another country e.g. where the entitlement has been accrued in the country of origin or first asylum. With respect to social security, refugees should be afforded the same standard of treatment as nationals. In some situations however, this may include granting them certain basic social security benefits essential to secure a basic standard of living, such as old-age benefits, despite the fact that they may not have had the opportunity to contribute to the relevant schemes due *inter alia* to their short period of residence in the country of asylum. It should be taken into consideration that in many instances refugees will be in an unfortunate and unfair situation since they generally cannot claim the social security benefits towards which they contributed in their country of origin

UNHCR does not consider the proposed amendments to sufficiently take into account the specific situation of protection beneficiaries and further questions the legality of the proposed amendments. In view of the principle of non-discrimination, UNHCR therefore recommends that the current provision (9) of the law on social pension is retained in order for beneficiaries of international protection to receive same benefits as the general national population, such as full age pension.

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